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MINERVA MILLS LTD. & ORS. ETC. ETC.

v.

B UNION OF INDIA & ORS.

SEPTEMBER 9, 1986

[O. CHINNAPPA REDDY AND MURARI MOHON DUTT, JJ.]

Industrial (Development and Regulation) Act 1951, ss. 15 and C *18A—Non-supply of Report of Investigation Committee—Whether failure of natural justice—Take over of management of undertaking—Grant of loan by government to the undertaking—Whether sufficient to say that order of 'take over' has no basis.*

D *Sick Textile Undertakings (Nationalisation) Act, 1974—Validity of.*

Constitution of India, Articles 14, 19, 31A and 31C—Challenge that basic or essential feature of Constitution is damaged or destroyed—When can be raised.

E *Administrative Law—Natural justice—Failure of—Whether arises in non-supply of copy of Investigation Committee Report under s. 15 Industrial (Development and Regulation) Act.*

The petitioner, Minerva Mills Ltd.—a textile undertaking had been running at a loss and had to be closed down. The Central Government ordered an investigation into the affairs of the petitioner-company under F **s. 15 of the Industries (Development & Regulation) Act 1931. Thereafter, the State Government of Mysore sanctioned the guarantee to enable the petitioner-company to raise a loan of Rs.20 lacs from the State Bank of India. After the investigation was made, the Central Government passed an order under s. 18A of the IDR Act taking over the management of the undertaking of the Company on the ground that the Central Government** G **was of opinion that the undertaking was being managed in a manner highly detrimental to public interest. During the pendency of the management of the undertaking by the National Textile Corporation, the Sick Textile Undertakings Ordinance of 1974 was promulgated, and it was replaced later on by the Sick Textile Undertakings (Nationalisation) Act 1974.**

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The petitioners including the company unsuccessfully challenged before the High Court under Art. 227, the order dated October 18, 1971, passed by the Central Government under s. 18A of the Industrial (Development and Regulation) Act as also the Nationalisation Act. Their appeals were also summarily dismissed by the Division Bench of the High Court.

The petitioner, Minerva Mills Ltd. and some of its creditors challenged before the Supreme Court under Art. 32 of the Constitution, the legality of the aforesaid order as also the constitutional validity of Sick Textile Undertakings (Nationalisation) Act 1974.

Dismissing the writ petitions,

HELD: 1.1 The investigation that was made under s. 15 of the Industrial (Development and Regulation) Act and the consequent findings of the Government on the basis of which the management of the undertaking of the Company was taken over under s. 18A of the Industrial (Development and Regulation) Act, was that the affairs of the undertaking of the Company were being managed in a manner highly detrimental to public interest. The undertaking had been running at a loss and had to be closed down on January 2, 1970. This miserable condition of the undertaking might be due to the mismanagement of its affairs. [723E-F]

1.2 The Government might have thought of assisting the Company to raise a loan of Rs.20 lacs, but that fact or the fact that such proposal for assistance was made for special reasons as provided in the second proviso to s. 4 of the Mysore State Aid to Industries Act, 1959 is not, sufficient to uphold the contention of the petitioners that there was no basis or foundation for the order under s. 18A. [723F-G]

1.3 The legislature had decided that the undertaking of the Company was a sick textile undertaking by including the same in the First Schedule to the Nationalisation Act. There can be no doubt that the legislative judgment should be looked upon with respect and it requires very strong grounds to set it at naught. In the instant case, there is no existence of any such ground. [724B-C]

2. The petitioner-company was given a hearing by the Investigation Committee and, therefore, it got ample opportunities to make representations against the proposed take-over. It is difficult to lay down that non-supply of a copy of the report of investigation under s. 15 of the

A Industrial (Development and Regulation) Act will always occasion a failure of natural justice. Whether in a particular case there has been failure of natural justice or not will depend on the facts and circumstances of that case. [725A-B]

