

## R.A. Prasad Vs The Food Corporation of India

**Court:** Delhi High Court

**Date of Decision:** April 12, 1983

**Citation:** (1983) ILR Delhi 285

**Hon'ble Judges:** A.B. Rohtagi, J

**Bench:** Single Bench

**Advocate:** Rajender Dhawan and S.K. Puri, for the Appellant;

### Judgement

Avadh Behari Rohatgi, J.

(1) This case concerns the Food Corporation of India (the Corporation). This Corporation was established by the Food Corporation Act, 1964.

Section 45 of the Act empowers the Corporation to frame regulations. In exercise of this delegated power the Corporation framed the Staff

Regulations in 1971.

(2) These corporate bodies exercise functions of a legislative nature delegated to them by legislative bodies. In essence they are subordinate

legislative bodies, but in truth, they are what Lord Maugham described in *Rowell vs. Pratt* (1938) Ac 101 (1), as domestic bodies which the

legislature has thought fit in the public interest to entrust with important statutory powers. The Food Corporation of India (Staff) Regulations, 1971

have the force of statute [See: *Kailash Nath vs. State of U. P.* Air 1957 Sc 799 (2)].

(3) In recent years the legislature has been creating these corporations in increasingly large numbers. They are created by Acts of Parliament. They

are a typical form of organisation in the public sector business. The most important of these is this Food Corporation of India. It has offices

throughout the length and breadth of the country. It is a commercial corporation and is required ""to act on business principles having regard to the

interests of the producer and the consumer"" [S. 19(3) of the Act]. The main function of the Corporation is procurement, movement, storage and

distribution of food grains. These functions involve multifarious operations throughout the length and breadth of the country. It is a service

corporation. It serves the community at large.

(4) This public corporation or, to be more precise public service corporation, is both a public authority and a commercial concern. As a public

authority it is subject to the normal control of constitutional and administrative law by the courts which they exercise over the administrative

authorities. As a commercial corporation it is subject to the supervision by the Minister who is in turn answerable to Parliament.

(5) The Corporation is an "authority" within the meaning of Article 12 of the Constitution. It is difficult to define "authority". A distinguished writer

says "Authority usually implies the granting of power for a specific purpose and within a carefully delineated frame of reference. By authority we

mean the established right, within any social order, to determine policies, to pronounce judgments on relevant issues, and to settle controversies. or

more broadly, to act as leader or guide to other men". (R.M. MacIver : "The Web of Government). This is true not only of the state but also of

corporate bodies that the State creates.

(6) The Food Corporation is "a body corporate ... having perpetual succession and common seal, with power, subject to the provisions of the

Act, to acquire, hold and dispose of property and to contract, and may by that name, sue and be sued." (S. 3(2) of the Act). On disputed

questions of policy the matter is referred to the Central Government whose decision is final (S. 19(4) of the Act). The present-day tendency is to

speak of the State almost exclusively in terms of power. These are no assignable boundaries to the sovereign power. These "authorities" share the

sovereign power. They exercise enormous power (economic and political) and influence. They are the gifts of the State. They wield considerable

power within the corporate structure. They have power to impose punishments on their officers, and servants for malfeasances. Punishment calls

for clear predominance of power. But their actions are subject to judicial review. Because the organs of justice are the chief power in the State.

(7) These are the facts. The petitioner, R.A. Prasad was working as Deputy Manager (Movement) at the Regional Office of the Corporation at

Trivandrum. The Food Corporation of India has its Zonal Office at Madras. Under this Office there are regional offices. One such regional office is

at Trivandrum. Calicut and Cochin ports were under the regional office at Trivandrum where the petitioner was stationed as the Deputy Manager

(Movement). His function was to see that there is a smooth movement of food-grains from the sea ports, to the godowns. These Deputy Managers

(Movement) are in charge of their respective regions.

(8) In February, 1975 the Corporation imported food grains from a foreign country. A big vessel "Patianna" was expected to arrive on 21st of

February, 1975 at one of the major ports in India. From this mother ship sub-vessels were to bring food-grains to Cochin and Calicut. The mother

ship was bringing a huge quantity of 38694 metric tonnes of food-grains to India. Immediate instructions were sent from the New Delhi Head

Office to the zonal office as well as regional office about the arrival of Patianna. Intimation was also given to Cochin and Calicut. The regional

office was asked to get ready with sufficient number of gunny bags so that food-grains can be transported from the ships to the godowns.

