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THE STATE OF MAHARASHTRA & ANR.

v.

B. K. TAKKAMORE & ORS.

February 2, 1967

B [K. N. WANCHOO, R. S. BACHAWAT AND V. RAMASWAMI, JJ.]

City of Nagpur Corporation Act, 1948 (*C.P. & Berar Act* 2 *of* 1950), *s.* 408—*Municipality—Supersession—Grounds of interference in writ application—Order if sustainable when one of the two charges found not proved.*

C By s. 408 of the City of Nagpur Corporation Act, 1948 the State Government may, after giving an opportunity to the Corporation to show cause, pass an order superseding the Corporation, if it is of opinion that the Corporation is not competent or persistently makes default in the performance of the duties imposed on it by or under the Act. After the requisite show cause notice the State Government passed the impugned Order superseding the Nagpur Municipal Corporation. The High Court, in a writ petition, quashed the Order holding that the State Government D exercised its power under s. 408 on grounds which were not reasonably related to its legitimate exercise and that the finding upon which the Order was passed was rationally impossible on the materials before the State Government. On appeal to this Court :

HELD : The Order of supersession was valid and could not be set aside.

E (i) Of the two grounds on which the opinion of the State Government was based the first ground could not be sustained, firstly because the Corporation had no opportunity to show cause against the charge, and secondly, because no reasonable person on the materials before the State Government could possibly form the opinion that the charge was proved. Regarding the second ground there were materials before the State Government upon which it could find that the Corporation was not competent to perform the duties imposed upon it. [588H; 592D]

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In a writ application the court will not review the facts as an appellate body. But the Order of supersession is liable to be set aside, as in excess of the statutory power under s. 408, if no reasonable person on a proper consideration of the materials before the State Government will form the opinion that the Corporation is not competent to perform or persistently defaults in the performance of the duties imposed on it. The Order is also G liable to be set aside if it was passed in bad faith or due opportunity to show cause was not given. [585H]

(ii) The Order cannot be set aside for the reason that one of the grounds is found to be non-existent or irrelevant. The Order, read with the show cause notice shows that in the opinion of the State Government the second ground by itself was serious enough to warrant action under s. 408. [595 A-B]

H An administrative or quasi-judicial Order based on several grounds, all taken together, cannot be sustained if it be found that some of the grounds are non-existent or irrelevant and there is nothing to show that the authority would have passed the Order on the basis of the other relevant and

existing grounds. But, an Order based on several grounds some of which are found to be non-existent or irrelevant can be sustained if the Court is satisfied that the authority would have passed the Order on the basis of other relevant and existing grounds and the exclusion of the irrelevant or non-existent grounds could not have affected the ultimate opinion or decision. [594 E-G] A

Dwarka Das Bhatia v. *State of Jammu and Kashmir*, [1965] S.C.R 948, *Dhirajilal Girdharilal* v. *Commissioner of Income-tax*, A.I.R. 1956 S.C. 271, *State of Orissa* v. *Bidyabhushan Mahapatra*, [1963] Supp. 1 S.C.R. 648 *and Naursinha* v. *State of Madhya Pradesh*, A.I.R [1958] M.P. 397, referred to. B

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2340 of 1966.

Appeal from the judgment and order dated October 7, 1966 of the Bombay High Court, Nagpur Bench in Special Civil Application No. 940 of 1965. C

M. C. Setalvad, N. S. Bindra and *R. H. Dhebar*, for appellant No. 1.

A. S. Bobde, and *S. G. Kukdey*, for respondent No. 1.

M. M. Kinkhede, *G. L. Sanghi* and *A. G. Ratnaparkhi*, for respondents Nos. 3-16, 19-31, 33, 34, 36-45, 47-53, 55 and 57. D