B In the instant case also, the petitioners were not in the least prejudiced for the non-supply to them of a copy of the report. Moreover, they never asked for a copy of the report. They did not also move against the order under s. 18A before the undertaking was nationalised under the Nationalisation Act. It shows that the petitioners were not aggrieved by the said order under s. 18A for they could not be as they had not the required minimum resources for running the mill. [725F-H]

C 3.1 The Nationalisation Act has been enacted to give effect to the policy of the State towards securing the principles specified in clause (b) of Art. 39 of the Constitution. Indeed a declaration in that regard has been made in s. 39 of the Nationalisation Act. [728C-D]

D 3.2 The Nationalisation Act gives effect to the policy of the State towards securing the ownership and control of the material resources of the community, which are so distributed as best to subserve the common good. In the circumstances, as the Nationalisation Act comes under the protective umbrella of Article 31C, the petitioners are not entitled to challenge the constitutional validity thereof on the ground of violation of E the provisions of Arts. 14 and 19 of the Constitution. [728G-H]

4. Only constitutional amendments made on or after April 24, 1973 by which Acts or Regulations were included in the Ninth Schedule can be challenged on the ground that they damage the basic or essential features of the Constitution or its basic structure. But if any of such Acts F and Regulations is saved by Art. 31A or by Art. 31C as it stood prior to the amendment of the Constitution by the Forty-second Amendment, such challenge on the ground that the constitutional amendment damages or destroy a basic or essential feature of the Constitution or its basic structure as reflected in Art. 14 or Art. 19, will become otiose. [728A-C]

G 5. Under s. 4(1) of the Nationalisation Act, the sick textile undertaking shall be deemed to include all properties, movable and immovable, including lands, buildings, workshops, stores, etc., in the ownership, possession, power or control of the owner of the sick textile undertaking. The question whether the vacant land has been in use, is not, relevant for the purpose of s. 4(1). In view of the said provision, it is H

difficult to accept the contention of the petitioners that the vacant land is not a part of the undertaking. [732D-E] A

In the instant case, the whole of the said 17.52 acres of land including 4.37 acres thereof, is situate within the mill compound. The Court cannot accept the contention of the petitioners that as the land is lying vacant since the take over it does not form part of the undertaking. [732C-D] B

ORIGINAL JURISDICTION: Writ Petition Nos. 356-361 of 1977

Under Article 32 of the Constitution of India. C

R.F. Nariman, J. Peres, Mrs. A.K. Verma and S. I. Thakur for the Petitioners.

B. Datta, Additional Solicitor General, T.V.S.N. Chari, Ms. V. Grover, Ms. Sunita Mudigarda and W. Quadri for the Respondents. D

The Judgment of the Court was delivered by

DUTT, J. In these Writ Petitions under Article 32 of the Constitution of India the petitioners, including the petitioner Minerva Mills Ltd. and some of its creditors, have challenged the legality of the order dated October 19, 1971 passed under section 18A of the Industries (Development and Regulation) Act, 1951 (for short 'IDR Act') taking over the management of the textile undertaking of the petitioner, Minerva Mills Ltd., and the constitutional validity of the Sick Textile Undertakings (Nationalisation) Act, 1974 (for short 'Nationalisation Act'). E

On August 20, 1970, the Central Government appointed a Committee section 15 of the IDR Act to make a full and complete investigation of the affairs of the Minerva Mills Ltd., hereinafter referred to as 'the Company'. After the investigation was made the Central Government by an order dated October 19, 1971, authorised the National Textile Corporation to take over the management of the undertaking of the Company. The petitioners did not challenge the order to take over the management before any court of law. During the pendency of the management of the undertaking by the National Textile Coporation, the Sick Textile Undertakings Ordinance of 1974 was promulgated and it was replaced by the Nationalisation Act. Section 3(1) of the Nationalisation Act provides that on the appointed day, every sick textile undertak- F G H

ing and the right, title and interest of the owner in relation to every such sick textile undertaking shall stand transferred to, and shall vest absolutely in, the Central Government. 'Sick textile undertaking' has been defined in section 2(j) of the Nationalisation Act as meaning, *inter alia*, a textile undertaking, specified in the First Schedule, the management of which has, before the appointed day, been taken over by the Central Government under the IDR Act. The textile undertaking of the Company has been specified in the First Schedule of the Nationalisation Act. So, in view of the said definition read with section 3(1) of the Act, the undertaking had vested in the Central Government.

