judicial Tribunals, I deem it wholly inexpedient to allow the petitioner to raise altogether fresh points within the writ jurisdiction.

(18) For the aforementioned reasons I dismiss the writ petition but make no order as to costs.

M. R. Sharma, J.—I agree.

B. S. G.

CIVIL MISCELLANEOUS

Before D. S. Tewatia and P. S. Pattar, JJ.

TILAK RAJ,—*Petitioner.*

versus

THE CHANDIGARH ADMINISTRATION, ETC.,—*Respondents.*

Civil Writ No. 3223 of 1975 and Civil Misc. No. 2058 of 1975.

September 22, 1975.

Public Premises (Eviction of Unauthorised Occupants) Act (40 *of* 1971)—*Section* 4—*General Clauses Act* (*X of* 1897)—*Section* 3 *Clause* (58)—*Punjab Reorganisation Act* (*XXXI of* 1966)—*Sections* 2(*g*), 2(*m*), 4, 7, 48, 88 *to* 90—*Punjab Public Premises and Land* (*Eviction and Rent Recovery*) *Act* (31 *of* 1959)—*Section* 2(*d*) *and* 3(*b*)—*Union Territory of Chandigarh—Whether a 'State'—Union'—Whether a 'successor State' in regard to the territory comprised in the Union Territory of Chandigarh—Premises passing to the Union after reorganisation—Eviction of unauthorised persons from such premises—Provisions of the Central Act—Whether applicable—Estate Officer issuing eviction notice under section* 4—*Such Officer participating in the meeting in which decision to issue such notice taken—Principles of natural justice—Whether violated.*

Held, that by virtue of section 3 Clause (58) of the General Clauses Act 1897, the Union Territory of Chandigarh is a State and thus a legal entity distinct from the Union Government and that merely from the fact that its administration is to be carried on in the name of the President, it cannot be considered as a part of the Central Government, for the President is its Chief Head not because the President is the Chief Head of the Union Government, but because of the fact that the Constitution of India recognises the President under article 239 of the Constitution as the executive head of the Union Territory as well.

(Para 11).

Held, that a perusal of Clause (m) of section 2 of the Punjab Reorganisation Act, 1966 reveals that in relation to the Union Territory of Chandigarh and the transferred territory, by a legal fiction, the Union has been made the 'successor State'. The context in which the expression 'includes' has been used cannot be lost sight of. This expression does not stand alone. It is followed by the expression 'also the Union'. 'Union', neither in the common parlance nor in the constitutional sense, is a 'State'. The Political entity 'Bharat', in its comprehensive sense, is Union of States and since the Parliament in relation to the Union Territory of Chandigarh and the transferred territory intended to make Union as the 'successor State', so it had to employ the legal fiction to term it so by using the expression 'and includes also'. Thus the context in which the expression 'includes' has been used in section 2(m) of the Reorganisation Act shows that the Union alone is the 'successor State' in relation to the territories comprised in the Union Territory of Chandigarh and the transferred territory.

(Paras 14 and 17).

Held, that so far as the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is concerned, even prior to the reorganisation of the Punjab State it was applicable to the entire territory of the erstwhile State of Punjab in regard to such premises as belonged to the Central Government. According to the provisions of section 48 of the Reorganisation Act all 'lands'—which expression by virtue of section 48(6) of the Reorganisation Act includes 'immovable property of every kind and any rights in or over such property'—belonging to the existing State of Punjab, if located within that State, were to pass to the 'successor State', in whose territories they were situated. That means that the 'successor State' in relation to the Union Terriory of Chandigarh, i.e., the Union became the owner of all that goes by the expression 'land'. That being the position, it irresistibly follows that to any premises which stand included in the expression 'land' and belonged to the 'Union' which is governed by the Central Government, it is the Act of the Central Government that would be applicable and not the Act which prior to the 'appointed day' was applicable to the erstwhile State of Punjab. Thus the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 would govern the eviction of unauthorised persons from the premises which passed to the Union after the reorganisation and not the provisions of Punjab Public Premises and Land (Eviction and Rent Recovery) Act 1959.

(Paras 12 and 19).

