

## SUPREME COURT.

U PIT (APPLICANT)

v.

THEGON VILLAGE AGRICULTURAL  
COMMITTEE AND TWO OTHERS (RESPONDENTS).\*† S.C.  
1948

Sept. 1.

*Direction in the nature of writ of certiorari—Disposal of Tenancy Act, 1948 as amended by Act XII of 1948—Village Agricultural Committee constituted under the Act—Quasi-judicial body—Amenable to the jurisdiction of the Supreme Court if the acts of the Committee are in excess of its jurisdiction or against natural justice.*

*Held:* Village Agricultural Committees constituted under the Tenancy Disposal Act, 1948 as amended by Act XII of 1948 are quasi-judicial bodies amenable to the jurisdiction of the Supreme Court in the exercise of its powers to issue directions in the nature of *certiorari*.

*U Htwe v. U Tun Ohn and one*, (1948) Bur. L.R., 541, followed.

As statutory bodies exercising quasi-judicial functions, the Village Agricultural Committees cannot act in excess of their powers or contrary to the provisions of the Act and rules. These Committees must also act according to rules of natural justice which require *inter alia* that :

- (1) a person cannot be judge of his own acts and can not judge a matter in which he is interested,
- (2) the judges must act in good faith and give an opportunity to parties of being heard and stating their own case and view point.

If any of these rules and principles are violated by the Committees the Supreme Court will quash the proceedings by issue of directions in the nature of *certiorari*.

*Dr. U Thein* for the appellant.

*Chan Htoon* (Attorney-General) for the respondents.

The judgment of the Court was delivered by

KYAW MYINT, J.—In this application the proceedings of the 1st respondent Committee are sought to be quashed in exercise by this Court of its powers to issue directions in the nature of *certiorari*.

\* Civil Misc. Application No. 18 of 1948.

† Present: SIR BA U, Chief Justice of the Union of Burma, E MAUNG, J., and KYAW MYINT, J., of the Supreme Court.

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The Disposal of Tenancies Act, 1948, as amended by Amending Act No. XII of 1948, empowers the President to provide for regulating or controlling the lease of any agricultural land by any person or class of persons holding such land to any tenants or class of tenants. The Act, however, was made expressly not applicable to any agricultural land or lands not exceeding 50 acres in area and "in the possession of a person who is engaged in the cultivation of the same land with his own hands as his principal means of subsistence". In exercise of the powers vested in the President by section 5 of the Act, the Disposal of Tenancies Rules, 1948, were made and under Rule 2 thereof it was prescribed that a Village Agricultural Committee shall be constituted in each village tract in such manner as the Government may direct. To such committees were entrusted the functions of regulating or controlling the leases of agricultural lands falling within their respective areas.

These committees are therefore statutory bodies invested with the power to determine the rights of claimants to leases of agricultural land within their areas and are under a duty in exercising that power to act in accordance with the terms of the Act and the Rules made thereunder. Accordingly, they come within the reason of the rule enunciated by this Court in *U Htwe v. U Tun Ohn* (1) and would be quasi-judicial bodies amenable to the jurisdiction of this Court in exercise of its powers to issue directions in the nature of *certiorari*.

It is clear that as statutory bodies exercising quasi-judicial functions these committees cannot act in excess of the powers which are vested in them by the statutory authority under which they are created. Nor can they act contrary to the provisions of the statute or rules.

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(1) (1948) Bur. L.R. 541.

In addition to this limitation on their powers there is also another limitation within which these committees as quasi-judicial bodies must act. In all their proceedings they must comply with the requirements of rules of "natural justice". What, then, are rules of "natural justice"?

It is a rule of universal application and therefore of natural justice that no man can be a judge in his own cause. A person who has an interest in the matter arising for decision cannot constitute himself a judge at the hearing. Natural justice also requires that those entrusted with the power of adjudicating upon any dispute must act in good faith and give the parties an opportunity of being heard and stating their case and their view-point.

In the absence of any specific statutory provision to the contrary applicable to the proceedings of a quasi-judicial body, it is entitled to obtain information in any way it considers suitable, provided that those who are parties to the controversy before it are given a fair opportunity to correct or contradict any relevant statement or view to their prejudice.

In the case now before us the applicant had admittedly been a tenant of the land described in paragraph 2 of his application for some years. The 1st respondent Committee has withdrawn this land from the applicant and leased it to the 2nd and 3rd respondents.

Under Rule 7 of the Disposal of Tenancies Rules, 1948, a tenant who is in occupation of agricultural land which he cultivated in the agricultural season, 1947-48 shall be permitted to continue to cultivate such agricultural land for the agricultural season, 1948-49. The only restriction on the rights thus given to such a tenant is imposed by Rule 10 (2) which empowers the Village Agricultural Committee to withdraw such land

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or any portion thereof from the occupation of such tenant where there is sufficient ground to believe that he would be unable to cultivate it.

In their order the 1st respondent Committee state somewhat vaguely that the applicant has only two men for the purpose of cultivating the land. The applicant in his affidavit states that the 1st respondent Committee made no enquiry and gave him no opportunity of representing his case. This allegation is not denied by the 1st respondent Committee.

The applicant also states that the 2nd respondent Maung Tun Lwin is a son of U E Maung, who appears to be the Secretary of the Committee. This allegation is not denied and in fact U Toe Lone, the Vice-President of the Committee, merely states that the instructions issued by the Government do not prohibit the allotment of land to any relatives of the members of the Committee.

The fact that the 1st respondent Committee failed to hold an enquiry as to whether the applicant would be able to cultivate the land and the fact that one of the members of the Committee was at least indirectly interested in obtaining the lease for his son are, in our opinion, sufficient grounds for holding that the order complained of is contrary to law.

We order that the rule *nisi* in this case be made absolute and that the order of the 1st respondent Committee be quashed. The respondents will pay the costs of the application to the applicant. Advocate's fee five gold mohurs.

We should add that we have also heard the learned advocates representing the various parties in the series of cases relating to Village Agricultural Committees on the following question :

“Whether, having regard to the provisions of the Constitution, the Tenancy Standard Rent Act, 1947, as

amended by Act No. XIII of 1948, and the Disposal of Tenancy Act and Rules made thereunder, are valid?" We have not however found it necessary in this case to decide the question.

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