V.V. Puri Vs. Assistant Controller, Reserve Bank of India, New Delhi and ors.

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Court : Delhi

Decided On : Sep-09-1969

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Judge : H.R. Khanna and; S.N. Shankar, JJ.

Acts : Constitution of India - Article 14; Foreign Exchange Regulation Act, 1947 - Sections 18B

Appeal No. : Civil Writ Appeal No. 375D of 1966

Appellant : V.V. Puri

Respondent : Assistant Controller, Reserve Bank of India, New Delhi and ors.

Advocate for Pet/Ap. : V.K. Krishna Menon,; S. Pappu,; J. Ramamurthy,;

Judgement :

S.N. Shankar, J.

(1) By these two petitions under Article 226 of the Constitution (CivilWrit Nos. 207-D of 1966 and 275-D of 1966) Shri V. V. Puri and his wife have both separately challenged the order of the Assistant Controller, Exchange Control Department, Reserve Bank of India, dated August 19, 1965, rejecting their applications to issue permission in form 'P' to enable them to book their passages abroad and have further prayed that section 18B of the Foreign Exchange Regulation Act, 1947,

through which the Reserve Bank of India purported to exercise this power may be declared to be unconstitutional and void and respondent No. I be directed to decide their applications according to law As the petitions involved questions of general importance, by order dated August 30, 1967, they were directed to be heard by a larger Bench.

(2) The case of the petitioners for purposes of the reliefs claimed lies within a comparatively short compass. On March 12, 1963, they entered into an agreement with a French firm Messrs Francorex films (hereafter called 'the firm') to secure business for it by contacting prospective buyers and buying agencies in the various South East Asian and East European countries, where this firm held rights of exploitation, exhibition and distribution of a number of French films. Copy of this agreement was sent to the Reserve Bank of India and its copy on the record of this Court is Annexure I. In terms of this agreement, the petitioners were to tour the South East Asian and East European countries and contact the prospective buyers and buying agencies desirous or marketing the films held by the firm. On the conclusion of each sale, the firm was to pay 10 per cent of the net royalties received by it to the petititoners. For the tours that may be undertaken by them, the firm had to pay a maximum of two Economy class return passages out of Delhi to any point of the intended destination of the petitioners as also their hotel charges, transport charges and other expenses for stay in the countries visited by them in pursuance of the agreement. The payment had, however, to be recuperated by the firm, but only by adjusment from the commission becoming due to the petitioners in term of the agreement. According to clause 6, this agreement was lo hold good for a period of twelve months from the date of the first trip undertaken 'unless extended by mutual consent'. The petitioners were at liberty during each trip to do their own business also, such as sale of Indian or any other films in the countries visited by them. On March 28, 1963, they wrote to the Assistant Controller, Exchange Control Department of the Reserve Bank of India, requesting that a 'P' form be issued to enable them to book their passage to Japan. In reply, the Reserve Bank raised the query as to who was to bear the expenses of this journey, and the petitioners by letter dated April 7, 1963, informed the Bank that in terms of their agreement with the firm, copy of which had already been sent to it, the firm had to bear all the expenses. On July 6, 1963, an

application in the prescribed form with the required particulars needed by the Bank to consider if the 'P' form should or should nto be issued, was sent to it. After further correspondence and some clarifications, on August 29, 1963, the Bank granted permission to Shri V. V. Puri only to book the desired pasage on the condition that whatever foreign exchange was earned by him during this visit, would be repartriated to India through normal banking channels along with a detailed report on the business done or the royalty earned by him. In pursuance of this authorisation, on September 4, 1963 Shri Puri left Delhi-for Bangkok. From Bangkok, he states that he contacted his principals on telephone and was asked to immediately come over to paris for some important consultation. He. thereforee, cut short his stay there and returned to India within 4 days without transacting any business under the agreement. By letter dated September 10, 1963, he approached the Bank for a fresh permission to book his passage to Paris and London. Respondent No. 1 pointed out that visits to London were nto covered by the agreement and, this being so, Shri Puri agreed that London may nto be considered to .be included in the proposed trip. The Bank, thereupon, issued the 'P' form in his favor vide approval No. 7794 dated December 3, 1963. Due to certain unavoidable reasons, however, he was nto in a position to undertake the trip. On April 29, 1964. he again applied to the Bank for issuing a revised 'P' form. Correspondence again ensued between the petitioners and the Bank, the details of which are nto relevant for purposes of the decision of the points in controversy, until by memorandum dated August 19, 1965 (copy Annexure 24), the petitioners were informed that the Bank could nto grant the permission applied for under the existing Exchange Control Regulations. The petititioners contend that this refusal on the part of the respondents is wholly illegal and had and deserves lo be struck down.

