Supreme Court of India
Bagalkot City Municipality vs Bagalkot Cement Co on 23 October, 1962
Equivalent citations: 1963 AIR 771, 1963 SCR Supl. (1) 710
Author: A Sarkar
Bench: Das, S.K., Kapur, J.L., Sarkar, A.K., Hidayatullah, M., Dayal, Raghubar

PETITIONER:
BAGALKOT CITY MUNICIPALITY

Vs.

RESPONDENT:
BAGALKOT CEMENT CO.

DATE OF JUDGMENT:
23/10/1962

BENCH:
SARKAR, A.K.
BENCH:
SARKAR, A.K.
DAS, S.K.
KAPUR, J.L.
HIDAYATULLAH, M.
DAYAL, RAGHUBAR

CITATION:
1963 AIR 771 1963 SCR Supl. (1) 710
CITATOR INFO :
RF 1972 SC 121 (24)
D 1984 SC 583 (22)
RF 1985 SC1683 (4)

ACT:
Octroi Duty-Municipal District, connotation of-Octroi limits equated with municipal district-Extension of municipal district-Whether octroi limit also extended-If extended area liable to octroi duty-Bombay District Municipal Act, 1901 (Bom. 3 of 1901), ss. 3(5), 4, 48, 59-Bombay General Clauses Act, 1904 (Bom. 1 of 1904), s. 20.

HEADNOTE:
The appellant municipality imposed octroi duty on certain,goods brought within the octroi limits. The by-laws fixed the octroi limits to be the same as the Municipal District. Section 4 of the Bombay District Municipal Act 1901, under which the municipality was constituted, empowered the Government to declare any local area to be 1 municipal district. At the time of the 'imposition of the octroi (duty the respondent's factory was situated outside

the municipal district and was not subject to the octroi duty. Subsequently, the Government extended the municipal district so that the factory came to be included within that district. The appellant contended that upon such extension its octroi limits also stood extended to include the factory and the respondent became liable to pay octroi duty in respect of goods brought into, the factory.
711
Held (per Das, Kapur and Sarkar, jj., Hidayatullah and Dayal, jj., dissenting), that octroi duty was not leviable on the respondent. The expression 'municipal district" in the by. law referred to the municipal district as existing when the, bylaw was framed. The context prevented the definition of "municipal district" in the Act, namely, the municipal district as from time to time existing, from being applied under s.20 of the Bombay General Clauses Act, to interpret the by-law. The by-law had been made without being published to the respondent, and if it was so read referring to the municipal district from time to time existing it would be invalid for non-compliance with the provisions of s. 48 of the Act.
Per Hidayatullah and Dayal, JJ. The octroi limits fixed under the by-laws included the area newly added to the municipal district and the respondent was liable to pay octroi duty on the goods entering its premises. In view of s. 20 of the Bombay General Clauses Act, the expression "municipal district" in the by-law will have the same meaning as that expression has in the Act. There is nothing repugnant in the subject or context which would make this definition inapplicable. At the time when the municipal district was extended notice was published to the respondent and it could have objected to the inclusion of the area on the ground that the bye-law imposing the octroi duty would affect it adversely. There is no express provision in the Act that no rule or 'by-law shall be applicable to the newly added area till it is freshly enacted.
Rajnarain Singh v. The Chairman, Patna Administration Committee, Patna, [1956] 1 S.C.R. 290, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 327 of 1962. Appeal from the orders dated.July 5, 1961, of the Mysore High Court, Bangalore in Writ Petition No. 556 of 1960. M. C. Setalvad, Attorney General of India and Naunit Lal, for the appellant.

C. K. Daphtary, Solicitor General of India, S. T. Desai and I.N. Shroff, for the respondent.

1962. October 23. The judgment of Das, Kapur and Sarkar, JJ., was delivered by Sarkar, J. The judgment of Hidyatullah and Dayal, jj., was delivered by Dayal, J.