It has been urged by Mr. R.F. Nariman, learned Counsel appearing on behalf of the petitioners, that there was no justification for taking over the management of the undertaking of the Company under section 18A of the IDR Act. In support of the said contention, the learned Counsel has drawn our attention to certain facts which will be stated presently. It appears that the Company had been running at a loss during the years from 1956 to 1965. The condition of the mill further deteriorated on account of recession in 1965 coupled with labour problems, and that continued till 1970. On January 2, 1970, the mill had to be closed. It is the case of the petitioners that by dint of serious effort on the part of the management and labour, an amicable agreement was arrived at between them, and a phased programme for resumption of production in three stages was drawn up by the management. The then State Government of Mysore was requested to sanction the guarantee of a loan for Rs.20 lacs. By an order dated April 24, 1971 the Government sanctioned the guarantee to enable the Company to raise a loan of Rs.20 lacs from the State Bank of India. In the said order it was *inter alia* stated as follows:

> "The Government have carefully considered the various factors leading to the present state of affairs of the Mills and also the various recommendations made by the Investigation Committee constituted by the Government of India to go into the affairs of this Mills and have come to the conclusion that the Mills should be assisted to raise finances required for working the Mills."

The said order was passed after the investigation under section 15 of the IDR Act. A few months thereafter, on October 19, 1971, the order under section 18A of the IDR Act was passed taking over the management of the undertaking of the Company on the ground that the

Central Government was of opinion that the undertaking was being managed in a manner highly detrimental to public interest.

It is strenuously urged on behalf of the petitioners that the order under section 18A dated October 19, 1971 was passed without any application of mind, regard being had to the earlier order dated April 24, 1971 sanctioning the guarantee of a loan. It is submitted that there was no foundation for the finding of the Central Government that the undertaking of the Company was being managed in a manner highly detrimental to public interest, for, if that was the condition of management, the Government could not sanction a guarantee for incurring a loan of Rs.20 lacs. It is, accordingly, contended that the order under section 18A was illegal and invalid. It is submitted that on this ground the nationalisation of the undertaking of the Company should be held to have no basis whatsoever, for, the Nationalisation Act has been made applicable to the undertaking of the Company in view of section 2(j) of the Nationalisation Act defining 'Sick textile undertaking'.

We are unable to accept the contention of the petitioners that the order under section 18A of the IDR Act was illegal. It is true that the Government sanctioned the guarantee of a loan for Rs.20 lacs on the recommendation of the Director of Industries and Commerce of the Government of Mysore. But, at the same time, we cannot ignore the investigation that was made under section 15 of the IDR Act and the consequent finding of the Government on the basis of which the management of the undertaking of the Company was taken over under section 18A of the IDR Act, namely, that the affairs of the undertaking of the Company were being managed in a manner highly detrimental to public interest. It has been already found that the undertaking had been running at a loss and had to be closed down January 2, 1970. This miserable condition of the undertaking might be due to the mismanagement of its affiars. The Government might have thought of assisting the Company to raise a loan of Rs.20 lacs, but that fact or the fact that such proposal for assistance was made for special reasons as provided in the second proviso to section 4 of the Mysore State Aid to Industries Act, 1959 is not, in our opinion, sufficient to uphold the contention of the petitioners that there was no basis or foundation for the order under section 18A.