The Judgment of the Court was delivered by

Bachawat, J. This appeal arises out of a writ petition filed by respondent No. 1 before the Nagpur Bench of the Bombay High Court, challenging the show-cause notice dated July 21, 1965 and the order dated September 29, 1965, superseding the municipal corporation of the city of Nagpur. In July, 1962, the term of office of the present Councillors commenced. On July 21, 1965, the Government of Maharashtra issued a notice to respondent No. 1, the Mayor of the Nagpur Municipal Corporation, asking him to show cause why the corporation should not be superseded. On August 1, 1965, respondent No. 1 filed his reply to the show-cause notice. On September 29, 1965, the State Government passed the impugned order superseding the corporation under ss. 408 and 409 of the City of Nagpur Corporation Act 1948 (C. P. & Berar Act II of 1950). On September 30, 1965, respondent No. 1 filed a writ petition challenging the show-cause notice and the order of supersession. The High Court allowed the writ petition and quashed the order of supersession. The High Court held that the State Government exercised its power under s. 408 on grounds which were not reasonably related to its legitimate exercise and the finding upon which the order was passed was rationally impossible on the materials before the State Government. The State of Maharashtra now appeals to this Court on a certificate granted by the High Court. By an order of this Court, the Administrator of the City of Nagpur appointed under the order of supersession of September 29, 1965, has been joined as the second appellant. E F G H

A Section 408 of the City of Nagpur Corporation Act 1948 is in these terms :—

> "408. (1) If at any time upon representations made or otherwise it appears to the State Government that the Corporation is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or
B under this Act or any other law for the time being in force, or exceeds or abuses its powers the State Government may, after having given an opportunity to the Corporation to show cause why such an order should not be made, or, if it appears to the State Government that the case is one of emergency, forthwith issue an order directing that all the
C Councillors shall retire from office as and from such date as may be appointed and declare the Corporation to be superseded. Such order shall be published in the Gazette and the reasons for making it shall be stated therein.
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> (2) Notwithstanding anything contained in sections 17 and 20, all Councillors shall vacate their office from the
D date mentioned in any order under sub-section (1)."

The consequence of supersession of the corporation under s. 408 is that all its members vacate their office, all powers and duties of the corporation, the Standing Committee and the chief executive officer may be exercised by the administrator of the city appointed by the State government, and all property vested in the corporation
E vests in the administrator (s. 408).

The conditions for the exercise of the power under s. 408 are clearly stated in the section. It must appear to the State government that the corporation is not competent or persistently makes default in the performance of the duties imposed on it by or under the Act
F or any other law for the time being in force, or exceeds or abuses its powers. Except in cases of emergency, the State government must give to the corporation an opportunity to show cause why the order under the section should not be made. If on a consideration of the explanation submitted by the corporation, the State government considers that there is no ground for making the order, the Government may drop the proceeding. Otherwise, it may issue
G an order declaring the corporation to be superseded and directing that all the Councillors shall retire from office. The order must be published in the Gazette and the reasons for making it must be stated therein. There is no appeal to the court from the order under s. 408. In a writ application the court will not review the facts as an appellate body. But the order is liable to be set aside if no reasonable person
H on a proper consideration of the materials before the State government could form the opinion that the corporation "is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law for the

time being in force, or exceeds or abuses its powers". Likewise, the order is liable to be set aside if it was passed in bad faith or if in a case which was not one of emergency, due opportunity to show cause was not given to the corporation. In all such cases, the order is in excess of the statutory power under s. 408 and is invalid.

On the question whether the order under s. 408 is an administrative or quasi-judicial act, our attention was drawn to the decisions in *Municipal Committee, Karali and Another* v. *The State of Madhya Pradesh*(1) and *Shri Radheshyam Khare and Anr.* v. *The State of Madhya Pradesh and Others*.(2) These cases turned on the construction of ss. 53A and 57 of the C. P. & Berar Municipalities Act 1922 (Act II of 1922). The point whether the order under s. 408 is quasi-judicial or administrative act is not very material, for it is common ground that the present case was not one of emergency and the State government was bound to give opportunity to the corporation to show cause why the order should not be made.

The order dated September 29, 1965 was in these terms:—

"Whereas it is reported to the Government of Maharashtra that the Municipal Corporation of the City of Nagpur (hereinafter referred to as 'the Municipal Corporation') constituted under the City of Nagpur Municipal Corporation Act, 1948 (C.P. & Berar Act II of 1950) (hereinafter referred to as 'the said Act')

(a) has, since the present Councillors entered upon their office, planned its expenditure on the basis of uncertain receipts as shown below, that is to say—

Year	Receipts in budget as passed by Corporation	Actual of previous year
	Rs. in lacs	Rs. in lacs.
1963-64	351	173
1964-65	221	190
1965-66	258	(200 to 215 lacs anticipated).

and without exercising the proper controls provided by or under the said Act has allowed its financial position to deteriorate rapidly and seriously to such an extent that the free cash balance of Rs. 5·81 lacs approximately in March 1962 was reduced to Rs. 53,000 approximately on the 12th July, 1965; and that the Corporation had no funds even to

(1) A.I.R. 1958 M.P. 323. (2) [1959] S.C.R. 1440.

