SUPREME COURT OF INDIA

New Prakash Transport Co. Ltd.

Vs.

New Suwarna Transport Co. Ltd.

C.A.No.74 of 1956

(S. R. Das, C.J.I., N. H. Bhagwati, T. L. Venkatarama Ayyar, B. P. Sinha and S. K. Das, JJ.)

30.11.1956

JUDGEMENT

SINHA J.:

1. This is an appeal by special leave from the judgement and order, dated September 22,1955, passed by the Letters Patent Bench of the Nagpur High Court reversing those of a single Judge of that Court, dated December 13,1954, refusing to issue a writ in the nature of a certiorari.

2. The facts of this case lie in a short compass and may be stated as follows:-The Suwarna Transport Company Limited, which will be referred to as the first respondent in the course of this judgement, held seven permits for running buses on the Buldhana-Malkapur route as the sole operator on that route. It applied for another permit for the same route. The appellant, The New Prakash Transport Co. Ltd., as also another party called the Navjivan Transport Service (not cited in this Court) applied for a similar permit on that route. On May 26,1953 all the three applicants aforesaid were beard by the Regional Transport Authority of Amraoti, which is the third respondent in the Court, in connection with the permit applied for Consideration of the several applications was postponed, but a resolution was passed to the effect that "No one service should have monopoly on Buldhana-Malkapur route". On March 30, 1954 another meeting of the Regional Transport Authority took place and the first respondent was granted the permit. The appellant's application was rejected on the ground that the police report was against it. The appellant preferred an appeal to the Appellate Authority (constituted under R.73 of the Motor Vehicles Act), Madhya Pradesh, Nagpur, which is the second respondent to this appeal. The appellant challenged the correctness of the police report against it and applied to the District Superintendent of Police personally to verify the facts stated in the first report on the basis of which the appellant's application for permit had been rejected, as aforesaid. The police made a further report, which was placed before the second respondent. That further report by the police was read out to the parties by the Chairman of the Appellate Authority at the time of the hearing of the appeal. At the hearing no objection appears to have been raised by any of the parties to the course adopted by the second respondent. By its order dated July 29, 1954, the second respondent set aside the order of the third respondent, allowed the appeal and ordered the permit to be issued to the appellant. The first respondent moved the High Court at Nagpur for a writ of certiorari under Art. 226 of the Constitution, substantially on two grounds, namely, (1) that the order passed by the second respondent was vitiated by an error apparent on the face of the record, and (2) that it contravened the principles of natural justice. The first ground was founded on the allegation that the second respondent had misread the police report, and the second on the allegation that the revised report by the police had not been shown to the petitioner who had been afforded no

"real and effective opportunity to deal with the report or to meet any relevant allegation made therein, and to study that report and make his submissions in regard thereto before the appeal was decided". The appellant and the second respondent showed cause against the rule issued by the Court. The appellant while showing cause, admitted that the third respondent had rejected its application on the basis of the police report dated March 27, 1954, which "was full of mistakes and falsehoods", that it moved the District Superintendent of Police personally to verify the contents of the said report and that the fresh report submitted by the police after due verification had absolved the appellant from the allegations of misconduct contained in the first report. It also controverted the ground that there was any mistake apparent on the face of the record. The fresh report submitted by the police after verification at the appellant's request was received by the second respondent and the Chairman read the same during the hearing of the appeal and that therefore it was wrong to suggest that there had been a failure of justice. The second respondent also showed cause and corroborated the appellant's statement that the first police report had been subsequently modified by the District Superintendent of Police by the report dated May 13, 1954, which showed that the previous report was "based on some misunderstanding". It was also stated that the report was actually read out to the parties by the Chairman while the appeal was being heard.

3. The petition under Arts, 226 and 227 made, as aforesaid, by the first respondent was heard by a single Judge (Mr. Justice V. R. Sen) who by his orders dated December 13, 1954, discharged the rule with costs. In the course of his judgement the learned Judge after referring in detail to the orders of the authorities under the Motor Vehicles Act, that is to say, the second and third respondents, observed that there was no substance in the contention that the procedure adopted by the Appellate Authority was opposed to the principles of natural justice and had operated to the prejudice of the first respondent; and that there was no error apparent on the face of the record. The learned Judge also pointed out that when the report was brought to the notice of the first respondent, it did not indicate that it wished to controvert the report.