(3) In the affidavit in reply by Shri Madhav Kaluram Vijayakar. Deputy Controller, Exchange Control Department, Reserve Bank of India, New Delhi, the procedure evolved by the Bank from time to time in connection with the grant of permission to book passages for travel abroad as a result of the past experience was briefly indicated. According to his affidavit, till 1956, a basic travel quota of 600 pounds once in every two years was available to any person for travel to any country other than the Continent of America and Phillipines, but this basic travel quota was

abolished in 1957 in view of the stringent foreign exchange position. While reviewing the position of foreign exchange in the year 1962, it was found that going abroad of persons, even though they obtained no foreign exchange, resulted in loss of exchange to the country. Such persons were apparently able to acquire in open markets abroad the exchange which would otherwise have been remitted to India. Diverse methods were resorted by such persons to achieve this purpose. The result was that foreign exchange earnings of the country, which were already at a low ebb, instead of showing any increase, remained steady since 1956 and in some cases showed a marked decline. Various measures were thereforee adopted to check the continuous decline and lo conserve the foreign exchange. A decision in this context was taken that travel without release of foreign exchange should also be restricted. Directions in the form of circulars were issued by the Bank in pursuance of the powers conferred on it by subsection (3) of section 20 of the Foreign Exchange Regulation Act, 1947 (Act Vii of 1947) (hereafter referred to as 'the Act'). The Steamer and Airline companies and travel agents were directed that they should book foreign passage only if (a) the traveller was in possession of a foreign exchange permit or (b) he held 'P' form approved by the Bank authorising the booking of the passage. The situation kept on being reviewed from time to time and several directions in the form of circulars and press notes were issued by the Bank summarizing its current policy in the matter of the release of exchange as well as the approval of 'P' forms. The impugned order, it is stated, was passed in accordance with the policy decision contained in Spa Circular No. 3 dated April 15, 1965, issued by the Bank, which was then in force. The petitioners cases did nto fall under any of the exempted categories mentioned in this circular and, thereforee, the approval of the Bank could nto be issued in their cases. Dealing with merits, it is admitted that copy of agreement Annexure I was sent to the Bank, but it was urged that it was nto a genuine agreement and the sending of its copy did nto amount to any approval of the agreement vis-a-vis the Foreign Exchange Regulations or the working of the Act. Provisions of section 18B of the Act were maintained to be perfectly legal and valid and the other contentions raised by the petitioners were also controverter.

(4) In their rejoinder the petitioners reiterated the contentions raised in the petition and further added that section 18B of the Foreign Exchange Regulation Act, apart

from Articles 14 and 19(1)(g) of the Constitution, also contravened the provisions of Article 21, and, thereforee, deserved to be struck down. In the view we are taking in regard to the matters in controversy between the parties and the conclusion, we have arrived at, it will be unnecessary to deal with the factual aspect of the case. The learned counsel for the parties have also confined their arguments mainly to the legal position except that a preliminary objection was taken on behalf of the respondents that the agreement Annexure I no longer subsisted between the petitioners and the firm and, thereforee, their claim for approval of a 'P' form on the basis of this agreement was nto maintainable. Reliance was placed in this connection on clause 6 of the agreement, which provided that the agreement was to hold good for twelve months from the date of the first trip and it was contended that Shri Puri, having taken the first trip to Bangkok on September 4, 1963, this agreement ceased to be operative in September, 1964. The objection, however, has no force because the agreement was subject to extension by mutual consent and there is a letter dated June 14, 1965 (Annexure Xvi 11/2) on the record, which shows that the firm actually paid two economy class fares for the return journey of the petitioners, in pursuance of the agreement, as late as June, 1965. Besides, in the impugned order, this has nto been stated to be the ground on which the permission was refused by the Bank. It is nto open to the respondents at this late stage,when the matter has come to the Court, to invent grounds. We have no hesitation in repelling this preliminary objection in the circumstances of this case.

