

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No. 959 of 2018**

1. Daily Desher Katha Trust,  
represented by Sri Gautam Das, Chairman,  
Daily Desher Katha Trust,  
having its office at Daily Desher Katha Bhaban, Melarmath,  
Agartala, West Tripura, P.O. Agartala
2. Sri Samir Paul,  
son of late Sudhir Chandra Paul,  
resident of Melarmath Govt. Quarters,  
P.O. Agartala, P.S. West Agartala, District: West Tripura

-----Petitioner(s)

Versus

1. The State of Tripura,  
represented by the Chief Secretary,  
Government of Tripura, having his office at  
New Capital Complex, Lichubagan, P.O. Kunjaban,  
District: West Tripura, PIN-799004
2. The District Magistrate, West Tripura,  
Government of Tripura, having his office at  
Old Secretariat Building, Akhaura Road,  
P.O. Agartala, P.S. West Agartala, District:  
West Tripura, PIN-799001
3. The Sub-Divisional Magistrate, Sadar (i.e. Agartala)  
Government of Tripura, having his office at  
P.O. Agartala, P.S. Agartala, District: West Tripura
4. Registrar of Newspapers for India (RNI),  
represented by Press Registrar,  
having his office at 9<sup>th</sup> Floor, Soochana Bhaban,  
CGO Complex, Lodhi Road, New Delhi-110003
5. Dr. Mahatme Sandeep N, IAS,  
at present working as D.M., West Tripura,  
residing at Kunjaban Govt. Quarters, P.O. Kunjaban,  
Agartala, West Tripura.

6. Press Council of India,  
represented by its Chairperson,  
having its office at PTI Building,  
4, Parliament Street, New Delhi-110001

7. Shri Shyamal Debnath,  
son of late Ananda Charan Debnath,  
village: Tarapur, P.O Tarapur, West Tripura

---- Respondent(s)

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For Petitioner(s) : Mr. BR Bhattacharjee, Sr. Adv.  
Mr. TD Majumder, Adv.  
Mr. J Majumder, Adv.  
Mr. S Bhattacharjee, Adv.

For Respondent(s) : Mr. A.K. Bhowmik, Adv. Gen.  
Mr. H Deb, Asst. S.G.  
Mr. D Bhattacharjee, G.A.  
Mr. P.K. Dhar, Adv.  
Mr. R.G. Chakraborty, Adv.

Date of hearing : 10.01.2020\*  
Date of delivery of  
Judgment & Order : 14.08.2020  
Fit for reporting : YES

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**BEFORE**  
**HON'BLE MR. JUSTICE S. TALAPATRA**

**Judgment & Order**

By means of this writ petition, the petitioners have challenged the order under No. F.8(27)/SDM/SDR/JDL/08/1517 dated 01.10.2018 (part of Annexure-15 to the writ petition) issued by the Sub-Divisional Magistrate (SDM, for short), Sadar and the order No. RC23/01/2018-R3 dated 01.10.2018 delivered in case No. 01 of 2018 by the District Magistrate, West Tripura (part of Annexure-15 to the writ petition).

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\* Pronouncement is delayed by lockdown of the court

**2.** The petitioner has also challenged the consequential order dated RC23/01/2018-R3 dated 01.10.2018 (Annexure-4 to the writ petition) whereby the office of the Registrar of Newspapers for India (RNI, for short) has annulled the certificate of registration issued vide letter No. RC23/01/2018-R3 dated 01.10.2018 as invalid and the said certificate of registration has been recalled by the RNI.

**3.** In the order dated 01.10.2018 passed by the District Magistrate, West Tripura it has been observed that the SDM, Sadar has cancelled the declaration under No. F.8(27)/SDM/SDR/JDL/08/1517 dated 01.10.2018 (a copy is attached with the said order). As sequel, the RNI, as it appears, was requested to immediately cancel the certificate of registration given on 01.10.2018 showing Sri Samir Paul as the printer, editor and publisher, issued by the Additional Press Registrar inasmuch as the declaration based on which the said certificate of registration was issued stood cancelled by the said order dated 01.10.2018 issued by the SDM, Sadar. It has been observed thereafter, that ownership of the newspaper [Daily Desher Katha] was changed. Previously, the Communist Party of India (Marxist) was admittedly the owner of Daily Desher Katha [the newspaper] but in the newspaper the Daily Desher Katha Trust is printed as the owner. Being asked, the authorized representative (the lawyer of the newspaper) had failed to produce the certified copy of

the declaration for transfer of ownership from CPI(M) to Daily Desher Katha Trust.