Held, that the Estate Officer issuing eviction notice under section 4 of the Central Act to an unauthorised occupant of a public premises is empowered by the Act to see whether the statutory provision has been complied with or not by those to whom it applies. The fact that the Estate Officer participated in the official meeting prior to the issuance of the notice in which the decision to issue such notice was

taken does not make him personally interested in the matter and so there is no question of his acting as a Judge in his own cause when he tries to administer the various provisions of the Act, and he does not violate any principle of natural justice.

(Para 24).

Petition under Articles 226/227 of the Constitution of India, praying as under:—

(a) *that a writ of Certiorari or any other appropriate writ, direction or order, be issued for quashing the impugned notice, dated 28th May, 1975, Annexure 'P-3' issued by Respondent No. 3;*

(b) *that a suitable writ declaring section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 as Ultra vires of Articles 14 and 19 of the Constitution, be issued;*

(c) *that a writ of Prohibition be issued to the respondents restraining them from initiating any proceedings against the petitioner under the impugned Act;*

(d) *any other relief which this Hon'ble Court may deem fit and proper in the circumstances of the case, may be granted ;*

(e) *the petitioner may be exempted from filing the certified copies of Annexures 'P-1' to 'P-3'.*

(f) *service of notice of Motion on the respondents, may be dispensed with; and*

(g) *costs of the writ petition may be awarded.*

It is further prayed that Respondents be restrained from initiating any proceedings against the petitioner under the impugned Act, till the final decision of this writ petition.

C.M. 2058/75.

Application on behalf of the petitioner under section 151 C.P.C. praying that this Hon'ble Court be pleased to modify the order, dated 17th July, 1975 and allow the petitioner to adjust the aforesaid excess payments towards arrears due from him.

Nand Lal Dhingra, Advocate and U. S. Sahney, Advocate, *for the petitioner.*

Anand Sarup, Advocate with M. L. Bansal, Advocate, *for the respondents.*

JUDGMENT

TEWATIA, J.—(1) Tilak Raj petitioner took on lease a tea-stall located at bus-stand in Sector 17, Chandigarh,—*vide* registered lease-deed for two years effective from 14th March, 1972 to 13th March, 1974 at the rate of Rs. 4,800 per mensem. The lease-deed envisaged the extension of the lease period by one year in the event of the satisfaction of the Chandigarh Administration about the performance and conduct of the petitioner, hereinafter referred to as the lessee. Before the expiry of his aforesaid lease period, he applied to the Chandigarh Administration for the extension of the lease which request was declined,—*vide* order, dated 6th March, 1974. The lessee, on the strength of a cause in the lease-deed for reference of any dispute arising thereunder to the arbitrator, got a reference made to the arbitrator to decide the dispute regarding the extension of the lease period. The Home Secretary, Chandigarh Administration,—*vide* his award, dated 22nd June, 1974, held that the lessee was not entitled to the extension of the lease. When the aforesaid award was sought to be made rule of the Court by the Chandigarh Administration, respondent No. 1, the lessee raised objections thereto. His objections were still pending decision in the Civil Court when on 28th May, 1975 respondent No. 3, Estate Officer, Union Territory, Chandigarh, served upon the lessee a notice under section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, hereinafter referred to as the Central Act, requiring him to vacate the premises. The lessee has impugned the aforesaid notice and the action of the Chandigarh Administration in the present writ petition, primarily, on four grounds :

(1) that the lessee cannot be considered an unauthorised occupant in terms of section 4 of the Act;

(2) that since the Estate Officer, respondent No. 3, prior to the issuance of the impugned notice had participated in a meeting in which a decision had been taken to issue the impugned notice to the lessee, so he was incompetent to issue the impugned notice as in doing so he acted in violation of principles of natural justice;

(3) that action of the respondent Chandigarh Administration in evicting the lessee was discriminatory being violative of the provisions of Article 14 of the Constitution of India in

that in regard to the other lessees of Chandigarh Administration the lease period was extended from time to time on raising of the rent by twenty per cent after every 5 years; and

(4) that since the Union Territory of Chandigarh is an entity distinct and separate from the Central Government, so no Central Act, including the Act in question, would become applicable to the Union Territory of Chandigarh unless they are validly extended to it by a competent authority, and the impugned Act having not been so extended to the Union Territory of Chandigarh by any competent authority, the action taken thereunder by the respondents in issuing the notice of eviction is clearly illegal.