(5) Shri V. K. Krishna Menon, during his arguments, has raised the following contentions before us:-

(i) That section 18B of the Foreign Exchange Regulation Act, 1947, is had because- (i) it contravenes Article 14 of the Constitution in so far as it confers unguided and unbridled powers on the Reserve Bank; (ii) it is ultra-vires of Article 19(1)(g) of the Constitution in so far as it obstructs and prevents the petitioners from carrying on their occupation trade and business: (iii) it contravenes Article 21 of the Constitution in so far as it interferes with the personal liberty of the petitioners. (2) That the impugned order, in any case, is had because it contravenes principles of natural justice.

We shall deal with these contentions in the order in which they have been set out above.

(6) The argument in support of the submission that section 18B contravened Article 14 of the Constitution was that it conferred a blanket power on the Reserve Bank without providing any guidelines or principles to regulate its discretion in the matter of granting or refusing permission and, as such, was an abdication of the legislative power in favor of the Bank, which could nto be countenanced in law. We have carefully considered this argument but do nto find it possible to accept it. The scheme of the Act and the policy-underlying it, viewed in the background of the purpose for which the Reserve Bank of India was constituted, makes it clear that there is full guidance discernible in the purpose and policy of the Act to canalise the discretion conferred on the Bank by this section. The Reserve Bank was constituted by the Reserve Bank of India Act, 1934 (Act 11 of 1934). The preamble of this Act reads as under :-

'WHEREASit is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage: And Whereas in the present disorganisation of the monetary systems of the world it is nto possible to determine what will be suitable as a permanent basis for the Indian monetary system; But Whereas it is expedient to make temporary provision on the basis of the existing monetary system, and to leave the question of the monetary standard best suited to India to be considered when the international monetary position has become sufficiently clear and stable to make it possible to frame permanent measures; It is hereby enacted as follows :-'

(7) Section 3 of the Act constituted and established the Reserve Bank of India for the purposes of taking over the management of the currency from the Central Government and for carrying on the business of banking in accordance with the provisions of this Act. The Foreign Exchange Regulation Act, 1947, was thereafter enacted in 1947. As is clear from its preamble, it was enacted to regulate payments and dealings in foreign exchange. securities and the import and export

of currency and bullion, which were all subjects that had necessarily to be dealt with by the Reserve Bank. Section 3 of the latter Act, thereforee, to secure powers to the Bank to regulate foreign exchange empowered it to authorise specific persons to deal in foreign exchange in terms of the authorisation that may be granted to them by it. Section 4 laid down restrictions on dealings in foreign exchange except with the previous general or special permission of the Bank and section 5 likewise prohibited any payments to or for the credit of any person or the receipt of any payment to otherwise than through an authorised dealer or any other act in this connection,. in terms of the section, except in accordance with any general or special exemption that may be granted conditionally or unconditionally by the Bank. As stated earlier, one of the modes in which foreign exchange was being dissipated was through persons going abroad. Section 18B was, thereforee, specifically inserted in the Act in April, 1965, to achieve the purpose of regulating and conserving this foreign exchange to enable the Bank to maintain and sustain the reserves of the country for securing its monetary stability and also to enable it to operate the currency to the advantage of the country. The section, undoubtedly, conferred a discretion on the Bank but this discretion could be exercised for no other but the one purpose, i.e., for the purpose of conserving the foreign exchange of the country to prevent any adverse repercussions on its foreign exchange resources including the potential reserves.