**4.** Section 5(1) of the Press and Registration of Books Act, (PRB Act, in short) provides that without prejudice to the provisions of Section 3 every copy of the newspaper shall contain the names of the owner and editor, printed thereof, clearly and also the date of its publication. The statute obliges that if the ownership is transferred or reconstituted of a newspaper, a fresh declaration shall be necessary. The said proceeding as drawn under Section 8B of the PRB Act was drawn for alleged violation of Section 5(1) and Section 5(2E) of the PRB act on the basis of a complaint. In the complaint it was urged that the District Magistrate [the DM] shall cancel the declaration submitted by Sri Samir Paul on 30.03.2015. Accordingly, by the said order dated 01.10.2018 the District Magistrate has cancelled the said declaration dated 30.03.2015 and he had requested RNI to take cognizance of cancellation of the said declaration and to cancel the certificate of registration.

**5.** It is apparent from a bare reading of the said order dated 01.10.2018 that the said order is consequent upon the order under No. F.8(27)/SDM/SDR/JDL/08/1517 dated 01.10.2018 passed by the SDM, Agartala. The said order, therefore, provides the foundation of the impugned action. It has been stated in the said order that Sri Samir Paul submitted a declaration in the statutory form declaring him

as the printer and publisher of the newspaper, namely, Daily Desher Katha before the SDM on 01.10.2018 for authentication. It has been observed by the impugned order that the said form (Form-I) as submitted to the SDM has not been duly supported by evidence/documents in the light of which the very declaration was made by the said declarant (Sri Samir Paul).

**6.** It has been admitted in the said order dated 01.10.2018 that the said declaration was authenticated by the SDM on 01.10.2018. It has been also noted that no written application was received from the declarant for authentication of the declaration and no notice was issued as regards the authentication of declaration. According to the SDM, the required field inquiry by the Deputy Collector and Police regarding the antecedent of the applicant has not been done. However, after the authentication was made the authenticated declaration was sent by registered post to RNI. Thereafter, while providing the grounds of cancellation of the said declaration, the SDM has noted that since the declaration was authenticated without going through the material fact, the relevant process was incomplete. Moreover, the declarant at the time of submission of the declaration in Form-I before him had concealed the truth that a case relating to the declaration was pending in the court of the District Magistrate, West Tripura, Agartala. As such, the process of authentication of the declaration in Form-I was *sub judice*. On such

ground the declaration as authenticated on 01.10.2018 by the SDM was cancelled.

**7.** Consequent upon this order, on the very day, the DM passed the final order in the proceeding as drawn under Section 8B of the PRB act and without delay the said order was transmitted to RNI and by the order dated 01.08.2018 (Annexure-4 to the writ petition) the Additional Press Registrar cancelled the certificate of registration. Being aggrieved thereof, the petitioner has approached this court.

**8.** The petitioner has stated that the entire action of the SDM and the DM is grossly arbitrary, illegal and driven by *mala fide*. As there was a change in the ownership of the said newspaper the declaration in the prescribed form was filed by the publisher (Sri Samir Paul) and the SDM having been satisfied authenticated the said declaration verifying the fact that there is no other newspaper in the same title and language. The declaration filed by the printer/publisher is available with the writ petition (Annexure-2 to the writ petition). In the said declaration it has been clearly stated in column 11 that the said declaration is in respect of existing newspaper. Thereafter, the reasons for filing the fresh declaration have been provided in the following manner:

“(i) It has become necessary because the Tripura State Committee CPI(M) has transferred the ownership of the newspaper to newly created Daily Desher Katha Trust by a registered deed of trust dated 01.09.2018 vide deed No. IV-332 and the said trust has taken the responsibility to run the newspaper with all its responsibilities.

(ii) Sri Samir Paul has been appointed as the editor, printer and publisher of the said newspaper in place of Sri Gautam Das.

(iii) The place of publication of the said newspaper has been shifted from Janashikshya Co-Operative Printing Works Ltd. 67, Central Road Agartala to Daily Desher Katha Bhavan at Melarmath, Agartala-799001.

(iv) Tripura Printers and Publishers (P) Ltd., Melarmath, Agartala, PIN-799001 has been engaged for printing replacing Janashikshya Co-Operative Printing Works Ltd. 67, Central Road Agartala.

(v) The said newspaper is publishing daily morning to catch the need of the people.

(vi) The selling price of the newspaper per copy is Rs.4/- (Four) only instead of 20 Paisa because of hike of newsprint & printing cost, etc."

The said declaration had been authenticated by the SDM on 01.10.2018.

**9.** Thereafter, on 01.10.2018 itself, a communication from the Deputy Press Registrar for Registration of Newspapers in India under file No. RC23/01/2018-R3 (Annexure-3 to the writ petition) was received by the publisher of the said newspaper, which apprised him that the certificate of registration/revised certificate in respect of the title 'Daily Desher Katha' is enclosed with the said communication dated 01.10.2018 in accordance with the provisions of Section 19 of the PRB Act, read with Rule 10 of the Press and Registration of Newspaper (Central) Rules, 1956. It has been also noticed that the



registration No. (RNI34238) as allotted had remained unchanged.

