A

M. A. RASHEED AND ORS.

v.

THE STATE OF KERALA

September 18, 1974

[A. N. RAY, C.J. AND V. R. KRISHNA IYER, J.]

B *Defence of India Act,* 1971 *ss.* 3(2)(21) *and* 38 *and Defence of India Rules,* 1971, *r.* 114—*Notification under prohibiting use of machinery for defibring coconut husks—Subjective satisfaction of authority—Court's power in relation to —Notification if violative of Art.* 301 *of Constitution.*

The appellants, who are owners of Small Scale Industrial Units, employ mechanised process for decortication of retted coconut husks. The respondent-State issued a notification in July 1973, under r. 114(2) of the Defence of India Rules, C 1971, imposing a total ban on the use of machinery for defibring husks in the district of Trivandrum, Quilon and Alleppey. The appellants, who were affected by the notification, challenged the validity of the notification. The High Court dismissed the petition. In appeal to this Court, it was contended : (1) that s. 3(2)(21) of the Defence of India Act does not authorise r. 114; (2) that the formation of opinion by the State Government for the exercise of power under the rule is a justiciable issue, that the court should call for the material on which the opinion had been formed, and examine it to find out whether a reasonable man or authority could have come to the conclusion that for securing equitable D distribution and availability of retted husks at fair prices a regulation or prohibition of the manufacture of fibre by mechanical process was necessary; (3) that the reasons given in the notification imposing a total ban on the use of machinery were not justified; (4) that there was no application of the mind by the authority to any genuine materials or relevant considerations while exercising the power; (5) that s. 38 of the Defence of India Act requires that, consonant with the purpose of ensuring the public safety, defence of India and Civil defence, there should be minimum interference by an authority or person, acting in pur- E suance of the Act with the ordinary avocations of life and enjoyment of property; (6) that the notification offended Art. 14; and (7) that it violated Art. 301, of the Constitution.

Dismissing the appeal,

HELD : (1) Rule 114 is in complete consonance with the powers conferred under s. 3(2)(21). [102 B]

F (2) Where powers are conferred on public authorities to exercise the same when "they are satisfied" or when "it appears to them," or when "in their opinion" a certain State of affairs exists, or when powers enable public authorities to take "such action as they think fit" in relation to a subject matter, the courts will not readily defer to the conclusiveness of an executive authority's opinion as to the existence of a matter of law or fact upon which the validity of the exercise of the power is predicated. Administrative decisions in exercise of powers conferred in subjective terms are to be made in good faith and on relevant considerations. The courts can inquire G whether a reasonable man could have come to the decision in question without misdirecting himself on the law or the facts in a material respect. The standard of reasonableness to which the administrative body is required to conform may range from the court's opinion of what is reasonable to the criterion of what a reasonable body might have decided; and courts will find out whether conditions precedent to the formation of the opinion have a factual basis. But the onus of establishing unreasonableness rests upon the person challenging the validity of the acts. [99 C-D. E-G]

H (3) The Committee appointed by the State Government in connection with the revision of minimum wages in the coir industry reported that when unemployment is acute in the State it is not practicable to encourage mechanisation for fibre production till alternative sources of employment are developed, and

recommended that the Government might appoint a separate committee to study the various problems resulting from mechanisation in the industry. Accordingly, a study group was appointed and that group reported that coir industry brings employment or partial employment to an area where there is chronic unemployment and under-employment, and hence, any kind of mechanisation is bound to cause displacement of people. The study group therefore suggested a composite plan by which the coir industry should be woven into the pattern of area development or regional development which will bring prosperity not only to the coir industry but also to many other ancillary industries and avocations, that the pace of mechanisation should be such that none should be thrown out of employment, and that for those who are displaced alternative work is to be found in the general development that is envisaged. The State Government found that out of 414 mechanised units in the State, 282 units were in the three districts of Trivandrum, Quilon and Alleppey and that the balance were in the remaining eight districts of the State, and that the use of machinery for the purpose of extraction of fibre from husks in regions other than Trivandrum, Quilon and Alleppey districts had not affected the supply of and availability at fair prices of husks for extraction of fibre in the traditional sector. The Government therefore, was of the opinion that it was necessary to prohibit the use of machinery only in those three districts, but that it was not necessary to prohibit the use of machinery for the production of fibre in the other eight districts. [100 F-101 H]