(9) The petitioner was the officer empowered to authorise the purchase of gunny bags. He had to take the permission of the senior regional

manager before making an authorisation order. He initiated the proposals. The senior regional manager at Trivandrum assented to his proposal

before an authorisation order was issued from Trivandrum to Cochin or Calicut. One authorisation order was issued in respect of Calicut. The

District Manager (Shipping) posted there was asked to buy 400 bales of gunny bags. Later on this requirement was cut down to 200 bales. 200

bales were actually purchased from M/s. Kerala Trading Co., Ernakulam. They supplied 200 bales between 8th March, 1975 and 12th March,

1975 at the price of Rs. 590 per hundred bags. 27 bales were further supplied by Kerala Trading Co. later on in addition to the order of 200

bales, though no order was placed for them.

(10) At Cochin also gunny bags were purchased. One, Mukundrajan was the District Manager, (Shipping) there. He asked for the supply of gunny

bags. On 21st of March, 1975 the petitioner authorised him to buy 500 bales at the rate of Rs. 585 per hundred bags. This was the first purchase.

On 19th of April, 1975 he authorised a second purchase of 500 bales. These bales were purchased from Cochin Commercial Corporation at the

rate of Rs. 541 per hundred bags. Then there was a third purchase on 25th of July, 1975 of a further quantity of 500 bales. This purchase was

made from M/s. Anil Kumar & Brothers, Calcutta at the rate of Rs. 525 per hundred bags. The first two authorisation orders were issued from the

regional office when the petitioner was working as the deputy manager. At the time of the third purchase he was on leave. One Thampy issued the

authorisation order.

(11) These purchases were made by inviting tenders. At Calicut spot tenders were invited. At Cochin in addition to spot tenders there was a

publication in the newspapers Indian Express and Matrabhumi. The result was that at Calicut there were two tenders Kerala Trading Co. and 1. P.

General Agencies. The tender of Kerala Trading Co. being lower, was accepted. At Cochin the tender of Kerala Trading Co. in respect of the first

purchase was accepted as this concern was the only tenderer there. In respect of the second purchase the tender of M/s. Cochin Commercial

Corporation was accepted. In the case of third purchase it was the tender of M/s. Anil Kumar & Bros., which was accepted.

(12) It was in respect of these four purchases one at Calicut and the other three at Cochin that the petitioner was charged on two counts. One was

that he had failed to maintain absolute integrity and devotion to duty under Regulation 31. Regulation 31 provides that ""Every employee shall at all

times : (a) maintain absolute integrity; (b) maintain devotion to duty."" The other was under Regulation 32 which says:

EVERY employee shall serve the Corporation honestly and faithfully and shall endeavor his utmost to promote the interest of the Corporation.

(13) Regulations 31 and 32 emphasise integrity and duty. The regulations are designed to assure moral integrity of the man and earnestness and

zeal in the performance of duties. The stress is on uprightness, honesty and devotion of such talents as the man possesses to the public service.

Under these regulations the Corporation can punish corrupt and incompetent officials who are good-for-nothing. If they do not do their duty

conscientiously or commit violation of duty or are guilty of bribery and corruption the regulations provide for punishment after an enquiry is held

into the conduct of the charged officer. The emphasis is on devotion to duty in the specific performance of the task assigned to the particular

officer. Duty is paramount. Wordsworth called her ""Stern Daughter of the voice of God ! O Duty"" (Ode to Duty).

(14) The Corporation indicated the petitioner firstly on the ground that he had shown undue favor to one R.K. Choudhri. On this count the

indictment was that Kerala Trading Co. Cochin Commercial Corporation and Anil Kumar & Bros. were controlled by one R. K. Choudhri and in

order to benefit him he showed undue favor to his three business concerns.

(15) The second indictment was that the petitioner purchased B.T. gunny bags from these three commercial concerns at exorbitant rates. We have

seen that the purchases were made at Rs. 590 per hundred bags at Calicut. At Cochin the first purchase was made at Rs. 585; the second at Rs.

541 and the third at Rs. 525 per hundred bags. The article of charge was that at Madras the prices of the gunny bags were much lower than what

had been quoted by these three concerns of R.K. Choudhri and the petitioner made purchase from these concerns at higher rates.

(16) The third charge was that all the four purchases were uncalled for as there were sufficient stocks of gunny bags in the various godowns of the

Corporation in the region. The charge, in other words, was that the petitioner cried wolf and raised false alarms. He issued authorisation orders by

misguiding his superiors on the ground of "alarming necessity".