Thereafter, it has been reminded that:

(a) The registration number allotted shall remain valid as long as the newspaper continues to be published regularly under valid declaration.

(b) Whenever there is change in the address mentioned in the declaration under the relevant provisions of the Act the certificate may be returned to the office of the RNI for carrying out necessary corrections. If the number is once allotted, it will not become suspended or cancelled while the certificate is in the custody of the office or is in transit. The publisher will be free to utilize the registration number in any manner as would be required under law.

(c) The attention of the publisher is also drawn by to the rule made under PRB Act that every publisher has to send by post or messenger one copy of each of his publication to the Press Registrar of Newspapers for India, New Delhi within 48 hours of publication.

(d) The publisher is required to maintain accounts, records, documents relating to printing and publication or distribution of the newspaper for submission at the time of inspection by the Press Registrar or any Gazetted Officer authorized by him/her under Section 10F of the PRB Act.

(e) In the event of closing down the publication, a ceasing declaration should be filed by the owner before the concerned District Magistrate, who after authentication will forward a copy of the same to this office for appropriate action.

(f) And finally, the publisher has to submit the actual statement as required under Section 19D of the PRB Act and Registration of Newspapers (Central) Rules, by May 31 every year online.

**10.** Such lengthy reproduction has been made to show that there is no allegation of violation of any of the conditions as recorded in the said communication dated 01.10.2018. The certificate of



registration (revised) dated 01.10.2018 is available at P-62 of the writ petition.

**11.** The petitioners were surprised by the impugned action whereby the authenticated declaration was cancelled and the DM, West Tripura made request to the Press Registrar for canceling the certificate of registration of the said newspaper. The Additional Press Registrar by the communication dated 01.10.2018 (Annexure-4 to the writ petition) apprised the petitioners that the revised certificate of registration has been cancelled. It appears on reading the communication dated 01.10.2018 (Annexure-4 to the writ petition) that as consequence of the said cancellation, the certificate of registration has been treated as invalid. The certificate of registration so issued stood withdrawn.

**12.** The genesis of the proceeding under Section 8B of the PRB Act is apparently rooted in the complaint filed by one Shyamal Debnath to the DM, West Tripura seeking stoppage of the publication of the said newspaper having RNI registration No. 34238/79. According to the complainant, the said newspaper used to be published by one Gautam Das and he was also the editor and printer of the said newspaper as per the declaration based on which the certificate of registration was issued. Thereafter, it has been alleged that for some years, the name of Sri Samir Paul was being printed as the editor, printer and publisher of the said newspaper and as the owner of the newspaper Daily Desher Katha [Society] was being

printed. But in the website of RNI, the name of Gautam Das was being shown as editor, printer and publisher of the said newspaper. The said declaration printed in the newspaper was a clear violation of the PRB Act. Thereafter, it has been stated as follows:

“Apart from this, it is well known that this newspaper is being run by the CPI(M) party and it always publishes politically biased news. In the public interest, it is always expected that any Newspapers should have neutral and unbiased views and should bring the real problems in the society to the notice of general public without twisting or distorting the facts.”

**13.** Cognizance of the said complaint (Annexure-5 to the writ petition) was taken by the DM, West Tripura and set in the proceeding being case No. 01 of 2018 [titled as Sri Shyamal Debnath Vs. Sri Samir Paul] by order dated 04.09.2018.

**14.** At the time of taking cognizance and issuing notice to the publisher of the said newspaper, the DM has observed that as per Section 3 of the PRB Act, every book or paper printed within India shall have printed legibly on it the name of the printer, the place of printing, the name of the publisher and the place of publication. As per Section 4(1) of the PRB Act as noted by the DM, no person shall, within India, keep in his possession any press for printing of books or paper, who shall not have made or subscribed the following declaration before the District, Presidency or Sub-Divisional Magistrate within whose local jurisdiction such press may be. It has been also noted that whenever the place where the press is kept is changed a

new declaration shall be necessary, provided further that, where the change is for a period not exceeding 60 days and the place where the press is kept after the change is within the local jurisdiction of the Magistrate referred to in sub-section (1), no new declaration shall be necessary. As per Section 5(3) of the PRB Act, as often as the place of printing or publication is changed a new declaration shall be necessary.