Moreover, it does not appear that the petitioners were aggrieved by the order under section 18A inasmuch as the same was not challenged in any court of law. There is some force in the contention made

A by the learned Additional Soliciter General that after the lapse of several years from the date of the take-over of the management of the undertaking, the petitioners should not be allowed to challenge the validity of the order under section 18A. Apart from this technical objection, the Legislature had decided that the undertaking of the Company was a sick textile undertaking by including the same in the B First Schedule to the Nationalisation Act. There can be no doubt that the legislative judgment should be looked upon with respect and it requires very strong grounds to set it at naught. In our opinion, there is no existence of any such ground.

The next ground of attack of the petitioners to the validity of the C order under section 18A is that it was vitiated as there was no direction by the Central Government under section 16 of the IDR Act. Section 16 authorises the Central Government to issue directions to the industrial undertaking concerned for certain purposes as are mentioned in clauses (a) to (d) of section 16 after an investigation under section 15 is made and the Central Government is satisfied that action under sec- D tion 16 is desirable. It is apparent from section 16 that it is not obligatory on the Central Government to issue directions for all or any of the purposes as mentioned in the said section. One of the two grounds for taking over management of an industrial undertaking, as contained in clause (a) of section 18A, is that the industrial undertaking has failed to comply with the directions given under section 16. The other ground E is that, as contained in clause (b) of section 18A, an industrial undertaking in respect of which an investigation has been made under section 15 (whether or not any directions have been issued to the undertaking in pursuance of section 16) is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest. In the instant case, the undertaking of the Company had been taken over F under clause (b) of section 18A on the ground that it was being managed in a manner highly detrimental to public interest. There is, therefore, no substance in the contention made on behalf of the petitioners that the impugned order under section 18A was vitiated as no direction under section 16 was issued by the Central Government.

G It is urged on behalf of the petitioners that as the Company was not supplied with a copy of the report of investigation before the impugned order under section 18A was passed, the respondents acted illegally in violation of the principles of natural justice, and the impugned order is liable to be struck down on that ground. In our opinion, there is no substance in this contention. The Company was H

given a hearing by the Investigation Committee and, therefore, it got ample opportunities to make representations against the proposed take-over. It is difficult to lay down that non-supply of a copy of the report of investigation under section 15 of the IDR Act will always occasion a failure of natural justice. Whether in a particular case there has been failure of natural justice or not will depend on the facts and circumstances of that case. As has been laid down by this Court in *Keshav Mills Co. Ltd.* v. *Union of India*, [1973] 1 SCR 380 that in certain cases where, unless the report is given, the party concerned cannot make any effective representation about the action that Government takes or proposes to take on the basis of that report, the non-supply of the report may invoke the application of the rules of natural justice. In that case, it was contented by the appellants that they should have been given further hearing by the Government before they took the final decision to take over their undertaking under section 18A of the IDR Act and that, in any event, they should have been supplied with a copy of the report of the Investigation Committee. One of the grounds that weighed with this Court for rejecting the contention was that since the appellants had received a fair treatment and also all reasonable opportunities to make out their own case before the Government they should not be allowed to make any grievance of the fact that they were not given a formal notice calling upon them to show cause why their undertaking should not be taken over or that they had not been furnished with a copy of the report. In the instant case also, as has been already noticed, the Company was given a reasonable opportunity of being heard by the Investigation Committee during the investigation under section 15 of the IDR Act. In our opinion, the petitioners were not in the least prejudiced for the non-supply to them of a copy of the report. The view we take, finds support from some other facts stated hereafter.