Taking Mr. N. L. Dhingra's (learned counsel for the petitioner) last submission first, the argument advanced by him is that by virtue of the provisions of section 88 of the Punjab Reorganisation Act, 1966, hereinafter referred to as the Reorganisation Act, all laws, as defined in section 2(g) of the Reorganisation Act, that were in force in the erstwhile State of Punjab prior to the appointed day viz., 1st November, 1966, continued to apply to the Union Territory of Chandigarh and, therefore, it is the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959, hereinafter referred to as the Punjab Act, that was to govern the eviction of persons from the premises belonging to the Union Territory of Chandigarh.

(2) The relevant provisions in the Punjab Act at this stage deserve to be noticed. They read:

(2) "In this Act, unless the context otherwise requires:—

'public premises' means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government, or requisitioned by the competent authority under the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, and includes any premises belonging to any district board, municipal committee, notified area committee or panchayat;

* * * *.

(3) For purposes of this Act, a person shall be deemed to be in unauthorised occupation of any public premises—

* * * *.

(b) where he, being an allottee, lessee or grantee, has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such public premises; or

* * * *".

Referring to the expression 'belonging to ..... the State Government' occurring in the definition of the term 'Public Premises', Mr. Dhingra urged that by virtue of the provision 4 and 7 of the Reorganisation Act, read with the definition of 'State' in section 3, clause (58), of the General Clauses Act, 1897, the Union Territory of Chandigarh for the purposes of the application of the Punjab Act shall have to be construed as 'State' in the event of the necessary adaptation to the Punjab Act having not been carried out by the authority competent as envisaged in section 89 of the Reorganisation Act. The learned counsel stressed that the provision of section 90 of the Reorganisation Act authorises the Court to so read the said Act as if the requisite adaptations had been carried out in order to apply the laws made applicable by the provision of section 88 of Reorganisation Act.

(3) Mr. Anand Swaroop, learned counsel for the respondents, on the contrary, has contended that by virtue of the definition of 'successor State' as defined by section 2, clause (m), of the Reorganisation Act, combined with the provisions of section 48 of the Reorganisation Act, all such properties and premises that belong to the erstwhile State of Punjab prior to 1st November, 1966, vested in and belonged to the Union, i.e., the Central Government, with the result that the Central Government which envisages eviction from the premises belonging to the Central Government governed the eviction of the unauthorised persons from such premises in the Union Territory of Chandigarh and, therefore, the Punjab Act, despite the provision of section 88 of the Reorganisation Act would no longer be applicable to the territory comprising the Union Territory of Chandigarh after 1st November, 1966.

(4) At this stage, the relevant provisions of the Reorganisation Act, for facility of reference, be noticed:

"2. In this Act, unless the context otherwise requires,—

* * * *

(b) 'appointed day' means the 1st day of November, 1966;

* * * *

(g) 'law' includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Punjab;

* * * *

(m) 'successor State', in relation to the existing State of Punjab, means the State of Punjab or Haryana, and includes also the Union in relation to the Union territory of Chandigarh and the transferred territory;

* * * *

7. Amendment of the first Schedule to the Constitution.— On and from the appointed day, in the first Schedule to the Constitution.—

* * * *

(b) under the heading 'II. THE UNION TERRITORIES'—

* * * *

(ii) after entry 9, the following entry shall be inserted, namely :—

'10. Chandigarh. The territories specified in section 4 of the Punjab Reorganisation Act, 1966"

* * * *

"48. *Land and goods.*—(1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Punjab shall,—

(a) If within that State, pass to the successor State in whose territories they are situated;

* * * *

(6) In this section, the expression 'land' includes immovable property of every kind and any rights in or over such property, and the expression 'goods' does not include coins, bank notes and currency notes.