(4) It is a matter of policy for the State Government to decide to what extent there should be interference in relation to enjoyment of property. Public interest is of paramount consideration and in, the present case the steps taken were in the larger interests of labour engaged in the coir industry. The notification was based on a consideration of relevant and useful material. The opinion of the State Government could not be said to have been based on any matter extraneous to the scope and purpose of the relevant provisions of the statute. The materials supporting the subjective satisfaction indicate that there were reasonable grounds for believing that the prescribed state of affairs existed and a course of action was reasonably necessary for the given purpose of equitable distribution of coconut husks at fair prices. [102 C-H]

(5) The Government took notice of s. 38 of the Defence of India Act and was satisfied about the public interest. Further, the notification does not interfere with the avocations and enjoyment of property any more than is necessary for the purposes of equitable distribution of husks at fair prices to the traditional sector. [103 A-B]

(6) The classification, in the circumstances, of the districts, is reasonable and bears a nexus to the objects sought to be achieved by the impugned notification. [103 D]

(7) The Defence of India Act has been passed by Parliament and the Rules under the Act have legislative sanction. The restrictions imposed by them are in the interest of general public and are authorised under Article 302. Therefore, there is no violation of Art. 301. [103E-G]

Sadhu Singh v. *Delhi Administration* [1966] 1 S.C.R. 243, *Rohtas Industries* v. *S. D. Agarwala* [1969] 3 S.C.R. 108, and *Liversidge* v *Anderson* [1942] A.C. 206, 228-229, referred to.

ARGUMENTS

For the appellants: The Notification Annexure A, is justiciable. The Court is not deprived of jurisdiction to examine the validity of the order. The grounds mentioned in Annexure A notification are irrelevant and there is no real and proximate connection between the ground given and the object which the Goverment has in view. The State Government never applied its mind to the matter and the Notification is malafide in the sense that the statutory power has been exercised for some indirect purpose not connected with the object of the statute or the mischief it seeks to remedy.

Jaichand Lall Sethia v. *State of Bengal* [1966] Suppl. S.C.R. 464.

A II. It is open to court to enquire whether grounds really existed which would have created that satisfaction on which alone the order could have been made in the mind of a reasonable person. Though the satisfaction of the Government is subjective and its power is discretionary its exercise depends upon the honest formation of an opinion that in order to secure equitable distribution and availability at fair prices of husks for use for production of fibre in the traditional sector it is necessary to ban production of fibre by machines. The existence of these circumstances is a condition precedent and B must be demonstrable. It is therefore open to the Court to examine the existence of such circumstances.

The Barium Chemicals Ltd. v. *The Company Law Board* [1966] Suppl. S.C.R. 311—336, 357, *Rhotas Industries Ltd.* v. *S. D. Agarwala* [1969] 3 S.C.R. 108a. *Rose Clunis* v. *Papdo Poullous* [1958] 2 All. E.R. 23, *Ridge* v. *Baldwin* [1964] A.C. 46, 73.

C There has been no application of the mind to all the relevant factors justifying total ban being imposed with reference to reliable data and materials in issuing the Notification and therefore the action is mala fide. The action is not an action which is genuintely intended to implement the intention of the Defence of India Act or the rules and is not based on any enquiry or investigation or data made available to the Govt. before such action was taken. Nor was it made after any consultation or after reference to materials published by expert bodies like the State Planning Commission, the Coir D Board, the Coir Advisory Committee appointed from time to time, nor based upon literature of a reliable nature published by such bodies aforesaid. That being so, the notification is ultra vires the Defence of India Act and the rules and for a purpose extraneous to the intention of the Defence of India Act.