A disburse the salaries of its officers and servants as is noticed from the Resolution of the Municipal Corporation No. 98, dated the 4th September, 1965; and

(b) has neglected to undertake the improvement of water supply and to provide a sufficient supply of suitable water for public and private purposes;

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And whereas, an opportunity was given to the Municipal Corporation to show cause why in the aforesaid circumstances an order of supersession under sub-section (1) of section 408 of the said Act should not be made;

C And whereas, after considering the reply of the Municipal Corporation and subsequent submissions made by it the Government of Maharashtra is of the opinion that the Municipal Corporation is not competent to perform the duties imposed on it by or under the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 408 and sub-section (1) of section D 409 of the said Act, and of all other powers enabling it in this behalf, the Government of Maharashtra for the reasons specified aforesaid, hereby—

(1) directs that all the Councillors of the Municipal Corporation shall retire from office as and from the E 1st day of October, 1965;

(2) declares the Municipal Corporation to be superseded from that date; and

(3) appoints Shri D. H. Deshmukh to be the Administrator of the City of Nagpur."

F From the order it appears that there were two grounds on which the State government formed the opinion that the corporation was not competent to perform the duties imposed on it by or under the Nagpur Municipal Corporation Act, 1948.

Annexure 2 to the show-cause notice dated July 21, 1965 set out the following facts relatable to the first ground mentioned in G paragraph 1(a) of the order:—

"II. (1) In March 1962, the free cash balance with the Corporation was Rs. 5·81 lacs. On 12-7-65, the opening cash balance of the Corporation was Rs. 53,821. The Statement 'A' appended hereto will reveal the financial position of the Corporation. On the basis of H average daily receipts the Corporation will have an opening balance of Rs. 7·74 lacs on 1-8-65 as against that their immediate liabilities are of the order of Rs. 30·84 lacs. It is

thus clear that the Corporation is heading for a grave financial crisis and it will not be in a position even to pay fully the salaries and wages of their permanent and temporary employees. Under Chapter IV of the City of Nagpur Corporation Act, the Corporation is required to pay salaries to their officers and servants as provided for in Sections 47, 49 and 50 of the said Act. The liability arising out of the payment of salaries and wages is the third charge on the municipal fund the previous two charges being repayment of all loans payable by the Corporation under Chapter IX of that Act and the second being the payment for discharge of all liabilities imposed on the Corporation in respect of debts and obligations and contracts of the Municipality of Nagpur, to whom the Corporation is a successor. It is assumed that such liabilities do not any longer exist. Thus the payment of salaries etc., is the second charge on the municipal fund, and it is very obvious from the figures in Statement 'A' that the Corporation is not in a position to discharge that liability."

The opinion of the State government so far as it is based on the first ground cannot be supported. The show-cause notice did not mention the charge that the Councillors planned the expenditure on the basis of uncertain receipts or that they did not exercise proper controls provided by or under the Act. No opportunity was given to the corporation to explain the charge. Without giving such an opportunity, the State government could not lawfully find that the charge was proved. The cash balances of the corporation vary from day to day. No reasonable person could possibly come to the conclusion that the financial position of the corporation had deteriorated from the fact that the cash balances were Rs. 5,81,000 in March 1962 and Rs. 53,000 on July 12, 1965. The statement that the corporation had no funds to disburse the salaries of its officers and servants had no factual basis. As a matter of fact, the corporation paid the salaries. The dearness allowance was not paid because the bills were not scrutinized. The resolution dated September 4, 1965 referred to in the order was passed long after the show-cause notice was issued, and the corporation was not given an opportunity to explain it. The resolution did not say that the corporation had no funds even to disburse the salaries of its officers and servants. The corporation resolved to raise a loan of Rs. 15 lacs from the State Government, but the loan was not raised. The High Court also pointed out that many of the statements in the statement "A" referred to in the show-cause notice were factually incorrect. The opinion of the State government based on the first ground cannot be sustained, firstly because the corporation had no opportunity to show cause against the charge, and secondly, because no reasonable person on the materials

A before the State government could possibly form the opinion that the charge was proved.