88. The provisions of Part II, shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Punjab shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

89. For the purpose of facilitating the application in relation to the State of Punjab or Haryana or to the Union territory of Himachal Pradesh or Chandigarh of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression 'appropriate Government' means—

(a) as respects any law relating to a matter enumerated in the Union List, the Central Government; and

(b) as respects any other law,—

(i) in its application to a State, the State Government, and

(ii) in its application to a Union territory, the Central Government.

90. (1) Notwithstanding that no provision or sufficient provision has been made under section 89 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Punjab or Haryana, or to the Union territory of Himachal Pradesh or Chandigarh construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

(2) Any reference to the High Court of Punjab in any law shall, unless the context otherwise requires, be construed, on and from the appointed day, as a reference to the High Court of Punjab and Haryana."

Section 3, clause (58), of the General Clauses Act, 1897, is reproduced below for ready reference:

"3. In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

* * * *

(58) 'State'—

(a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State; and

(b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory:"

(5) Mr. Dhingra, learned counsel for the petitioner, for his submission that the Union Territory of Chandigarh is a 'State' sought support from *Satya Dev Bushahri* v. *Padam Dev and others*, (1), *Prafulla Kumar Ghosh* v. *State*, (2), *State of Vindhya Pradesh*

(1) A.I.R. 1954 S.C. 587.
(2) A.I.R. 1959 Tripura 49.

(*Now the State of Madhya Pradesh*) v. *Moula Bux and others*, (3). *The Management of Advance Insurance Co. Ltd*: v. *Shri Gurudasmal and others*, *A.I.R.* (4); and a Single Bench decision of this Court rendered in unreported Criminal Revision (*Shri Jarnail Singh* v. *The Union Territory of Chandigarh and another*), (5).

(6) In *Satya Dev Bushahri's case*, the question for decision was as to whether contract entered into with the Himachal Pradesh Government was a contract with the Central Government. It was held that the Union Territory of Himachal Pradesh was an entity distinct and separate from the Central Government and a contract entered into with the Government of Union Territory of Himachal Pradesh could not be considered to be a contract entered into with the Central Government.

(7) In *Moula Bux and others' case*, the question arose as to whether the Government of erstwhile State of Vindhya Pradesh had to be sued through the Lt. Governor or through the Union Government. There also, it was held that the aforesaid State of Vindhya Pradesh could only be sued through the Lt. Governor and not through the Union Government.

(8) In the case of *the Management of Advance Insurance Co. Ltd;* the question involved was as to whether the Union Territory of Delhi was a 'State' in the eye of law for the purpose of Entry 80 in List I, Schedule VII, of the Constitution. It was held that the Union Territory of Delhi was a 'State'.

(9) In *Prafulla Kumar Ghosh's case*, the question involved was as to whether the local administration of the Union Territory of Tripura was competent to present an application for the liquidation of the Tripura State Bank. Submission therein was that after the merger of the erstwhile Tripura State into the Union, all its shares etc., in the said Bank belonged to the Union Government and it was the Union Government alone that was competent to move the application of the kind in question. It was held that the local administration of the Union Territory of Tripura was an entity distinct from the Union Government and, therefore, it was competent to present the application in question.

(3) A.I.R. 1962 S.C. 145.

(4) 1970 S.C. 1126.

(5) Cr. R. 32-M/1970 decided on 27-7-1970.

(10) In *Shri Jarnail Singh's case* (supra), the question for determination was as to whether for the purpose of sub-section (3) of section 7 of the Essential Services Act, the Union Territory of Chandigarh was a 'State'. Following the decision of the Supreme Court in *the Management of Advance Insurance Co. Ltd.* (*supra*), it was held by me that the Union Territory of Chandigarh was a 'State'.

(11) So far as the question as to whether a Union Territory is or is not a 'State' in the eye of law, there exists no doubt that by virtue of the provision of the General Clauses Act, aforementioned, the Union Territory is a 'State' and treir Lordships of the Supreme Court in *Satya Dev Bushahri's case*, after referring to the aforesaid provision of the General Clauses Act, had clearly held that the Union Territory of Himachal Pradesh was a legal entity distinct from the Union Government and that merely from the fact that its administration had to be carried on in the name of the President it could not be considered as a part of the Central Government, for the President was its Chief Head not because the President is the Chief Head of the Union Government, but because of the fact that the Constitution recognised the President under article 239 of the Constitution as the executive head of the Union Territory as well, but any finding that the Union Territory of Chandigarh is a 'State' does not help solve the vexing question regarding the application of the 'Central Act'.