**15.** It appears from the order of cognizance dated 04.09.2018 the copies of the said newspaper dated 01.09.2013 and 27.08.2018 were produced and those were marked respectively as Exhibit-1 and Exhibit-2. Thus, the DM was satisfied that there was a *prima facie* case to initiate a proceeding against the editor, publisher and printer of the said newspaper. The DM issued notice accordingly, returnable on 12.09.2018. Notice thereafter was duly issued under No. F.18(1)/DM/W/JDL/2015/1912 dated 06.09.2018 (Annexure-7 to the writ petition).

**16.** In response to the said notice, on 12.09.2018 the publisher, printer and editor of the said newspaper requested the DM to give the copy of the complaint, which was not enclosed with the notice, and to provide him four weeks' time to submit the reply against the allegations made against him by the complainant.

**17.** On 18.09.2018, a copy of the certificate of registration of Daily Desher Katha as issued by the RNI on 29.04.1979 was taken on

record as Exhibit-3. The next date was fixed for hearing on 24.09.2018. The printer, publisher and editor was supplied with all the records including the complaint, as asked for.

**18.** Thereafter, a reply was filed by the publisher of the said newspaper and stated that the change of residence of the editor was communicated to Press Registrar by communication dated 15.02.1988 and he has also enclosed a copy of such communication with his reply. When again the residence of the editor was changed, the same was also communicated to the Press Registrar on 05.11.2005. The said communication was also enclosed with the reply. In the said reply, it has been stated that M/S Tripura Printers and Publishers Pvt. Ltd. on behalf of Daily Desher Katha Society had been printing the said newspaper having Sri Samir Paul as editor, printer and publisher w.e.f. 01.04.2015. The said change was communicated to RNI through the DM, West Tripura. The DM, West Tripura having 'inquired' the said matter apprised the RNI about the said change. Similarly, the change of the printing press had been reported to RNI through the DM, West Tripura and the 'affidavit' [the declaration] had been authenticated by the DM. The said 'affidavit' dated 18.07.2012 has been filed in the proceeding before the DM.

**19.** The publisher has squarely refuted the allegation of publication of biased and politically motivated news and asserted that no complaint had been filed by anyone before the Press Council of

India in that regard. There is no scope of entertaining any complaint on the allegation of biased or politically motivated news under the PRB Act. The list of documents as submitted in the proceeding before the DM is enclosed with the writ petition.

**20.** In the order dated 25.09.2018 it appears that the publisher's documents were taken into cognizance. Thereafter, the submission made by the counsel of the petitioners has well been noted. The complainant urged to close the publication immediately.

**21.** Thereafter, the following observation has been made by the DM in the said order:

"It is evident that Ld. Counsel Mr. S. Chakraborty in time to time intimated such changes to RNI through the O/o the DM, West Tripura. The office has made proper enquiry on the request of the Owners in the years of 2012 & 2015 and in both occasion it sent to RNI for changing of Owner/Editor/Printer/Publisher of the said daily newspaper. But in the RNI website said newspaper displaying owner/Editor Sri Goutam Das, printing press name-Janaskshya Co-Operative Printing Works Pvt. Ltd. Printing Press address – 67, Central Road, Agartala, Place of Publication/Publisher's address – Quarter No.3, Ballygange Road, Agartala. From the Exhibit 1 (published daily news paper DD Katha dated 01.03.2013) it reveal that Editor is Goutam Das on behalf of Bharater Communist Party (M), Printing press name is Tripura Printing & Publish Pvt. Ltd. Melarmath and Exhibit-2 (published daily news paper DD Katha dated 27.08.2018) Editor is Samir Pal on behalf of Daily Desher Katha Society, Printing place name is Tripura Printing & Publish Pvt. Ltd. Melarmath. It is the responsibility of DD Katha to obtain required registration certificate after submission of declaration, whereas they don't have required registration certificate in name of Samir Paul as owner/Editor/printer/Publisher."

**22.** In para 3 of the petition dated 26.09.2018 (Annexure - 12) it has been stated by the publisher that he had contacted the office of the RNI and it is expected that revised certificate will be issued soon "based on inquiry report submitted by your honour." The said petition was supported by an affidavit.

**23.** Again, the matter was taken up on 28.09.2018 as is evident from the order dated 28.09.2018 (Annexure-13 to the writ petition). It has been observed in the said order that no change has been made in the website of the RNI in respect of the proprietor, publisher, editor and printer of the said newspaper. Without such change, it has been alleged by the complainant, the said newspaper was being printed illegally and in complete violation of Section 8 of the PRB Act. It has been observed in the said order inter alia as under:

"It has become clear that printing press name, address and ownership of the newspaper has been changed six years ago and the then owner, publisher, printer & editor was Sri Gautam Das on behalf of Daily Desher Katha Society in place of Bharater Communist Party (Marxist). Also recorded at Judicial Section of this office, Sri Samir Paul filed declaration in the year of 2015 (30/03/2015) for changing of Editor/Printer/Publishers and similarly it's evident that about 3 years & more time spent but the owner of DD Katha has not paid attention or communicated to RNI." सत्यमेव जयते

**24.** It has been further observed that notwithstanding the order dated 24.06.2018, the publisher did not produce the revised certificate registration in the proceeding. Further time was provided for producing the revised certificate of registration and the certified copy



of each declaration of transfer of ownership and the next date was fixed on 01.10.2018.