III. The purpose for which the notification has been issued is served by the Coconut Husks Control Order, dated 29-9-1973 and the notifications issued under the Order. The above Order was issued by the Central Government in E exercise of the powers conferred by s. 3 of the Essential Commodities Act, Act (10 of 1953).

Two Notifications fixing the fair prices of the retted coconut husks were issued by the special officer for coir (Licensing Officer) constituted under cl. 4 of the Kerala Coconut Husks Control Order 1973.

IV. There is no material before the Government to conclude that the price of coconut husks increased only because of mechanisation. On the basis F of s. 38, Defence of India Act, the notification is beyond the needs of the situation. It is obligatory on the Government to have examined the several alternative remedies to make available husks to the traditional sector without banning manufacture of fibre by machines.

V. The notification contravenes Art. 301 of the Constitution which guarantees that trade, commerce and inter course throughout the territory of India shall be free.

G *District Collector of Hyderabad* v. *M/s. Ibrahim & Co.* [1970] 3 S.C.R. 498.

Article 301 guarantees freedom of trade not only from geographical barriers but also from restrictions imposed on an individual to carry on trade or business, other than a regulatory measure. A.I.R. 1961 S.C. 232 (233).

VI. It is not open to the Parliament to delegate the power under Art. 302. H The law passed under Art. 302 has to be in the interest of the public. There is nothing in the Defence of India Act to indicate that Parliament has imposed restrictions in the interest of public within the meaning of the Article. If there is no provision in the Act, the power under Art. 302 cannot be delegated by rules to the Central Government or the State Government.

VII. The Notification banning the machinery of defibering husks is violative of the fundamental rights of the petitioners under Art. 14. It is highly discriminatory as its operation is confined to the 3 districts of Trivandrum, Quilon and Alleppey. Owners of defibering machinery in other Districts are all similarly situated like the petitioners.

For the respondent: (1) Ext. P. 1 order being issued in exercise of power conferred by law made by Parliament i.e. Defence of India Act 1971 & Defence of India 1971 there can be no violation or infringement of Fundamental Rights and other Constitutional rights. As a measure of emergency legislation "the words in the opinion of" in Rule 114(2) should be given the same width of meaning as in "satisfied" in Rule 30 Defence of India Rules 1962 as expounded by this Hon'ble Court in decisions namely.

[1966] Suppl. S.C.R. 464, 469-470.

[1966] 1 S.C.R. 707, 718, 719, 740.

These decisions show that the Courts are only entitled to look into the matter which if in terms of the Rule, then Court is bound to stay its hands and that the recital will be accepted in the absence of any inaccuracy. It is open to the Court to satisfy itself, as to the accuracy of the recital only if the order suffers from any lacunae. The meaning given to the expression, "the reason to believe" are in the sense as explained above in the context of emergency although the meaning given to these expressions will be in the sense ru'ed by this Court in *Barium Chemicals case* and *Rohtas Industries* case when these expressions occur in peaceful legislations.

For the Construction of these words in the context of emergency see

[1966] 1 S.C.R. 709, 718.

[1969] 3 S.C.R. 108, 132.

[1967] 3 S.C.R. 114, 122.

[1966] 2 S.C.R. 121, 128.

[1961] 1 S.C.R. 243, 247.

[1942] A.C. 206, 239, 251—252, 253, 256—257, 263, 239.

Wade and Philips Constitutional Law, 1970 pp. 631, 632.

De. Smith—Judicial Control and Administrative Action pp. 275, 276.

Waynes Legislative Executive and Judicial Powers 1970 4th Edn p. 213.

Halsbury's Laws of England 4th Edn. Vol I, p. 23.

[1964] A.C. 40, 73.

[1974] A.C. 18, 34 (e to g).

[1972] 2 All. ER, 949, 967—968 (h to a) at 970 (J) p. 972 (h) p. 973 (a) 982 (g h) p. 983 (a).