(17) An enquiry was ordered into the conduct of the petitioner on these counts. Mukundrajan, District Manager (Shipping) at Cochin was also

charged on the ground of collusion with the petitioner so far as three purchases at Cochin were concerned. Full particulars of these charges which I

have briefly summarised above were set-forth in the articles of charge and imputations of misconduct. The articles of charge and imputations of

misconduct set out the entire case of the Corporation against the petitioner. The Commissioner for departmental enquiries, one Ramesh Chandra.

was appointed to conduct the enquiry. On 4th of March, 1978 he submitted his report. He found the petitioner guilty of showing undue favor to R.

K. Choudhri. He found that the four purchases had been made at exorbitant rates. He found that the purchases were uncalled for.

(18) The enquiry officer submitted his report to the punishing authority under the Regulations. Now under the Regulations the punishing authority of

the petitioner is the Board of Directors. The Board is the authority competent to impose penalties under the Discipline and Appeal Regulations.

The appellate authority also is the Board. For all practical purposes the Board is the final authority to take decision in respect of the action to be

taken on the report of the enquiry officer. There is no higher authority than the Board in the corporate structure. It is, Therefore, provided that the

Board is also the appellate authority, though it does not mean much. In the ultimate analysis it comes to this that there is no appeal from the

decision of the Board. This is provided in Regulation 67 which says that no appeal shall lie against the orders of the Board.

(19) When the enquiry report was submitted to the Board they issued a notice to the petitioner asking him to show cause why he should not be

reduced to the lower post of Assistant Manager. The petitioner showed cause. He submitted his representation. The Board made this order :

THE Board of Directors of Fact have come to the conclusion that Shri R. A. Prasad was responsible for showing undue favors to Shri R. K.

Choudhri who was controlling the firms as referred to above in regarding to the purchase of new Bt gunnies from the said firms at exorbitant rates

by resorting to local purchase when it was uncalled for.

On this finding they imposed the major penalty of reduction in pay at the minimum of Rs. 1100 in the scale of pay of Rs. 1100-30-1600 with

cumulative effect for a period of three years. The Board of Directors did not reduce the petitioner to the lower post of the Assistant Manager.

They ordered reduction of his pay from Rs. 1600 to Rs. 1100. This reduced pay he was to draw for a period of three years. This was their

decision on 30th December. 1978. HCD/83--9

(20) Against this decision of the Board of Directors the petitioner has filed the present writ petition under Article 226 of the Constitution. He has in

she main asked for setting aside the order dated 30th of December, 1978 of the Board of Directors.

(21) Counsel for the petitioner has raised a large number of objections to the report of the enquiry officer He has argued that his conclusions are

most unreasonable ana perverse and are not supported by evidence on record, He has taken me through the evidence recorded by the enquiry

officer. He has invited me to read the documents produced at the enquiry. Voluminous evidence was recorded by the enquiry officer. A mass of

documents were produced. number of witnesses were examined. It has been an arduous task to go through the evidence. But it was necessary. ?

was at pains to find whether there was some evidence before the enquiry officer on which he held .he petitioner guilty of the charges framed against

him.

(22) It is not the function of this Court under Article 226 to scan the evidence minutely and to sit in judgment over the conclusions arrived at by the

enquiry officer. That would transform this Court into an appellate tribunal.

(23) The scope of judicial review in cases of this type where there leas been a departmental enquiry against the officer of the corporation or "he

Government has been laid down in several decisions of the Supreme Court. In Union of India (UOI) Vs. H.C. Goel, it was held that the High

Court under Article 226 cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion reached

by "he enquiring authority. This is a matter which is within the competence of the authority which deals with the question. All that the High Court

can see. and must enquire into is whether there is any evidence at all in support of the impugned conclusion. The Court will interfere with the

conclusions of the authority if the conclusions are based on no evidence. But if there is some evidence and on that evidence a reasonably possible

view has been taken by the authority the Court cannot sit in appeal over that decision and decide whether the Court itself would have taken that

view or not. It is perfectly possible that on that material the Court would have come to a diametrically opposite conclusion. The Court cannot

weigh the evidence. It must take the evidence as it stands. It can only examine whether on that evidence the impugned conclusion follows or not.

Therefore, with The merits of the decision the Court is not concerned. It is only concerned to see that there is some evidence in support of it and

that the conclusion reached is what a reasonable man would reach on that evidence.

