

Privy Council Appeal No. 24 of 1950

M. F. de S. Jayaratne - - - - - *Appellant*

v.

M. Mohamed Miya - - - - - *Respondent*

FROM

THE SUPREME COURT OF CEYLON

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL, DELIVERED THE 3RD APRIL, 1951

Present at the Hearing:

LORD SIMONDS

LORD MORTON OF HENRYTON

LORD RADCLIFFE

[*Delivered by* LORD SIMONDS]

This appeal from a decree of the Supreme Court of Ceylon raises a question which has recently been dealt with by their Lordships in the appeals Nos. 17 and 18 of 1949, to which the present appellant was a party. The substantial question is whether the appellant, the Controller of Textiles, when he acts under Reg. 62 of the Defence (Control of Textile) Regulations 1945, is acting judicially and is accordingly amenable to a mandate in the nature of a writ of certiorari.

Acting under this Regulation the appellant, who had previously issued to the respondent a licence authorising him to carry on business in textiles, cancelled that licence and so informed the respondent by letter dated the 21st February, 1947. The respondent thereupon presented a petition to the Supreme Court of Ceylon praying the Court to issue a mandate in the nature of a writ of certiorari quashing the order of cancellation. On the 26th February, 1947, Howard, C.J. issued a rule nisi ordering the appellant to show cause why the respondent's application should not be granted, and on the 2nd October, Dias, J., who had heard argument on the rule, following a decision of the Full Bench of the Supreme Court in *Abdul Thassin v. Edmund Rodrigo* 48 N.L.R. 121 held that the Controller of Textiles when acting under Regulation 62 acted judicially and was amenable to certiorari. He then considered the facts and, coming to the conclusion that the appellant had no reasonable grounds for believing that the respondent was unfit to be allowed to continue as a dealer, ordered that the rule nisi be made absolute and the mandate issue. He further ordered the appellant to pay the costs of the proceedings. After Dias, J. had given this judgment, the judgment of the Supreme Court in *Abdul Thassin's* case was reviewed by this Board in the appeals already referred to, in which it was decided that the Controller of Textiles acting under Regulation 62 is not acting judicially and is not amenable to certiorari.

Their Lordships can come to no other conclusion in the present case. It follows that the decree of the Supreme Court must be set aside and that the rule nisi must be discharged with costs. Their Lordships will humbly advise His Majesty accordingly. The respondent must pay the appellant's costs of this appeal.

In the Privy Council

M. F. de S. JAYARATNE

v.

M. MOHAMED MIYA

DELIVERED BY LORD SIMONDS

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