4. The first respondent preferred an appeal under the Letters Patent and repeated its grounds of attack against the orders of the Appellate Authority. The appeal was heard by a Division Bench consisting of Chief Justice Hidayatulla and Justice S. P. Kotwal. The Letters Patent Bench seemed to be inclined to negative the plea that there was a mistake apparent on the face of the record and pointed out that though the language used by the second respondent was ambiguous and not quite accurate, it was possible to take the view that it had in fact considered the subsequent police report when it observed that the police had practically absolved the appellant from all blame except on a minor question, not necessary to be referred to in detail here. On the second ground it differed from the learned single Judge and came to the conclusion "that the Appellate Authority erred in rushing through without giving a proper and effective chance to the appellant to state its case". In the result it granted a writ quashing the order of the Appellate Authority and directing it to rehear the appeal in the light of the observations made in the course of the judgement.

5. The appellant made an application to the High Court for a certificate of fitness for appeal to this Court. Having been unsuccessful there, the appellant came up to this Court and obtained special leave to appeal.

6. The only question which requires determination by this Court is whether or not there has been a failure of natural justice in this case as a result of the procedure adopted by the Appellate Authority. On this question there has been a marked difference of opinion in the two stages of the case in the High Court. It has been argued on behalf of the appellant that the Appeal Bench of the Nagpur High Court has erred in coming to the conclusion that in the circumstances of this case there has been a

failure of justice, in disagreement with the learned single Judge who was clearly of the opposite opinion. It has also been argued that there are no well defined criteria by which this question falls to be determined. It depends upon the terms of the legislation creating the statutory body which has to function according to its obligation laid down in the statute. If it has done all that was required by the law to do, it cannot be said that it has failed in the discharge of its statutory duty. In this connection reference was made to the provisions of Ss. 47, 48 and 64 of the Motor Vehicles Act read along with the relevant rules framed under S. 68 of the Act. On behalf of the respondents it was argued that it had no opportunity of studying the subsequent police report and of making submissions thereon with the result that there has been a failure of natural justice in the sense that the respondent had been deprived of a fair and full opportunity of being heard. Though the High Court on appeal did not base its decision on the other question, namely, whether there was any error apparent on the face of the record, it was sought to be argued that there was an error in the order of the second respondent in so far as it made reference to only the first report and read into it the matter contained in the subsequent report. At the outset we may observe that, in our opinion, there is no substance in the second ground sought to be resuscitated in this Court by the learned counsel on behalf of the respondent. Error apparent on the face of the record in the context of this case must mean an assumption of facts which are not borne out by the record. We are not concerned with other grounds which may in the context of each particular case support a contention of error apparent on the face of the record. In this case if there was any such error, it was with reference to the two police reports. As observed by the Appellate Bench of the High Court, though the language used by the Appellate Authority with regard to strict grammatical construction may refer to the first police report, it was difficult to hold that the matters referred to in the order challenged before the High Court were not contained in the subsequent report submitted by the police at the instance of the appellant. The judgement under appeal did not take the view that there was any such mistake apparent on the face of the record as was contended for on behalf of the first respondent. We have been referred to the orders of the Appellate Authority as read by the Appellate Bench of the High Court and, in our opinion, no such mistake has been shown to have vitiated the orders impugned before the High Court.