(24) Counsel for both sides have taken me through the evidence. After reading the evidence and hearing the arguments, I am of opinion that there

was evidence before the enquiry officer on which he could find, as he did, the petitioner guilty of the charges.

(25) The enquiry officer accepted the evidence of one Mr. S. C. Gupta. Deputy Financial Advisor and Mr. Lohithakshan. Assistant Manager

(General.). These two officers of the Corporation appeared to give evidence before him. They were cross-examined by the petitioner. On their

eidetic and the documents produced before him the enquiry officer came to the conclusion that the petitioner was guilty of the charges leveled

against him. This was the view of the enquiry officer. With this view the Board of Directors agreed. Broadly speaking, on the first count of under

favor of the capacity officer was of the view that at Calicut the order of 400 bales was placed on Kerala Trading Co, But as it was unable to

supply 400 bales the order was reduced to 200 hales to favor R. K. Choudhri. There is a letter dated 5th of March, 1975 (Ex. P5) on the record

which was produced before the enquiry officer. This is a material piece of evidence. It was written by the District Manager (in charge) at Calicut. It

says that during the discussions the representative of Kerala Trading Co. expressed his inability to supply 400 bales within the time prescribed.

Choudhri explained that maximum supply possible was 200 bales by 10th of March, 1975. On this the petitioner reduced the supply from 400 to

200 bales in order to favor Kerala Trading Co.

(26) The petitioner came from Trivandrum to Calicut at the end of February, 1975 and remained there till the beginning of March, 1975. It was at

this time that he reduced the order from 400 to 200 bales after meeting R. K. Choudhri there . Both were in town. He had kept the authorisation

order in his pocket for nearly three weeks. On this evidence the enquiry officer reached the conclusion of favoritism shown to Choudhri. The

enquiry officer concluded ""the circumstances suggest that offer was kept pending to facilitate the party to arrange supplies"". When Choudhri

showed inability to supply 400 bales the petitioner reduced the supply order by 200 bales ""to suit the supply position of the firm"", the enquiry

officer held.

(27) The enquiry officer has pointed out various other irregularities in the four transactions. There were irregularities in the tenders and quotations

which were accepted. For instance, the full security amount was not insisted upon at the time the tender was accepted. The enquiry officer found

that 27 excess bales at Calicut and 15 bales at Cochin were accepted in excess of the orders placed on the firms controlled by R. K. Choudhri.

For the supply and acceptance of these excess bales he found no justification. He also found "hat prompt payment was made to R. K. Choudhri

even though he had supplied part of the goods some of which were damaged and some of which were supplied beyond the stipulated date of

delivery. He found that for late delivery of the goods no action was taken by the petitioner against the three firms.

(28) On the question of rates he held that at Madras Bt gunny bags were selling at between Rs. 540 and Rs. 555 per hundred bags. The petitioner

himself stated that the price at Madras was Rs. 570 per hundred bags. The enquiry officer found that the rates of Rs. 585 or Rs. 590 per hundred

bags were exorbitant. He finally found that the local purchases were uncalled for because the Corporation had sufficient stocks. This conclusion he

reached on the facts and figures of stocks produced before him by the Corporation and its witnesses.

(29) These are the matters which are entirely within the domain of the authority. As the House of Lords has said recently :

JUDICIAL review is concerned, not with the decision, but with the decision-making process. Unless that restriction on the power of the Court is

observed, the Court will in my view, under the guise preventing the abuse of power, be itself guilty of usurping power.

(Chief Constable vs. Evans (1982) 2 All E.R.. 141 (4) per Lord Brightman).

(30) It is not the decision as such which is liable to review. All that the Court has to see is whether the principles of natural justice have been

observed and whether an Opportunity was given to the aggrieved party to answer the accusations against him. Were the standards of fairness

observed in reaching the decision ?

JUDICIAL review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made.

(Chief Constable v. Evans (supra) p. 155) The Court is not sitting in judgment over the correctness of the decision arrived at by the authority. That

is a question of merits. The authority may be right or wrong on those conclusions. If they are conclusions which are not perverse, not conclusion at

which no reasonable man will arrive, the Court will accept them. It cannot weigh the evidence itself. This has to be avoided in a judicial review.

(31) Where Parliament has entrusted to an administrative authority the duty of making a decision which effects the rights of an individual, the

court's supervisory function on a judicial review is limited. The court ought not to attempt to weigh the merits of the particular decision but should

confine as function ;o a consideration of the manner in which the decision was reached.

