Ramnarayan and ors. Vs. State of Madhya Pradesh, Bhopal

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Court : Madhya Pradesh

Decided On : Aug-01-1969

Reported in : AIR1970MP102

Judge : Bishambhar Dayal, C.J. and ;Shiv Dayal, J.

Acts : Constitution of India - Article 19(1) and 19(2); Madhya Pradesh Security Act, 1959 - Sections 12, 12(1) and 12(5)

Appeal No. : Misc. Petn. No. 57 of 1969

Appellant : Ramnarayan and ors.

Respondent : State of Madhya Pradesh, Bhopal

Advocate for Def. : G.G. Sohani, Govt. Adv.

Advocate for Pet/Ap. : S.D. Sanghi, Adv.

Disposition : Petition partly allowed

Judgement :

Shiv Dayal, J.

1. This is a petition under Article 226 of the Constitution and also under Section 12 (5) of the M. P. Public Security Act, 1959, (hereinafter called the Act).

2. 'Swadesh' is a daily newspaper printed at and published from Indore. Shree Rewa Prakashan Ltd. (petitioner No. 3) is the owner, printer and publisher of the paper. Ramnarayan (petitioner No. 1) is the Chairman of the Board of Directors and Hiralal (Petitioner No. 2) is a member of the Board of Directors.

3. Communal disturbances broke out in Indore in early June 1969.

4. On July 9, 1969, in exercise of their power under Clause (i) of sub-section (1) of Section 12 of the Act, the State Government passed an order prohibiting the bringing into sale, distribution and circulation within the State of the said newspaper 'Swadesh' for a period of one month from the date of the order. The order is in these words:--

'Whereas the daily newspaper 'Swadesh' Registered No. M. P. 182 published and printed by Bhalchandra Prahlad Deshmukh has been publishing news about the communal disturbances which took place in Indore City on and after the 2nd of June, 1969 in a manner which promotes feelings of enmity and hatred between the different classes of the citizens of India and is likely to disturb the public tranquillity;

And whereas the State Government is satisfied that bringing into, sale, distribution and circulation of the said newspaper 'Swadesh' will be prejudicial to the maintenance of public order: Now therefore, in exercise of the powers conferred by Clause (i) of Sub-section (1) of Section 12 of the Madhya Pradesh Public Security Act, 1959 (25 of 1959), the State Government hereby prohibit the bringing into, sale, distribution and circulation within the State of the said newspaper 'Swadesh' for a period of one month from the date of publication of this order in Madhya Pradesh Gazette.'

The petitioners are aggrieved by this order and challenge its validity and also pray for quashing it.

5. The petitioners contend that their freedom of the press, which is a fundamental right guaranteed under the Constitution under Article 19(1)(a), has been infringed by the impugned order. There was no application of the mind. There was no basis

for passing the order. The order was passed as a punitive measure. The order is capricious, mala fide and constitutes a fraud on the powers-under the Act. It is excessive and arbitrary. The State Government, in its return, denies all these allegations.

6. In order to appreciate the contentions raised before us, we would state a a few facts. On June 2, 1969, Communal disturbances broke out at Indore. Curfew was imposed. There were riots. The disturbances ceased on June 8, 1969. Curfew was progressively relaxed and on June 15, 1969, curfew was completely withdrawn. On the 17th June, the newspaper received a letter from the District. Magistrate, Indore, stating that such news had been published in the newspaper-'Swadesh' which incited communal feelings of enmity between the two communities. The newspaper was, therefore, warned not to publish such news; otherwise, legal steps would be taken. On the 18th June, a Commission of Inquiry under the Commissions of Inquiry Act, 1952, was announced. On the 23rd June, the District Magistrate accorded sanction to the prosecution of the editor, printer and publisher. On the 30th June, a complaint was filed against the editor and Managing Director of Shree Rewa Prakashan, Ltd., under Section 153A of the Penal Code, in the Court of the Magistrate-First Class Indore, (Criminal Case No. 4429 of 1969). That case is still pending. Another complaint was filed on the 1st July under the same section. The budget session of the Madhya Pradesh Legislative Assembly ended on the 8th July. The impugned order was passed on the 9th July. This petition was filed on the 11th July. The State filed its return on the 15th July. The matter was set down for hearing on the 18th July before the Indore Bench, but on the 25th July, the case was directed to be heard at the main seat and the record was accordingly transmitted here.

