circumstances only. The powers of the Courts under the Constitution are not confined to the issuance of prerogative writs. Article 226 empowers this Court to issue to any person or authority "any direction, order or writs". This Court has the power to interfere in the case of such administrative orders as are made in defiance of mandatory provisions of law or without any jurisdiction. In the instant case, the impugned decision of the Syndicate was violative of the powers which vest in the Senate and the Government under the Statute and the Statutory Regulations.

The petition deserves to succeed and is, therefore, allowed. I will, therefore, quash the decision of the University declining to give its concurrence to the suspension or dismissal of Shri Kartar Singh, Principal and further requiring the petitioner to reinstate him. The University is restrained from requiring the petitioner to take back the Principal in its service, who has been dismissed seemingly, in accordance with the procedure laid down in Regulations 11 and 12. Any observations in this case made with regard to compliance with Regulations 11 and 12 are not to be taken to be an adjudication of a dispute as between the petitioner and the Principal Shri Kartar Singh, who was dismissed. There is no adjudication on merits of the differences, if any, between the employer and the employee.. I have not considered him to be proper party to be impleaded in a dispute which is directly between the petitioner and the University in which the exercise of powers by the Syndicate has been impugned on grounds of want of jurisdiction and illegality. In the circumstances of the case, I leave the parties to bear their own costs.

K.S.K.

REVISIONAL CIVIL

Before Prem Chand Pandit, J

BHAGAT PANJU RAM AND OTHERS,—*Petitioners*

versus

RAM LAL,—*Respondent*

Civil Revision No. 4 of 1966

October 23, 1967

East Punjab Urban Rent Restriction Act (III of 1949)—S. 8—Scope of—Suit for recovery of rent paid twice over—Whether covered by S. 8.

Held, that section 8 of the East Punjab Urban Rent Restriction Act, 1949, deals with the recovery of those sums by the tenant from the landlord which by reason of the provisions of the Act were irrecoverable from him. Those are mentioned in the preceding two sections 6 and 7 and if such sums are sought to be recovered by the tenant from the landlord, the provisions of section 8 will be attracted. But if the landlord has recovered the rent for a period twice over from the tenant, the suit for the recovery of the excess amount paid on account of rent by the tenant will not fall within the provisions of section 8 of the Act. Such a suit will be governed by Article 120 of the Limitation Act, 1908 or Article 113 of the Limitation Act, 1961.

Petition under section 115 *of the Code of Civil Procedure,* 1908 *for revision of the order of Shri Dev Raj Saini, Senior Sub-Judge, with enhanced appellate powers, Rohtak, dated December* 17, 1965, *reversing that of Shri Prem Kumar Jain, Sub-Judge, III Class, Rohtak, dated April* 4, 1965, *passing a decree for Rs.* 660 *in favour of the plaintiff against the defendants with costs of both the Courts.*

H. L. Sarin, Senior Advocate with Bahal Singh Malik, Advocate, for the Petitioners.

P. C. Jain, Advocate, for the Respondent.

JUDGMENT

Pandit, J.—Certain premises, situate in the town of Rohtak were given on lease by its owner Bhagat Panju Ram to Ram Lal on a monthly rent of Rs. 110. On 1st of August, 1961, Ram Lal paid to the landlord Rs. 660 on account of rent for six months for the period 5th July, 1961 to 5th January, 1962. On 16th of January, 1963, Bhagat Panju Ram filed an application under section 13 of the East Punjab Urban Rent Restriction Act (hereinafter called the Act) against Ram Lal for his ejectment on the ground of non-payment of the arrears of rent from 6th of July, 1961 to 16th January, 1963. It was the case of Ram Lal that out of the period in dispute he had already made payment, on 1st of August 1961, for six months from 5th July, 1961 to 5th January, 1962, but fearing that he might be ejected, he, on the first date of hearing of this ejectment petition, i.e., 28th of January, 1963, paid Rs. 2,205 which covered the rent for the entire period from 6th July, 1961 to 16th January, 1963. After the said payment, the ejectment petition was dismissed. On 21st of March, 1964 Ram Lal brought a suit against Bhagat Panju Ram for the recovery of Rs. 720, Rs. 660 on account of the rent from 5th July, 1961 to 5th January,

1962 which had been recovered twice over by the defendant, and Rs. 60 which had been paid by him to the defendant on account of other expenses on 1st August, 1961.

