

RANGASWAMI, THE TEXTILE COMMISSIONER & ORS. A

v.

SUGAR TEXTILE MILLS (P) LTD. & ANOTHER

January 27, 1977

[Y. V. CHANDRACHUD, P. K. GOSWAMI AND P. N. SHINGHAL, JJ.] B

*Cotton Textiles (Control) Order 1948, clause 20(1)—Whether the provisions make it obligatory upon the Textile Commissioner to specify the period of operation of his directions—Meaning of the word “may”.*

Clause 20 of the Cotton Textiles (Control) Order, 1948 empowers the Textile Commissioner, having regard to the capacity of the producer to produce cloth and yarn of different description or specification and to the needs of the general public, to issue from time to time such directions in writing to any manufacturer or manufacturers generally regarding the class or specifications of cloth or yarn and the maximum or the minimum quantities thereof which they shall or shall not produce during such periods as may be specified in the directions. C

The respondents' challenge to the vires of the notification issued by the appellant which prohibited the printing of any border or heading on sarees etc. for an indefinite period was accepted by the Gujarat High Court.

Dismissing the appeals by special leave, the Court,

HELD : (1) The impugned notification in so far as it prohibits the printing of any border and heading on sarees etc., for an indefinite period is *ultra vires* clause 20 of the Cotton Textiles (Control) Order 1948 since the aforesaid clause casts an obligation or a duty upon the Textile Commissioner to specify the period during which the prohibition shall remain in force. [827 B-C] D

(2) It is well settled that the word “may” is capable of meaning “must” or “shall” in the light of the context and that where a discretion is conferred upon a public authority coupled with an obligation the word “may” which denotes discretion should be construed to mean a command. Considering the purpose of the relevant empowerment and its impact on those who are likely to be affected by the exercise of the power, it is clear that the power conferred on the Textile Commissioner in the Cotton Textile (Control) Order 1948 to issue directions is coupled with a duty to specify the particular period for which the directions shall be operative. [826 F-G] E

*State of Uttar Pradesh v. Jogendra Singh* [1964] 2 SCR 197 @ 202, principles reiterated. F

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1182 of 1972.

Appeal by Special Leave from the Judgment and Order dated the 4-8-71 of the Gujarat High Court in S.C.A. No. 1346/69 and G

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 1545-1546 of 1972.

Appeals by Special Leave from the Judgment and Order dated the 4-8-1971 of the Gujarat High Court in S.C.A. Nos. 972 and 1527 of 1970 respectively. H

**A** *V. P. Raman*, Addl. Sol. Gen., *S. N. Prasad* and *Girish Chandra*, for the Appellant in CA 1182/72 and CAS.1545-46/72.

*V. M. Tarkunde*, *V. N. Ganpule*, (*Miss*) *M Tarkunde* and *P. C. Kapoor* for Respondents in C.A. 1182/72.

**B** *V. N. Ganpule*, *A. K. Srivastava* and *Vineet Kumar* for RR. No. 1 in C.As. 1545-46/72.

The Judgment of the Court was delivered by

**C** CHANDRACHUD, J. Under the power conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946, the Central Government issued an Order called "The Cotton Textiles (Control) Order, 1948". Clause 20 of that Order, as amended, reads thus :—

**D** "20(1) The Textile Commisisoner may from time to time issue directions in writing to any manufacturer or class of manufacturers or the manufacturers generally regarding the classes or specifications of cloth or yarn, and the maximum or the minimum quantities thereof, which they shall or shall not produce during such periods as may be specified in the directions, and they shall comply with such directions.

**E** 20(2) In the exercise of the powers conferred upon him by sub-clause (1) the Textile Commissioner shall have regard to the capacity of the producer to produce cloth and yarn of different descriptions or specifications and to the needs of the general public."

**F** The question for our determination in these appeals is whether, if the Textile Commissioner decides to issue appropriate directions to any manufacturer or class of manufacturers, it is obligatory upon him to specify therein the period for which the directions will remain in operation.

**G** As hold by this Court in *State of Uttar Pradesh v. Jogendra Singh*,<sup>(1)</sup> it is well settled that the word "may" is capable of meaning "must" or "shall" in the light of the context and that where a discretion is conferred upon a public authority coupled with an obligation, the word "may" which denotes discretion should be construed to mean "a command". Considering the purpose of the relevant empowerment and its impact on those who are likely to be affected by the exercise of the power, we are clear that the power conferred on the Textile Commissioner to issue directions is coupled with the duty to specify the particular period for which the directions shall be operative. Directions of the kind envisaged by clause 20 are influenced and justified by exigencies which render it imperative that the directions be reviewed from time to time. That becomes feasible

**H** only if the directions as limited expressly to a determinate period of

(1) [1964] 2 S.C.R. 197 at 202.

(Chandrachud, J.)

time at the end of which a fresh review of facts and circumstances becomes obligatory. There is a fear that a direction not limited in point of time may continue to operate even after it has outlived its utility for the reason merely that the need to review it is not clearly perceived. Besides, the manufacturers must know, in order that they may organize their business in their own interest as well as in the interest of the community at large, as to how long any particular embargo is going to be operative.

Accordingly, we affirm the judgment of the High Court though on the ground only that the impugned Notification in so far as it prohibits the printing of any border or heading on sarees etc. for an indefinite period is *ultra vires* clause 20 of the Cotton Textiles (Control) Order, 1948, since the aforesaid clause casts an obligation or a duty upon the Textile Commissioner to specify the period during which the prohibition shall remain in force. We express no opinion on the other points, including Point No. 6 urged before the High Court for its consideration.

The appeals are accordingly dismissed. The appellants will pay one set of costs of these appeals to the respondents.

S.R.

*Appeals dismissed.*