7. On the 28th July 1969, the petitioners made an application for curtailing the scope of the petition. In paragraph 6 of the return filed by the State, certain matters, which appeared in this newspaper, were called tendentious and calculated to strain and disrupt feelings between the majority community and the minority community. The petitioners say that in order to avoid any prejudice or embarrassment which may affect the pending proceedings before the Commission of Inquiry and the trial of cases in the Criminal Court, they should not invite a

decision from this Court in the present proceedings ' as to the nature and character of the news item and articles. Therefore, 'for the purposes of the present proceedings they take and accept the position that it may be decided on the assumption that after applying its mind to the material now placed on record by the State Government and collectively marked R. III it felt satisfied that it ought to make an order under Section 12' of the Act. The petitioners now seek relief against the impugned order in the present proceedings only on the ground that the order is not warranted by law; that it is illegal and excessive; and that it involves an abuse of the power and imposes unreasonable restrictions on the fundamental right of the petitioners. They want the question as to the nature and character attributed by the State to the abstracts of the news items and articles filed with the return, to be left open.

8. It is undoubted that freedom of the press is included in the freedom of speech and expression under Article 19(1)(a) of the Constitution. Under our Constitution, the freedom of the Press is not higher than the freedom of speech and expression of an ordinary citizen and it is subject to the same limitations as are imposed by Article 19(2). (See M. S. M. Sharma v. Sri Krishna Sinha, AIR 1959 SC 395). In Article 19(2) the words 'in the interests of' are of wide connotation. The law may not have been designed to directly maintain the public order, yet it may have been enacted 'in the interests of the public order'.

9. Like every other freedom, freedom of the press is a precious possession of free citizen, but like any other freedom, there is always a danger of its being abused. The press, being a powerful instrument, power has to be exercised with discretion. The press must observe self-imposed restrictions, otherwise there is the risk of public interests being jeopardised. The petitioners initially took the stand that it is the right and duty of the press to publish news which are truthful. In Virendra v. State of Punjab, AIR 1957 SC 896 S. R. Das, C. J. speaking for the Court, said:

'It cannot be overlooked that the press is a mighty institution wielding enormous powers which are expected to be exercised for the protection and the good of the people but which may conceivably be abused and exercised for anti-social purposes by exciting the passions and prejudices of a section of the people

against another section and thereby disturbing the public order and tranquillity or in support of a policy which may be of a subversive character.

The powerful influence of the newspaper, for good or evil, on the minds of the readers, the wide sweep of their reach, the modern facilities for their swift circulation to territories distant and near, must all enter into the judicial verdict and the reasonableness of the restrictions imposed upon the press has to be tested against this background. It is certainly a serious encroachment on the valuable and cherished right to freedom of speech and expression, if a newspaper is prevented from publishing its own views or the news of its correspondents relating to or concerning what may be the burning topic of the day.

Our social interest ordinarily demands, the free propagation and interchange of views but circumstances may arise when the social interest in public order may require a reasonable subordination of the social interest in free speech and expression to the needs of our social interest in public order. Our Constitution recognises this necessity and has attempted to strike a balance between the two social interests. It permits the imposition of reasonable restrictions on the freedom of speech and expression in the interest of public order and on the freedom of carrying on trade or business in the interest of the general public.'

10. Section 12 of the Act enacts thus: '12. Control of publications. (1) If the State Government is satisfied that the bringing into, sale, distribution or circulation of any newspaper, periodical, book, or document or the printing or publication of any matter in any newspaper, periodical, book or document will undermine the security of the State or be prejudicial to the maintenance of public order or offend against decency or morality, it may by an order notified in the gazette--

(i) prohibit either absolutely or for a specified period the bringing into, or sale, or distribution, or circulation within the State of any such newspaper, periodical, book or document, as the case may be:

(ii) prohibit, either absolutely or for a specified period the printing or publication of such matter; or

(iii) prohibit or regulate the making or publishing of any document or class of documents in respect of such matter;

Provided that no order made under the sub-section solely for the purpose of maintenance of public order shall be operative for more than three months from the making thereof.

(2) An order under Sub-section (1) may at any time be revoked or modified by the State Government.

(3) If any person contravenes any order made under Sub-section (1), then without prejudice to any other proceeding which may be taken against such person, the State Government may declare to be forfeited to the State Government any copy of any newspaper, periodical, book or document brought, sold, distributed, circulated, printed, published or made in contravention of the order.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(5) Any person aggrieved by an order under Sub-section (1) or Sub-section (3) may, within sixty days from the date of such order, apply to the High Court to set aside the order and upon such application the High Court may pass such order as it deems fit, confirming, varying or reversing the order of the State Government and may pass such consequential or incidental order as may be necessary.'

