BHAGAT RAJA

v.

THE UNION OF INDIA & ORS.

March 29, 1967

[K. SUBBA RAO, C.J., J. C. SHAH, J. M. SHELAT, V. BHARGAVA AND G. K. MITTER, JJ.]

Mines & Minerals (Regulation and Development) Act, 1957, s. 30 and Rules 54 & 55 made under the Act—State Government's order refusing mining lease to one party and granting it to another—Central Government whether in deciding revision under r. 55 should pass 'speaking order'.

The appellant was one of several applicants for a mining lease in Andhra Pradesh. The State Government however granted it to respondent No. 3. The appellant then filed an application in revision, under s. 30 of the Mines & Minerals (Regulation and Development) Act, 1957, read with r. 54, to the Union of India. Respondent No. 3 filed a counter statement and the State Government filed its comments. The appellant filed a rejoinder. The Union Government without hearing the appellant rejected his revision application. An appeal was filed before this Court. The question that fell for consideration was whether it was necessary for the Government of India to give reasons for its decision in view of the provisions of the Act and the Rules or aliunde because the decision was liable to be questioned in appeal to this Court.

HELD : (i) In exercising its powers of revision under r. 55 the Central Government discharges functions which are quasi-judicial. The decisions of tribunals in India are subject to the supervisory powers of the High Court under Art. 227 of the Constitution and of appellate powers of this court under Art. 136. Both the High Court and this Court are placed under a great disadvantage if no reasons are given and the revision is dismissed curtly by the use of the single word 'rejected' or 'dismissed'. In such a case this Court can probably only exercise its appellate jurisdiction satisfactorily by examining the entire records of the case and after giving a hearing come to its conclusion on the merits of the case. This would certainly be a very unsatisfactory method of dealing with the appeal. [308E-F; 309B-C]

If the State Government gives sufficient reasons for accepting the application of one party and rejecting that of others, as it must, and the Central Government adopts the reasoning of the State Government, this Court may proceed to examine whether the reasons given are sufficient for the purpose of upholding the decision. But when the reasons given in the order of the State Government are scrappy or nebulous and the Central Government makes no attempt to clarify the same, this Court, in appeal may have to examine the case *de novo*, without anybody being the wiser for the review by the Central Government. The same difficulty would arise where the State Government gives a number of reasons some of which are good and some are not and the Central Government gives its decision without specifying those reasons which according to it are sufficient to uphold the order of the State Government. That is why in such circumstances, what is known as a 'speaking order' is called for. [309C-F]

A 'speaking order' is all the more necessary in the case of a decision under r. 55 because there is provision for new material being placed before the Central Government which was not there before the State Government, and further, because the decision, affecting important rights of parties, is given in a summary manner without a hearing being allowed to the parties. A party is entitled to know why the decision has gone against him. [320G—321B]

B The absence in r. 55 of any provision for giving such reasons is not decisive of the matter in view of the above considerations. [315H]

Shivji Nathubhai v. *The Union of India*, [1960] 2 S.C.R. 775, *M.P. Industries* v. *Union*, [1966] 1 S.C.R. 466, *Harinagar Sugar Mills Ltd.* v. *Shyam Sundar Jhunjhunwala*, [1962] 2 S.C.R. 339 and *Sardar Govindrao* v. *State*, [1965] 1 S.C.R. 678, followed.

C *Nandram Hunatram, Calcutta* v. *Union of India*, A.I.R. 1966 S.C. 1922 and *Commissioner of Income-tax* v. *K. V. Pilliah*, 43 I.T.R. 411, distinguished.

Rex v. *Northumberland Compensation Appeal Tribunal Ex parte Shaw*, [1951] 1 K.B. 711, *Vedachala Mudaliar* v. *State of Madras*, A.I.R. 1952 Madras 276, *Ramayya* v. *State of Andhra*, I.L.R. 1956 Andhra 712, D *Annamalai* v. *State of Madras*, A.I.R. 1957 Andhra Pradesh 738 and *Joseph* v. *Superintendent of Post Offices, Kottayam*, I.L.R. 1961 II Kerala 245, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 2596 and 2597 of 1966.

E Appeals by special leave from the Orders dated May 2, 1966 and June 22, 1966 of the Government of India, Ministry of Mines and Metals, New Delhi on application is filed by the appellant under Rule 54 of the Mineral Concession Rules, 1960.

S. J. Sorabji, A. J. Rana, J. R. Gagrat and *B. R. Agarwal*, F for the appellant (in both the appeals).

G. N. Dikshit, R. N. Sachthey for *S. P. Nayyar*, for respondent No. 1 (in both the appeals).

P. Ram Reddy and *B. Parthasarathy*, for respondent No. 2 (in both the appeals).

G *M. C. Setalvad, B. Dutta*, and *O. C. Mathur*, for respondent No. 3 (in both the appeals).

The Judgment of the Court was delivered by

Mitter, J. These two appeals by special leave, are limited to the question as to whether in dismissing a revision and confirming the order of the State of Andhra Pradesh, the Union of India was bound to make a speaking order. The text of the order is the same in both the cases, the only difference being in

the situs and the area in respect of which the lease was applied for. One of the orders runs as follows : A

"New Delhi, the 22nd June, 1966".

