

**V. Srinivas Vs. the Director of Controlled Commodities, Madras**

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**Court :** Chennai

**Decided On :** Mar-20-1951

**Reported in :** AIR1953Mad775; (1952)2MLJ113

**Judge :** Rajamannar, C.J. and ;Somasundaram, J.

**Acts :** Cotton Textile (Control) Order, 1948

**Appeal No. :** Civil Misc. Petn. No. 10787 of 1950

**Appellant :** V. Srinivas

**Respondent :** The Director of Controlled Commodities, Madras

**Advocate for Def. :** State Counsel

**Advocate for Pet/Ap. :** R. Viswanatha Iyer, Adv.

**Disposition :** Application dismissed

**Judgement :**

Rajamannar, C.J.

1. This application is filed by one V. Srinivas who has been doing the business of a Master Weaver according to him for over 10 years. He' was permitted by an order of the Provincial Textile Commissioner to take from three mills certain quantity of yarn per month. In June 1949 he found it difficult to continue his business and so

he decided to suspend his business temporarily and intimated his decision to do so to the Collector of Coimbatore in July 1949. In his affidavit he states that in or about March 1950 he decided to resume his business as a weaver and applied to the Director of Controlled Commodities to allocate to him the quota which was being allowed to him. He was eventually informed that this quota had been cancelled. There was an application for review, but the Collector refused to reconsider the case. By this application he seeks to have the order of the Director of Controlled Commodities cancelling his quota quashed and he seeks a direction from this Court to restore to him the quota which he was enjoying prior to that cancellation.

2. It is necessary to briefly refer to the statutory provisions and connected Government Orders which have a material bearing on the disposal of this application. In exercise of the powers conferred by Sub-rule (2) of Rule 81, Defence of India Rules, the Central Government published an order on 21-7-1945 called the Cotton Cloth and Yarn (Control) Order, 1945. In this Order a dealer was defined as a person carrying on the business of selling cloth or yarn or both, whether wholesale or retail, and included Master Weavers of Handloom cloth. Clause 18(A)(1) of the order provided,

'No manufacturer shall, save in accordance with a general or special permission of the Textile Commissioner or in compliance with a direction given under Clause 18(B)

'(a) sell or agree to sell cloth or yarn to any person who

'(1) is not a licensed dealer (or is not in possession of a certificate of Registration issued) under the rules framed in this behalf by the Provincial Government; and

'(II) did not as a dealer buy any cloth or yarn from him at any time during the years 1940, 1941 and 1942. '(b) during any quarter deliver to any dealer, whether in pursuance of a pre-existing contract or otherwise, cloth or yarn in excess of his quota determined under Sub-clause (2).'

The method of ascertaining the quota to which any dealer including a Master Weaver was entitled was set out in Sub-clause (2) of the same clause which ran as follows: '(2) For purposes of Sub-clause (1)(b), a dealer's quota shall bear to the value of the total deliveries of cloth made to all dealers during the quarter by the manufacturer concerned the same proportion as the value of the total deliveries of cloth made to that dealer during the years 1940, 1941 and 1942 bore to the value of the total deliveries of cloth made to all dealers during the same years by the same manufacturer; and a dealer's quota of yarn shall be similarly determined.' On 19-2-1948 a notification was issued by the Government of India, in exercise of the powers conferred by Section 3, Essential Supplies (Temporary Powers) Act, 1946 (24 of 1946), publishing an order called the Cotton Textiles (Control) Order, 1948. This order however, was shortly thereafter repealed by another order of the same name published by a Notification dated 2-8-1948 which is now in force. Clause 3, Sub-clause (c) of this Order defines 'dealer' as including master weavers of handloom cloth. Clause 30 of this Order is most material for the purpose of this application.