SARKAR, J.-This is an appeal against a judgment of the High Court of Mysore which held that the respondent was not liable to pay any octroi duty to the appellant municipality in respect of dutiable goods brought to its factory as on a proper interpretation of the appellant's by-law fixing the octroi limits, the respondent's factory was outside those limits. The question that arises in this appeal is one of the interpretation of that by-law.

The appellant municipality was constituted under the Bombay District municipal Act, 1901. Section 4 of the Act gives power to the Government to declare any local area to be a municipal district and to extend, contract or otherwise alter the limits of any municipal district. Section 9 provides that there shall be a municipality for every municipal district. Section 59 of the Act inter alia provides that a municipality may subject to certain conditions impose "an octroi on animals or goods, or both, brought within the octroi limits for consumption, use or sale therein". In exercise of its powers under this section, the appellant municipality imposed an octroi, duty on certain goods. Section 48 of the Act gives a municipality power to frame by-laws for various purposes including that of "fixing octroi limits". The appellant municipality framed a by-law under this Nation fixing octroi limits, in these terms : "The Octroi limits of the Municipal District shall be The same as the Municipal District." The dispute is as to the meaning of the words "Municipal District' in this by-law.

The respondent is a company owning a factory which prior to September 3, 1959, was outside the municipal district of the appellant municipality as such district was till then constituted. There is no dispute that the respondent has all along been bringing into its factory goods of the variety specified in the rule imposing the octroi duty for consumption and use therein but no duty was payable so long as the respondent's factory was outside the municipal district and therefore also admittedly outside the octroi limits as defined by the aforesaid by-law. By a notification issued on August 25, 1959, the Government of Mysore extended the municipal district of the appellant municipality with effect from September 3, 1959, and as a result of this extension the respondent's factory came to be included within that district. On such extension the appel- lant municipality demanded octroi duty on goods brought into the respondent's factory contending that the factory had thereupon come within its octroi limits as defined by the by-law. The respondent disputed this contention and moved the High Court of Mysore under Art. 226 of the Constitution for a writ of mandamus directing the appellant municipality to forbear from collecting the duty. The High Court did not accept the appellant municipality's contention and issued the writ.

The question is whether upon the extension of the municipal district the factory came within the octroi limits as defined by the by-law. The appellant municipality says it did and for these reasons: The expression "municipal district" has not been defined in the by-laws and therefore the definition of that expression in s. 3(5) of the Act would by virtue of s. 2O of the Bombay General Clauses Act, 1904, apply in interpreting the by-law. Under sub-sec. (5) of s. 3 of the 'Act a municipal district means the municipal district of a municipality for the time being and hence the octroi limits prescribed by the by-law would be the municipal district of the appellant municipality as constituted from time to time. Upon the extension of the appellant municipality's municipal district, therefore, its octroi limits would stand extended and the factory would admittedly be within the extended limits. We are unable to accede to this contention. It is based on s. 20 of the General Clauses Act. Now under that section, expressions used in by-laws are to have the same meaning as they have in

the Act unless there is anything repugnant in the context. If there is any such repugnancy., the definition in the Act cannot be resorted to for interpreting a by-law. It seems to us that there is such repugnancy in the present case and this we now proceed to show. As we have earlier said., a by-law is made under s. 48. That section provides that a by-law can be made only with the sanction of the Government. Sub-section (2) of' that section requires that "Every Municipality shall, before making any by-law under this section, publish..... for the information of the persons likely to be affected thereby, a draft of the proposed by-law". There are provisions enabling persons to make objections to, or suggestions regarding a proposed by- law and for these being considered by the municipality before it makes the by-law and thereafter by the Government before it give' its sanction. It is therefore, not open to much doubt that a by-law made without the previous publication of its draft to the persons mentioned would be an invalid by-law. Now who are these persons ? They must be "persons likely to be affected thereby", that is, by the by- law, they must be Persons whom the by-law when made is likely to affect by its own terms.' Since however anyone can send goods to places within the octroi limits, all the world may in a sense be said to be affected by a by-law fixing those limits. If all such persons were contemplated by s. 48 (2), then a by-law fixing octroi limits to be valid, would have to be published to all the world.