(12) So far as the Central Act is concerned, even prior to the reorganisation of the Punjab State, it was applicable to the entire territory of the erstwhile State of Punjab in regard to such premises as belonged to the Central Government. So the primary question that falls for determination is as to whether the land or the premises in question belong to the Central Government or not.

(13) This takes us back to the provisions of the Reorganisation Act. There is no dispute that the Governmental property located in Chandigarh, more particularly the property now in dispute, earlier belonged to the Punjab State. So now one has to see as to in whom such Punjab Government property vested after the reorganisation of the Punjab State and that in turn takes us to the query as to who is the 'successor State' in regard to the territory, that is now comprised in the Union Territory of Chandigarh.

(14) The 'successor State' has been defined in clause (m) of section 2 of the Reorganisation Act. The perusal of the provision

in question (already reproduced earlier) would reveal that in relation to the Union Territory of Chandigarh and the transferred territory, by a legal fiction, the Union has been made the 'successor State'.

(15) Mr. Dhingra, learned counsel for the petitioner, however, urged that the use of the expression 'and includes also the Union' occurring in clause (m) of section 2 of the Reorganisation Act would militate against the construction that in relation to the Union Territory of Chandigarh and the transferred territory the 'successor State' was exclusively the 'Union'. According to him, the aforesaid explanation would make the Union the 'successor State' in addition and not in derogation to the Union Territory of Chandigarh which in its own right by virtue of the General Clauses Act has the status of a State and is, therefore, the 'successor State' to the territory comprised within the Union Territory of Chandigarh. Mr. Dhingra, referred us to *A. C. Patel* v. *Vishwanath Chada* (6), *Darbari Lal and others* v. *Smt. Dharam Wati* (7), *State* v. *Jamnadas Gordhandas* (8), *K. Sambasivaraju* v. *M. V. S. R. Chandraayya Chetty and others* (9) and *Ahmadellah* v. *Mafizuddin and another* (10), in order to comprehend the true import of the aforesaid expression in clause (m) of section 2 of the Reorganisation Act.

(16) The ratio of the aforesaid decisions, in its pith and substance, is that the expression 'include' is very generally used in the interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute. When these words are used, then the term defined must be considered as comprehending not only such things as they signify according to the natural import, but also those things which the interpretation clause declares that they shall include.

(17) We do not think there is any merit in the contention advanced by the learned counsel. There is no dispute with the interpretative enunciation of the expression 'include' made in the aforesaid decisions relied upon by Mr. Dhingra, but the context in which the expression 'include' has been used cannot be lost sight of.

(6) A.I.R. 1954 Bombay 204.
(7) A.I.R. 1957 All. 541 (F.B.).
(8) A.I.R. 1957 NUC (Bombay) 2319.
(9) A.I.R. 1967 A.P. 87.
(10) A.I.R. 1973 Gauhati 56.

In the present case, the expression 'includes' does not stand alone. It is followed by the expression 'also the Union'. 'Union', neither in the common parlance nor in the constitutional sense, is a 'State'. The political entity 'Bharat', in its comprehensive sense, is Union of States and since the Parliament in relation to the Union Territory of Chandigarh and the transferred territory intended to make Union as the 'successor State', so it had to employ the legal fiction to term it so by using the expression 'and includes also'. So the context, in which the expression 'includes' has been used in section 2(m) of the Reorganisation Act would show that the Union would alone be a 'successor State' in relation to the territories comprised in the Union Territory of Chandigarh and the transferred territory.