2. Assuming that the ratio of *Barium Chemicals* Case [1966] Suppl S.C.R. 311 and of *Rohtas Case* [1969] 3 S.C.R. 108 is applicable to the notification it is submitted the materials furnished in paras 4 to 9 of the counter affidavit are sufficient to sustain it.

3. The machines consume enormous quantity of coconut husks starving out the traditional section. The owners of machinery are able to corner large quantity of husk at exorbitant prices to the detriment of traditional sector because of the large saving in wages resulting from the displacement of labour by mechanisation.

A 4. Due Compliance of s. 38 is to be presumed.

[1964] 6 S.C.R. 446.

[1966] 2 S.C.R. 121, 132.

CIVIL APPELLATE JURISDICTION :—Civil Appeals Nos. 2064 of 1973 and 64-65, 163-164 and 189 of 1974.

B

Appeals from the Judgment and Order dated the 19th November, 1973 of the Kerala High Court in O. F. No. 2821 of 1973 etc.

T. S. Krishnamourthy Iyer (In C. A. No. 2064 of 1973) and *N. Sudharakan* for the appellants.

C *M. M. Abdul Khader* and *K. M. K. Nair,* for the respondents.

The Judgment of the Court was delivered by—

RAY, C. J.—These appeals are by certificate from the judgment dated 19 November, 1973 of the High Court of Kerala.

These appeals challange the validity of the notification dated 26 D July, 1973 issued by the State Government under Rule 114(2) of the Defence of India Rules, 1971 hereinafter referred to as the Rules.

Rule 114(2) is as follows :—

"If the Central Government or the State Government is of opinion that it is necessary or expedient so to do for securing the defence of India and civil defence, the efficient E conduct of military operations or the maintenance or increase of supplies and services essential to the life of the community or for securing the equitable distribution and availability of any article or thing at fair prices, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution, use and consumption of articles or things and trade and commerce therein or for F preventing any corrupt practice or abuse of authority in respect of any such matter".

The impugned notification is as follows :—

"No. 19768/E2/73/ID Dated Trivandrum, 26th July, 1973.

G S.R.O. No. 474/73:—Whereas use of machinery for the extraction of fibre from coconut husk increased considerably in the districts of Trivandrum, Quilon and Alleppey in recent times;

And whereas mechanisation in the production of such fibre results in very high consumption of coconut husks and H the consequent enhancement of the price of such husks;

And whereas due to the very high consumption of coconut husks for the production of fibre by using machinery and

the enhancement of the price of such husks, sufficient quantity of such husks are not available at fair prices in the said districts for use in the traditional sector;

And whereas the Government are of opinion that for securing the equitable distribution and availability at fair prices of coconut husks in the said districts for production of fibre in the traditional sector it is necessary to prohibit the use of a machinery in those districts for the production of such fibre;

Now, therefore, in exercise of the powers conferred by Sub-Rule (2) of Rule 114 of the Defence of India Rules, 1971, the Government hereby prohibit the production of fibre coconut husks by the use of the machinery in the said districts.

By order of the Governor".

The appellants are owners of Small Scale Industrial Units. They employ mechanised process for decortication of retted coconut husks. The main processes involved in the manufacture of coir yarn are these: First is retting of green husks. The green husks are covered with leaves and mud. The retted husks are then pounded or beaten. The fibre and pith then separate. The fibre is extracted, cleaned and dried. Next comes spinning either with the help of ratt or by hand. Ratt is a mechanical contrivance. The final stage is bundling of coir yarn for marketing. Government declared defibring of coconut husks by mechanical means as a small scale industry eligible for financial assistance under the Small Scale Industries Development Scheme. Most of the appellants availed themselves of loans under the Scheme. The appellants alleged in the petitions before the High Court that the cost involved in installing machinery in a proper building for the purpose would range from Rs. 22,000 to Rs. 35,000.