7. Coming back to the question whether or not there has been a failure of natural justice, we may shortly review the relevant provision of the statute in order to find out the obligation imposed upon the Appellate Authority while disposing of an appeal from the orders of the Regional Transport Authority. The matters to be considered by a Regional Transport Authority at the time of disposing of an application for a stage carriage permit are set out in S. 47. They include the interest of the public generally, the adequacy of existing road transport service and the benefits to any particular locality. The Authority is also enjoined to take into consideration any representations made by persons already providing road transport facilities along the proposed route or by any local authority or police authority within whose jurisdiction the proposed route lies. Section 48 empowers a Regional Transport Authority, after taking into consideration matters set forth in S. 47, to restrict the number of stage carriages and to impose conditions on stage carriage permits. Section 64 provides for right of appeal against specified kinds of orders passed by the Provincial or Regional Transport Authority to the "prescribed authority". It also in terms provides that on an appeal being filed to the prescribed authority, it shall give the appellant and the original authority, that is to say, the authority against whose orders the appeal had been brought, "an opportunity of being heard". Section 64 which creates the right of appeal does not in terms speak of a like opportunity being given to the persons against whom the appeal had been filed. But R. 73 framed by the Government in pursuance of its rule-making power conferred by S. 68, lays down that the authority to decide an appeal against the orders of a Regional Transport Authority under S. 64 of the Act shall be the Chairman

and two members of the Provincial Transport Authority. The rule further provides that on receipt of an appeal, the Chairman shall appoint the time and place for hearing the appeal and shall give not less than thirty days notice to the appellant, the original authority, and "any other person interested in the appeal" and on such appointed or adjourned date the Appellate Authority "shall hear such persons as may appear and, after such further enquiry, if any, as it may deem necessary, confirm, vary, or set aside the order against which the appeal is preferred and make any consequential or incidental order that may be just or proper". It will thus be seen that though the substantive section creating the right of appeal does not in terms create any right in a respondent to be heard, the rules framed providing for the procedure before the Appellate Authority contemplate that sufficient notice shall be given to "any other person interested in the appeal" which expression must include persons other than the appellant who may be interested in being heard against the points raised in support of the appeal. Neither the sections nor the rules framed under the Act contemplate anything like recording oral or documentary evidence in the usual way as in courts of law. Besides the parties interested in the grant of stage carriage permits or those interested against it, the police authority of the locality, is also entitled to be heard both at the original stage and at the appellate stage.

8. Thus the Motor Vehicles Act and the rules framed thereunder with particular reference to the Regional Transport Authority and the Appellate Authority, do not contemplate anything like a regular hearing in a court of justice. No elaborate procedure has been prescribed as to how the parties interested have to be heard in connection with the question, who is to be granted a stage carriage permit. The judgement of the High Court under appeal has made copious quotations from the decisions of the House of Lords and the Court of Appeal in support of its conclusion that the principles of natural justice has not been sufficiently complied with in the present case by simply reading out the subsequent police report at the time the Appellate Authority was hearing the appeal. The learned Judges of the Appeal Court have observed that the contents of a long report such as the second report was, could not be carried in one's head. They also observed that in order to present its case effectively the first respondent was entitled not only to have the report read out but also to study it so that it could understand it and state its case fully and effectively before the Appellate Authority. We have to examine those several precedents relied upon by the High Court to see how far its conclusions are supported by authority. But before we do that, it has got to be observed that the question whether the rules of natural justice have been observed in a particular case must itself be judged in the light of the constitution of the statutory body which has to function in accordance with the rules laid down by the legislature and in that sense the rules themselves must vary. The Regional Transport Authority is charged with the duty of granting or refusing a stage carriage permit, only to mention the matter with which we are immediately concerned. In that connection the statute requires that authority to have regard to the matters set forth in S. 47 of the Act, as already indicated. The police authority within whose local jurisdiction any part of the proposed route lies, has also been given the right to make representations. But the police report submitted to the Regional Transport Authority or to the Appellate Authority, if it requires the police authority to do so, is not intended to be anything more than an expression of opinion by an authority interested in the maintenance of law and order, with particular reference to the question as to whether any of the applicants for a permit had anything to its credit or discredit as supplier of transport facilities. Such a report is meant more for the use of the authority in making or refusing a grant than for the use of the several applicants or any one of them. In other words, it is in the nature of information supplied by the police in order to assist the authority in making up its mind. In the present case when the subsequent police report was read out by the Chairman, neither the appellant nor the first respondent, nor for the matter of that any of the other parties, raised any objection to the use of that document or asked for an adjournment on the ground either that it had been taken by surprise or that

it had materials to offer in opposition to the report. The learned Judges of the High Court have observed in the course of their judgement under appeal that though it is the essence of the business of tribunals like the one under the Motor Vehicles Act to transact business expeditiously, the business of the authority would not have suffered much if a copy of the report had been given to the parties concerned and the case adjourned for a short time. It appears that no such adjournment had been prayed for on behalf of any of the parties who it appears, had been represented by counsel. But then the High Court has observed further that

"the duty is laid not upon counsel who appears but upon the tribunal which administers justice. It is incumbent on every tribunal which acts judicially to see that justice is not only done but is seen to be done, and that the elementary rule of natural justice of giving a fair and proper hearing to every one concerned is followed. We think that the Appellate Authority erred in rushing through without giving a proper and effective chance to the appellant to state its case."