3. Clause 34 provides for the delegation of the powers of the Textile Commissioner on any officer authorised in that behalf. By a Notification dated 27-4-1948 published in the Fort St-George Gazette of 24-6-1948 the powers of the Textile Commissioner were delegated to (1) the Secretary to Government, Development Department Madras and (2) the Provincial Textile Commissioner so far as this Province was concerned. On 1-10-1948 the Madras Government passed an order approving the proposals made by the Provincial Textile Commissioner that the master weavers who were getting supplies of yarn direct from the mills during the previous control period would not be shown any concession and they should be made to obtain their requirements at retail selling rates like all other master weavers. This order was, however, partially modified by a subsequent order dated 8-11-1948 which runs thus:

'In partial modification of the orders in para. 1(8) of the G.O. read above His Excellency the Governor of Madras hereby directs that all master weavers in the Province who were enjoying consumer quotas during the last control by virtue of their direct dealings with Mills during 1940, 1941 and 1942 may be allowed to get

their supplies of yarn direct from mills. The quantity to be supplied to each consumer will be fixed by the Provincial Textile Commissioner with reference to their quotas during the last control. The Provincial Textile Commissioner is requested to prescribe suitable accounts to be maintained by the said master weavers so as to ensure that the yarn allotted to them is utilised properly.'

In accordance with this order of the Government the Provincial Textile Commissioner proceeded by his order dated 29-11-1948 to specify the quantities and counts of yarn to be supplied to the master weavers who were enjoying consumer quantities during the last control period. It appears from the schedule to this order that the petitioner before us was allowed a total of 19 bales from three different mills.

4. As already mentioned, the petitioner suspended his business in or about June 1949. He was asked to explain why he did not purchase his quota for several months. The petitioner had an interview with the Director of Controlled Commodities on 16-5-1950. The next day after the interview he addressed a letter to the Director informing him that he had written to the Collector of Coimbatore and was enclosing a copy of that letter for favour of his perusal. In this letter of the 17th May addressed to the Collector he explained that due to heavy accumulation of stocks of handloom cloth with dealers and weavers, there was no demand and as there was no likelihood of improvement, he suspended his business for some months and that was the reason why he was unable to take advantage of the quota allotted to him. This explanation was considered by the Collector who made also a confidential enquiry and made a report to the Director of Controlled Commodities on 5-7-1950. In this report the Collector mentioned that not only had the petitioner not been drawing his supplies since June 1949 but that his conduct was suspicious and he had been misusing his entire quota during the last control with the help of another person. It was also pointed out by him that the weavers to whom he was making supplies had all become members of a Cooperative Society of the place and were getting their supplies through that society. The Collector was of opinion that in the circumstances it was not desirable to reallocate the quota to him. It was in pursuance of this report of the Collector that the quota of 15 bales of yarn from one of the mills was cancelled on 18-7-1950 and after receiving a further

report, the consumer quota in respect of the other mills was also cancelled. The petitioner filed a petition on 20-7-1950 requesting that his quota may be restored, but this was rejected on 27-7-1950 as there were no grounds for restoration,

5. It is clear from the provisions of Clause 30 of the Control Order of 1948 dated 2-8-1948 that the Textile Commissioner or such officer to whom his functions and powers have been delegated in accordance with Clause 34 may with a view to secure a proper distribution of cloth and yarn and with a view to securing compliance with these provisions of the order direct any manufacturer not to sell or deliver cloth or yarn of a specified description except to such person or persons and subject to such conditions, as he may specify. He can also direct the manufacturer to sell to such person or persons such quantities of cloth or yarn as he may specify. He may also issue such further instruction as he thinks fit regarding the manner in which the direction is to be carried out. This clause does not contemplate an irrevocable fixing of any 'quota' to which it can be said that any person is entitled as of right. No doubt, ordinarily the Director of Controlled Commodities who is the officer performing the functions of the Textile Commissioner in this State would not interfere with the normal channels of distribution. That is a question of policy. But it cannot be contended that the pursuit of such a policy renders the authority powerless to make alterations. So long as the alteration is not mala fide or perverse, it cannot be said that it is an improper exercise of the general power conferred in the widest terms possible on him. by Clause 30. It is presumably in exercise of this power that the Director of Controlled Commodities directed the mills not to sell or deliver any yarn to the petitioner. It is not for us to say whether the grounds on which the Director of Controlled Commodities came to the conclusion that it was not desirable to reallocate the old quota to the petitioner were sound or not. Nor can we find it out on evidence whether the grounds are made out. The entire distribution is entrusted to the officer and it is not for us to question any action of his in exercise of his powers. In this case, it appears from the counter-affidavit, supported as it is by the Report of the Collector that there were good grounds on which the Director of Controlled Commodities refused to make an order reallocation of the quota to the petitioner. The order, therefore, cannot be quashed.

6. It was contended that the order of cancellation violated principles of natural justice. We fail to see any such violation.

7. The application is dismissed. There will be no order as to costs.

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