(8) Under sub-section (3) of section 20 of the Act, the Reserve Bank had the power to issue directions. There is no challenge to this power of the Bank. These directions, it is true, were nto either 'Rules' or 'Regulations' in the technical sense, but they were Rules of conduct issued by the Bank from time to time, which had normally to guide its business. In pursuance of this power, the Reserve Bank also prescribed the contents of 'P' form. which were to b3 filled in by the applicants desiring to obtain the permission of the Bank to book their passage involving travel outside India. It required the filling in of particulars that the Bank considered to be relevant to decide if the permission sought For should or should nto be granted in a given case. If on a consideration of the data so supplied, it took its decision keeping in view the policy of the Act and the purpose for which this power had been conferred on it, no exception could justly be taken to the decision if the discretion was evenly exercised nto resulting in discrimination between persons

similarly situated. The decision of the Bank has necessarily to vary from case to case depending on the peculiar facts of the individual case and the situations that may arise and the considerations that may become necessary to be considered and taken into account.

(9) Under these circumstances, it is impracticable for the legislature to lay down any definite and comprehensive rules to guide the discretion of the Bank. In this view. Article 14 of the Constitution is in no way attracted to vitiate the section.

(10) This aspect of Article 14 came up for consideration before the Supreme Court in Jyoli Pershad and others v. Administrator for the Union Territory of Delhi and others(1). While discussing the question of unbridled power in the background of Article 14, their Lordships observed :

'IT is manifest that the above rule would nto apply to cases where the legislature lays down the policy and indicates the rule or the line of action which should serve as a guidance to the authority. Where such guidance is expressed in the statutory provision conferring the power, no question of violation of Art. 14 could arise '.

(11) Dealing with the question further on the same page. their Lordships said:

'SUCHguidance may thus be obtained from or afforded by (a) the preamble read in the light of the surrounding circumstances which necessitated the legislation, taken in conjunction with well-known facts of which the Court might take judicial notice or of which it is appraised by evidence before it in the form of affidavits, : 1952 CriLJ805 , being an instance where the guidance was gathered in the manner above indicated, (b) or even from the policy and purpose of the enactment which may . be gathered from other operative provisions applicable to analogous or comparable situations or generally from the object sought to be achieved by the enactment.'

(12) In Kathi Rening Rawat v. State of Saurashtra Mr. Justice B. K. Mukherjea, at p. 132, after quoting Mr. Justice Frankfurter in Tinger v. Texas that laws were nto abstract propositions but were expressions of policy arising out of specific difficulties addressed to the attainment of specific ends by the use of specific

remedies, observed :

'IN my opinion, if the legislative policy is clear and definite and as an effective method of carrying out that policy a discretion is vested by the statute upon a body of administrators or officers to make selective application of the law to certain classes or groups of persons, the statute itself cannto be condemned as a piece of discriminatory legislation. After all 'the law does all that is needed when it does all that it can, indicates a policy. . . .and seeks to bring within the lines all similarly situated so far as its means allow.' Vide Buck v. Bell In such cases, the power given to the executive body would import a duty on it to classify the subject-matter of legislation in accordance with the objective indicated in the statute. The discretion that is conferred on official agencies in such circumstances is nto an unguided discretion; it has to be exercised in conformity with the policy, to effectuate which the direction is given and it is in relation to that objective that the propriety of the classification would have to be tested . . . .'

(13) Thus when a clear policy, which is to operate as a binding rule of conduct, has been laid down by the legislature, it cannto be said that there is abdication of the legislative power by the legislature.