This would be an impossibility and was clearly riot intended. Quite obviously publication to persons residing outside the municipal district as constituted when the by- law was made or who were not the rate-payers of the municipality was not contemplated. The present by-law must therefore have been made without publication to such persons. It is not said that the respondent was not one of them.

Now suppose the appellant municipality's contention was right. Then the by-law would now bring within the octroi- limits of the appellant municipality the respondent's factory and some other premises though the by-law had not been published to the respondent or the owners of the premises. The respondent and all other such persons would then be affected by the by-law though the by-law bad not been published to them before it was made. Such a by-law would be invalid under the Act. It would be invalid from the beginning and not only on the extension of the municipal district for it would be a by-law not made in compliance with the provisions of s. 48 and therefore not a by-law validly made.

But then it may be said that when made, the by-law did not affect any one to whom it had not been published and therefore it had been validly made. This argument seems to us to proceed on a misconception. The by-law would still be invalid as contingently affecting persons to whom it had never been published, namely, those who resided outside the municipal district as constituted when the by-law was made, the contingency being the extension of the municipal district. Those persons would be contingently affected by the by ,law itself because the limits mentioned in it were capable of being extended to include them. They are so affected because the by-law itself provided that the limits fixed by it would in a certain contingency stand extended.

We, therefore, think that the expression "'municipal district" in the by-law must be understood as referring to the municipal district as existing when the by-law was framed. The context would prevent the definition in the Act being applied to interpret the by-law. The by-law cannot, therefore,

refer to the municipal district as from time to time existing. Now it is not in dispute that if the octroi limits fixed by the by-law are so understood, then the respondent's factory has all along been outside those limits and the respondent cannot be made liable to pay octroi duty. It makes no difference that its factory is now within the municipal district of the appellant municipality for it is still outside its octroi limits.

It was said that if the view that we have taken is right, then no by-law can ever affect people to whom it had not been published before it was made, and if this is so, then on the extension of a municipal district, all the existing by-laws would have to be re-made for the added area for they could not affect the people there as to them, ex-hypothesis, the by-laws had not been published before they had been made. It was contended that such a result could not have been intended by the Act and, therefore, the view that we have taken is erroneous.

As regards this argument, we first observe that nothing has been brought to our notice from which it can be gathered that it was not the intention of the legislature that on the extension of the municipal district the by-laws have not to be re-enacted. If that was not the intention of the legislature, then of course the entire foundation of the present argument would fail and it would require no further discussion. Let us however assume that it was intended that the existing by-laws would apply to the added areas without fresh re-enactment. If such was the intention, that intention must necessarily be referrable to some provision in the Act. In such a case it would be because of that provision of the Act that the by-laws would be affecting people to whom they had not before their making been published and not by their own terms or force. From what we have said it does not follow that a by-law cannot under some provision in the Act other than s. 48 affect people to whom it had not been published before it was made. All that we have said is that a by-law cannot be made under s. 48 so as to affect people by its own terms or force unless to them it had been previously published. We are concerned only with the initial validity of a by-law for interpreting the meaning of the words used in it. The argument for the appellant contemplates a situation where an existing valid by-law is by an independent statutory provision made to affect people to whom it had not been published before it was made. With such a situation we are not conceded. We are unable to agree that if some provision of the Act exists which makes a valid by-law applicable to the newly added areas of a municipality and to the residents there, though to them the bylaw might not have been published before it was made, it would follow that a by-law could be validly made under the Act without previous publication to persons likely to be affected thereby. We repeat that if it cannot be so made, the present by-law cannot be read as including within the octroi limits the municipal district as extended from time to time. To do that would be to give it a meaning against its context and this, the General, Clauses Act does not warrant. It was contended on behalf of the appellant that since at the time the municipal district was extended an opportunity had been given to the respondent to object , it could not now take any exception to the imposition of the octroi duty on the ground that it had no opportunity to object to the rule levying the duty or the by-law fixing the octroi limits when these were made. All this seems to us to be to no purpose. The respondent is not basing its objection to pay the octroi duty on this ground. All that it says is that it is not liable as its factory is not within the octroi limits. It raises a question of interpretation of the by- law. The fact that the respondent could have objected to the extension of he municipal district is wholly irrelevant in interpreting the by-law fixing the octroi limits and the only question in this case is of such interpretation. We may add that

if a by-law is invalid because it had not been published to persons likely to be affected by it, it would not become valid when the municipal district of the municipality concerned was extended on notice to everyone entitled to object to the extension.