. . . . . .

I am directed to refer to your revision application dated 14-12-1964 and letter dated 28-1-1966 on the above subject and to say that after careful consideration of the grounds stated therein, the Central Government have come to the conclusion that there is no valid ground for interfering with the decision of the Government of Andhra Pradesh rejecting your application for grant of mining lease for asbestos over an area of Ac.113-50 in Brahmanapalli village, Cuddapah District, Andhra Pradesh. Your application for revision is, therefore, rejected." B C

The facts leading to the two appeals are as follows : In response to a notification dated January 8, 1964 published in the State Gazette by the Andhra Pradesh Government inviting applications under r. 58 of the rules framed under the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the Rules and the Act) the appellant submitted two applications in the prescribed form *viz.*, Form "I" for areas aggregating Ac. 113—50 in village Brahmanapalli and Ac. 13—10 in village Ippatta both in the district of Cuddapah for mining asbestos. Respondent No. 3 also made similar applications on the same date. According to the appellant his applications complied with all the requirements of Form "I" while those of respondent No. 3 were defective in some respects. Besides the appellant and the respondent No. 3, there was only one other person who applied for a prospecting licence which was rejected off-hand. As between the appellant and the respondent No. 3, the Government of Andhra Pradesh preferred the latter. The relevant portion of the order dated 19th October 1964 in respect of the village Brahmanapalli under s. 10(3) of the Act was as follows : D E F

"As between the other applicants Sri Bhagat Raja and M/s. Tiffin's Barytes, Asbestos and Paints Ltd., the Government prefer M/s. Tiffin's Barytes, ... as they are having adequate general experience and technical knowledge, and are old lessees in the district, without any arrears of mineral dues to the Government. The mining lease application of Sri Bhagat Raja for the areas covered by the mining lease application of M/s. Tiffin's Barytes, Asbestos and Paints Ltd. is rejected." G H

A The text of the order with regard to village Ippatta is practically the same.

The appellant filed application in revision in the prescribed form *i.e.* Form 'N' under s. 30 of the Act read with r. 54 to the Union of India on December 14, 1964. The appellant tried to bring out in his revision applications that the financial condition B of the 3rd respondent was extremely precarious as would be evidenced by documents, copies whereof were annexed to his petition. The 3rd respondent filed a counter statement to the revision application in April 1965. In March 1966 the appellant received the comments of the Andhra Pradesh Government on his revision applications. The appellant filed rejoinder to C the counter statements of the 3rd respondent in May 1965 and to the comments of the Andhra Pradesh Government in April 1966. He also asked for the grant of a personal hearing before the decision of the case which was not given. Ultimately, his applications were rejected by orders quoted hereinabove.

Various grounds of appeal were taken in the application D for special leave to appeal preferred by the appellant. An attempt has been made therein to show that respondent No. 3 had no experience in asbestos mining, that its financial position was very unsatisfactory and that its application for mining lease was not in proper form. A complaint was also made that in rejecting the applicant's revision applications the Union of E India was bound to give reasons for its decision as it was exercising quasi judicial powers under s. 30 of the Act read with rr. 54 and 55, that principles of natural justice and fairplay requiring the divulgence of the grounds were violated and that a personal hearing should have been given to the appellant before the disposal of the revision applications.

F We are not called upon in this case to go into the merits of the case but only to examine the question as to whether it was necessary for the Government of India to give reasons for its decision in view of the provisions of the Act and the Rules or aliunde because the decision was liable to be questioned in appeal to this Court. It is necessary to take note of a few provisions of G the Act and the relevant rules framed thereunder to ascertain the scope of a party's right to apply for a lease and the powers and duties of the Government in accepting or rejecting the some. The preamble to the Act shows that its object was to provide for the regulation of mines and the development of minerals under the control of the Union of India. Under s. 4(1) no person can undertake any prospecting or mining operations in any area, H except under and in accordance with the terms and conditions of a prospecting licence or a mining lease granted under the Act and the Rules. Under sub-s. (2) of the section

"No prospecting licence or mining lease shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder." A

S. 5 lays down certain conditions which a person desiring to have a mining lease must fulfil. S. 8 provides for the period for which a mining lease may be granted. Under s. 10(1) an application for a mining lease has to be made to the State Government concerned in the prescribed form. Sub-s. (3) of s. 10 runs as follows : B

"On receipt of an application under this section, the State Government may, having regard to the provisions of this Act and any rules made thereunder, grant or refuse to grant the licence or lease." C

Under sub-s. (2) of s. 11 a person whose application for a licence is received earlier than those of others shall have a preferential right for the grant thereof over the others. The proviso to this sub-section enacts that where applications are received on the same day, the State Government, after taking into consideration the matters specified in sub-s. (3), may grant the mining lease to such one of the applicants as it may deem fit. Sub-s. (3) specifies the matters referred to in sub-s. (2) and they are as follows :— D

(a) any special knowledge or experience in, prospecting operations or mining operations, as the case may be, possessed by the applicant; E

(b) the financial resources of the applicant;

(c) the nature and quality of the technical staff employed or to be employed by the applicant; and

(d) such other matters as may be prescribed. F

S. 13(1) enables the Central Government to make rules for regulating the grant of prospecting licences and mining leases. Under s.19 any mining lease granted, renewed or acquired in contravention of the provisions of the Act is to be void and of no effect. Power of revision of the order of the State Government is given to the Central Government in the following terms : G

"The Central Government may, of its own motion or on application made within the prescribed time by the aggrieved party, revise any order made by a State Government or other authority in exercise of the powers conferred on it by or under this Act."