(18) That the Union was intended exclusively to be the 'successor State' in relation to the Union Territory of Chandigarh and the transferred territory is substantiated by the provisions of section 2(i) of the Reorganisation Act which defines the population ratio of the 'successor States'. In it the population of the Union is fixed as Rs. 7.78, that of Haryana 37.38 and of Punjab 54.84. If the Union Territory of Chandigarh and the transferred territory had been the 'successor States' in their own rights, then their population ratio would have been fixed separately. The definition of 'population' 'ratio' not only fixed the number of 'successor States' as being only three, but in clear-cut language mentions the Union as the third 'successor State'. That the Union is the 'successor State' in relation to the Union Territory of Chandigarh is further substantiated by the provisions of section 29(2) of the Reorganisation Act which deals with the 'allocation of the expenditure incurred in respect of the salaries and allowances of the Judges of the common High Court amongst the 'successor States'. Here too, three 'successor States' are made liable to share such expenditure in such proportion as determined by an order of the President of India and the three 'successor States' mentioned are the Punjab, Haryana and the Union.

(19) According to the provisions of section 48 of the Reorganisation Act, all 'land'—which expression by virtue of section 48(6) of the Reorganisation Act includes 'immoveable property of every kind and any rights in or over such property'—belonging to the existing State of Punjab, if located within that State, were to pass

to the 'successor State' in whose territories they were situated. That means that the 'successor State', in relation to the Union Territory of Chandigarh, i.e. the Union, became owner of all that goes by the expression 'land'. That being the position, then it irresistibly follows that to any premises, which stands included in the expression 'land' and belonged to the 'Union' which is governed by the Central Government, it is the Act of the Central Government that would be applicable and not the Act which prior to the 'appointed day' was applicable to it. Accordingly, we hold that it is the Central Act and not the Punjab Act that would govern the eviction of the unauthorised persons from the premises in question.

(20) The second submission of the learned counsel for the petitioner, that was founded on article 14 of the Constitution, became untenable by virtue of the order passed by the President under article 359 of the Constitution which withheld from the citizens Court-redress for violation of the provisions of article 14 and, therefore, he was not allowed to advance that contention. Even otherwise, the contention has no merit. The stand taken by the petitioner in this regard was that the Chandigarh Administration had been extending the lease periods of other tenants by enhancing rent by twenty per cent or so after every five years. The Government being the owner of the lease-property, it is open to it to extend the tenancy period in one case and not to do so in the other case if it, in a given case, finds that a particular tenant's conduct and performance was not to their satisfaction and so no discrimination whatsoever is involved if the tenancy period of such a tenant is not extended.

(21) Contention No. (2), which has been pressed with some vehemence, is that notice served upon the petitioner by the Estate Officer, respondent No. 3, was in violation of the principles of natural justice inasmuch as he was biased against the petitioner, for prior to the issuance of the impugned notice he had participated in the official meeting in which it had been decided that the eviction notice under section 4 of the Central Act be served upon the petitioner. While elaborating his submission the learned counsel for the petitioner urged that inasmuch as the Estate Officer was a party to the dispute with the petitioner, so if he was to serve notice and decide as to whether the petitioner was to be evicted from the premises in question

or not, he became judge of his own cause, which act was violative of the principles of natural justice. For this proposition, the learned counsel drew sustenance from the Allahabad High Court judgment reported in *Ram Gopal Gupta* v. *Assistant Housing Commissioner and others* (11).

(22) The facts involved therein were that an employee in the Central Ordnance Department, Kanpur, who was an industrial worker, was allotted one house in the Industrial Colony, Babspurwa, Kanpur. He received from the Housing Commissioner a notice demanding excess water charges. His representation was rejected and thereafter the Assistant Housing Commissioner issued a notice to the petitioner demanding certain amount on account of rent and excess water charges and the same day the Assistant Housing Commissioner issued another notice to the petitioner cancelling the allotment in his favour and ordering him to vacate the house within one month from the service of the notice and by letter dated 10th October, 1960, the Assistant Housing Commissioner authorised the use of force for the eviction of the petitioner from the house. The case was decided by a Full Bench. M. H. Beg, J., wrote a separate opinion though concurring in the opinion of the other Judges of the Bench regarding the final result but gave his separate reasons. While the Chief Justice V. G. Oak, and B. Dayal, J., rested their decision on the following opinion of Shelat, J., in the *Northern India Caterers Private Ltd.* v. *State of Punjab* (12), who delivered the majority opinion therein:

> "The principle which emerges from these decisions is that discrimination would result if there are two available procedures one more drastic or prejudicial to the party concerned than the other and which can be applied at the arbitrary will of the authority....In this view section 5 must be declared to be void.
>
> It may be mentioned here that section 5 of the Punjab Act empowered the Collector to evict occupiers of land summarily.".