Then it was said that the by-law could not be amended for it could only be put in the same term in which it stands now as it is intended to put the entire municipal district within the octroi limits. The fallacy in this argument seems to us to be that even if a by-law was framed in identical words now, the content of it would be different, the municipal district contemplated by the new by-law would be different from that contemplated by the earlier one. Therefore, in substance, the by-law would be a changed one inspite of the identity of its form. It would be different in effect. In the view that we have taken we think it unnecessary to pronounce upon the contention of the respondent that the definition in s. 3(5) of the Act did not contemplate a municipal district as from time to time constituted. The appeal fails and is dismissed with costs. RAGHUBAR. DAYAL, J. We are of opinion that this appeal should be allowed.

Section 59(1)(b)(iv) of the Bombay District Municipal Act, 1901 (Bom. Act3 of 1901), hereinafter called the Act, authorises any Municipality to impose an octroi on animals or goods, or both, brought within the octroi limits for consumption, use or sale therein. The Bagalkot Municipality imposed this tax and provided, under by-law No. 3 framed by it in the exercise of powers conferred under s. 48(1)(j), that "the octroi limits of the Municipal District shall be the same as the Municipal District". This by-law was framed prior to the extension of the limits of the Bagalkot Municipal District over which the Bagalkot Municipality had jurisdiction. The necessary declaration extending the aforesaid limits was made by the State Government under s. 4 of the Act on August 25, 1959. After the extension of the limits of the Municipal District, the factory run by the respondent company came within the limits of the Municipal District in which the Bagalkot Municipality exercises control. The Municipality did not frame any new by-law fixing afresh the octroi limits of the Municipal District. It however demanded octroi duty from the respondent company on the goods which were brought to the factory. The respondent company objected to the demand on the ground that the factory to which the goods were brought was beyond the octroi limits fixed under the by-law framed by the Municipality and that the goods on which octroi was demanded were not brought within the octroi limits. It contended that, in the absence of the. framing of any fresh by-law fixing such octroi limits as would include the factory within them, the Municipality could not claim octroi duty on the goods entering the factory. This contention found favour with the High Court which issued a mandamus to the Municipality to forbear from collecting any octroi in respect, of goods delivered by the railway administration' at the factory premises and also directed the company to pay octroi on the goods carried by road at the point of entry and to get a refund of the octroi at the point Where the goods left the octroi limits. were also issued to the Municipality for such refund.

The Municipality has appealed against the J. order of the High court. It is contended on its behalf that the octroi limits fixed under the by-law framed by the Municipality extend up to the limits of the Municipal District as extended by the Government declaration of August 25, 1959, and that there was no necessity for framing any fresh by-law fixing new, octroi limits.

We have to determine the extent of the octroi limits of the Municipality as fixed under by-law No. 3(1) which reads : " The octroi limits of the Municipal District shall be the same as the Municipal District."

The octroi limits fixed were coterminous with the limits of the Municipal District, whatever they may be from time to time. If the limits of the Municipal District were extended, the octroi limits ,would be the extended limits of the Municipal:District and, if the limits of the Municipal District were contracted, the octroi limits would be similarly contracted.

Section 3(5) defines 'municipal district' to mean any local area which is at present a municipal district, and any local area Which may, hereafter , be constituted a municipal district under section 4, if such municipal district has not ceased to exist under the provisions of the said section.' Section 4 empowers the State Government, subject to the pro- visions of ss. 6, 7 and 8, to extend,,, contract or other- wise alter the limits of any municipal district from time to time. It is clear therefore-and there is nothing in the section to indicate to the contrary that subsequent to the extension, contraction or alteration of the limits there does not come into existence a new municipal district. The erstwhile muni-

cipal district continues with this modification that its area is either extended or reduced or its limits are altered. Sub-sections (2) and (3) provide, inter alia, for the setting forth clearly of the local limits included or excluded from existing municipal districts by notification and for erection and maintenance of boundary-marks defining the altered limits of the municipal district. The municipal district, as defined in s. 3(5) of the Act, therefore means the local area within its limits as fixed for the time being.