Rules were made by the Central Government under s.13 of the Act known as the Mineral Concession Rules, 1960. R.22 prescribes that an application for the grant of a mining lease must be made to the State Government in Form "I" accompanied by a H

A fee of Rs. 200/-, a deposit of Rs. 500/- and an income-tax clearance certificate. Under r. 26 the State Government is obliged to give reasons for refusal to grant a mining lease. Any person aggrieved by an order made by the State Government may prefer an application for revision under r. 54 in Form 'N'. In every such application against the order of the State Govern-
B ment refusing to grant a mining lease, a person to whom a lease has been granted must be impleaded as a party. R. 55 originally framed in 1960 was amended in July 1965. Under the amended r. 55 the position is as follows :—

> "(1) On receipt of an application for revision under r. 54, copies thereof shall be sent to the State
C Government and to all the impleaded parties calling upon them to make such comments as they may like to make within three months of the date of issue of the communication and if no comments are received within that period, it is to be presumed that the party omitting to make such comments has none to make.
>
D (2) On receipt of the comments from any party under sub-rule (1), copies thereof have to be sent to the other parties calling upon them to make further comments as they may like to make within one month from the date of the issue of the communication.
>
(3) The revision application, the communications
E containing comments and counter-comments referred to in sub-rules (1) and (2) shall constitute the record of the case.
>
(4) After considering the records referred to in sub-rule (3), the Central Government may confirm, modify or set aside the order or pass such other order
F in relation thereto as it may deem just and proper."

From the above, it will be amply clear that in exercising its powers of revision under r. 55 the Central Government must take into consideration not only the material which was before the State Government but comments and counter-comments, if any, which the parties may make regarding the order of the
G State Government. In other words, it is open to the parties to show how and where the State Government had gone wrong, or, why the order of the State Government should be confirmed. A party whose application for a mining lease is turned down by the State Government is therefore given an opportunity of showing that the State Government had taken into consideration irrelevant matters or based its decision on grounds which were
H not justified. At the time when applications for a licence are made by different parties to the State Government, they are not

given an opportunity of showing any defects or demerits in the applications of the others or why their applications should be preferred to others. The State Government has to make up its mind by considering the applications before it as to which party is to be preferred to the other or others. S.11(3), as already noted, prescribes the matters which the State Government must consider before selecting one out of the numerous applicants. But the possibility of the State Government being misled in its consideration of the matters cannot be ruled out. It may be that a party to whom a lease is directed to be granted has in fact no special knowledge or experience requisite for the mining operations or it may be that his financial resources have not been properly disclosed. It may also be that the nature and quality of the technical staff employed or to be employed by him is not of the requisite standard. In an application for revision under r. 55 it will be open to an aggrieved party to contend that the matters covered by sub-s. (3) of s. 11 were not properly examined by the State Government, or that the State Government had not before it all the available material to make up its mind with respect thereto before granting a licence. In a case where complaints of this nature are made, of necessity, the Central Government has to scrutinise matters which were not canvassed before the State Government. A question may arise in such cases as to whether the order of the Central Government in the form in which it was made in this case would be sufficient, specially in view of the fact that the correctness thereof may be tested in appeal to this Court.

A B C D E

It is now well-settled that in exercising its powers of revision under r. 55 the Central Government discharges functions which are quasi judicial : see *Shivji Nathubhai* v. *The Union of India & Ors.*(1) and *M. P. Industries* v. *Union*(2). In the latter case one of us (our present Chief Justice) said (at p. 471) :

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> "The entire scheme of the rules posits a judicial procedure and the Central Government is constituted as a tribunal to dispose of the said revision. Indeed this Court in *Shivji Nathubhai* v. *The Union of India* (*supra*) rules that the Central Government exercising its power of review under r. 54 of the Mineral Concession Rules, 1949, was acting judicially as a tribunal. The new rule, if at all, is clearer in that regard and emphasises the judicial character of the proceeding. If it was a tribunal, this Court under Art. 136 of the Constitution can entertain an appeal against the order of the Central Government made in exercise of its revisional powers under r. 55 of the Rules."

G H

(1) [1967] 2 S.C.R. 775. (2) [1966] 2 S. C. R. 466.