It does not appear that the petitioners ever asked for a copy of the report. They did not also move against the order under section 18A before the undertaking was nationalised under the Nationalisation Act. It is the case of the petitioners that they did not challenge the impugned order under section 18A because the take-over of the management of the undertaking was for a limited period of five years and the petitioners were hopeful that they would get back the undertaking after the expiry of the said period as provided in sub-section (2) of section 18A of the IDR Act. It shows that the petitioners were not aggrieved by the said order under section 18A, for they could not be as they had not the required minimum resources for running the mill. It is

A stated in the counter affidavit of the respondents that the financial position of the Company was adverse in all respects. The accumulated losses as on 31.12.1969 was Rs.35.46 lakhs which did not include arrears of depreciation amounting to Rs.44.06 lakhs. The working capital and net wealth assumed negative values. The outstanding secured loans amounted to Rs.170.20 lakhs and unsecured loans to Rs.14.60 B lakhs. There were defaults in payment of instalments and interest. It is further stated that according to the Investigation Committee, the reasons for this state of affairs was low capital base, heavy borrowings and consequent interest burden and paucity of working capital.

In this connection, it may be pointed out that sometime in June C 1975, after the nationalisation of the undertakings, the petitioners including the Company filed separate writ petitions under Article 226 of the Constitution in the High Court of Karnataka challenging the order dated October 19, 1971 under section 18A of the IDR Act, and also the constitutional validity of the Nationalisation Act. All these Writ Petitions were dismissed by a learned Single Judge of the D Karnataka High Court on July 8, 1976. The appeals preferred by some of the petitioners including the Company were also summarily dismissed by the Division Bench of the said High Court. By an order dated March 25, 1977, the Division Bench also dismissed applications for leave to appeal to this Court under Article 133 of the Constitution of India. We are afraid, in view of the aforesaid facts the petitioners are E not entitled to challenge the impugned order under section 18A.

We may now consider the challenge of the petitioners to the constitutional validity of the Nationalisation Act. It is contended on behalf of the petitioners that the provisions of sections 5(1), 19(3), 21 read with the Second Schedule, 25 and 27 impose restrictions on the F exercise by the petitioners of their fundamental right; such restrictions being arbitrary and excessive are not reasonable within the meaning of Article 19(6) and are violative of Articles 14 and 19(1)(g) of the Constitution. It is submitted that the Nationalisation Act containing the said provisions alters or damages the basic structure of the Constitution as reflected in Articles 14 and 19 of the Constitution. Further, it is G submitted that though the Nationalisation Act has been included in the Ninth Schedule to the Constitution, yet, in view of the decision of this Court in *Waman Rao* v. *Union of India*, [1981] 2 SCR 1, as the inclusion has been made after April 24, 1973, such challenge can be made.

We fail to understand how the provisions of the Nationalisation H

Act can alter or damage the basic structure of the Constitution. The basic structure of the Constitution can be altered or damaged by an amendment of the provisions of the Constitution. The decision in *Waman Rao*'s case (supra) does not at all support the contention of the petitioners. In that case, it has been observed as follows:

> "In *Keshvananda Bharati* ([1973] Suppl. SCR 1) decided on April 24, 1973 it was held by the majority that Parliament has no power to amend the Constitution so as to damage or destroy its basic or essential features or its basic structure. We hold that all amendments to the Constitution which were made before April 24, 1973 and by which the 9th Schedule to the Constitution was amended from time to time by the inclusion of various Acts and Regulations therein, are valid and constitutional. Amendment to the Constitution made on or after April 24, 1973 by which the 9th Schedule to the Constitution was amended from time to time by the inclusion of various Acts and Regulations therein, are open to challenge on the ground that they, or any one or more of them are beyond the constituent power of the Parliament since they damage the basic or essential features of the Constitution or its basic structure. We do not pronounce upon the validity of such subsequent constitutional amendments except to say that if any Act Regulation included in the 9th Schedule by a Constitutional amendment made on or after April 24, 1973 is saved by Article 31A, or by Article 31C as it stood prior to its amendment by the 42nd Amendment, the challenge to the validity of the relevant Constitutional Amendment by which that Act or Regulation is put in the 9th Schedule, on the ground that the Amendment damages or destroys a basic or essential feature of the Constitution or its basic structure as reflected in Articles 14, 19 or 31, will become otiose.
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> (3) Article 31C of the Constitution, as it stood prior to its amendment by section 4 of the Constitution (42nd Amendment), Act, 1976, is valid to the extent to which its constitutionality was upheld in *Keshvananda Bharati*. Article 31C, as it stood prior to the Constitution (42nd Amendment) Act does not damage any of the basic or essential features of the Constitution or its basic structure."