In view of's. 20 of the Bombay General Clauses Act, the expression 'municipal district' in the by-law will have the same meaning as that expression has in the Act, unless there be anything repugnant in the subject or context. We do not find any such repugnancy in the context of the by-law which would make the definition of the municipal district in the Act not applicable to the expression 'municipal district' in octroi by-law no. 3., The octroi duty is, by nature, a duty which is realised on goods entering certain limits over which the municipality charging the octroi has control. There is no reason why octroi duty' which is levied solely for the purpose of raising funds, and not to afford protection to trade in any particular area, be not charged from the. same goods entering a certain part of the municipality, that is to say, there is no good reason why the limits within which goods on entry from beyond should pay octroi duty be different from the limits of the municipal district over which the municipality has control. The question then arises, why cl. (iv) of sub-s. (1)(b) of s.- 59 uses the expression 'octroi limits' instead of "municipal district', an expression which is used with reference to some other taxes which the municipality can impose. The answer is found in the provisions of ss. 39 and 81 of the Act.

Clause (b) of s. 39 empowers a municipality to enter into an agreement with another municipality, cantonment authority, local board, panchayat or committee appointed for an area under Chapter XIV regarding levy of octroi duty whereby the octroi duties respectively leviable by the contracting bodies may be levied together, instead of separately, within the limits of the area, subject to the

control of the said bodies. Section 81 authorises any one of the contracting bodies to establish such octroi limits and octroi stations as may be deemed necessary for the entire area in which the octroi is to be collected. The limits of any such two contracting parties will not be common throughout and will not be identical with the limits of either of the municipal districts and therefore it would be necessary for the municipality, which is to collect octroi duties under the agreement, to fix the octroi limits for the entire area for the purpose of collecting octroi duties.

Sub-section (2) of s. 77 provides for penalty for the evasion of octroi in cases of goods liable to the payment of octroi and passing into a municipal district without payment of such octroi. It is noticeable that it does not use the expression 'passing into tile octroi limits of a municipal district', but uses the expression passing into a municipal district'.

The use of the expression 'octroi limits' in cl. (iv) of s. 59 (1)(b) therefore need not lead to the conclusion that a municipality can pick and choose between its parts and exempt any part of it from the levy of octroi duty. It follows therefore that ordinarily octroi duty must be imposed on all good entering the limits of the municipal district controlled by the municipality. This is what by- law No. 3 framed by the appellant Municipality provides for. It is contended for the respondent that the Municipality cannot make a by-law fixing such octroi limits as vary from time to time. We see no good reason why it cannot do so. Further, the by-law No. 3(1) fixed the limits of the municipal district to be the octroi limits. These are definite limits and vary only when an alteration is made by the Government in the limits of the municipal district and then too on account of the content of the expression municipal district'. The definition of 'municipal district' will be read into the definition of 'octroi limits' as required by the General Clauses Act and they will vary with that definition.

The municipality does not exceed its jurisdiction to frame the by-law fixing the octroi limits to vary from time to time according to the limits of the municipal district. No question of extending its jurisdiction arises in case the limits of the municipal district are contracted. No question of exceeding its jurisdiction arises if the limits are extended, as at the time the by law would be applicable to the extended limits, the municipality will have jurisdiction to make a by-law applicable for that area. If it frames a by-law in such a way as to be immediately effective in the area newly, added to its limits, it cannot be said to be exceeding its jurisdiction. just as the Act contemplates the (extension of the limits of the municipal district and the application of its various provisions therein , the by-laws made applicable within the area of the municipal district will be applicable to the extended area the moment any fresh area is added to the municipal district.