(32) Judicial review is intended to protect the individual against the abuse of power by wide range of authorities. judicial, quasi-judicial, and

administrative. It is not intended to takes away from those authorities the powers and discretions properly vested in them by law and to substitute

the Courts as the bodies making the decisions. It is intended to see that the relevant authorities use their powers in a proper manner. The purpose



is to ensure that the individual is given fair treatment by the authority to which he has been subjected and that it is no part of that purpose to

substitute the opinion of the judiciary or of individual judges for that of the authority constituted by law to decide the matters in question. (Chief

Constable v. Evans (supra) p. 143 Per Lord Hailsham L.C.). The Supreme Court has said :

THE High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities

holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry held by an authority competent in that

behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some

evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion

that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the

evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities

have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules

prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous

to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the

very face of it is .so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds.

But the departmental authorities are if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which

their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High

Court in a proceeding for a writ under Article 226 of the Constitution".

( State of Andhra Pradesh Vs. Sree Rama Rao, , per Shah. L). The order in question before me is an administrative order. The proceedings were

quasi-judicial in nature. The petitioner was given a fair opportunity to meet the allegations made against him.

(33) Counsel for the petitioner says that principles of natural justice were not observed by the enquiry officer. He has illustrated his point in three

ways. Firstly, he said that the documents demanded by the petitioner were not supplied to him. Secondly, all the witnesses named by him in the list

were not examined. Thirdly, the statements made by the witnesses before the D.S.P. (CBI) were used as substantive evidence when these

witnesses appeared before the enquiry officer. In support of this last submission he has referred me Divakaran vs. Circle Inspector of Police,

Muanar 1963 (1) Lj 342 (6) and Onkar Prasad Gupta vs. State of U.P. 1962 2 Lj 3 (7).

(34) The short answer to all these three points taken by him is that the petitioner never made any grievance about any of these matters before the

enquiry officer. On 25th of January, 1978 the presenting officer closed his case on behalf of the Corporation. The petitioner in his defense

examined three witnesses on that day. Evidence was closed. The enquiry officer expressly recorded that this concludes the defense evidence. The

proceedings, are signed by the enquiry officer, the petitioner and Mukundrajan who was the other charged officer along with the petitioner. The

fact that the proceedings were signed by the petitioner and the fact that he did not object to the words "thus concluding the defense evidence" used

by the enquiry Officer strongly suggest that the petitioner did not want to examine any further witnesses. Otherwise, he would have been the first to

say so before the enquiry officer, There is nothing to suggest that the petitioner wanted to examine further witnesses and that the enquiry officer

turned down the request. On the question of use of the statements made by the witnesses before the Police in the enquiry proceedings it is enough

to say that the petitioner did not object to this procedure nor has he been able to show me any prejudice caused to him by this method of

recording evidence. The petitioner was allowed to cross-examine the witnesses both on the statements made before the Police as well as the

statements made before the enquiry officer. At this stage, I cannot entertain these objections. They are all after-thoughts.

(35) Counsel then submitted that the senior regional manager was summoned by the Corporation as a witness before the enquiry officer but he was

never produced. He says that an adverse inference ought to have been drawn against the Corporation. It is not for me to draw the inference. It

was for the enquiry officer to raise or not to raise an adverse inference. If he does not raise it because he found sufficient evidence in support of the

articles of charge it does not mean that the enquiry repeat it vitiated simply because senior regional manager was not produced.

(36) Counsel then submitted that there was no evidence before the enquiry officer to show that Kerala Trading Co., Cochin Commercial

Corporation and Anilkumar & Bros. were controlled by one man R. K. Choudhri. Counsel for the Corporation has invited my attention to two

partnership deeds which were brought on the record of the enquiry, officer showing that in Kerala Trading Co. and Cochin Commercial

Corporation R. K. Choudhri is on. of the partners. It was in evidence that R. K. Choudhry father K. N. Choudhri was the proprietor of Anilkumar

&v Bros. This there was sufficient, evidence to come to the conclusion that all the three firms were being controlled by R. K. Choudhri. On this

evidence an inference can legitimately be drawn that the petitioner knew that R. K. Choudhri was controlling all the three Firms in which he or his

father had Interest.