The appellants challenged the notification on the ground that the formation of opinion by the State Government for the purpose of exercise of power under sub-rule (2) of Rule 114 of the Rules is a justiciable issue and that the court should call for the material on which the opinion has been formed and examine the same to find out whether a reasonable man or authority could have come to the same conclusion that in its opinion for securing the equitable distribution and availability of retted husks at fair prices, a regulation or prohibition of the manufacture of fibre from retted husks by mechanical means is necessary. The appellants allege that the reasons given in the notification as justifying the imposition of the total ban on the use of machinery for defibring husks are wholly erroneous and prima facie no reasonable person will consider them as justifying the said ban. The appellants also allege that there is no application of the mind of the authority to any genuine materials or to any relevant considerations in the exercise of the drastic power vested in the authority under Rule 114(2) of the Rules.

A The High Court held that the appellants did not establish by material that the opinion formed by the State Government could not stand.

There is no principle or authority in support of the view that whenever a public authority is invested with power to make an order which prejudicially affects the rights of an individual whatever may be B the nature of the power exercised, whatever may be the procedure prescribed and whatever may be the nature of the authority conferred, the proceedings of the public authority must be regulated by the analogy of rules governing judicial determination of disputed questions (See *Sadhu Singh* v. *Delhi Administration*)(1).

Where powers are conferred on public authorities to exercise the C same when "they are satisfied" or when "it appears to them", or when "in their opinion" a certain state of affairs exists; or when powers enable public authorities to take "such action as they think fit" in relation to a subject matter, the Courts will not readily defer to the conclusiveness of an executive authority's opinion as to the existence of a matter of law or fact upon which the validity of the exercise of the power is predicated.

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Where reasonable conduct is expected the criterion of reasonableness is not subjective, but objective. Lord Atkin in *Liversidge* v. *Anderson*(2) said "If there are reasonable grounds, the judge has no further duty of deciding whether he would have formed the same belief any more than, if there is reasonable evidence to go to a jury, the judge is concerned with whether he would have E come to the same verdict". The onus of establishing unreasonableness, however, rests upon the person challenging the validity of the acts.

Administrative decisions in exercise of powers even conferred in subjective terms are to be made in good faith on relevant considerations. The courts inquire whether a reasonable man could have come to the decision in question without misdirecting himself on the law or the F facts in a material respect. The standard of reasonableness to which the administrative body is required to conform may range from the court's own opinion of what is reasonable to the criterion of what a reasonable body might have decided. The courts will find out whether conditions precedent to the formation of the opinion have a factual basis.

G In *Rohtas Industries Ltd.* v. *S. D. Agarwala & Anr.*(3) an order under section 237(b)(i) and (ii) of the Companies Act for investigation of the affairs of the company was challenged on the ground that though the opinion of the Government is subjective, the existence of the circumstances is a condition precedent to the formation of the opinion. It was contended that the Court was not precluded from going behind the recitals of the existence of such circumstances in H the order, but could determine whether the circumstances did in fact

(1) [1966] 1 S.C.R. 243. (2) [1942] A. C. 206, 228-229.
(3) [1969] 3 S. C. R. 108.

exist. This Court said that if the opinion of an administrative agency is the condition precedent to the exercise of the power, the relevant matter is the opinion of the agency and not the grounds on which the opinion is founded. If it is established that there were no materials at all upon which the authority could form the requisite opinion, the Court may infer that the authority passed the order without applying its mind. The opinion is displaced as a relevant opinion if it could not be formed by any sensible person on the material before him.

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It is appropriate to refer to the Report of the Committee appointed by the State Government to hold enquiries and advise the Government in respect of revision of minimum wages fixed for employment in Coir Industry. The Committee was constituted in the year 1969. The Committee gave its final report on 25 January, 1971. The Report is published by the Government of Kerala in 1971. The findings of the Committee are these. With the help of high powered machines, fibre from husks on 1,000 coconuts could be extracted in 25 to 30 minutes. 10 workers would be required for effective attending to that work. 10 workers in 8 hours on an average could defibre husks of about 12000 coconuts. 30 workers would be required to remove the skins of the retted husks. In the usual course, 120 workers would have to be employed for beating husks of 12000 coconuts by hand. In short, by the introduction of a single high powered machine, 80 persons would lose their employment. The Committee felt that under the circumstances when employment is acute especially in that State, it is not practicable to encourage mechanisation for fibre production till alternative source of employment is developed. Therefore, it is a wise course to regulate the expansion of the use of machinery with high productive capacity in order to retain the labour force already working in this field.