(11) A.I.R. 1969 All. 278 (F.B.).
(12) A.I.R. 1967 S.C. 1581.

Beg, J., additionally adverted to the fact that the position of the Assistant Housing Commissioner in any eviction proceedings is evidently that of a party and prosecutor as, it was this very officer who could file a suit and figures as the plaintiff in a civil Court, and this very officer was given the power to fix rates of rent and to determine what 'other charges' or their extent should be. The learned Judge, following the observations of their Lordships of the Supreme Court in *G. N. Rao* v. *P. S. R. T. Corporation* (13), given below:—

> "The aforesaid decisions accept the fundamental principle of natural justice that in the case of quasi-judicial proceedings, the authority empowered to decide the dispute between opposing parties must be one without bias towards one side or other in the dispute.";

held that the action of the Assistant Housing Commissioner offended against the principles of natural justice, as he could be biased in favour of particular view that he may have already taken on a ground for eviction even before taking proceedings under section 21(1) of the Uttar Pradesh Industrial Housing Act, 1955.

(23) We do not think the ratio of this decision or that of *G. N. Rao's case* is applicable to the facts of the present case. In the case before their Lordships of the Supreme Court, the dispute was between the private transport operators and the Government Roadways. The authority that was envisaged in the Act to determine their dispute was the Government. However, it was the Secretary though he was the Head of the Transport Department which ran the public roadways, who decided the dispute between the parties and it was in this background that it was held that the Secretary, who himself was interested for getting the particular road permit for the public transport run by his own department, was not expected to take an unbiased decision. In the same manner, the Housing Commissioner, who himself was invested with the powers of fixing the rent and the water charges, etc., was not expected to take a view different from the one which he had already taken while issuing the notice demanding excess water charges, for it was he who had already determined as to what the water charges were to be.

(13) A.I.R. 1959 S.C. 308.

(24) The same does not apply to an authority which is empowered by an Act to see whether the statutory provision has been complied with or not by those to whom it is applied. The Estate Officer in the present case is not personally interested in the matter and so there is no question of his acting as a judge in his own cause when he tries to administer the various provisions of the Act. The matter is not *res integrat*. In fact, a Full Bench of this Court, which was confronted with such a question in a case under the Punjab Act held as follows; (see *The Northern India Caterers Private, Ltd.* v. *The State of Punjab and another* (14):

> "The argument raised on imputation of bias on the part of the Collector when he is acting in his official capacity under section 4, Punjab Act (31 of 1959) is not sustainable. In the absence of proof showing bias, a decision cannot be called in question simply because an officer has acted in his official capacity or occupies important position in Government hierarchy. A presumption cannot be raised that persons required to perform statutory functions will not be able to bring to bear their impartial mind to the consideration of the various matters in dispute: *H. C. Narayanappa* v. *State of Mysore*."

To the same effect is the ratio of *M. S. Oberoi* v. *Union of India through Estate Officer, Chandigarh* (16), and *M. L. Joshi* v. *Director of Estates, Government of India, New Delhi and another* (17).

(25) For the reasons stated the contention advanced by the learned counsel being devoid of merit is repelled.