In our opinion, the High Court has made a number of assumptions in making those observations which do not appear to be justified by the scheme of the legislation we are dealing with or by any a priori considerations of what has been characterised as "natural justice". The Tribunal in question was not administering justice as a court of law, though while deciding as between that rival claims of the applicants for a permit it had to deal with them in a fair and just manner. But a tribunal even acting "judicially" is not obliged to grant an adjournment suo motu without any application on behalf of any of the parties interested. We do not find that any of the parties made at that time any grievance about the procedure adopted by the Appellate Authority. But the question appears to have been raised for the first time before the High Court after the Appellate Tribunal had decided to grant the permit to the appellant. In this connection it has also to be observed that the subsequent police report had said nothing directly against the first respondent which it would be interested in controverting. The subsequent police report had only withdrawn some of the adverse comments against the conduct of the appellant which had been found to have been made under a misunderstanding. But the subsequent report still contains some minor complaints against the appellant. Those matters were apparently considered by the Appellate Authority not to be so serious as to stand in the way of the appellant getting the permit, especially when that authority had previously decided upon the police that monopoly of supplying transport facility should not be allowed to continue in favour of the first respondent. Hence, in our opinion, there was nothing in the rules requiring a copy of the police report to be furnished to any of the parties, nor was there any circumstance necessitating the adjournment of the hearing of the appeal, particularly when no request for such an adjournment had been made either by the first respondent or by any other party. At that time none of the parties appears to have made any grievance about the police report only being read out by the Chairman, or any request being made for an adjournment in order to adduce evidence pro and con. The rules framed under Chapter IV for "the conduct and hearing of the appeals that may be preferred under this chapter" (S. 68(2)(b)) do not contemplate any such facilities being granted to the parties, though it is open to the Appellate Authority to make any such "further enquiry, if any, as it may deem necessary".

9. But the High Court Bench appears to have taken the view that rule or no rule, request or no request for an adjournment, the rules of natural justice made it incumbent upon the Appellate Authority to stay its hands in order that "a proper and effective chance was given to the first respondent to state its case". There was not much of a case to state because each party applying for the permit must be presumed to have pressed its claim upon the Appellate Authority. We have therefore to examine "the precedents discussed in detail in the judgement under appeal to see how far the Appellate Bench was justified in holding that the rules of natural justice had been

contravened by the Appellate Authority.

10. The earliest decision of the House of Lords brought to our notice in this connection is the case of Spackman v. Plumstead Board of Works', (1885) 10 AC 229 (A). In that case the question arose on a prosecution for infringement of an Act of Parliament making provision for fixing the "general line of buildings" in a road. The certificate of the superintending architect as to the general line of buildings came in for discussion as to whether the architect, before deciding as to how the general line has to be fixed, had to hear the parties concerned. In that connection the Earl of Selborne, L. C., made the following observations at p. 240:

"No doubt, in the absence of special provision as to how the person who is to decide is to proceed, the law will imply no more than that the substantial requirements of justice shall not be violated. He is not a judge in the proper sense of the word; but he must give the parties an opportunity of being heard before him and stating their case and their view. He must give notice when he will proceed with the matter, and he must act honestly and impartially and not under the dictation of some other person or persons to whom the authority is not given by law. There must be no malversation of any kind. There would be no decision within the meaning of the statute if there were anything of that sort done contrary to the essence of justice. But it appears to me to be perfectly consistent with reason, that the statute may have intentionally omitted to provide for form, because this is a matter not of a kind requiring form, not of a kind requiring litigation at all, but requiring only that the parties should have an opportunity of submitting to the person by whose decision they are to be bound such considerations as in their judgement ought to be brought before him. When that is done, from the nature of the case, no further proceeding as to summoning the parties, or as to doing anything of that kind which a judge might have to do, is necessary."