**25.** The petitioners have relied on a communication of the DM under No. F.18(1)-DM/W/JDL/2015/1514 dated 01.07.2018 (Annexure-14 to the writ petition). The said communication was addressed to the publisher. The text of the said communication having considered highly relevant in the context of the controversy is reproduced below:

"Please refer to your letter vide no. RNI-1/2018 dated 25.06.2018 on the subject cited above, I would like to inform you that on receiving of proposal regarding authentication of Affidavit related to change of ownership and Editor, Publisher and Printer of Daily Desher Datha and immediately matter has been referred to S.P(W) and SDM, Sadar for causing enquiry on contention of the prayer.

During enquiry, SP(W) has reported on 21/05/2015 and DM, Sadar has enquired the same through his field machinery. Based on of the enquiry report of concerned RI and DCM on 22.04.2015 the SDM has sent proposal to the DM & Collector, West Tripura on 05.05.2015 for authentication of the same.

Accordingly, the than ADM & Collector, Sri Manoranjan Das has sent your applications with related papers along with enquiry reports of SP(DIB), West Tripura vide no. 579/SP/DIB/W/2015, dated 21.05.2015 and report of the Sub-Divisional Magistrate, Sadar vide no. 735/F.5(1)SDM/SDR/GL/09 dated 05.05.2015 for taking necessary action. After submission of the proposal it is a responsibility of RNI to issue Certificate of Registration of the said Newspaper U/S 6 of the Press and Registration of Books Act, 1867."

This court has noted with surprise that the said communication was made by the same DM to the publisher. Thereafter, the impugned orders, challenged in the writ petition, were passed.



**26.** The respondent No.1, the State of Tripura has filed a reply stating the factual aspects as already noted and stated that the respondent No. 4 did not issue any revised certificate of registration under rule 3(5) of the Registration of Newspaper (Central) Rules, 1956 *"presumably for deficiencies in declaration and non-submission of necessary documents. Without obtaining revised registration certificate for transfer of ownership from CPI(M) to Daily Desher Katha Society they continued to publish the name of owner Daily Desher Katha society till 01.10.2018, thus violating sub-section 1 of Section 2(5) of PRB Act, 1867."*

**27.** It has been further stated that appointment of the petitioner No.2 (Sri Samir Paul) as editor, printer and publisher was grossly illegal and the declaration that was submitted on the strength of such appointment is not tenable. It has been further stated that before the said change was registered by the Press Registrar (RNI), the proprietorship of the said newspaper was again transferred to the Daily Desher Katha Trust (the petitioner No.1) and a declaration was authenticated illegally from the respondent No.3 without disclosure of the relevant facts and 'exerting undue influence'. Based on the said authenticated declaration, a revised certificate was collected from the office of the Press Registrar.

**28.** The respondent No.1 has produced the certificate of registration by which Daily Desher Katha [Society] was registered as

the society on 31.03.2012, a declaration in the form of affidavit, submitted by the previous publisher, printer and editor on 18.07.2012, the original certificate of registration in the name of Daily Desher Katha, one declaration in the form of affidavit filed by the petitioner No. 2 on 30.03.2015 regarding the changes before the DM, letter of appointment of the petitioner No.2 dated 28.03.2015 as editor, printer and publisher w.e.f. 01.04.2015 issued on behalf of Daily Desher Katha [Society] and the declaration in the Form-I as made before the SDM, which was duly authenticated and later on cancelled, and various orders as already noted by this Court passed in the proceeding being case No. 01 of 2018 by the DM, West Tripura. All these documents are part of Annexure-R2.

**29.** It has been further contended after referring those documents that the petitioners were guilty of suppression of fact and the changes as made were not declared by the petitioners. Hence, according to the respondent No. 1, the impugned orders suffer from no vice. Even, the appointment of the petitioner No.2 as the publisher, printer and editor is not tenable in law [that was never questioned in the proceeding] and the declaration filed by the petitioner No.2 as such is of no value.

**30.** The respondent No.3, the SDM has filed a separate reply, most of the same is replica of the reply filed by the respondent No.1

but he has categorically disputed that the respondent No.2 had ever abused him for cancelling the authenticated declaration.