There can be no doubt that this section imposes restrictions on the freedom of press. Any restriction upon the right to publish, to disseminate information or to circulate constitutes a restriction upon the freedom of press. (See AIR 1957 SC 896 (Supra) and Sakal Papers Private Ltd. v. Union of India, AIR 1962 SC 305). The validity of any such restriction has to be tested by the touchstone of reasonableness. The force of the word 'reasonable' in Article 19(2) is that the Court can see: (1) whether the particular activity which is sought to be prevented has got real, proximate and reasonable connection with the maintenance of public order; and also (2) whether the degree of restriction imposed is excessive, i.e.,

more than what is necessary to prevent an evil, or the means adopted is arbitrary or unreasonable. (See Supdt. Central Prison v. Dr. Lohia, AIR 1960 SC 633; Chintaman Rao v. State of M. P., 1950 SCR 759= (AIR 1951 SC 118) and Dr. Khare v. State of Delhi, 1950 SCR 519= (AIR 1950 SC 211)).

11. Certain principles are now well settled for determining the reasonableness of a restriction. What is to be seen is not the reasonableness of the law, but the reasonableness of the restriction imposed by the law. The necessity for the impugned legislation or the wisdom of the policy underlying it are not matters with which the Court is concerned, but the Court is bound to see whether the restriction is in excess of the requirements and whether it is imposed in an arbitrary manner. It will be of an excessive nature, if it is more than what is required in the interests of the public. In order to satisfy the test of reasonableness, it must be shown that the restriction has a reasonable relation to the object which the legislation seeks to achieve and must not go in excess of that object. (See Arunachala Nadar v. State of Madras, AIR 1959 SC 300 and Chintaman Rao's case, 1950 SCR 759= (AIR 1951 SC 118) (Supra)). The Constitution allows restrictions because the interest of public order must necessarily outweigh individual interests of freedom of speech and expression. Therefore, reasonableness of a restriction has to be viewed in an objective manner, that is from the standpoint of the interests of the general public and not from the point of view of the persons upon whom the restrictions are imposed, nor upon abstract considerations. See Hamdard Dawakhana v. Union of India, AIR 1960 SC 554.

12. To determine whether the restriction is reasonable or not: (1) the nature of the right infringement of which is complained of; (2) the purpose of the restriction imposed; (3) the extent and urgency of the evil sought to be remedied; (4) the prevailing conditions at the time of its imposition; and (5) whether the Imposition is disproportionate to the extent and urgency of the evil sought to be remedied, must all enter into judicial verdict.

13. We shall judge the provisions of Section 12 of the M. P. Public Security Act by these tests. The object and purpose is indicated in the first sub-section. It is to prevent security of the State being undermined, to prevent an activity which will be

prejudicial to the maintenance of public order and to prevent what may offend against decency or morality. It is for these three purposes that the State Government has been empowered to impose restrictions. Obviously enough, the interests of public order must prevail over the freedom of speech and expression. But a balance must be struck. Where maintenance of public order, etc., so require, the freedom of press may be curtailed, but the power must not exceed the requirement to meet. The power conferred under Section 12 is to impose any of the three restrictions specified under the first sub-section. The power is not unfettered. The proviso fixes a time limit. No order, if it is made only for the maintenance of public order, shall remain in operation for more than three months. The Government is also empowered to revoke or modify the order at any time. The third and fourth sub-sections provide for the consequences of contravention of an order made under the first sub-section. Subsection (5) provides safeguard against an arbitrary, capricious or excessive exercise of the power. An application will lie to this Court to set aside the order, and jurisdiction has been conferred on this Court to pass such order as it deems fit, and, in doing so, it may either confirm or reverse or vary the order of the State Government and this Court may pass such consequential or incidental order as may be necessary. We, therefore, hold without hesitation that the provisions of Section 12, although they impose restrictions on the freedom of the press, are reasonable and constitutional.

14. We shall now examine whether the action taken in the present case was within the law and whether the power has been exercised arbitrarily, capriciously or. excessively. The operative part of the order is in these words:--

'The State Government hereby prohibit the bringing into, sale, distribution and circulation within the State, of the said newspaper 'Swadesh' for a period of one month from the date of that order.'

The order purports to have been passed under Clause (i) of Sub-section (1).