A Let us now examine the question as to whether it was incumbent on the Central Government to give any reasons for its decision on review. It was argued that the very exercise of judicial or quasi judicial powers in the case of a tribunal entailed upon it an obligation to give reasons for arriving at a decision for or against a party. The decisions of tribunals in India are B subject to the supervisory powers of the High Courts under Art. 227 of the Constitution and of appellate powers of this Court under Art. 136. It goes without saying that both the High Court and this Court are placed under a great disadvantage if no reasons are given and the revision is dismissed curtly by the use of the single word "rejected", or, "dismissed" In such a case, this Court can probably only exercise its appellate C jurisdiction satisfactorily by examining the entire records of the case and after giving a hearing come to its conclusion on the merits of the appeal. This will certainly be a very unsatisfactory method of dealing with the appeal. Ordinarily, in a case like this, if the State Government gives sufficient reasons for accepting the application of one party and rejecting that of the others, D as it must, and the Central Government adopts the reasoning of the State Government, this Court may proceed to examine whether the reasons given are sufficient for the purpose of upholding the decision. But, when the reasons given in the order of the State Government are scrappy or nebulous and the Central Government makes no attempt to clarify the same, this E Court, in appeal may have to examine the case *de novo* without anybody being the wiser for the review by the Central Government. If the State Government gives a number of reasons some of which are good and some are not, and the Central Government merely endorses the order of the State Government without specifying those reasons which according to it are sufficient to uphold the order of the State Government, this F Court, in appeal, may find it difficult to ascertain which are the grounds which weighed with the Central Government in upholding the order of the State Government. In such circumstances, what is known as a "speaking order" is called for.

The order of the Central Government of June 22, 1966 is G so worded as to be open to the construction that the reviewing authority was primarily concerned with finding out whether any grounds had been made out for interfering with the decision of the State Government. In other words, the Central Government was not so much concerned to examine the grounds or the reasons for the decision of the State Government but to find H out whether here was any cause for disturbing the same. *Prima facie* the order does not show that the reviewing authority had any thought of expressing its own reasons for maintaining the decision arrived at. If detailed reasons had been given by the

State Government and the Central Government had indicated clearly that it was accepting the reasons for the decision of the State Government, one would be in a position to say that the reasons for the grant of a lease to a person other than the appellant were obvious. But, where as here, the State Government does not find any fault or defect in the application of the unsuccessfully applicant and merely prefers another on the ground that "he had adequate general experience and technical knowledge and was an old lessee without any arrears of mineral dues" it is difficult to say what turned the scale in favour of the successful applicant excepting the fact that he was known to the State Government from before. We do not want to express any views on this but if this be a proper test, then no new entrant in the field can have any chance of success where there is an old lessee competing with him. The order of the Central Government does not bring out any reason for its own decision except that no ground for interference with the decision arrived at was established.

Now we propose to examine some decisions of this Court where the question as to whether the reviewing authority should give reasons for its decisions was gone into. In *Harinagar Sugar Mills* v. *Shyam Sundar Jhunjhunwala*(1) this Court had to consider whether the Central Government exercising appellate powers under s.111 of the Companies Act, 1956 before its amendment in 1960 was a tribunal exercising judicial functions and as such, subject to the appellate jurisdiction of this Court under Art. 136 of the Constitution and whether the Central Government had acted in excess of its jurisdiction, or acted illegally otherwise in directing the company to register the transfer or transfers in favour of the respondents. There, the articles of association of the company concerned gave the directors the right in their absolute discretion and without assigning any reason to refuse to register any transfer of shares. The directors declined to register some shares in the name of the transferees who applied to the High Court at Bombay for orders under s. 38 of the Indian Companies Act, 1913 for rectification of the share register on the ground that the board of directors had exercised their right *mala fide*, arbitrarily and capriciously. The High Court rejected these petitions on the ground that controversial questions of law and fact could not be tried in summary proceedings under s. 38. The transferees requested the directors once more to register the shares. On their refusal to do so, appeals were preferred to the Central Government under s.111(3) of the Indian Companies Act, 1956 which had since come into operation. The Joint Secretary, Ministry of Finance, who heard the appeals declined to order registration of transfers

(1) [1962] 2 S.C.R. 339 @ 357.

A practically on grounds similar to those put forward by the High Court of Bombay. Thereafter, the original holder of the shares transferred some shares to his son and some to his daughter-in-law and the transferees requested the company to register the transfers. The directors once more refused. Against the resolution of the directors, separate appeals were preferred by the son
B and daughter-in-law of the original holder of the shares. The Deputy Secretary to the Government of India set aside the resolution passed by the board of directors and directed the company to register the transfers. No reasons were however given for such order. The company came up in appeal to this Court under Art. 136 of the Constitution. According to the judgment of the
C majority of Judges, the exercise of authority by the Central Government was judicial as it had to adjudicate upon the rights of contesting parties when there was a lis between them. It was observed in that case that

> "If the Central Government acts as a tribunal exercising judicial powers and the exercise of that
D power is subject to the jurisdiction of this court under Art. 136 of the Constitution, we fail to see how the power of this court can be effectively exercised if reasons are not given by the Central Government in support of its order."