**31.** Respondents No.2 & 5 filed the reply raising a preliminary jurisprudential objection that in view of Section 8(C) of the PRB Act the writ petition is not maintainable. Hence, at the threshold the writ petition shall be dismissed. He has also narrated how the proceeding was initiated on the complaint of the respondent No.7 and he has stated that *"the said declaration dated 18.07.2012 along with a copy of the registration No. 6387/2012 in favour of the said changes was submitted by the office of the respondent No.2 but the said changes were not effected on the ground that no document of change of ownership from Communist Party of India (Marxist) Tripura State Committee to Daily Desher Katha (the society) was submitted and even copy of Memorandum of Association and that of Articles of Association (rules of society) were not submitted."*

**32.** It has been averred that Sri Gautam Das who made the declaration and claimed to be the Publisher under the new owner, namely, the registered society in the name of Daily Desher Katha did not only fail to submit any record of formation of the society and that of transfer of ownership from Communist Party of India (Marxist) to Daily Desher Katha as a registered society, but he also failed to produce any authority in writing, authorizing him to make such declaration as required under Section 5(2D) of the PRB Act. He has

also asserted that the respondent No.4 did not issue any revised certificate of registration under rule 3(v) of the Registration of Newspaper(Central) Rules, 1956 "presumably for deficiency in the declaration and non-submission of necessary documents. Without obtaining revised registration certificate from the RNI and without submission of declaration of ownership from CPI(M) to Daily Desher Katha Society they continued to publish the name of the owner Daily Desher Katha Society till 01.10.2018 violating sub-section 2E of Section 5 of the PRB Act, 1867". Clear it is that the DM sought to examine the proprietorship of the said newspaper.

**33.** It has been further asserted in the reply by the respondents No.2&5 (the same person) that the petitioner No.2 has in a *sub judice* matter concealed yet another major change i.e. taking over of the ownership by a trust [Daily Desher Katha Trust, the petitioner No.1] and illegally obtained a declaration from the respondent No.3 without disclosing the factual background and by way of concealment of facts and exerting undue influence and thereupon, did collect the revised certificate from New Delhi in course of a day. So, the authentication of declaration by the SDM was cancelled and consequently, the revised certificate was withdrawn by the impugned orders. He has also enclosed all the documents as enclosed by the respondents No.1 and 3. For sake of brevity, even the description of the documents is avoided.

**34.** Finally, the respondents No.2 & 5 have also stated that he has never abused the respondent No.3 for issuing the order cancelling the authentication. According to him, the authentication of declaration was not correct and as such, the cancellation of such incorrect declaration cannot give rise to a cause for approaching this Court.

**35.** The petitioners have filed the rejoinder to the reply filed by the respondent No.1 and they have stated that the said act is nothing short to throttle the freedom of speech and expression engrafted in Article 19(1)(a) of the Constitution of India. The reply filed by the respondent No.1 clearly demonstrates that the State through its agencies or functionaries has created "anarchism". It has been also asserted that the respondents No. 2&3 had concurrent jurisdiction and the respondent No.3 cannot be treated as a subordinate authority so far their powers under the PRB Act are concerned. The respondent No.2 had made a due inquiry under Section 6 of the PRB Act and then sent the matter to the RNI, New Delhi for recording necessary changes.

**36.** The Daily Desher Katha [Society] took up the matter with the RNI by their communication dated 25.06.2018 (Annexure-1 to the rejoinder). On 16.07.2018 RNI wrote back by their letter dated 16.07.2018 pointing out some deficiencies. On 31.08.2018 the Society re-conveyed the newspaper to the Communist Party of India (Marxist). On 01.09.2018 the Communist Party of India (Marxist), Tripura State

Committee constituted a trust and had transferred the ownership of the newspaper to the said trust, namely Daily Desher Katha Trust by a registered trust deed and changed the ownership of the newspaper to the petitioner No.1. When the matter was pending before the RNI, as is evident from Annexure-14 of the writ petition, the respondent No.5 at the instance of the complainant (respondent No.7) has assumed the jurisdiction under PRB Act to cancel the declaration authenticated by the petitioner No.2 made on 31.03.2015. All the orders in the proceeding being case No. 01/2018 passed by the respondent No.2 would demonstrate how unfairly the respondent No.2 has acted. The cancellation of the authenticated declaration is an act which infringes or strangulates the very soul of Article 19 of the Constitution of India. There was serious violation of principles of natural justice in order to pass order on the matters which were completely beyond the jurisdiction of the respondent No.2. The plea of alternative remedy in such circumstances where gross arbitrariness in the action has surfaced, couched with aberration by taking up matters for adjudication which were beyond the scope of PRB Act cannot be bar for invoking the jurisdiction of this Court under Article 226 of the Constitution.