A It is apparent from the above observation that only constitutional amendments made on or after April 24, 1973 by which Acts or Regulations were included in the Ninth Schedule can be challenged on the ground that they damage the basic or essential features of the Constitution or its basic structure. But if any of such Acts and Regulations is saved by Article 31A or by Article 31C as it stood prior to the B amendment of the Constitution by the Forty-Second Amendment, such challenge on the ground that the constitutional amendment damages or destroys a basic or essential feature of the Constitution or its basic structure as reflected in Article 14 or Article 19, will become otiose.

The Nationalisation Act has been enacted to give effect to the C policy of the State towards securing the principles specified in clause (b) of Article 39 of the Constitution. Indeed, a declaration in that regard has been made in section 39 of the Nationalisation Act. It was, however, open to the petitioners to challenge this declaration, for, in *Keshvananda Bharti* v. *State of Kerala,* [1973] Suppl. SCR 1, this Court by a majority struck down the second part of Article 31C of the Con- D stitution, namely, "and no law containing a declaration that it is for giving effect to such policy, shall be called in question in any court on the ground that it does not give effect to such policy." No contention has, however, been advanced before us on behalf of the petitioners that the Nationalisation Act does not give effect to the policy of the State towards securing the principles specified in clause (b) of Article E 39 of Constitution. The reason why no such contention has been made is obvious in view of the objectives the Nationalisation Act seeks to achieve. It cannot be gainsaid that textile industries constitute material resources of the community and any setback or fall in the production of textile goods will have adverse effect on the national economy and also cause hardship to the people. It is with a view to re-organising and F rehabilitating the sick textile undertakings so as to subserve the interests of the general public by the augmentation of the production and distribution, at fair prices, of different varieties of cloth and yarn, and for matters connected therewith or incidental thereto, as stated in the preamble, that the Nationalisation Act has been enacted. We have considered the different provisions of the Nationalisation Act and are G satisfied that it gives effect to the policy of the State towards securing the ownership and control of the material resources of the community, which are so distributed as best to subserve the common good. In the circumstances, as the Nationalisation Act comes under the protective umbrella of Article 31C, the petitioners are not entitled to challenge the constitutional validity thereof on the ground of violation of the H provisions of Articles 14 and 19 of the Constitution.

The learned counsel for the petitioners, however, submits that in spite of the fact that the Nationalisation Act has been included in the Ninth Schedule, the petitioners are entitled to challenge the constitutional validity of the provisions of the Nationalisation Act as violative of Articles 14 and 19 of the Constitution. It has been already noticed that the Nationalisation Act fall squarely within the ambit of Article 31C and, consequently, none of its provisions can be challenged on the ground of violation of Article 14 or Article 19 of the Constitution. Much reliance has, however, been placed by the petitioners on a majority decision of this Court in *Bhim Singhji* v. *Union of India*. AIR 1981 SC 234. In that case, the question that has been considered relates to whether the Urban Land (Ceiling and Regulation) Act, 1976 furthers the Directive Principles of State Policy in clauses (b) and (c) of Article 39 of the Constitution. It has been held by the majority consisting of Chandrachud C.J., P.N. Bhagwati J. (as he then was) and Krishan Iyer J. that the said Act implements or achieves the purposes of clauses (b) and (c) of Article 39 and is valid except that section 27(1) of the said Act in so far as it imposes a restriction on transfer of any urban or urbanisable land with a building or a portion only of such building, which is within the ceiling area, is invalid. It has been observed by Chandrachud C.J., with whom Bhagwati, J. concurs, that fuller reasons will follow later. Subsequently, a judgment has been delivered by Chandrachud C.J., for himself and Bhagwati J. (AIR 1985 SC 1650) wherein it has been *inter alia* observed as follows:

> "We have gone through Krishna Iyer J's judgment closely and find that there is nothing that we can usefully add to it."