11. Another leading case on the subject is the decision of the House of Lords in the well known case of Board of Education v. Rice, 1911 AC 179 (B). Their Lordships in that case had to discuss the duty of the Board of Education under S. 7 of the Education Act, 1902. Lord Loreburn, L. C. in the course of his speech referred to the provisions of the Act and made the following observations at p.182 as to the duty to decide certain question relating to non-provided schools.

"Comparatively recent statutes have extended, if they have not originated, the practice of imposing upon departments or officers of State the duty of deciding or determining questions of various kinds. In the present instance, as in many others, what comes for determination is sometimes a matter to be settled by discretion, involving no law. It will, I suppose, usually be of an administrative kind; but sometimes it will involve matter of law as well as matter of fact, or even depend upon matter of law alone. In such cases the Board of Education will have to ascertain the law and also to ascertain the facts. I need not add that in doing either they must act in good faith and fairly listen to both sides, for that is a duty lying upon every one who decides anything. But I do not think they are bound to treat such a question as though it were a trial. They have no power to administer an oath, and need not examine witnesses. They can obtain information in any way they think best, always giving a fair opportunity to those who are parties in the controversy for correcting or contradicting any relevant statement prejudicial to their view".

12. How far judicial opinion may vary as to the content of the rule of natural justice is amply illustrated by the case of Rex v. Local Govt. Board, Ex parte Arlidge, 1913-1 KB 463 (C), at different stages. The rule nisi for a certiorari was first heard by Ridley, Lord Coleridge and Bankes, JJ. The cast related to the powers of the Local Government Board under the Housing, Town Planning, and c., Act, 1909 (9 Edw. 7, c. 44) refusing to terminate its orders closing a dwelling

house as unfit for habitation and the procedure for hearing an appeal against such an order. Section 29 of the Act provided that such an appeal shall be heard and disposed of according to the procedure laid down by the Local Government Board, provided that the Board shall not dismiss any appeal without having first held a public local inquiry. It was unanimously held by the Court discharging the rule that the Local Government Board was not bound to hear an appellant or any one, on his, behalf after the report of the inspector on the public local inquiry had been received, before dismissing the appeal. At the public local inquiry the owner of the house affected by the closing order had been represented. But at the time the appeal was finally disposed or, there was no hearing of the appellant or his representative as in a Court of law. The Court repelled the argument that the appellant had a right to be heard by the Local Government Board and to know the contents of the report made by the Inspector who had held the public local inquiry. Relying mainly upon the judgement of Lord Loreburn, L.C. in the case of Board of Education v. Rice (B) (supra), the Court decided that the procedure indicated by the rules framed under the statute in question had been followed and that there was no other or further obligation on the Board to hear the appellant either personally or through his representative or counsel, because there was no indication in the statute to that effect. The matter was taken in appeal in Rex v. Local Govt. Board, Ex parte Arlidge, 1914-1 KB 160 (D), and the Court of Appeal by a majority (Vaughan Williams and Buckley, L. JJ., Hamilton, L. J., dissenting) allowed the appeal holding that it was contrary to the principles of natural justice that the Board should have dismissed the appeal without disclosing to the appellant the contents of their inspector's report and without giving the appellant an opportunity of being heard in support of the appeal. They therefore quashed the order dismissing the appeal. The majority judgement pointed out that the Act and the rules framed thereunder except for certain matters were silent as to the procedure and that in the absence of such specific provisions the non-disclosure of the inspector's report was contrary to principles of natural justice on which English law is based. It further held that the appellant before the Board was entitled to a hearing and that as the appellant had not the opportunity of seeing and considering the report and the documents which the deciding authority had before it, the appellant had been denied full opportunity of being heard. It went to the length of observing that the non-disclosure of the report and the documents which were taken into consideration by the Board when the disclosure had been asked for, was itself inconsistent with natural justice. Hamilton, L.J. in his dissenting judgement pointed out that the report of the inspector in the case, as in other Government departments, is only a statement of facts made for the information of the officials of the department and that it could not be assumed that the legislature meant all such reports to be communicated to those interested where it does not say the contrary. He further pointed out that the practice was the other way, namely, to specify how and to whom such reports were to be communicated, when they are intended to be communicated at all. Dealing with the question how far the requirements of natural justice had been fulfilled, the Lord Justice observed at p. 199 that "It has often been pointed out that the expression (natural justice) is sadly lacking in precision". Then he referred to a number of precedents dealing with the question of natural justice as to how the connotation of the expression differed in different contexts. He further observed at pp. 201 and 202:

"The Local Government Board here is a statutory tribunal, anomalous, as compared with common law Courts, created by the Legislature for a special class of appeals and endowed by it with the power of formulating its own procedure".

He also adopted the dictum of Loreburn L.C. in Board of Education v. Rice (B) (supra) that the Board must "act in good faith and fairly listen to both sides".

13. Against the judgment of the majority of the Court quashing the determination of the appeal by

the board there was an appeal to the house of lords unanimously adopted the opinion of Hamilton, L.J. (Later Lord Summer), allowed the appeal to set aside the majority decision. (Vide Local Government Board v. Arlidge, 1915, AC 120 (E). In the course of his speech Vscount Haldane, L.C. made the following observations:

"My Lords, when the duty of deciding an appeal is imposed, those whose duty it is to decide it must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the, opportunity of adequately presenting the case made. The decision must be come in to the spirit and with the sense of responsibility of tribunal whose duty it is to, stete out justice. But it does not follow that the procedure of every such tribunal must be the same".

His Lordship adopted the dictum of Lord Loreburn, L.C. in the leading case of Board of Education v. Rice (B) (supra). Lord Shaw in his speech made the following observation which are very opposite to the facts and circumstances of this case:

"The judgments of the majority of the Court below appear to me, if I may say so with respect to be dominated by the idea that the analogy of judicial methods or procedure should apply to departmental action. Judicial methods may, in many points of administration, be entirely unsuitable, and produce delays, expense, and public and private injury. The department must obey the statute." He further observed at p.138 as follows:

"And the assumption that the method of natural justice are ex-necessitate those of courts of justice is wholly unfounded. This is expressly applicable to steps of procedure or forms of pleading. In so far as the term 'natural justice' means that a result or process should be just, it is a harmless though it may be a high-sounding expression; in so far as it attempts to reflect the old jus naturale it is a confused and unwarranted transfer into ethical sphere of a term employed for other distinctions; and, in so far as it is resorted to for other purposes, it is vacuous." Lord Parmoor in his speech also reiterated the principle governing the procedure of a quasi judicial tribunal in these words:

"Where, however, the question of the propriety of procedure is raised in a hearing before some tribunal other than a Court of law there is no obligation to adopt the, regular forms of legal procedure. It is sufficient that the case has been heard in a judicial spirit and in accordance with the principles of substantial justice"

14. Another recent decision of the House of Lords in the case of General Medical Council v. Spackman, 1943 AC 627 (F), was relied upon by, the High Court in the judgement under appeal. In that case the General Medical Council which had been constituted a domestic forum to determine whether a case had been made out for striking of the name of a medical practitioner from the medical register "for infamous conduct in a professional respect", was the appellant before their Lordships, and the respondent had been found guilty by the Divorce Court of having committed adultery. In the proceedings before the Medical Council the medical practitioner proceeded against desired to call fresh evidence on the issue of adultery and requested the Council to rehear that issue. The Council declined to reopen the issue and to hear fresh evidence and directed his name to be erased from the register. The Court of Appeal unanimously affirmed the view of the of the dissenting Judge in the Court of first instance that there had been no "due inquiry" as required by S. 29 of the Medical Act, 1858. The Appeal Court set aside the majority decision of Viscount Caldecote, C.J. and Humphreys, J., who had held that the requirements of the law had been satisfied by adopting the judgement and decree of the Divorce Court. On appeal by the Medical Council to the House of Lords, the House unanimously agreed with the unanimous decision of the Appeal