The second ground referred to in paragraph 1(b) of the order dated September 29, 1965 is more serious. Section 57(1)(k) of the
B City of Nagpur Corporation Act, 1948 provides that the corporation shall make adequate provision by any means or measures which it may lawfully use or take for....."(k) the management and maintenance of all municipal water-works and the construction and maintenance of new works and means for providing sufficient supply of suitable water for public and private purposes." The charge was that the corporation neglected to undertake
C the improvement of water supply and to provide a sufficient supply of suitable water for public and private purposes. The relevant facts were set out in annexure 1-I(1) to (4) and annexure II to the show-cause notice. It is common ground that the water supply of the city of Nagpur was inadequate. The population of the city was fast increasing and it was the duty of the corporation to
D augment the supply. The improvement of the head works at the Kanhan Stage III and also the re-modelling and redesigning of the distribution system was necessary for augmenting and improving the water supply. The work at Kanhan Stage III commenced in 1964 and for that purpose the Government sanctioned an *ad hoc* loan of Rs. 21 lacs. The cost of the remaining work at Kanhan Stage III and the work of remodelling and redesigning of distribution
E system was estimated to be Rs. 70 lacs. The corporation could not meet the cost without raising a loan. It had the power to raise a loan for this purpose with the previous sanction of the State government under s. 90 of the City of Nagpur Corporation Act 1948. The corporation was not in a position to raise the loan in the open market unless the repayment of the loan was guaranteed by the Govern-
F ment. It approached the Government to give the guarantee. The Government was willing to give the guarantee if two conditions were fulfilled, (1) the corporation would meter the water supply immediately, and (2) in the annual budget, the budget of the water works department for the supply of water would be shown separately. The Government was not willing to give the guarantee unless these
G conditions were fulfilled. In May/June, 1965, these conditions were communicated by the minister in charge to the municipal commissioner and the chairman of the standing committee. On June 5, 1965, the standing committee resolved:

> "(i) The Corporation may raise in the open market
H loan of Rs. 70 lacs for the purpose of completing the Kanhan Stage III head works and provision of filteration plant and for remodelling and redesigning the water distribution system in Nagpur Corporation area.

(ii) The principle of universal meterisation should be accepted and all water connection in future should only be in the meter system. A

(iii) The principle of providing a separate subsidiary budget for water supply should be accepted."

At a meeting held on June 30, 1965, the corporation appears to have disapproved of the standing committee's resolution regarding the principle of universal meterisation and setting up a separate subsidiary budget for water supply though no specific resolution to that effect was passed. A meeting of the corporation on July 5, 1965 was convened to discuss the matter of raising a loan of Rs. 70 lacs. In the notice calling the meeting, the following office note appeared at the foot of the relevant agenda:— B C

"In this connection the State Government demanded the following two assurances from the Corporation,

(1) Nagpur Corporation should meter the water supply immediately.

(2) In the annual budget of the Corporation, budget of the water works department should be shown separately for supply of water. In the said budget provision for payment of loans, sinking fund and future increase in expenditure should be made separately. After making these provisions the Corporation can expend the money for other works." D E

On July 5, 1965, the meeting was adjourned. On July 12, 1965, the corporation passed the following resolution:—

"The Corporation gives its approval to the raising of a loan of Rs. 70 lakhs, in the next three years. Such a loan comprising of Rs. 24 lakhs for Kanhan 3 Stage scheme and Rs. 45 lakhs for improvement in the Distribution System necessitated in view of the additional 29 million gallons of water that will be available after completion of the Kanhan 3 Stage Scheme. F

The office should take necessary action to obtain the guarantee of the State Government for raising this loan in the open market in accordance with the above Resolution." G

The resolution is not printed in the paper book, but an agreed copy of the resolution was filed before us. The State government was of the view that by the resolution dated July 12, 1965, the corporation refused to accept the two conditions mentioned in the office note and thereby made it impossible for the corporation to meet the cost of construction of the head works and the remodelling and H

A redesigning of the distribution system and to provide a sufficient supply of water for the public and private purposes. The corporation could not raise the loan without the Government guarantee and the government could not reasonably guarantee the loan unless the two conditions of universal meterisation and the separate budget for the water supply were accepted. The two conditions B were reasonable. The adoption of universal meterisation would have curtailed the wastage of water and secured adequate revenues necessary for the repayment of the loan and the setting up of an adequate sinking and development fund for the water supply. A separate budget for the supply of water would have ensured that the receipts from the supply of water were allocated to the expenditure on the water supply scheme. The answer of the corporation was two- C fold. The corporation said firstly that the resolution dated July 12, 1965 neither accepted nor rejected the two conditions and the question of accepting the conditions was left for future negotiations with the government after the government would be approached for the sanction of the loan under s. 420(2)(r) of the City of Nagpur Corporation Act 1948, read with City of Nagpur Corporation Loans Rules D 1951. The corporation said secondly that the cost of immediate meterisation of the old connections would be Rs. 52 lacs and it was impossible for the corporation to raise this sum, nor could it lawfully divert any portion of the loan of Rs. 70 lacs for meeting this cost.