This Court further held that there had been no proper trial of
E the appeals, no reasons having been given in support of the orders of the Deputy Secretary who heard them and in the result, the orders were quashed with a direction that the appeals be re-heard and disposed of according to law.

In *Sardar Govindrao* v. *State*(1) the appellants who claimed to be descendants of former ruling chiefs in some districts of
F Madhya Pradesh applied under the Central Provinces and Berar Revocation of Land Revenue Exemptions Act, 1948 for grant of money or pension as suitable maintenance for themselves. They held estates in two districts on favourable terms as *Jahgirdars Maufidars* and *Ubaridars* and enjoyed an exemption from payment of land revenue aggregating Rs. 27,828-5-0
G per year. On the passing of the Act, the exemption was lost and they claimed to be entitled to grant of money or pension under the provisions of the Act. They applied to the Deputy Commissioner who forwarded their applications to the State Government. These were rejected without any reasons being given therefor. The appellants filed a petition in the High Court of Madhya Pradesh under Art. 226 of the Constitution
H for a writ of *certiorari* to quash the order of the State Government. The High Court held that the State Government "was

(1) [1965] 1 S.C.R. 678.

not compelled to grant either money or pension because the exercise of the power under s. 5 was discretionary and the petition, therefore was incompetent." S. 5(3) of the C.P. and Berar Act provided as follows :—

> "The Provincial Government may make a grant of money or pension—
>
> (i) for the maintenance or upkeep of any religious, charitable or public institution or service of a like nature, or
>
> (ii) for suitable maintenance of any family of a descendant from a former ruling chief."

S. 6 barred the jurisdiction of civil courts. It was observed by this Court :

> "The Act lays down upon the Government a duty which obviously must be performed in a judicial manner. The appellants did not seem to have been heard at all. The Act bars a suit and there is all the more reason that Government must deal with such case in a quasi-judicial manner giving an opportunity to the claimants to state their case in the light of the report of the Deputy Commissioner. The appellants were also entitled to know the reason why their claim for the grant of money or pension was rejected by Government and how they were considered as not falling within the class of persons who it was clearly intended by the Act to be compensated in this manner..... As the order of Government does not fulfil the elementary requirements of a quasi-judicial process we do not consider it necessary to order a remit to the High Court."

In the result this Court set aside the order of the Government and directed the disposal of the case in the light of the remarks made.

In *M. P. Industries* v. *Union*(1) the order of the Central Government rejecting the revision application under r. 55 of the Mineral Concession Rules was couched in exactly the same language as the order in appeal before us (see at p. 475 of the report). One cannot help feeling that the Ministry concerned have a special form which is to be used whenever a review application is to be rejected. This may easily lead anyone to believe that the review is a sham and nothing but the formal observance of the power granted to the Central Government. In that case, all the three learned Judges of this Court who heard the appeal were unanimous in dismissing it : some of the obser-

(1) [196] 1 S.C.R. 466.

A vations made bear repetition. It was there argued that if the Central Government had to give reasons when it functioned as a tribunal, it would obstruct the work of the Government and lead to unnecessary delays. As to this it said by our present Chief Justice :

B "The Central Government functions only through different officers and in this case it functioned through an Under Secretary. The condition of giving reasons is only attached to an order made by the Government when it functions judicially as a tribunal in a comparatively small number of matters and not in regard to other administrative orders it passes.....

C Our Constitution posits a welfare State..... In the context of a welfare State, administrative tribunals have come to stay. Indeed, they are the necessary concomitants of a welfare State. But arbitrariness in their functioning destroys the concept of a welfare State itself. Self-discipline and supervision exclude or at any D rate minimise arbitrariness. The least a tribunal can do is to disclose its mind. The compulsion of disclosure guarantees consideration. The condition to give reasons introduces clarity and excludes or at any rate minimises arbitrariness; it gives satisfaction to the party against whom the order is made; and it also enables E an appellate or supervisory court to keep the tribunals within bounds. A reasoned order is a desirable condition of judicial disposal.

. . . . . If tribunals can make orders without giving reasons, the said power in the hands of unF scrupulous or dishonest officers may turn out to be a potent weapon for abuse of power. But, if reasons for an order are given, it will be an effective restraint on such abuse, as the order, if it discloses extraneous or irrelevant considerations, will be subject to judicial scrutiny and correction. A speaking order will at its best be a reasonable and at its worst be at least a G plausible one. The public should not be deprived of this only safeguard."