In orther words, the learned Chief Justice and Bhagwati J. have adopted the reasons given by Krishna Iyer J.

The learned Counsel for the petitioners has drawn our attention to the fact that none of the Judges constituting the majority, including Krishna Iyer J. has given any reason for striking down the provision of section 27(1) of the said Act. It is submitted that the majority judgment is a precedent for the proposition that even though a statute comes within the purview of Article 31C of the Constitution, yet its validity can be challenged on the ground of its violation of Article 14 or Article 19 of the Constitution. It is contended that in view of *Bhim Singhji's* case, we cannot take any view other than the view that such a challenge can be made

A In support of the above contention, the learned Counsel for the petitioners has placed reliance upon the decision of the Court of Appeal in *Harper and others* v. *National Coal Board,* [1974] 2 ALL ER 441. In that case, the Court of Appeal had to consider the propriety of the judgment of the learned Trial Judge, who based his decision on the B speeches in the House of Lords in *Central Asbestos Co. Ltd* v. *Dodd,* [1972] 2 ALL ER 1135. In *Dodd*'s case the House of Lords by a majority of 3 to 2 affirmed the majority decision of the Court of Appeal that time did not begin to run against the plaintiff under section 1(3) of the Limitation Act, 1963 until he discovered that he had a worthwhile cause of action. Of the three Judges, who constituted the majority of the House of Lords, two took the same view of the law as that taken by C the majority of the Court of Appeal, while the third took another view of the law which in substance accorded with that of minority of the House, that is, that time began to run under section 1(3) as soon as the plaintiff knew of the facts on which his action was based. The question that had to be considered by the Court of Appeal was whether it was bound by the reasoning in the speeches of the House of Lords in D *Dodd*'s case. In that contention, Lord Denning MR observed as follows:

> "How then do we stand on the law? We have listened to a most helpful discussion by counsel for the proposed plaintiffs on the doctrine of precedent. One thing is clear. E We can only accept a line of reasoning which supports the actual decision of the House of Lords. By no possibility can we accept any reasoning which would show the decision itself to be wrong. The second proposition is that, if we can discover the reasoning on which the majority based their decision, then we should accept that as binding on us. The F third proposition is that, if we can discover the reasoning on which the minority base their decision, we should reject it. It must be wrong because it led them to the wrong result. The fourth proposition is that if we cannot discover the reasoning on which the majority based their decision we are not bound by it. We are free to adopt any reasoning G which appears to us to be correct, so long as it supports the actual decision of the House."

We fail to understand how the above observation lend any support to the contention of the petitioners. The Court of Appeal was considering the same point as was before the House of Lords in *Dodd*'s H

case. The question was whether the Court of Appeal was bound to adopt the same reasoning as in *Dodd*'s case and it was held that since there was no discernible ratio decidendi common to the speeches in the House of Lords in *Dodd*'s case, the Court of Appeal was not bound by the reasoning in those speeches and was free to adopt any reasoning which appeared to the Court to be correct provided that it supported the actual decision of the House. In the instant case, we are not considering the question of the constitutional validity of section 27(1) of Urban Land (Ceiling and Regulation) Act and, therefore, it is quite irrelevant for our purpose whether any reason was given by the majority in *Bhim Singhji*'s case (supra) or not.

In view of our decision that the Nationalisation Act comes within the purview of Article 31C of the Constitution, we do not think we are called upon to adjudicate upon the contention of the petitioners that some of the provisions of the Nationalisation Act are violative of Articles 14 and 19 of the Constitution.