(26) Now coming to his last contention that the petitioner, whose dispute regarding his right to the extension of the tenancy period by one year as envisaged in the lease-deed is pending decision in the civil Court, cannot be considered an unauthorised occupant of the premises in question, one may, in this regard, do well to remind oneself of a few relevant dates. The premises in question were leased

(14) A.I.R. 1963 Pb. 290.
(15) A.I.R. 1960 S.C. 1073.
(16) A.I.R. 1970 Pb. & Har. 407.
(17) A.I.R. 1967 Delhi 86.

out to the lessee from 14th March, 1972 to 14th March, 1974. The clause in the lease-deed envisaged extension of the lease period by one year, i.e., upto 13th March, 1975, if the Government was satisfied by the conduct and performance of the tenant (the petitioner). His application dated 31st January, 1974, for extension of the lease period was declined by the Home Secretary,—*vide* his order dated 6th March, 1974. On 7th March, 1974, he made an application that the dispute be referred to the arbitrator. On this application, the dispute was referred to the arbitrator of the Home Secretary, who gave his award against the petitioner on 22nd June, 1974. When that award was filed in the Court for being made the rule of the Court, the petitioner filed objections against the same being made the rule of the Court. Those objections were pending when on 28th May, 1975 the impugned notice was served upon him. The dispute that is pending decision in the civil Court was only this, as to whether the petitioner was entitled for the extension of the lease period by one year, i.e., upto 13th March, 1975, or not. The impugned notice was given to him after the expiry of that period and so it cannot be said that even after the expiry of the dispute period of one year, the lessee had any semblance of right to hold on to the premises in question. After 13th March, 1975, he, in our opinion, was definitely an unauthorised occupant of the premises in question.

(27) Mr. Dhingra, learned counsel for the petitioner, then contended that the impugned notice was, in any case, bad, for therein it has been mentioned that the petitioner was an unauthorised occupant of the premises in question with effect from 13th March, 1974.

(28) We do not think there is any merit in the contention advanced by the learned counsel. The Estate Officer, in any case, had to fix the period from which the petitioner was in an unauthorised occupation. Since he had not extended the lease period of the petitioner, so, according to the Estate Officer, the petitioner was in an unauthorised occupation of the premises with effect from 13th March, 1974. If he was to treat the petitioner in an unauthorised occupation of the premises not from 14th March, 1974 but only from 13th March, 1975, then no dispute would have survived to be tried either by the arbitrator or by the civil Court. That would have tantamounted to the giving up of his (Estate Officer's) claim. So in the impugned notice, in our opinion, he has rightly described the petitioner as being in an unauthorised occupation of the premises with effect from 14th March, 1974.

(29) The question as to whether the petitioner is deemed to be in an unauthorised occupation of the premises from 14th March, 1974 or 13th March, 1975 is relevant only for the purposes of calculating the compensation for the use and occupation of the premises in question by the petitioner. In case he finally succeeds in getting a verdict that he was entitled to one year's extension, then for the aforesaid period he would be liable only at the rate of Rs. 4,800 per month, but if he fails, then he would be liable to pay such compensation as may be determined by the competent authority after hearing him.

(30) Since the dispute regarding the period between 14th March, 1974 and 13th March, 1975 is pending decision before the civil Court, we, therefore, direct that for this period the petitioner shall forthwith provisionally pay to the Estate Officer at the rate of Rs. 4,800 per month along with interest on arrear, if any, if he has not already paid; while regarding the period after 13th March, 1975 he shall be liable to pay such compensation as may be determined in accordance with law by the authority competent in this regard. In the event of his failing to establish his right to the extension of the lease period by one year, he shall additionally pay the difference between the lease amount calculated at the rate of Rs. 4,800 per month and the compensation amount determined by the competent authority.

(31) For the reasons stated, the writ petition is dismissed. However, in the circumstances of the case, we make no order as to costs.

(32) In Civil Miscellaneous application No. 2058 of 1975, the petitioner has claimed modification of this Court's order dated 17th July, 1975, whereby this Court had directed him to deposit sum of Rs. 82,450 as arrears of compensation for use and occupation of the premises in question and charges towards electricity and water consumption from 13th March, 1974 to the date of filing of the return by the respondents. The modification sought was that he had paid certain amounts to the Chandigarh Administration and that the same be adjusted. In this regard it is ordered that while working out the amount of compensation for use and occupation and water and electric charges of the premises in question by the petitioner, the respondent shall give credit to any amount that may have been received from the petitioner in this behalf.In view of this, the Civil Miscellaneous stands disposed of accordingly.

Pritam Singh Pattar, J.—I agree.

N.K.S.