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One high powered machine does the work of about 90 workers employing only 10 workers to operate it. The fibre extracted with the help of machinery is not used for the production of coir yarn by a majority of employers in North Malabar area. The fibre is sold to outside agencies in Coimbatore, Salem etc. and not used for spinning coir yarn. The Committee recommended that the Government might appoint a separate committee to study the various problems on account of mechanisation in the industry and make suitable recommendations in that behalf.

F

A Study Group was appointed to make a report on mechanisation in Coir Industry in Karela. The report of the Study Group is dated 13 April, 1973. It is published by the State Planning Board in May, 1973.

G

The Study Group at pages 33 and 34 of the Report stated as follows. In a country like ours where unemployment and underemployment loom large, any situation which brings in unemployment is not to be favoured. Where again exceptional benefits are to flow in as a result of mechanisation, and by thoughtful and timely state action the painful effects resulting from mechanisation could be checkmated

H

A it is not always desirable to persist with age-old methods. Coir Industry brings employment or partial employment to an area where there s chronic unemployment and under-employment. Any kind of mechanisation is bound to cause some displacement of people. But human values should be given the highest priority and any measure which brings suffering to those engaged in an industry cannot be acB ceptable. Mechanisation can bring steady employment to the few. It would also promote better remuneration. The only difficulty is that it can take in lesser number of persons.

The Study Group suggested that a composite plan should be thought on these lines. The Coir Industry should be woven into the pattern of area development or regional development which will bring prosperity not only to the coir industry but also to many other ancilC lary industries and avocations. The objective should be to provide at least 300 days' work in a year at reasonable wages to all those engaged in the coir industry. The Study Group recommended that the pace of mechanisation should be such that none should be thrown out of employment, and for those who are displaced, alternative work is to be found in the general development that is envisaged in the all round development plan which should think of not only the coir indusD try but also the other industries and avocations possible to be introduced in an area.

It is in evidence that mechanisation progressed at a fairly high rate in the three districts of Trivandrum, Quilon and Alleppey. Out of 414 mechanised units in the whole of the Kerala State consisting of 11 districts, 283 are in these three districts alone. There is a heavy E concentration of mechanised units in the three districts. The figure given is that only 10 workers are required for de-fibring husks of 12000 coconuts a working day of 8 hours by the use of machines as against 120 workers by the process known as hand-method. The mechanical work is done quickly to consume coconut husks in very large quantities. There has been large scale unemployment of labour engaged in the traditional method and there is serious unrest in the F area.

The State Government found in the context and background of the Reports and materials that the use of machinery for the purpose of extraction of fibre from husks in the region other than Trivandrum, Quilon and Alleppey Districts has not affected the supply and availability at fair prices of husks for extraction of fibre in the traditional G sector as in the case of the districts of Trivandrum, Quilon and Alleppey. The situation in other 8 districts, according to the State, does not require action under Rule 114 of the Defence of India Rules. Price increase of husk in these 8 districts was not comparable with that in the districts of Trivandrum, Quilon and Alleppey. The Government, therefore, was of opinion that for securing the equitable distribution and availability at fair prices of coconut husks for production H of fibre in the traditional sector in the remaining 8 districts of the State it is not necessary in the prevailing circumstances to prohibit the use of machinery in the remaining 8 districts for the production of fibre.