15. It was pointed out that the words 'bringing into the State' of the paper, which is actually printed and published within the State, are self-indicative of the fact that the impugned order was passed mechanically and without any intelligent application of the mind. In its return the State says that the expression 'bringing

into' means 'bringing into existence.' This explanation must be rejected outright. In the operative part of the order, the prohibition is 'bringing into, sale, distribution and circulation within the State''. Four things are prohibited: (1) bringing into the State: (2) sale within the State; (3) distribution within the State; and (4) circulation within the State. Thus, it cannot be said that what was prohibited was the bringing into existence of the said newspaper 'Swadesh'. The paper was already in Existence and since it was printed at, and published from, Indore, there was no question of 'bringing it into' the State of Madhya Pradesh. It appears that in the anxiety to reproduce the words of the section in the order, care was not taken to omit what was wholly inapplicable. Be that as it mav, having regard to the concession made before us, we are proceeding on the assumption that it was after applying the mind to the material on record that the Government was satisfied that it ought to make an order under Section 12.

16. It was contended that the impugned order was not made as a preventive measure but is punitive in character. Our attention was drawn to a demi-official letter, dated June 28, 1969, addressed by the District Magistrate, Indore to the Home Secretary, where it was stated that although sanction had been accorded for the prosecution under Section 153A of the Penal Code, in the competent Court, the prosecution was likely to take sufficient time. Therefore, it was necessary to take action under Section 12 of the Public Security Act:-

'Dhara 153 (A), I. P. C. Ke Abhiyoian Men Kafi Samay Lagne Ki Sambhawana Hai Atah Dhara 12 M. PR. Public Security Act Ke Antargat Karyawahi Awashyak Pratit Hoti Hai'.

Emphasis is laid on the word 'Atah' (therefore). We have perused the entire letter of the District Magistrate (annexure R-V) filed with the return. We are of the opinion that the words quoted above were loosely employed. In this letter the District Magistrate also says that having regard to the conduct of the newspaper, he was of the opinion that action under Section 12 (1) of the Act was necessary, in spite of the prosecution. We see no reason to hold that the prohibition imposed in the impugned order was in the nature of punishment. The satisfaction required under Section 12 (1) having been reached, and having been conceded before us.

It must be said that the prohibition under Section 12 was undoubtedly a preventive measure.

17. The petitioners then attack this order as mala fide alleging that the State Government was anxious to exploit every opportunity to strike a blow at the said paper with a view to remove it, being a political opponent. Secondly, the State Government did not deliberately make the impugned order while the State Legislature was in session, lest its caprice may be exposed on the floor of the house; and, as soon as the budget session ended on the 8th July, the State Government came out with the said order on the very next day.

18. With regard to the first aspect, the State Government in its return states that the decision was taken administratively and not as a political decision. It was made at the instance of the District Magistrate and on the advice of the Secretary. We accept this explanation. There is no material before us to show that the impugned order was passed for political reasons, divorced from the exigencies of the situation. We have accepted, on the concession made by the petitioners, that there was sufficient material justifying the satisfaction of the State Government to make a prohibitory order under Sub-Section (1). From the mere fact that the political ideology or views of the 'Swadesh' are different from those of the ruling party, it cannot be inferred that the impugned order had a political motive and the exercise of the power was mala fide.

19. As regards the second aspect, the State Government says in its return:--

'it is a matter of mere coincidence that the action could materialise only after the budget session of the Legislative Assembly had ended on the 8th of July 1969'.

We see no reason to disbelieve this statement. This is not a case where an authority has only one thing to do at a time. Where several things are to be done and there is no compelling reason to expedite the disposal of a particular matter, there is no justification for attacking the order as deliberately timed. Moreover, the authority which has to take a decision may require thinking, or has to scan the material available. Therefore, no motive can be imputed, just because the decision is delayed. The Government or the Minister concerned may have had to do other

things as well and if the decision was taken on the 9th July, it was just a coincidence that it was on the following day after the Assembly session came to a close. We accept the explanation submitted in the return. We are of the view that the action was not mala fide.

20. The order is then attacked as arbitrary on the ground that it was long after the communal disturbances had come to an end and normalcy had been restored. We were told that in the announcement setting up the Commission of Inquiry, the date of the cessation of the disturbances is indicated to be the 8th June. In our opinion, the mere fact that there was no communal riot after the 8th June does not mean that complete normalcy had been restored. It may be noted that although curfew was progressively relaxed, it was withdrawn completely on the 15th June. That apart, there may have been material and Shri Soni told us that certain news were published in the 'Swadesh' even after the 8th June and even in early July-- which was taken into consideration by the Government in reaching its satisfaction. However, we are not going into that question. In our opinion, the attack is without force.

