

# TRAVANCORE COCHIN HIGH COURT

Ulahannan Mathai

Vs

State (Travencore Cochin)

O.P. No. 6 of 1954

(Sankaran, Subramonia Iyer and Menon, JJ.)

10.11.1954

## JUDGMENT

### **Menon, J.**

1. The proceedings impugned in this petition were taken under the provisions of the Travencore-Cochin Food Grains (Distribution, Rationing and Movement) Control Order 1950. That Order was made on 21-7-1950 in exercise of the powers conferred on the Government by Section 3, Travencore-Cochin Public Safety Measures Act, 1950 (5 of 1950), a section which has been held to be 'ultra vires' of the Constitution in - '*Lonappen George v. State*', and - '*State v. Philipose Philip*', for lack of the Presidential sanction prescribed by Article 304, and there can be no doubt that if those decisions are correct this petition has to be allowed.

2. The only question, therefore, that arises for consideration and which was urged before us was regarding the correctness or otherwise of the said decisions. The relevant portion of Article 304 of the Constitution reads as follows:

"Notwithstanding anything in Article 301 or Article 303, the Legislature of a State may by law - (b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in Use public interest: Provided that no Bill or amendment for the purpose of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President."

and what was held by this Court in the decisions mentioned above was that Section 3, Travencore-Cochin Public Safety Measures Act, 1950, was ultra vires of the Constitution because the said enactment did not comply with the stipulation of the proviso to the effect that "no bill or amendment for the purpose of clause (b), shall be introduced or moved in the Legislature of a State without the previous sanction of the President."

3. The said Act was passed by the Assembly after the Constitution came into force on 29-3-1950, and after receiving the assent of His Highness the Raj Praraukh was published in the Travencore-Cochin Gazette (Extraordinary) dated 30-3-1950.

4. The argument before us was that the material date for considering the necessity for the Presidential sanction was not 29-3-1950 when the Bill was passed by the Assembly or any date subsequent thereto but the date on which the said Bill was introduced, namely, 13-12-1949. If the material date is a pre-Constitution date like 13-12-1949, it is clear that the State's contention has to be accepted and that the former view cannot be sustained.

5. The answer to the question as to what exactly is the material date will depend on what exactly is meant by the proviso when it says that no "Bill or amendment shall be introduced or moved" without the prior sanction of the President. According to the learned Government Pleader what the proviso really stipulates is that no Bill "shall be introduced" or "amendment moved" in the Legislature of a State without the previous sanction of the President and as the introduction of the Bill in this case was prior to the Constitution and no material amendment was made subsequent thereto no question of a Presidential sanction arises for consideration. He invoked the maxim 'Beddendo singula singulis' in support of his contention, a maxim which according to Black's Interpretation of Laws means that

"Where a sentence in a statute contains several antecedents and several consequences, they are to be read distributively; that is to say, each phrase or expression is to be referred to its appropriate object."

There is also some support for the State's contention in current legislative phraseology, which though it employs both the words "introduced" and "moved" in relation to a Bill, uses only the latter in respect of an amendment.

6. It is admitted that if the interpretation urged by the State is accepted it will be possible to introduce a Bill which required no Presidential sanction, get it amended by a Select Committee in such a way as to make it require the Presidential sanction in case it was originally introduced in the amended form and then pass it into law, and thus escape the necessity for the prior Presidential sanction provided by Article 304 of the Constitution. There can be no doubt that such a result could never have been intended by the makers of the Constitution and we see nothing in the maxim mentioned above on the wording of the Article which really militates against our giving the fullest effect to the intention of the Constituent Assembly, and holding that no Bill of the type contemplated shall be introduced or moved in the Legislature of a State without the previous sanction of the President and no such amendment shall also be moved without the previous sanction of the President. In other words, what the proviso was intended to mean and what it really means according to us is that the prior Presidential sanction is required in the words of Section 109, Government of India Act, 193a, "to the introduction or passing of a Bill or the moving of an amendment".

7. It follows that the two previous decisions of the Court require no re-consideration and that the petitioner must succeed.

8. The petition is hereby allowed. In the circumstances of the case, however, there will be no order as to costs.

Petition allowed.

Cases Referred.

1AIR 1954 Trav Coc 34  
2AIR 1954 Trav Coc 257