It was further observed in that case that the position of ordinary courts of law was different from that of tribunals exercising judicial functions and it was said :

H "A Judge is trained to look at things objectively, uninfluenced by considerations of policy or expediency; but, an executive officer generally looks at things from the standpoint of policy and expediency. The habit of

mind of an executive officer so formed cannot be expected to change from function to function or from act to act. So it is essential that some restrictions shall be imposed on tribunals in the matter of passing orders affecting the rights of parties; and the least they should do is to give reasons for their orders. Even in the case of appellate courts invariably reasons are given, except when they dismiss an appeal or revision *in limine* and that is because the appellate or revisional court agrees with the reasoned judgment of the subordinate court or there are no legally permissible grounds to interfere with it. But the same reasoning cannot apply to an appellate tribunal, for as often as not the order of the first tribunal is laconic and does not give any reasons. That apart, when we insist upon reasons; we do not prescribe any particular form or scale of the reasons. The extent and the nature of the reasons depend upon case of affirmance where the original tribunal gives bunal shall give its own reasons succinctly; but in a case of affirmance where the original tribunal gives adequate reasons, the appellate tribunal may dismiss the appeal or the revision, as the case may be, agreeing with those reasons. What is essential is that reasons shall be given by an appellate or revisional tribunal expressly or by reference to those given by the original tribunal. The nature and the elaboration of the reasons necessarily depend upon the facts of each case."

It must be noted however that the above view was not shared by the two other Judges of the Bench constituting this Court. It was said by them :

"For the purpose of an appeal under Art. 136, orders of Courts and tribunals stand on the same footing. An order of court dismissing a revision application often gives no reason, but this is not a sufficient ground for quashing it. Likewise, an order of an adminstrative tribunal rejecting a revision application cannot be pronounced to be invalid on the sole ground that it does not give reasons for the rejection."

They distinguished the case of *Harinagar Sugar Mills Ltd.*(1) on the ground that the Central Government had reversed the decision appealed without giving any reasons and the latter did not disclose any apparent grounds for reversal and added :

"There is a vital difference between the order of reversal by the appellate authority in that case for no

(1) [1962] 2 S.C.R. 339.

A reason whatsoever and the order of affirmance by the revising authority in the present case."

As has already been noted, the board of directors in that case did not give any reasons for the refusal to register and the Central Government adopting the same course reversed the decision of the directors without giving any reasons. Clearly, the act of the B Central Government there savoured of arbitrariness. Under the articles of association of the company, the directors were not obliged to give any reasons. Their power of refusal was unrestricted if they acted *bona fide* or in the interest of the company. The reversal of their discretion clearly amounted to a finding that they had acted arbitrarily or *mala fide* and one was left to guess C the reasons of the Central Government for coming to this conclusion. As has already been said, when the authority whose decision is to be reviewed gives reasons for its conclusion and the reviewing authority affirms the decision for the reasons given by the lower authority, one can assume that the reviewing authority found the reasons given by the lower authority as acceptable to it; but where the lower authority itself fails to give any reason D other than that the successful applicant was an old lessee and the reviewing authority does not even refer to that ground, this Court has to grope in the dark for finding out reasons for upholding or rejecting the decision of the reviewing authority. After all a tribunal which exercises judicial or quasi-judicial powers can certainly indicate its mind as to why it acts in a particular way E and when important rights of parties of far-reaching consequence to them are adjudicated upon in a summary fashion, without giving a personal hearing where proposals and counter-proposals are made and examined, the least that can be expected is that the tribunal should tell the party why the decision is going against him in all cases where the law gives a further right of appeal.

F On behalf of the respondents, it was contended that r. 55 which provided for a revision did not envisage the filing of fresh pleadings and fresh material but only invited comments of the parties with regard to the matter before the Central Government. It was argued that if after going through the comments and counter-comments the Central Government found no reason to G arrive at a conclusion different from that of the State Government, it was not called upon to disclose any grounds for its decision in review. Our attention was drawn in particular to r. 26 of the Mineral Concession Rules which enjoined upon the State Government to communicate in writing the reasons for any order refusing to grant or renew a mining lease. The absence of any H provision in r. 55 for giving such reasons was said to be decisive on the matter as indicative of the view of the legislature that there was no necessity for giving reasons for the order on review. We find ourselves unable to accept this contention. Take the case

where the Central Government sets aside the order of the State Government without giving any reasons as in *Harinagar Sugar Mills'* case(1). The party who loses before the Central Government cannot know why he had lost it and would be in great difficulty in pressing his appeal to the Supreme Court and this Court would have to do the best it could in circumstances which are not conducive to the proper disposal of the appeal. Equally, in a case where the Central Government merely affirms the order of the State Government, it should make it clear in the order itself as to why it is affirming the same. It is not suggested that the Central Government should write out a judgment as courts of law are wont to do. But we find no merit in the contention that an authortiy which is called upon to determine and adjudicate upon the rights of parties subject only to a right of appeal to this Court should not be expected to give an outline of the process of reasoning by which they find themselves in agreement with the decision of the State Government. As a matter of fact, r. 26 considerably lightens the burden of the Central Government in this respect. As the State Government has to give reasons, the Central Government after considering the comments and counter-comments on the reasons given by the State Government should have no difficulty in making up its mind as to whether the reasoning of the State Government is acceptable and to state as briefly as possible the reasons for its own conclusion.