21. Another argument advanced to show capriciousness is that criminal proceedings being pending in a competent Criminal Court, the Government ought to have awaited the findings and the decision of the Criminal Court. In our opinion, it is wholly beside the point. We have already said that the measure does not appear to us to be punitive. It was not aimed at punishing the newspaper for its past acts but the action was preventive. We, therefore, reject this contention also.

22. The conclusion is inescapable that the exercise of the power under Section 12 was justified.

23. We shall now turn to the second aspect of the case. The question is whether the restriction imposed is excessive. Before doing so, we must deal with Shri Soni's objection that this Court cannot go into that question. According to the learned counsel, all that the High Court can see under Sub-section (5) of Section 12, is whether there was application of the mind in reaching the satisfaction required under Sub-section (1) and whether the power was exercised mala fide, but nothing more can be seen and the power of the State Government is

unfettered on the question what action it takes. We are unable to accept this proposition. Sub-section (5) of Section 12 affords safeguard not only against capricious or arbitrary exercise of power, but also against excessive exercise of power, all of which are of vital importance in considering whether the restrictions are reasonable. The jurisdiction of this Court is to be found in the words : 'the High Court may pass such order as it deems fit, confirming, varying or reversing the order of the State Government and may pass such consequential or incidental order as may be necessary', which are so wide as to make both the aspects justiciable namely, satisfaction required under Sub-section (1) and also the nature and extent of the prohibitory order. Shri Soni strongly relied on a decision of Dixit, C. J. and Fandey, J., in Misc. Civil Case No. 297 of 1962. D/-16-4-1963 (Madh Pra), in support of his contention that this Court cannot review the order of the State Government as regards the extent of the restriction imposed. In our opinion, this decision does not support that contention. What was held in that case is that Section 12 does not impose on the State Government a duty to afford to the applicant an opportunity of being heard; nor does it impose on the State Government a duty to determine the question judicially, nor is there anything to hold that such a duty is implied. The order is therefore, not assailable on the ground that the applicant was not previously given an opportunity of being heard; nor for the reason that the grounds for the satisfaction of the State Government were not disclosed in the order. It was also observed that the existence of a right to have the decision re-examined by a superior tribunal is not enough to indicate that the primary authority is under an obligation to act judicially. The Division Bench has itself further observed that since the powers under Section 12(5) are undefined and not in any way limited, they should be regarded as co-extensive with the powers of the primary authority: Nagendra Nath Bora v. The Commissioner of Hills Division and Appeals, Assam, 1958 SCR 1240 = (AIR 1958 S.C. 398). We respectfully concur in these observations.

24. In the present case, the State Government has prohibited the bringing into or sale or distribution or circulation within the State, of the said newspaper 'Swadesh' for a period of one month. The obiect is maintenance of public order. It is obvious enough that the impugned order has incorporated the words of Clause (i) of Sub-section (1).

25. As we read it, Clause (i) is to be applied to any newspaper, periodical, book or document which has already been printed. What will be prohibited, either absolutely or for a specified period, is the bringing into or sale or distribution or circulation within the State. The words 'bringing into' in Clause (i) refer to a publication which has been printed or published outside the State. We, however, do not agree with Shri Sanghi that the entire Clause (i) is meant 9nly for such publication as has been printed or published outside the State. There are four things which may be prohibited under Clause (i): bringing into, or sale, or distribution or circulation within the State. Nos. 2, 3 and 4 are not necessarily applicable only to something which has been printed or published outside the State. They as well apply to a publication which has already come into existence within the State. Indeed, it would have been a more artistic drafting if these four things had been split up into two separate clauses, 'bringing into the 'State' in one Clause and the other three in a separate clause.

26. There is a radical difference between Clause (i) and Clause (ii). A plain reading of the two clauses together makes it very clear that while the former relates to something which has already been printed or published, the latter relates to a matter which is yet to be printed or published. When something has already been printed, what is to be prohibited is its sale or distribution or circulation for the purpose of preventing the evils enumerated in the section. Under Clause (ii) what may be prohibited is the printing or publication of 'such matter', which means such matter as will undermine the security of the State or be prejudicial to the maintenance of public order, or offend against decency or morality. The import of the words 'of such matter' is that the matter must be specified while making an order under Clause (ii). By specifying 'such matter' the restriction becomes limited, so that the evil is prevented but the restraint does not go beyond the purpose.