The appellants also contended that section 3(2)(21) of the Defence of India Act does not support Rule 114 and secondly section 38 of the Defence of India Act is violated. Section 3(2)(21) of the Defence of India Act confers power on the authority to make orders providing *inter alia* for the control of trade or industry for the purpose of regulating or increasing the supply of, or for maintaining supplies and services essential to the life of the community. Rule 114 is in complete consonance with the powers conferred under the aforesaid section 3(2)(21). Section 38 of the Defence of India Act states that any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of India and civil defence. It is a matter of policy for the State Government to decide to what extent there should be interference in relation to the enjoyment of property. The public interest is of paramount consideration. In the present case the steps taken are in the larger interests of labour engaged in the coir industry. The pre-eminent question is that it is an emergency legislation. In emergency legislation the causes for inducing the formation of the opinion are that coir is one of the most labour intensive industries in Kerala and it is estimated that more than 4½ lakhs of workers are employed in the various process of coir industry like retting, hand-spinning, spindle spinning and manufacture of coir mats and matting and that about 10 lakhs of people depend upon this industry for their sustenance. Mechanisation in Coir Industry has been taking place in different parts of the State. The non-mechanised sector of this industry is so labour-intensive that mechanisation of fibre production is strongly opposed by workers because mechanisation results in very high consumption of coconut husks by the mechanised units and the consequent enhancement of price of husks and the non-availability of sufficient quantity of husks at fair price for use in the traditional sector, *viz.*, hand beating of husks. There have been serious tensions including law and order situations.

Because of the very high consumption of coconut husks for the production of fibre by using machinery and the enhancement of the price of such husks, sufficient quantity of such husks are not available at fair prices in the Districts of Trivandrum, Quilon and Alleppey for use in the traditional sector. Therefore for securing the equitable distribution and availability at fair prices of coconut husks in the said three districts for production of fibre in the traditional sector, it is necessary to prohibit use of machinery in these three districts.

The State Government found on materials that use of machines affected the availability of retted coconut husks for equitable distribution at fair prices. The notification is on the consideration of relevant and useful material. The opinion of the State Government cannot be said to be based on any matter extraneous to the scope and purpose of the relevant provisions of the statute. The materials supporting the subjective satisfaction indicate that there are reasonable grounds for believing that the prescribed state of affairs exists and a course of action is reasonably necessary for the given purpose of equitable distribution of coconut husks at fair prices.

A The notification is issued after due care and caution on the basis of reliable and sufficient data obtained by proper investigation and enquiries. The Government took notice of section 38 of the Defence of India Act. The Government became satisfied about the public interest. The notification does not interfere with the avocations and enjoyment of property any more than is necessary for those purposes B of equitable distribution of husks at fair price to the traditional sector.

An argument was advanced that the notification offended Article 14. The course of action which the State adopted is that it became necessary to prohibit the use of machinery in the districts of Trivandrum, Quilon and Alleppey in the traditional sector. It appears that out of 414 mechanised units in the State 283 units are in the South- C ern region of Kerala State consisting of Trivandrum, Quilon and Alleppey and the balance 131 mechanised units are in the remaining 8 districts of the State. The use of machinery for the purpose of extraction of fibre from husks in the region other than Trivandrum. Quilon and Alleppey districts has not at present affected the sup and availability at fair prices of husks for extraction of fibre in the traditional sector as in the case of the three Districts. The situation D in the 8 districts does not require action at the present moment. The classification is reasonable. It bears a nexus to the objects sought to be achieved by the impugned notification. In order to secure equitable distribution and availability at fair prices of coconut husks in the remaining 8 districts of the State for production of fibre in the traditional sector, it is not necessary in the prevailing conditions to prohibit the use of machinery in the remaining 8 districts.

E

It was also submitted that the notification offended Article 301. Article 302 states that the State can impose restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India. It was said that the Defence of India Act is not a law made by Parliament, imposing restrictions as contemplated under Article 302. The Defence of India Act has F been passed by Parliament. The Rules under the Act have legislative sanction. The restrictions are imposed in the interest of the general public. The restrictions are reasonable in the interest of the industry and public.

For the foregoing reasons the judgment of the High Court is upheld. The appeals are dismissed. In view of the fact that the High G Court directed the parties to bear their own costs we also direct that the parties will pay and bear their own costs.

V.P.S. *Appeals dismissed.*