(14) This is now settled law as laid down in the case of Edward Mills Co. Ltd. Beawar and other v. State of Ajmer and another where the matter came up for consideration in the context of section 27 of the Minimum Wages' Act, 1948. The object of this Wages Act, as stated in its preamble, was to provide for fixing minimum rates of wages in certain employments. The schedule attached to the Act specified, under two parts, the employments in respect of which the minimum wages of the employees could be fixed. Section 27 of the Act authorised the 'appropriate Government', after giving three months' notice of its intention to do so. to add to either part of the schedule, any other employment, in respect of which it was of the opinion that minimum rates of wages should be fixed under the Act. The section was attacked on the ground that the legislative policy was nowhere discernible in this provision and the legislature had simply abdicated its power and assigned it to anadministrative authority. Dealing with this argument on pases 32 of the Report, their Lordships observed :

'WEdo nto think that this is the correct view to take. The legislative policy is apparent on the face of the present enactment. What it aims at, is the statutory fixation of minimum wages with a view to obviate the chance of exploitation of labour. The legislature undoubtedly intended to apply this Act nto to all industries but to those industries only where by reason of unorganized labour or want of proper arrangements for effective regulation of wages or for other causes the wage of labourers in a particular industry were very low. It is with an eye to these facts that the list of trades has been drawn up in the schedule attached to the Act but the list is nto an exhaustive one and it is the policy of the legislature nto to lay down at once and for all time, to which industries the Act should be applied. Conditions of labour vary under different circumstances and from State to State and the expediency of including a particular trade or industry within the schedule depends upon a variety of facts which are by no means uniform and which can best be ascertained by the person who is placed in charge of the administration of a particular State. It is to carry out effectively the purposes of this enactment that power has been given to the 'appropriate Government' to decide, with reference to local conditions, whether it. is desirable that minimum wages should be fixed in regard to a particular trade or industry which is nto already included in the list. We do nto think that in enacting section 27, the legislature has in any way stripped itself of its essential powers or assigned to the administrative authority anything but an accessory or subordinate power was deemed necessary to carry out the purpose and the policy of the-Act. *. * * * *'

(15) A similar question arose in P, J. Irani v. State of Madras and another in relation to the exercise of the discretionary power vested in Government under section 13 of the Madras Buildings (Lease and Rent Control) Act of 1949. The section read as under:-

'NOTWITHSTANDINGanything contained in this Act, the State Government may by a notification in the Fort St. George Gazette exempt any building or class of buildings from all or any of the provisions of this Act.'

(16) The section contained no guide-lines or principles to guide the State Government in the exercise of its discretion conferred by this section, and was,

thereforee, assailed on the ground that it contravened Article 14 of the Constitution. Referring to the preamble of the Act, which stated that the Act was enacted for (i) the regulation of letting; (ii) the control of rents and (iii) the prevention of unreasonable eviction of tenants from residential and non-residential buildings, their Lordships observed on page 1737 of the Report as' under :-

'THOUGHthe enactment thus conferred these rights on tenants, it was possible that the statutory protection could either have caused great hardship to a landlord or was the subject of abuse by the tenant himself. It was nto possible for the statute itself to contemplate every such contingency and make specific provision thereforee in the enactment. It was for this reason that a power of exemption in general terms was conferred on the State Government which however could be used nto for the purpose of discriminating between tenant and tenant, but in order to further the policy and purpose of the Act which was, in the context of the present case, to prevent unreasonable eviction of tenants. * * *'

(17) A similar situation arose in the case of section 3 of the Income-tax Act, 1922, which conferred power on the Taxing Authority with an option to assessing to tax the income collectively of the association of persons in the hands of the association or in separate shares in case of the members of the association, ft was urged that this provision provided no principles or guide-line to the Income-tax Officer in exercising the option, and, thereforee, conferred an uncontrolled authority on him to select either the association or its members for assessment to tax according to his fancy and so contravened Article 14 of the Constitution. Rejecting this argument in M. N. Ipoh and others v. The Commissioner of Income-tax, Madras'), their Lordships said :-

'SECTION 3 does not, it is true, expressly lay down any policy for the guidance of the Income-tax Officer in selecting the association or the members individually as entities in bringing to tax the income earned by the association. Guidance may still be gathered from the other provisions of the Act, its scheme, policy and purpose, and the surrounding circumstances which necessitated the legislation....'