**37.** In the rejoinder, the petitioners have categorically stated that when the matter was pending before the RNI for recording changes on the basis of recommendation made by the DM concerned, the taking of cognizance of the complaint filed by the respondent No.7

is itself an abuse of process of law. In the rejoinder, it has been admitted that the Dailly Desher Katha Trust has stepped in the ownership of Daily Desher Katha in place of the CPI(M), Tripura State Committee and accordingly the declaration along with the previous owner's declaration regarding the change of ownership had been submitted to the RNI. Being satisfied with the declaration, the SDM (the respondent No.3) authenticated the same on 01.10.2018 and the required change had been recorded by the RNI on 01.10.2018 itself. It has been categorically stated by the petitioners that *"the respondent No.2 did not issue any notice contemplated in Section 8B of the Act ibid. The respondent No.2 and 5 have been several unparliamentarily comments which need to answer to the context of issue raised in the petition and the same was sworn before Shri Jayanta Dey, SDM, Sadar. The Chairman of the petitioner No.1 made a declaration before Shri Jayanta Dey, SDM regarding the decision of continuation of the newspaper and acquiring ownership of newspaper on 1.9.2018. The petitioner No.1 has authorized the petitioner No.2 to make the declaration necessary for change of records."*

**38.** Later on, the declaration dated 01.10.2018, as stated before, had been cancelled by the SDM (the respondent No.3). According to the petitioners, for gross violation of the statutory provision, his aberrant exercise of jurisdiction and denial of natural justice vis-à-vis the breach of fundamental right as engrafted under



Article 19(1)(a) of the Constitution of India, the writ petition is maintainable.

**39.** Another rejoinder was filed on the reply of the respondent No.3 where it has been reiterated that the action was to throttle the freedom of speech and expression as enshrined in Article 19(1)(a) of the Constitution of India. Other plea as raised in the said rejoinder is similar to the rejoinder filed against the reply of the respondent No.1. But in this rejoinder it has been denied that authentication of the declaration was obtained from the respondent No.3 in an unauthorized way. It has been also denied that there was any violation of Section 5(2E) of the PRB Act inasmuch as with every change in respect of the ownership of the newspaper or change of the printing address, such declaration was made and processed. Therefore, the respondent No.2 had no jurisdiction to invoke the provisions of Section 8B of the PRB Act. Even the notice as issued does not reflect that the proceeding has been drawn under Section 8B of the PRB Act. The SDM authenticated the declaration on 01.10.2018 with all due care and as such the pleas of cancellation are absolutely untenable. Therefore, it has been contended by the petitioners that "*SDM has illegally cancelled the authentication of declaration being instructed and persuaded by the respondent No.5 who acted mala fide.*" The said fact is visible from the order of the respondent No.2 contained in Annexure-15 to the writ petition.

**40.** It has been asserted that issuance of the letter by the respondent No. 2 to the respondent No.3 was nothing but an abuse of process of law and hence is grossly illegal. Therefore, the process of cancellation of the authenticated declaration is perverse and cannot sustain the scrutiny of law.

**41.** Similar rejoinder has been filed against the reply of respondent No.2&5. For sake of brevity, those are not referred or reproduced. But in that rejoinder, it has been stated by the petitioners that the respondent No.2 & 5 cannot question the authority of the RNI and they cannot say anything without proper records why the necessary changes were not made after the petitioners and their predecessors had discharged their obligation by making the necessary declaration and on due authentication those were processed and recommended by the DM to the RNI. The RNI has neither rejected nor terminated such process, but it is apparent that no changes were made in the previous status, for which the petitioner cannot be blamed or held responsible.

**42.** It has been asserted in this rejoinder further as follows:

“The respondent No.3 does not appear to be clear about the language in section 5(2B) of the Act *ibid.* it does not speak about written application for authentication of declaration. In the case in hand, the erstwhile owner has submitted declaration for change of ownership for authentication which was duly authenticated. It is authenticated by the same SDM. Authorization from owner was also there and the same was produced before

the RNI on the basis of which revised certificate was issued.”

**43.** It has been categorically asserted that the respondent No.2 could not comprehend the provision of Section 5 (2B) of the PRB Act which deals with the declaration of printer or publisher, who is not owner, accompanied by an authority from the owner, but in the case in hand, such authority from the owner was submitted while submitting the declaration for authentication in respect of the change in ownership. The action of the respondents No.1, 2, 3 & 5 is driven by political motive to get the newspaper closed and such action is ex facie unconstitutional.