Our attention was drawn to a judgment of this Court in *Nandram Hunatram, Calcutta* v. *Union of India*(2). There, one of the points made by the appellant in the appeal to this Court was that the order of the Central Government, in review, upholding the action of the State Government cancelling the mining lease granted to the appellant was bad inasmuch as no reasons were given. It was pointed out in the judgment in that case that the facts there were so notorious that the reasons for the action of the State Government and the confirmation of its order by the Central Government were too obvious and could not possibly be questioned by anybody. There the partners of the appellant firm had fallen out among themselves and none of them was willing to spend money on the colliery with the result that the work came to a stand-still and the colliery began to get flooded. At this juncture, Government stepped in and made a promise to the essential workmen that their wages would be paid and this saved the colliery. Thereafter, the Chief Inspector of Mines was informed by one of the partners of the appellant firm that the other partners were preventing him from making payment for running expenses of the colliery and that he was not in a position to perform his duties as an occupier. He accordingly resigned his office. Tre Manager also

(1) [1962] 2 S.C.R. 339. (2) A.I.R. 1966 S.C.R. 1922

A resigned and the Sub-Divisional Officer of the district informed Government that the situation had become so alarming that some action on the part of the Government was absolutely necessary. In spite of notice, the partners refused to take any action with the result that the Government took over the colliery and terminated the lease. The revision application filed before the Central B Government under r. 54 of the rules was turned down without giving any reasons. Negativing the contention of the appellant that the order of the Central Government was bad in law because no reasons were given, it was said by this Court that

> "The documents on the record quite clearly establish that the colliery was being flooded as the essential C services had stopped functioning and but for the timely intervention of the State Government the colliery would have been lost. In these circumstances, it is quite clear that the action of the State Government was not only right but proper and this is hardly a case in which any action other than rejecting the application D for revision was called for and a detailed order was really not required because after all the Central Government was merely approving of the action taken in the case by the State Government, which stood completely vindicated . . . . . The action of the State Government far from being arbitrary or capE ricious was perhaps the only one to take and all that the Central Government has done is to approve of it."

The last portion of the passage was relied upon by the counsel for the respondents in support of his argument that as the order in review is merely in confirmation of the action of the State Government reasons need not be given. But the above dictum F cannot be considered dissociated from the setting of the circumstances in which it was made. There it was plain as a pike-staff that the State Government had no alternative but to cancel the lease : the absence of any reasons in the order on review could not possibly leave anybody in doubt as to whether reasons were. As a matter of fact in the setting of facts, the reasons were so G obvious that it was not necessary to set them out. There is nothing in this decision which is contrary to *M.P. Industries* v. *Union*(1). What the decision says is that the reasons for the action of the State were so obvious that it was not necessary, on the facts of the case, to repeat them in the order of the Central Government.

H Our attention was also drawn to another judgment of this Court in *Commissioner of Income-tax* v. *K. V. Pilliah*(2). One of the questions in that case before the High Court of Mysore

(1) [1966] I. S. C. R. 466.

(2) 43 I. T- R. 411.

under s. 66(2) of the Indian Income-tax Act was, whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was justified in sustaining both the addition of Rs. 41,142/- as income from business and Rs. 7,000/- as cash credits, and whether such addition did not result in double taxation. It was held by this Court that the question whether Rs. 41,142/- was liable to be taxed fell to be determined under the first question. In respect of the other amount of Rs. 7,000/- the Income-tax Officer had held that the explanation of the assessee was untrue and the Appellate Assistant Commissioner and the Tribunal had agreed with that view. In this setting of facts, it was said by this Court:

> "The Income-tax Appellate Tribunal is the final fact-finding authority and normally it should record its conclusion on every disputed question raised before it, setting out its reasons in support of its conclusion. But, in failing to record reasons, when the Appellate Tribunal fully agrees with the view expressed by the Appellate Assistant Commissioner and has no other ground to record in support of its conclusion, it does not act illegally or irregularly, merely because it does not repeat the grounds of the Appellate Assistant Commissioner on which the decision was given against the assessee or the department. The criticism made by the High Court that the Tribunal had "failed to perform its duty in merely affirming the conclusion of the Appellate Assistant Commissioner" is apparently unmerited. On the merits of the claim for exclusion of the amount of Rs. 7,000/-, there is no question of law which could be said to arise out of the order of the Tribunal."

The above observations were sought to be pressed into service by the counsel for the respondents but there is a good deal of difference between that case and the one with which we have to deal. The High Court there was merely called upon to give its opinion on the statement of facts set out by the Appellate Tribunal. It was for the Income-tax Officer in the first instance to accept or reject the explanation with regard to the cash credit. It the Income-tax Officer found the assessee's explanation unacceptable, he had to say why he did not accept it. Unless the assessee in appeal was able to point out to the Appellate authorities some flaw in the reasoning of the Income-tax Officer, it is not necessary for the appellate authorities to give their reasons independently. The explanation of the assessee is either accepted or rejected; but in the case which we have before us, the State Government has to consider the merits and demerits of the applications and to give its reasons why it prefers one to the other or others. There is a dispute between two or more contesting parties and the reasons for

A preferring one to the other or others may be more than one. It is not a question of accepting or rejecting an explanation. In our opinion, what was said in the above Income-tax case will not apply in the case of a review by the Central Government of a decision of the State Government under the Act and the Rules.