(18) As held in Jalan Trading Co. Private Ltd. v. Mill Mazdoor Sabha the initial presumption in case of a challenge founded on Article 14 of the Constitution would

be in favor of the constitutionality of the statute and the onus of proving unconstitutionality will lie on the person challenging it. Each case will, of course, depend upon its own facts and the context in which the challenge is raised and the nature of the provision which is attacked and the background of it; but the initial presumption cannto be ignored. We were, in fact, at pains in this case to find out the exact nature of the guide-lines on the principles that could, in the circumstances, be laid down by the Legislature to guide the Reserve Bank, but no concrete suggestion was forthcoming. Under these circumstances, as at present advised, we have no alternative but to uphold the validity of section 18B of the Foreign Exchange Control Regulation Act, 1947.

(19) The learned counsel for the petitioners, however, placed strong reliance on this very case (Jalan Trading Co. Private Ltd. v. Mill Mazdoor Sabha) in support of his contention that section 18B deserved to be struck down. In this case the validity of section 37 of the Payment of Bonus Act, 1965, was in question. This provision empowered the Central Government to remove doubts or difficulties in giving effect to the provisions of the Act, and was held to be excessive delegation by the Legislature to the Executive authority. The reason that led to this conclusion was that the section in terms authorised the Government to determine for itself what the purpoes of the Act were and also to make provisions for removal of doubts or difficulties. The Court, thereforee, held that power to remove the doubts or difficulties by altering the provisions of the Act was nothing in substance but the exercise of the legislative authority itsef and in this view there was excessive delegation in this case. No such question arises in the present case in relation to section 18B of the Act. The Reserve Bank, as stated earlier, is bound to act within the four corners of the Act and to grant or withhold permission only for the purpose of regulating and conserving the foreign exchange of the country and cannto alter this policy.

(20) Reference was then made by the learned counsel for the petititioners to Hamdard Dwakhana and others v. The Union of India and others, where the distinction between conditional legislation and delegated legislation was pointed out by the Court. In this case a part of section 3(d) of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, consisting of the words 'or

any other disease or condition which may be specified in the rules made under this Act', was struck down, because the Parliament was found nto to have laid down any criteria or standard or principles on which a particular disease was to be specified in the schedule, but had still conferred this power in terms stated above: The portion of section 3 envisaging the exercise of this power was, thereforee, held to be beyond the permissible limits of valid delegation. This is nto the case here, because, as we have said, the legislature has unambiguously laid down its policy which the Bank has to carry out while discharging its duty under section 18B of the Act.

(21) Another case relied upon by the learned counsel for the petitioners was M/s. Devi Das Gopal Krishan etc. v. State of Punjab and others'), which dealt with section 5 of the Punjab General Sales Tax Act (46 of 1948). By this section, as it originally stood, power was conferred on the Provincial Government to levy every year on the taxable turnover of a dealer a tax at such rates as the Government might direct. The Court held that in this manner the Legislature practically effaced itself in the matter of fixation of rates and it did nto give any guidance either under this section or under any other provisions of the Act in this regard, and. thereforee, this section was void. This, obviously, would be so in a case of that nature but in the present case, the legislature has clearly manifested its avowed policy in the Act and in entrusting this duty to be discharged to the Reserve Bank.

(22) We now take up the second ground in support of the first contention in regard to this section, being ultra virus of Article 19(1)(g) of the Constitution. The impugned order was admittedly passed on August 19, 1965. It is admitted by the petitioner. that at that time the proclamation of Emergency was in operations. Clearly, thereforee, it will nto be possible to give any relief to the petititioners on the ground of infringement of Article 19 or any clause thereof in face of Article 358 of the Constitution which reads as under :-

'358.Suspension of provision of Article 19 during emergencies. While a Proclamation of Emergency is in operation, nothing in Article 19 shall restrict the power of the State as defined in Part Iii to make any law or to take any executive action which the State would but for the provisions contained in that Part be

competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.'

(23) The proclamation has now ceased to exist, but this will nto affect 'the things done', i.e. the orders passed while it was in force. The impugned order passed during the period when the proclamation of emergency was in operation cannot, thereforee, be quashed.