(37) My conclusion on this part of the case is that ample opportunity was given to the petitioner to give an Explanation of the charges framed

against him. He was duly heard. His Explanation was found unsatisfactory. For the conclusions reached by the authority there is evidence on

which the authority was entitled to come to the conclusion it did.

(38) There was one more enquiry against the petitioner. This was in connection with the land purchased by the Corporation at Meerut. The charge

was brought on 31st of May, 1977. It was on two counts (a) lack of devotion to duty; and (b) lack of integrity. In substance the complaint was

that the petitioner did not advise the Corporation properly with regard to land which it purchased at Meerut for the construction of 10,000 tones

godowns. The petitioner was one of the three members of the Committee appointed to negotiate the purchase from the owners of the land. The

negotiating Committee made a report on 18th of June, 1971. In that report the petitioner stated :

THE owners undertake to provide an approach road by purchasing a piece of land from another owner and sell the same to F.C.I., at the same

rate which they will charge from F.C.I. for the main site".

for making this observation in the report dated 18th June, 1971 the petitioner was censured on 23rd August, 1978. He filed an appeal to the

executive Committee of the Board of Directors. The appeal was dismissed on 3rd of January, 1979.

(39) For making a wrong observation in the Committee's report the enquiry officer held the petitioner guilty of not doing his duty. For the

"hollowness" of the observation of the Committee the petitioner was found by the enquiry officer lacking in devotion to duty. The charge of not

maintaining integrity was dismissed. The enquiry officer thought that no approach road was available for the site of the godown which was built at a

cost of Rs. 17,00,000 because of the negligence of the petitioner. He was of the opinion that the Committee should have obtained the undertaking

In writing from the owners in this respect.

(40) The facts of this enquiry show that this charge was groundless and the finding of the enquiry officer is perverse and vitiated by self-

misdirection. The enquiry officer misunderstood the legal position. The negotiating Committee of which the petitioner was a member was required

to negotiate the terms with one Meerut Land & Finance Co. But they were not the owners of the land. The owners of the land were individuals.

The individual owners conveyed the land in favor of the Corporation. The Corporation paid the price to them directly. These individual owners did

not give any undertaking. The so-called undertaking of which the report speaks was given orally by the Meerut Land & Finance Co. at the stage of

negotiations. Meerut Land & Finance Co. went out of the picture when the sale deeds were executed by the individual owners in favor of the.

Corporation and payment was made to them.

(41) Perhaps Meerut Land & Finance Co. were brokers in the deal. They were not empowered to give an undertaking. When they gave what is

described in the report as an "undertaking" it was merely a suggestion as to how the land for the approach road can be acquired. It was for the

Corporation to see how to acquire the land of approach road by purchase or by compulsory acquisition. It was done by compulsory acquisition in

the end after a number of months had passed. The petitioners conduct was blameless. The charge against him was unmerited. He was made a

scapegoat for the fault of others whose responsibility ultimately it was to see that the land for the godown is suitable in every way including ingress

and egress. A number of a negotiating Committee can not be held responsible. He is not a lawyer. He is a layman. If there was no approach road

to the godown built by the Corporation it was not the fault of the Committee nor of the petitioner. The Committee, had faithfully reported what the

Meerut Land & Finance Co. had told them. Nothing more. It was actually the work of the lawyers to see whether the vendors had a good and

marketable title to the land including the land required for the approach road and what provision should be made in the sale deeds to enable the

Corporation to buy land for the approach road to the godown it wanted to erect.

(42) A conveyancing counsel's job is to advise the client on the title of the property as well as allied matters. I do not know whether lawyers were

consulted in this deal or not. The Corporation was ill-advised if it went merely by the report of the Committee of laymen. Before going ahead with

the deal expert advice should have been taken, I am of opinion that they should have consulted lawyers when they were going to spend a very

large amount of public money in buying the land and in erecting the godown at such a huge cost. There is absolutely no evidence to hold the

petitioner guilty of the charge of failing to maintain devotion to duty. I Therefore, set aside the report dated 7th of March, 1978 as well as the

punishment of censure inflicted on the petitioner as a result of this report.

(43) For these reasons the petitioner partially succeeds. On the transactions of purchase of gunny bags the order of the Board dated 30th of

December, 3978 is upheld. On the deal of the Meerut Land the report of the enquiry officer dated 7th of March, 1978, the penalty order of

censure, dated 23rd of August, 1978 and the decision in appeal dated 3rd of January, 1979 are all set aside. The parties are, however, left to bear

their own costs in view of the divided success.