The suit was contested by the defendant on a number of pleas, but in this revision petition, we are only concerned with one of them, namely, that the suit was barred by limitation. The trial Judge decided the issue of limitation in favour of the defendant and dismissed the suit. According to him, the suit could have been filed within six months from the date of the payment of the excess amount which was made on 28th January, 1963 under section 8 of the Act. The suit having been instituted on 21st March, 1964 was thus clearly barred by time. Reliance was placed by the learned Judge on a decision of Falshaw, C.J. in *Dhani Ram and others* v. *Pt. Ghasita Ram* (1), in which it was laid down that where a tenant sought to recover rent illegally paid either by deduction from such rent or by separate action, he must do so within six months from the date of payment.

In appeal the learned Senior Subordinate Judge, Rohtak, reversed the decision of the trial court on the question of limitation and decreed the suit for Rs. 660 in favour of Ram Lal. No decree for Rs. 60 was passed, inasmuch this amount had not been paid by Ram Lal as arrears of rent. His finding was that section 8 of the Act applied when a sum which had been paid was by reason of the provisions of the Rent Restriction Act irrecoverable. Such sums were, according to the learned Judge, given in sections 6 and 7 of the Act. The present suit was not one for the recovery of a sum of that kind. The suit was for the recovery of money paid on account of double payment of rent. *Dhani Ram's* case, according to the learned Judge, was distinguishable on facts. There, the rent of the premises was Rs. 13/12 per mensem. The landlord had, however, realised at the rate of Rs. 16/12 per month. The rent of Rs. 3 every month was thus irrecoverable under the provisions of the Act. Therefore, according to the learned Judge, the suit for the recovery of the over-paid rent was to be filed within six months from the date of its payment. He further observed that the period of limitation for a suit of the present nature, however, was given in Article 62 of the Limitation Act, 1908. Since the suit was filed within three years of the date of payment i.e. 1st August, 1961, it was clearly within limitation.

(1) 1963 P.L.R. 295.

Against this decision Bhagat Panju Ram has come to this Court under section 115 of the Code of Civil Procedure.

It may be mentioned that during the pendency of the revision petition in this Court, Bhagat Panju Ram died and his legal representatives had been brought on the record in his place.

The only contention raised by the counsel for the petitioners was that the learned Senior Subordinate Judge had erred in law in holding that the suit was within limitation. According to the learned counsel, section 8 applied to the facts of the instant case and because of the decision of Falshaw, C.J. in *Dhani Ram's* case, the suit should have been held to be barred by time.

Relevant part of section 8 of the Act reads—

> "(1) Where any sum has, whether before or after the commencement of this Act, been paid which sum is by reason of the provisions of this Act irrecoverable, such sum shall, at any time within a period of six months after the date of the payment, or in the case of a payment made before the commencement of this Act, within six months after the commencement thereof, be recoverable by the tenant by whom it was paid, or his legal representative from the landlord who received the payment or his legal representative, and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within such six months by him to such landlord.
>
> (2) * * * * * *"