(24) The learned counsel for the petitioners, however, placed reliance on State of Mudhyu Pradesh and another v. Thakur Bharat Singh and contended that this Article did nto operate to validate the legislative provisions which were invalid before the proclamation of Emergency, because of constitutional prohibition. It is nto clear how this argument will have any application to the Case in hand, because section 18B, which is being impugned, was inserted in the Act only on 1st April, 1965, and was nto there before the proclamation of Emergency was issued in 1962.

(25) The learned counsel, then, contended that in any case section 18B contravened Article 19(1)(g) of the Constitution and should now be struck down as the proclamation of emergency has ceased to operate. It is true that a law, made during the period the proclamation was in force, shall cease to have effect as soon as the proclamation ceases to operate in so far as it is in contravention of Article 19 of the Constitution. This is provided by Article 358 itself; but we are unable to endorse the submission of the learned counsel that this section imposes any thing more than a reasonable restriction. The worsening foreign exchange situation of the country clearly called for such a restriction being imposed to regulate travels involving trips outside India, which invariably involved foreign exchange directly in some cases and indirectly in other cases. The continuous decline in the foreign exchange resources of the country called for action and in this context provisions of section 18B imposed perfectly legitimate and reasonable restriction. The learned counsel for the petitioners, in support of this argument, has cited : 1952 CriLJ966 . the State of Madras v. V. G. Row Messrs Dwarka Prasad Laxmi Narain

v. State of Uttar Pradesh and others State of Madhya Pradesh and another v. Baldeo Prusad but it is nto necessary to examine these authorities in detail in view of what we have said above. The submission, thereforee, that this section contravened Article 19(1)(g) is without any merits.

(26) The third ground urged in support of the first contention that section 18B of the Act contravenes Article 21 of the Constitution is also without any substance. Article 21 reads as under :-

'21. Protection of life and personal liberty. No person shall be deprived of his life or personal liberty except according to procedure established by law.'

(27) Assuming for the sake of argument here that section 18B deprives the petitioners of their personal liberty in so far as they cannto go out of India without booking their passages through an airline shipping company or travel agent, this Article in clear terms provides that personal liberty can be curtailed by a procedure established by law. Section 18B is that procedure established by law. If it is otherwise valid, as we have held it to be, we do nto see how the provisions of Article 21 of the Constitution will at all be attracted.

(28) For the foregoing reasons, we are of the view that provisions of section 18B of the Act are perfectly legal and valid and do nto contravene Articles 14, 19 or 21 of the Constitution. This brings us to the second contention of the petitioners that the impugned order is had because it contravenes the principles of natural justice.

(29) In the affidavit of the Deputy Controller, filed in answer to the writ petition, one of the reasons for the refusal of the permission in para 3(a) of the affidavit, is in the following terms -

'3.* * * * * * * * The petitioner's visit to Paris was either a case of travel on the hospitality of the French firm or it was a travel in pursuance of the business agreement with the French Firm. In the former case, the Regulations in force at the material time governing approval of 'P' form did nto permit approval of travel against such hospitality. In the latter case, between 1963 and 1965, the Bank had occasion to collect further information about the agreement between the petitioner

and the French firm as a result of which the Bank had grounds to doubt the bona-fides of the arrangement between the petitioner and the French firm. .'

(30) The refusal of the sanction on the ground that the Bank had occasion during 1963 to 1965 to collect further information, as a result of which it had reasons to doubt the bona-fides of the agreement between the petitioners and the firm, cannto be sustained, as Mr. Sen appearing on behalf of the respondents has frankly stated before us that this information was nto disclosed to the petitioners. The use of this information, under these circumstances, in arriving at the impugned decision was a clear breach of the principles of natural justice. The impugned order, thereforee, stands vitiated on this ground and cannto be sustained.

(31) In view of this, thereforee, we have no alternative but to set aside the impugned order. The petitions are, consequently, accepted to this extent. The respondents shall re-consider the case of the petitioners for the grant of the permission under section 18B in accordance with law. In the circumstances of the case, the parties will bear their own costs.