B It may be of interest to note that in *Rex* v. *Northumberland Compensation Appeal Tribunal, Ex parte Shaw*(1) an application was made in the King's Bench Division in England for an order of *certiorari* for the quashing of a decision reached by the Compensation Appeal Tribunal dismissing an appeal by Shaw against an award to him of compensation for loss of employment as a clerk to a Hospital Board payable under the National Health Service C (Transfer of Officers and Compensation) Regulations, 1948. There the question of the practice and procedure with regard to the issue of a writ of *certiorari* was gone into at some length. The tribunal in that case had made a speaking order. It was contended by the counsel for the tribunal that the King's Bench Division had no power to examine the order in the case before it on *certiorari* on D the ground that *certiorari* went only to defect of jurisdiction. This was turned down and the Divisional Court held that it had jurisdiction to quash by *certiorari* the decision of an inferior tribunal when the latter had embodied the reasons for its decision in its order and those reasons are bad in law. For our purpose, we need only refer to the observations of Lord Goddard, C.J. at p. 724 of the E report where he said :

> "I think it is beneficial in this case that we should do so, not merely having regard to the facts of this case, but because so many tribunals have now been set up, all of whom, I am certain, desire to do their duty in the best way, and are often given very difficult sets of regulations F and statutes to construe. It certainly must be for their benefit, and I have no doubt but that they will welcome, that this court should be able to give guidance to them if, in making their orders, they make their orders speaking orders, so that this court can then consider them if they are brought before the court on *certiorari*."

G The case for giving reasons or for making a speaking order becomes much stronger when the decision can be challenged not only by the issue of a writ of *certiorari* but an appeal to this court.

Counsel for the respondents referred us to the comment on this case made by Sir C. K. Allen in his *Law and Orders* (Second Edition) at p. 259 to p. 261. According to the learned author, the H Northumberland Compensation case might be a great deterrent than encouragement to speaking orders inasmuch as "the prospect

(1) [1951] 1 K.B. 711.

of having their mental process set forth in literary form, might be extremely disagreeable to them" and up to the year 1956 did not seem to have assisted greatly the means of recourse against decisions of inferior jurisdictions. Speaking for ourselves, with great respect to the learned author, we do not think that the position of the Central Government as a reviewing authority under the Mineral Concession Rules can be equated with an appellate tribunal of the type whose decision was before the King's Bench Division in England. If the State Government is enjoined by law to give its reasons, there is no reason why it should be difficult for the appellate authority to do so. The necessity and the desirability of tribunals making speaking orders has been adverted upon by different High Courts in India. Thus in *Vedachala Mudaliar* v. *State of Madras*(1) where the State Government of Madras set aside the order of the Central Road Traffic Board without giving any reasons, it was observed that

> "When the policy of the Legislature is to confer powers on administrative tribunals with a duty to discharge their functions judicially I do not see any reason why they should be exempted from all those safeguards inherent in its exercise of that jurisdiction. . . . From the standpoint of fair name of the tribunals and also in the interests of the public, they should be expected to give reasons when they set aside an order of an inferior tribunal. . . . . .Further, if reasons for an order are given, there will be less scope for arbitrary or partial exercise of powers and the order *'ex facie'* will indicate whether extraneous circumstances were taken into consideration by the tribunal in passing the order."

Refrence may also be made to *Ramayya* v. *State of Andhra*(2) and *Annamalai* v. *State of Madras*(3). To the same effect is the judgment of the Kerala High Court in *Joseph* v. *Superintendent of Post Offices, Kottayam*(4).

We have already commented that the order of the Central Government in this case is couched in the same language as was used in the case before this court in *M.P. Industries* v. *Union*(5) in August 1965. The old rule 55 was replaced by a new rule which came into force on 19th July 1965. Whereas the old rule directed the Central Government to consider comments on the petition of review by the State Government or other authority only, the new rule is aimed at calling upon all the parties including the State Government to make their comments in the matter and the parties are given the right to make further comments on those made by

(1) A.I.R. 1952 Madras 276.
(2) I.L.R. 1956 Andhra 712
(3) A.I.R. 1957 Andhra Pradesh 739.
(4) I.L.R. 1961-II Kerala 245.
(5) [1966] 1 S.C.R. 466.

A the other or others. In effect, the parties are given a right to bring forth material which was not before the State Government. It is easy to see that an unsuccessful party may challenge the grant of a lease in favour of another by pointing out defects or demerits which did not come to the knowledge of the State Government. The order in this case does not even purport to show that the comments
B and counter-comments, which were before the Central Government in this case, had been considered. It would certainly have been better if the order of 22nd June 1966 had shown that the Central Government had taken into consideration all the fresh material adduced before it and for the reasons formulated they thought that the order of the State Government should not be disturbed.

C In the result, the appeals are allowed and the orders of the Central Government passed on 22nd June, 1966 are set aside. The Central Government is directed to decide the review applications afresh in the light of the observations made. The appellant will get his costs throughout from the 3rd respondent.

G.C. *Appeals allowed.*