A plain reading of this provision will show that it deals with the recovery of those sums by the tenant from the landlord which by reason of the provisions of the Act were irrecoverable from him. Those are mentioned in the preceding two sections 6 and 7. Section 6 lays down that the landlord cannot claim anything in excess of the fair rent from the tenant. Section 7 says that no landlord shall, in consideration of the grant, renewal or continuance of a tenancy of any building or rented land require the payment of any fine, premium or any other like sum in addition to the rent. In other words, if the landlord has recovered from the tenant anything in contravention of the provisions of sections 6 and 7, those sums can be said to

be irrecoverable by the landlord by reason of the provisions of this Act. If such sums are required to be recovered by the tenant from the landlord, then the provisions of section 8 would be attracted. In the instant case, however, admittedly the landlord had received double payment of the rent for the same period. He filed an ejectment application and by making a written assertion that he had not been paid any rent for the period 5th July, 1961 to 5th January; 1962, got the same from the tenant on the first date of hearing by co-ercion as if, because otherwise the tenant might have been thrown out of the premises. Recovery of such an amount, in my view, does not fall within the provisions of section 8 of the Act. As a matter of fact, the provisions of the Rent Restriction Act have nothing to do with the recovery of such an amount from the landlord, because this amount was illegally recovered by him from the tenant by making wrong representation. *Dhani Ram's case,* relied on by the trial court, is distinguishable on facts. In that authority, it appears from the report that the fair rent of the premises in suit had been fixed at Rs. 13-12-0 per mensem. The landlords, however, recovered it at the rate of Rs. 16-12-0 per mensem. Since the landlords had recovered rent in excess of the fair rent, it was, therefore, that the learned Chief Justice applied the provisions of section 8 of the Act to that case. The Senior Subordinate Judge was thus right in holding that section 8 of the Act had no application to the present case. His finding, however, that the suit will be governed by Article 62 of the Indian Limitation Act. 1908, in my view, is not correct, This Article applies to suits for money payable by the defendant to the plaintiff for money received by the former for the latter's use. The defendant in the instant case never received any money for the plaintiff's use. As a matter of fact, the defendant, according to the plaintiff, had illegally and by coercion got the money from the plaintiff. It was then suggested that Article 96 would be applicable. But, in my opinion, that Article has also no application to this case, because it governs suits which are filed for relief on the ground of mistake. It is not the plaintiff's case that he had paid the amount in dispute to the defendant on account of some mistake. As I have already said, he had to pay this amount to the defendant under coercion, because the latter had filed a suit for his ejectment before the Rent Controller and if he had not deposited this amount on the first day of the hearing, he might have been evicted from the premises. I am of the view that in the circumstances of this case, the Article applicable will be the residuary one, namely, Article 120 which relates to suits for which no period

of limitation is provided elsewhere in the First Schedule. In this Article the limitation is six years from the time when the right to sue accrued to the plaintiff and that would be the 28th of January, 1963, when the double payment was made to the defendant. The suit having been brought on 21st March, 1964, was, therefore, well within limitation.

In view of what I have said above, this revision petition fails and is dismissed. There will, however, be no order as to costs in this Court.

B.R.T.

ELECTION PETITION

Before A. N. Grover, J.

PARAS RAM,—*Petitioner*

versus

SHIV CHAND AND OTHERS,—*Respondents*

Election Petition No. 14 of 1967.

October 24, 1967

Constitution of India (1950)—*Art.* 341—*Constitution (Scheduled Castes) Order* (1950)—*Part X (Punjab), item* 9—*Mochis—Whether a Scheduled Caste same as Chamars—Census Act (XXXVII of* 1948)—*S.* 15—*Reference to census Report—Whether barred.*

Held, that although the Chamars and Mochis, who were workers in tanned leather, were originally of the same race or at all events closely connected, the Mochis developed into a distinct caste or sub-caste in the course of years. The Mochis are not of the same Caste as Chamars and are not included in item No. 9 of Part X (Punjab) of the Constitution (Scheduled Castes) Order, 1950, and are, therefore, not a Scheduled Caste.

Held, that section 15 of the Census Act, 1948, does not bar a reference to any historical or statistical or similar information relating to tribes, castes or religions of persons inhabiting a particular area and it only bars inspection of any