Court and held that the requirement of due inquiry enjoined by the Act creating the Tribunal had not been satisfied. Viscount Simon, L.J. examined the provisions of the Act and the relevant rules and pointed out that they require the practitioner proceeded against "to state his case, and to produce the evidence in support of it". The Lord Chancellor in the course of his speech observed that the General Medical Council was not a judicial body in the ordinary sense, was master of its own procedure and was not bound by strict rules of evidence. It was bound to satisfy the requirements of the law and the rules made thereunder. The Council had to decide on sworn testimony after due inquiry. He also adopted the language of Lord Loreburn, L.C. in the aforesaid case of Board of Education v. Rice (B) (supra). Lord Atkin in the course of his speech pointed out that the rules under the Act provided that the Council was bound, if requested, to hear all the evidence that the practitioner charged wished to bring before them. He also pointed out the antithesis between convenience and justice by saying "Convenience and justice are often not on speaking terms." His Lordship further pointed out the difference between the procedure which may be prescribed in respect of different tribunals which were creations of statutes, in these words:

"Some analogy exists, no doubt, between the various procedures of this and other not strictly judicial bodies, but I cannot think that the procedure which may be very just in deciding whether to close a school or an insanitary house is necessarily right in deciding a charge of infamous conduct against a professional man. I would, therefore, demur to any suggestion that the words of Lord Loreburn, L.C. in Board of Education v. Rice (B) (supra) afford a complete guide to the General Medical Counsel in the exercise of their duties. As I have said, it is not correct that they need not examine witnesses'. They must examine witnesses it tendered, and their own rules rightly provide, for this. Further it appears to me very doubtful whether it is true that they have no power to administer an oath'."

15. It may be noticed that the Lords who sat on that case particularly emphasized the requirements of the law as laid down in the statute and the rules framed thereunder. In view of those statutory provisions they found it necessary to uphold the decision of the Court of Appeal which had set aside the judgement and orders of the King's Bench Division which had taken the contrary view, to the effect that the decree in the Divorce Court was conclusive evidence on which the Medical Court Council could act. The case is therefore authority for the proposition that the rules of natural justice have to be inferred from the nature of the tribunal, the scope of its enquiry and the statutory rules of procedure laid down by the law for carrying out the objectives of the statute.

16. There is another class of cases which lay down that if a person is to be deprived of his professional status, he must be heard and be given effective opportunity of meeting any allegation made against him on the question of his fitness to pursue his profession. If the tribunal constituted by the statute in question to decide about the fitness of an individual to pursue that profession, decides against him without giving him an opportunity of meeting any allegation against him hearing on his capacity or qualification for the profession to which he claims admission, it has been held that it was improper for the tribunal acting in a quasi judicial capacity to act to his prejudice upon evidence or adverse report without his having an opportunity of meeting such relevant allegations made against him. To that class belong the case of R. v. Architects' Registration Tribunal, 1946-2 All ER 131 (G). In that case the King's Bench Division issued an order of certiorari to quash the tribunal's decision refusing an application for registration as an architect.

17. The cases of Leeson v. General Council of Medical Education and Registration, (1889) 43 Ch D 366 (H), and Allinson v. General Council of Medical Education and Registration, (1894) 1 QB 750 (I), also belong to that category. They deal with the power of the General Council of Medical

Education under the Medical Act (21 and 22 Vict. c. 90) to strike off a medical practitioner for unprofessional conduct. Those were cases in which the Medical Council had to function as a quasi judicial body and had to proceed according to the procedure laid down in the rules framed under the Act aforesaid. They had therefore to function, not exactly as Courts of law, but as domestic tribunals created by the statute to function according to the statutory rules in a fair and just manner, that is to say, that they should have no personal interest in the controversy and should have given a full and fair opportunity to the person proceeded against to place his cast before the tribunal.