The High Court accepted the contention that at the meeting E held on July 12, 1965, the corporation had resolved that the matter with regard to the conditions imposed by the government for giving the loan should be left for further negotiations with the government. But it is to be noticed that the resolution dated July 12, 1965 did not state that there should be any further negotiations with the government on the matter, nor did it disclose the financial problem with F regard to meterisation or the basis upon which further negotiations should take place. On June 30, 1965, the corporation had talked out the recommendation of the standing committee with regard to the universal meterisation and separate budget. In this background, the State government could reasonably hold that the passing of the resolution excluding the office note amounted to virtual rejection of the conditions mentioned in the note. The High Court was in error G in accepting the first contention.

The High Court was also in error in holding that the Government passed the order of September 29, 1965 without considering that universal meterisation posed a formidable problem which could not be overcome without a loan of Rs. 52 lacs in addition to the loan of Rs. 70 lacs. The resolution of July 12, 1965 did not state that the corporation wanted an additional loan of Rs. 52 lacs for meeting the cost of universal meterisation. Even in the answer to the show-cause notice, the corporation did not say that it wanted to raise

an additional loan of Rs. 52 lacs. The answer stated that the raising of this sum for the present was an impossibility. There is nothing to show that the State government would not have guaranteed repayment of this additional loan or that it was not possible to raise the loan backed by a government guarantee. In the writ petition respondent No. 1 gave a summary of the reply to the show-cause notice. But there was no specific averment in the petition supported by affidavit that Rs. 52 lacs was necessary for the meterisation and that the raising of this sum was an impossibility. That is why the point was not dealt with in the return to the writ petition. Even assuming that the meterisation would cost Rs. 52 lacs, there is nothing to show that the government would not have guaranteed the loan for this sum or that the corporation could not have raised the loan with this guarantee. Moreover, if the government was right in assuming that the corporation had refused to entertain the proposal of meterisation, the question of raising funds for the meterisation would not arise and would be irrelevant. The government passed the order after taking into consideration the reply to the show-cause notice. There were materials before the State Government upon which it could find that the corporation had neglected to undertake an improvement of water supply and to provide a sufficient supply of water for private and public purpose. On the basis of this finding, the State government could form the opinion that the corporation was not competent to perform the duties imposed on it by or under the Act.

Mr. Bobde contended that the opinion of the State government was based on two grounds and as one of them is found to be non-existent or irrelevant, the order is invalid and should be set aside. The cases relied on by him may be briefly noticed. In a number of cases, the Court has quashed orders of preventive detention based on several grounds one of which is found to be irrelevant or illusory. After reviewing the earlier cases, Jagannadhadas J, in *Dwarka Dass Bhatia* v. *The State of Jammu and Kashmir* (1) said:

> "The principle underlying all these decisions is this. Where power is vested in a statutory authority to deprive the liberty of a subject on its subjective satisfaction with reference to specified matters, if that satisfaction is stated to be based on a number of grounds or for a variety of reasons all taken together, and if some out of them are found to be non-existent or irrelevant, the very exercise of that power is bad. This is so because the matter being one for subjective satisfaction, it must be properly based on all the reasons on which it purports to be based. If some out of them are found to be non-existent or irrelevant, the Court cannot predicate what the subjective satisfaction of the said authority would have been on the exclusion of those grounds or

(1) [1956] S.C.R. 948, 955.

A reasons. To uphold the validity of such an order in spite of the invalidity of some of the reasons or grounds would be to substitute the objective standards of the Court for the subjective satisfaction of the statutory authority. In applying these principles, however, the Court must be satisfied that the vague or irrelevant grounds are such as, if B excluded, might reasonably have affected the subjective satisfaction of the appropriate authority. It is not merely because some ground or reason of a comparatively unessential nature is defective that such an order based on subjective satisfaction can be held to be invalid. The Court while anxious to safeguard the personal liberty of the individual will not lightly interfere with such orders."