We do not find anything in the Act or rules which disables the, municipality to fix the octroi limits in this way, or, in other words, which makes it incumbent on the Municipality to fix the octroi limits as frequently as the area of the municipal district is altered by a notification of the Government under s. 4.

There is nothing in the Act that the by-laws duly framed by a municipality become null and void and ineffective when the limits of the municipal district for which they were framed are extended. Such is not the contention for the respondent either. It is not contended that those by-laws do not continue to be in force within the old limits of the municipal district. What is contended by the

respondent is that they cannot apply to the new area added to the old municipal district', until the requisite procedure laid down for the framing of the by-laws under sub-ss. (2) and (3) of s. 48 has been followed; as, other- wise, the persons residing in the newly added area would have no occasion to object to the by-laws which are sought to be made applicable to them. The sub-sections are "(2) Every Municipality shall, before making any by-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed bylaw, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the bylaw receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

(3) When any by-law made by a Municipality is submitted to the Central Government, State Government or Commissioner for sanction, a copy of the notice published as aforesaid and of every objection or suggestion so made, shall be submitted for the information of the Central Government, State Government or Commissioner along with the said by-law." The respondent's contention is met for the appellant by reference to s. 8 of the Act which affords an opportunity to the persons who entertain any objection to the proposal for including the proposed area in the existing municipal district to file objections with reasons therefore within the specified period. It is urged for the respondent that no objection with respect to any particular by-law or rule can be made at the time when the Government notifies objections against the proposal to extend the limits of a municipal district. There is nothing to bar such an objection. The objector can say that he would not like that area to be included in the municipality as it would make him and others liable to certain taxes, which, in the circumstances prevailing in that area, would not be right and would be prejudicial to the residents of that area. This is the view taken by this Court in Rajnarain Singh v. The Chairman Patna Administration Committee, Patna (1).

In that case, a certain local area was included within Patna City by a notification issued by the local Government under s. 6 of the Patna Administration Act, 1915 (Bihar & Orissa Act 1 of 1915). There was no provision in that Act for the local Government notifying any objections from the residents of the area to be included within Patna against tile proposal for such inclusion. The validity of the notification was not questioned in that case. Shortly after the inclusion of the area within Patna, the local Government issued a notification under s. 3 (1) (f), on April 23, 1951, extending to Patna the provisions of s. 104 of the Bihar & Orissa Municipal Act, 1922 with some modifications and thereby made the residents of the newly added area subject 'to certain taxes. That notification was held to be bad because the local Government had brought about a change of policy by the modification made. It was said,-

> "In our opinion, the majority view was that an executive authority can be authorised to modify either existing or future laws but not in any essential feature. Exactly what constitutes an essential feature cannot be enunciated in general (1) [1955] 1.S.C.R. 290, 301, 303.
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> terms, and there was some divergence of view about this in the former case, but this much is clear from the opinions set out aboveit cannot include a change of policy.

> Now coming back to the notification of 23rd April, 1951.. Its vires was challenged on many Grounds but it is enough for the purposes of this case to hold that the action of the Governor in subjecting the residents of the Patna Village area to municipal taxation without observing the formalities imposed by sections 4, 5 and 6 of the Bihar and Orissa Municipal Act of 1922, cuts across one of its essential features touching a matter of policy and so is bad."
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> It was further observed,-
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> "The notification of 23rd April, 1951, does in our opinion, effect a radical change in the policy of the Act. Therefore it travels beyond the authority which, in our judgment, section 3 (1)(f) confers and consequently it is ultra vires."

The change in policy was in the sense that the scheme of the Bihar & Orissa Municipal Act 1922, was that the people would not be made subject to the liability-,, of municipal taxation without being afforded an opportunity to object against such a proposal. The provisions of the 1922 Act referred to as guaranteeing this right to the people were stated to be ss. 4, 5 and 6 of that Act. Section 4 empowers the State Government to declare its intention to constitute or alter the limits of the municipality. Section 5 provides for taking into consideration objections submitted within the specified time after the aforesaid declaration and s. 6 empowers the State Government by notification to constitute the municipality and to extend to it all or any of the provisions of that Act or to govern any local area in the municipality.