18. Another class of cases is illustrated by the decision of the Court of Appeal in R.v. Archbishop of Canterbury, 1944-1 All ER 179 (J). In that case the Archbishop of Canterbury reviewing the order of the Bishops refused to approve the clerk presented by the patron to a benefice. Acting under S.3 of the Benefices (Exercise of the Rights of Presentation) Measure, 1931, the Court repe1led the argument on behalf of the disappointed patron that as the decision involved a deprivation of property rights there was an obligation upon the Archbishop to act in a quasi judicial manner. Lord Greene, M.R., who delivered the judgment of the Court, observed that there was no "justification for regarding the matter when it comes before the Archbishop as in any sense, or by any remote analogy, a lis inter partes". Hence the Court on a true construction of S.3 of the Measure came to the conclusion that the, Archbishop was not required to arrive at his decision by conducting a quasi-judicial enquiry. This case, therefore, is an authority for the proposition that simply because property rights are involved, the authorities charged with the duty of deciding claims to such rights are not necessarily, apart from the provisions of the statute, required to function as quasi judicial tribunals.

19. As already pointed out, the Appellate Authority had to function in a quasi judicial capacity in accordance with the rules made under the Motor Vehicles Act. That Act has made ample provisions for safeguarding the interests of rival claimants for permits. The provisions of the Act were examined in detail by a Bench of five Judges of this Court in the case of Veerappa Pillai v. Raman and Raman Ltd., l952 SCR 583: (AIR 1952 SC 192) (K). This Court examined elaborately the provisions of the Act vis-a-vis the authorities created by the Act to administer its provisions relating to the grant of stage carriage permits. It also examined how far the High Court exercising its special powers to issue writs under Art. 226 of the Constitution could interfere with the orders made by those authorities. In the course of its judgment this Court made the following observations at page 596, which are very relevant to the present purpose:

"Thus we have before us a complete and precise scheme for regulating the issue of permits, providing what matters are to be taken into consideration as relevant, and prescribing appeals and revisions from subordinate bodies to higher authorities. The remedies for the redress of grievances or the correction of errors are found in the statute itself and it is to these remedies that resort must generally be had".

Keeping in view the observation of this Court quoted above and the principles of natural justice discussed in the several authorities of the highest Courts in England, we have to see how far the provisions of the Motor Vehicles Act and the rules framed thereunder justify the criticism of the High Court that the Appellate Authority did not give full and effective opportunity to the first respondent to present his point of view before it. As already indicated, the statutory provisions do not contemplate that either the Regional Transport Authority or the Appellate Authority had to record evidence or to proceed as if they were functioning as a Court of low. They had to decide between a number of applicants as to which of them was suitable for the grant of the fresh permit applied for. They took into, consideration all the relevant matters and came to their decision which

has not been attacked as partial or perverse. The only ground which survived before the Appellate Bench of the High Court was that the requirements of natural justice had not been satisfied. The only question that we have to determine is whether the Appellate Authority was justified in using the second report made by the police, though it had not been placed into the hands of the parties. That report did not directly contain any allegations against the first respondent. Hence there was nothing in that report which it, could be called upon to meet. The only effect of that report was that many of the objections raised against the suitability of the appellant had been withdrawn by the police on further consideration of their records. The police report is more for the information of the authorities concerned with the granting of permits than for the use of the several applicants for such permits. In our opinion, therefore, the fact that the Appellate Authority had read out the contents of the police report was enough compliance with the rules of natural justice. We have also pointed out that no grievance was made at the time the Appellate Authority was hearing the appeal by any of the parties, particularly by the first respondent, that the second report should not have been considered or that they wished to have a further opportunity of looking into that report and to controvert any matter contain therein. They did not move the Appellate Authority for the adjournment of the hearing in order to enable it to meet any of the statements made in that report. But the learned counsel for the respondent suggested that the requirements of natural justice could not be waived by any of the parties and that it was incumbent upon the Appellate Authority to observe the so-called rules of natural justice. In our opinion, there is no warrant for such a proposition. Even in a Court of law a party is not entitled to raise the question at the appellate stage that he should have been granted an adjournment which he did not pray for in the Court of first instance. Far less, such a claim can be entertained in an appeal from a tribunal which is not a Court of justice, but a statutory body functioning in a quasi judicial way.

20. For the reasons aforesaid, in our opinion, the judgment under appeal is erroneous and must be set aside and we are further of the opinion that the judgment of the learned single Judge of that Court had taken the more correct view of the legal position. The appeal is accordingly allowed with costs throughout.

Appeal allowed.

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