C In *Maursinha* v. *State of Madhya Pradesh*(1), the Madhya Pradesh High Court, following the principle of the preventive detention cases, held that an order of supersession of the municipality under s. 208 of the Madhya Bharat Municipalities Act 1954, based on several grounds, most of which were found to be irrelevant, was invalid. In *Dhirajlal Girdharilal* v. *Commissioner of Income-tax*(2) D Mahajan, C. J., said with reference to the order of an income-tax tribunal :

"The learned Attorney-General frankly conceded that it could not be denied that to a certain extent the Tribunal had drawn upon its own imagination and had made use of a number of surmises and conjectures in reaching its result. E He, however, contended that eliminating the irrelevant material employed by the Tribunal in arriving at its conclusion, there was sufficient material on which the finding of fact could be supported. In our opinion, this contention is not well founded. It is well established that when a court of facts acts on material, partly relevant and partly F irrelevant, it is impossible to say to what extent the mind of the court was affected by the irrelevant material used by it in arriving at its finding. Such a finding is vitiated because of the use of inadmissible material and thereby an issue of law arises."

In *State of Orissa* v. *Bidyabhushan Mahapatra*(3), an administrative G tribunal in a disciplinary proceeding against a public servant found the second charge and four out of the five heads under the first charge proved and recommended his dismissal. The Governor after giving him a reasonable opportunity to show cause against the proposed punishment dismissed him. The High Court held that the findings on two of the heads under the first charge could not be sustained as in arriving at those findings the tribunal had violated H rules of natural justice. It held that the second charge and only

(1) A.I.R. 1958 M.P. 397. (2) A.I.R. 1956 S.C. 271, 273.
(3) [1963] Supp. 1 S.C.R. 648, 665-6.

two heads of the first charge were established and directed the Governor to reconsider whether on the basis of these charges the punishment of dismissal should be maintained. On appeal, this Court set aside the order of the High Court. In the course of the judgment, Shah, J, observed:

> "If the High Court is satisfied that if some but not all of the findings of the Tribunal were 'unassailable', the order of the Governor on whose powers by the rules no restrictions in determining the appropriate punishment are placed, was final, and the High Court had no jurisdiction to direct the Governor to review the penalty, for as we have already observed the order of dismissal passed by a competent authority on a public servant, if the conditions of the constitutional protection have been complied with, is not justiciable. Therefore if the order may be supported on any finding as to substantial misdemeanour for woich the punishment can lawfully be imposed, it is not for the Court to consider whether that ground alone would have weighed with the authority in dismissing the public servant. The Court has no jurisdiction if the findings of the enquiry officer or the Tribunal *prima facie* make out a case of misdemeanour, to direct the authority to reconsider that order because in respect of some of the findings but not all it appears that there had been violation of the rules of natural justice."

The principle underlying these decisions appears to be this. An administrative or quasi-judicial order based on several grounds, all taken together, cannot be sustained if it be found that some of the grounds are non-existent or irrelevant, and there is nothing to show that the authority would have passed the order on the basis of the other relevant and existing grounds. On the other hand, an order based on several grounds some of which are found to be non-existent or irrelevant, can be sustained if the court is satisfied that the authority would have passed the order on the basis of the other relevant and existing grounds, and the exclusion of the irrelevant or non-existent grounds could not have affected the ultimate opinion or decision.

Now, the opinion of the State government that the corporation was not competent to perform the duties imposed on it by or under the Act, was based on two grounds one of which is relevant and the other irrelevant. Both the grounds as also other grounds were set out in paragraphs 1 and 2 read with annexures 1 and 2 of the show-cause notice dated July 21, 1965. Para 3 of the show-cause notice stated, "And whereas the grounds aforesaid jointly as well as severally appear serious enough to warrant action under section 408(1) of the said Act". The order dated September 29, 1965,

A read with the notice dated July 21, 1965 shows that in the opinion of the State government the second, ground alone was serious enough to warrant action under s. 408(1) and was sufficient to establish that the corporation was not competent to perform its duties under the Act. The fact that the first ground mentioned in the order is now found not to exist and is irrelevant, does not affect
B the order. We are reasonably certain that the State government would have passed the order on the basis of the second ground alone. The order is, therefore, valid and cannot be set aside.

In the result, the appeal is allowed, the order of the High Court is set aside and the writ petition is dismissed. In all the circumstances, there will be no order as to costs in this Court and in the
C court below.

Y.P. *Appeal allowed.*