The only contention of the petitioners that remains to be considered is that the respondents have illegally taken over possession of the vacant land belonging to the Company. It is the case of the petitioners that out of the land, the mill premises comprises 34.78 acres and the rest of the land measuring 17.52 acres was and is vacant land. It is not in dispute that the said 17.52 acres of land is situate within the mill compound and except 4.37 acres thereof, the remaining 13.57 acres of land including the said 4.37 acres, is unrelated to and unconnected with the undertaking of the Company and, accordingly, it did not vest in the Central Government under the Nationalisation Act. It is also pointed out on behalf of the petitioners that the vacant land has not been utilised by the National Textile Corporation for any purpose of the undertaking. It is urged that as the vacant land was illegally and wrongfully taken possession of by the National Textile Corporation, although the same had not vested in the Central Government, the same should be released and given back to the Company. In any event, it is submitted on behalf of the petitioners that possession of the said 4.37 acres of land which does not form part of the compact block of the vacant land measuring 13.57 acres should be delivered back to the petitioners.

The respondents in their affidavit in opposition have denied and disputed the contention of the petitioners that the said 17.52 acres or the said 4.37 acres of land does not form part of the sick textile under-

A taking. It is the case of the respondents that except the land measuring 4 acres 14 Gunthas (stated to be equivalent to 4.37 acres) the rest of the land forms one compact block in which the buildings, office and quarters of the undertaking are situate. Further it is said that the National Textile Corporation has a programme for locating an institu-
B tion to train the technical personnel and to build quarters as a welfare measure and, necessarily, such a complex must have vacant land to implement the expansion programme. Accordingly, it is contended by the respondents that even the vacant land measuring 4 acres 14 Gunthas form an integral part of the textile undertaking.

It has already been noticed that the whole of the said 17.52 acres of
C land including 4.37 acres thereof, is situate within the mill compound. We are unable to accept the contention of the petitioners that as the land is lying vacant since the take over, it does not form part of the undertaking. Under section 4(1) of the Nationalisation Act, the sick textile undertaking shall be deemed to include all properties, movable
D and immovable, including lands, buildings, workshops, stores, etc. in the ownership, possession, power or control of the owner of the sick textile undertaking. In view of the said provision, it is difficult to accept the contention of the petitioners that the vacant land is not a part of the undertaking. It may be that the said 17.52 acres of land or the said portion of it measuring 4.37 acres has not been put to any use, but that will not entitle the petitioners to claim that possession of the
E land should be delivered back to the Company. The question whether the vacant land has been in use, is not, in our opinion, relevant for the purpose of section 4(1). It is, therefore, difficult for us to accept the contention of the petitioners that the vacant land is unrelated to and unconnected with the textile undertaking.

F The learned cousel for the petitioners has placed reliance upon an observation of this Court in *National Textile Corporation Ltd. and others etc.* v. *Sitaram Mills Ltd. and Others,* AIR 1986 SC 1234. The question that was involved in that case was whether surplus land in the precinct of the taken-over undertaking was an asset in relation to the undertaking. It was observed "The test is whether it was held for the
G benefit of, and utilised for, the textile mill". Relying upon this observation, it is contended by the learned counsel for the petitioners that as the vacant land, in the instant case, has not been utilised for the undertaking, it is not an asset of the undertaking. We do not think that in *Sitaram Mills* case this Court really meant to lay down a proposition that in order that a piece of land to be considered as the asset of the
H textile undertaking, it must be held for the benefit of and utilised for

the undertaking in question. Can it be said that a piece of land which is held for the benefit of but not utilised for the textile undertaking, as in the instant case, is not an asset of the undertaking? The answer must be in the negative. In *Sitaram Mills* case that observation was made in the context of facts of that case, namely, that the surplus land was held for the benefit of and also utilised for the textile undertaking. A B

We do not think that the said observation in the case of *Sitaram Mills* case is of any help to the petitioners. We hold that the whole of the said 17.52 acres of land forms part of the textile undertaking of the Company. No other point has been urged in these writ petitions.

For the reasons aforesaid, all these writ petitions are dismissed. There will, however, be no order for costs. C

M.L.A. Petitions dismissed.