It follows that under the present Act persons residing in an area to be included in the municipal district could file objections to the proposed inclusion of the area to the Municipal district on the ground that certain by-laws imposing taxes will affect them adversely. Further, sub-s.(2) of s.48 of the Act provides the publication of the by-law proposed to be made for the information of the persons likely to be affected thereby. The persons to be affected by the bylaw fixing octroi limits are not only the inhabitants of the municipality, but include persons who bring goods into the municipality for consumption, use or sale therein. In fact it is such persons who are the first to be affected by the levy of the octroi duty. They will have to pay it first. They may pass it on to the purchasers subsequently. It is to be presumed that the publication made at the time of the making of the by-law fixing the octroi limits must have been such as had given notice to the persons other than the residents within the municipality. Such persons could file objections against the proposed by-laws. It follows therefore that the residents of the area subsequently added to a municipality, an area which is bound to be adjacent to the original area, cannot effectively contend that they had no opportunity of objecting to the making of the by law.

Further, the provisions of these sub-sections can have reference only to the occasion when bylaws are to be framed or amended and can have no effect on the question of the applicability of the bylaws to the newly added area of the municipal district. In the absence of any express provision in the Act to the effect that no rule or by-law shall be applicable to the newly added area till it is freshly enacted after following the regular procedure, we are not prepared to accept this contention, air, its acceptance would mean that the municipality becomes liable for discharging its functions under the

Act with respect to matters it has to deal with in that area and would be deprived of the necessary powers which it possesses for enabling it to discharge those functions properly till it has re-enacted all the old by-laws.

Section 59 of the Act refers to the imposition of taxes, naturally, for the purpose of obtaining funds to meet the municipality's obligations within the district under its authority. Residents within an area of the municipal district cannot therefore avoid the liability to pay a tax merely on the ground that when that tax was imposed the area in which they reside was not included within the municipal district. The legislature could not have intended the exemption of such persons from payment of the tax when it provided for the extension of the limits of a municipal district but did not expressly provide for the applicability of the rules and by-laws then in force to the newly added area or for the liability of the residents of the newly added area to the taxes then in force within the municipal district and for the reimposition of such taxes and the remaking of such rules and by-laws in accordance with the prescribed procedure.

We are of opinion that the extension of the limits of the municipal district connotes that the area newly added to the municipal district comes not only under the control of the municipality, but also becomes subject to such laws, rules and by-laws which be in force within the municipal district. Lastly, reference may be made to s. 191B in Chapter XIV-A. It provides inter alia that when any local area is added to a municipal district, the State Government may, notwithstanding anything contained in the Act or in any other law for the time being in force, by order published in the official gazette, provide for the extension and commencement of all or any taxes, rules by-laws' or forms made, issued, imposed or granted under the Act by any existing municipality and in force within its area immediately before the day from which the local area was included to the municipal district, to and in all or any of the other areas of the successor district municipality, in supersession of corresponding taxes, rules, by-laws, it' any, in force in such other areas immediately before the aforesaid day, until the matters so extended and brought into force are, further superseded or modified under the Act. No order under this provision seems to have been issued ,by the State Government. The provision, however, indicates that the compliance of the procedural provisions mentioned in sub-s. (2) of s.48, of the Act is not a necessary condition for the existing by-laws of a municipality to apply to the areas included in it at a later time. If such an order is issued by the Government, that clarifies the position. its, enact- ment, however, does not mean that in the absence of such an order, all the matters mentioned in cl.(x) of sub-s.(1) of's.19B will not Ineffective in the area included in a municipal district under a notification under s.4 of the Act.

We bold that the octroi limits fixed under bylaw No. 3 include the area newly added to the municipal district by the notification of August 25, 959, and that, consequently, the respondent company ",as liable to pay octroi duty on the goods entering its premises. We would 'therefore allow this appeal with costs, set aside the order of the Court below and dismiss the writ petition of the respondent. By COURT : In accordance with the opinion of the majority, this appeal is dismissed with costs.