27. On this analysis, we are bound to say that in reproducing Clause (i) in the impugned order, it was not the intention of the order, nor was it suggested in the return, nor at the hearing of the petition, that it was meant for those issues which had been printed and published before the date of the order. Shri Sanghi urged that if we found that the order has been wrongly made under Clause (i) and should have been made under Clause (ii), we are bound to quash it and leave it to the

State Government to pass another order, if they think fit. We cannot accede to this request. If under Sub-section (5) this Court had no power to modify the order of the State Government, perhaps we would have done so. But if we can vary the order, we must, having regard to the peculiar facts and circumstances of this case, choose to do so and make it appropriate. We would not quash it merely because the reproduction of the words of Clause (i) in the impugned order was inept.

28. We have given our considered thought and have heard the parties on the question whether the printing and publication of the 'Swadesh' should have been prohibited in toto. In our opinion, the State Government exercised its power excessively. It was quite sufficient to prohibit the printing or publication of such matter as would be prejudicial to the maintenance of public order in the given situation, that is to say, by prohibiting the printing and publication of any matter pertaining to the communal disturbances at Indore, or any other matter whatever which would relate to or would have any effect on the relations between Hindus and Muslims. That would have fully met the requirement of the situation. That would have fully prevented the evil apprehended. There was no justification for totally prohibiting the printing and publication of the newspaper as such. Shri Soni strenuously argued that if the newspaper is allowed to be printed and published, it may print or publish some matter in such a way as to incite hatred and disharmony between the two communities. We do not see any force in this argument. In the first place, Shri Sanghi has made a categorical statement before us that there is no intention of the newspaper to publish anything in respect of relations between the two communities. Secondly, if the newspaper is bent upon contravention of the order, it can even now print or publish the newspaper and suffer its consequences. There will be nothing to prevent the State Government from making a fresh order in future if the conduct of the petitioners would so require.

29. It is remarkable that ground No. (vi) in the petition is in these words:--

'Because, the order is excessive and arbitrary in that it makes an absolute inroad on the fundamental right of freedom of expression and of practising one's profession, of carrying on one's occupation or business, which is guaranteed by clauses (a) and (g) of Article 19(1) of the Constitution of India. It is submitted that if

the object of the State Government was to prevent publication of news about the communal disturbances in a manner likely to promote feelings of enmity and hatred between the different communities or to disturb public tranquillity, the same could have been achieved by making a qualified and limited order and a blanket order of the nature issued by the State Government totally prohibiting the sale, distribution or circulation of the whole paper was absolutely uncalled for and unwarranted.' It is submitted that the restrictions imposed by the said order cannot be said to be reasonable restrictions in the interest of public order, and consequently the said order is excessive, unjust and violative of the provisions of Article 19(1) (a) and (g) of the Constitution of India.'

(Underlined (here in ' ') by us) In the return, ground No. (vi) is answered thus:--

'That Ground No. 6 is denied. Social control of individual liberty envisaged by Section 12 of the Act is a reasonable restriction and there is, therefore, no inroad on the fundamental right of the petitioners.'

The State Government completely omitted to answer that contention raised in paragraph (vi) of the petition, which we have underlined. The return is absolutely silent why an order under Clause (ii) would not have met the need; nor could Shri Soni tell us any satisfactory reason for taking the drastic step of completely suspending the printing and publication of the newspaper for the period specified in the order, instead of making an order under Clause (ii). We see no reason why the newspaper was not left free to print and publish news and views about other matters, for instance, man's landing on the Moon, ensuing elections of the President and Vice-President of India, commercial advertisements, 'Rashi Phal', cinema fixtures, sports, etc. etc., which had no bearing on the evil which was desired to be prevented.

30. In the result the petition is partly allowed, and the operative part of the impugned order made by the State Government on July 9, 1969, is varied. It shall be substituted by the following order:--

(1) The petitioners shall not print or publish in the 'Swadesh' upto August 9, 1969, any matter whatever pertaining to the communal disturbances at Indore, or any

other matter whatever which may relate to or which may have any effect on the relations between Hindus and Muslims.

(2) Upto August 9, 1969, no issue or issues of 'Swadesh' printed or published between the 2nd June and 9th July, 1969, shall be sold, distributed or circulated within the State of Madhya Pradesh by the petitioners.

The parties shall bear their own costs. The security amount shall be refunded to the petitioners.