**44.** The respondent No.7, the complainant filed the reply and restated the allegation he made in the complaint, the content of which has been noted before. The respondent No.4, the Registrar of Newspapers for India [the RNI], by filing reply has stated that the said respondent is a statutory authority under the Act, designated to verify and register a title only on the recommendation of the District, Presidency or Sub-Divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published. The said respondent has stated that initially the title (Daily Desher Katha) was registered as Bengali daily in favour of the Tripura State Committee of the Communist party of India (Marxist) on 18.10.1979 in RNI No. 34238/79 on the recommendation of the Chief Judicial Magistrate, Agartala.

45. Thereafter, it has been stated as follows:

“.....

(iii) That, the petitioner No.2 submitted an application on 06.09.2018 and another application on 01.10.2018, requesting the answering respondent to change, inter alia, name of the owner of Daily Desher Katha by enclosing a set of enclosures/documents that include an affidavit for transfer of ownership dated 04.09.2018 and new declarations dated 04.09.2018 & 01.10.2018, all authenticated by Shri Jayanta Dey, the Sub-Divisional Magistrate, Sadar, West Tripura. Subsequently, upon the aforementioned documents, the process of revised registration of Daily Desher Katha was undertaken by the answering respondent, whereby the ownership was changed from Tripura State Committee, Communist Party of India (Marxist) to Daily Desher Katha Trust, and the revised certificate of registration was issued on 01.10.2018. On evening of the same day, the answering respondent received an email dated 01.10.2018 from the office of District Magistrate, Agartala, West Tripura along with an attachment of an order No.F.8(27)/SDM/SDE/JDL/08/1517 DATED 01.10.2018 from Sub-Divisional Magistrate, Sadar, West Tripura whereby the declaration (Form-1) dated 01.10.2018 filed by the petitioner No.2 was pronounced cancelled by the SDM. The answering respondent was further directed by the District Magistrate, vide judgement & order dated 01.10.2018 to cancel certificate of registration given on 01.10.2018, to the petitioner No.2 as Printer, Editor & Publisher as the declaration already stands cancelled as per the order issued by SDM, Sadar vide order No.F.8(27)/SDM/SDE/JDL/08/1517 dated 01.10.2018. Section 8(B) of the PRB Act, 1867 states “If, on an application made to him by the Press Registrar or any other person or otherwise, the Magistrate empowered to authenticate a declaration under this Act, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, the Magistrate may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar.” Further, as per Section 10(4) of the Registration of Newspapers (Central) Rules, 1956, the

Certificate of Registration of any publication will cease to be effective as the declaration under which the newspaper is published has become void owing to its cancellation by the District Magistrate. Thus, subsequent upon SDM's order No. No.F.8(27)/SDM/SDE/JDL/08/1517 dated 01.10.2018, revised certificate of registration issued in favour of Daily Desher Katha Trust thus was cancelled by the answering respondent. It is pertinent to mention that the registration of the Daily was not cancelled but only the revised certificate of registration issued on the basis of the declaration authenticated by the SDM, Sadar dated 01.10.2018 has been cancelled. Once the SDM cancelled such declaration, the status quo of the Daily, as it was prior to its revised registration on 01.10.2018, was maintained by the answering respondent. The action taken by the answering respondent was intimated to the petitioner No.2 vide letter No.RC23/01/2018-R3 dated 01.10.2018. Later on 10.10.2018, the certificate of registration dated 01.10.2018 was reinstated based on the stay order dated 10.10.2018 of this Hon'ble High Court."

**46.** The respondent No.4 has further asserted in the reply that once the SDM cancelled the said declaration dated 01.10.2018 *status quo* of the daily as it was prior to its revised registration on 01.10.2018 was maintained by the respondent No.4. Later on, on 10.10.2018 the certificate of registration dated 01.10.2018 was restored in compliance of the stay order dated 10.10.2018 as passed by this Court.

**47.** In respect of other controversies, the respondent No.4 did not elaborate their denial except what has been reproduced hereinbefore.

**48.** By filing a rejoinder against the reply filed by the respondent No.2, the petitioners have further stated that when there is no title dispute, the statutory authority must lean to the publication of the newspaper and cannot invalidate the certificate.

**49.** Mr. BR Bhattacharjee, learned senior counsel appearing for the petitioners has at the outset referred to the complaint dated 26.05.2018 (Annexure-5 to the writ petition) to demonstrate before this Court that the said complaint was prompted by political motive. From a bare reading of the said complaint dated 26.05.2018 it would be evident that the object behind filing of such complaint was to stop publication of the newspaper called Daily Desher Katha. In the complaint, the complainant has made his intention clear and obvious when he stated:

".....it is well known that this newspaper is being run by the CPI(M) party and it always publishes politically biased news. In the public interest it is always expected that any newspaper should have neutral and unbiased views and should bring the real problems of the society to the notice of the general public without twisting or distorting the facts.

Hence, you are kindly requested to take necessary action for immediate stoppage of the publication of this illegally run newspaper."

**50.** On the basis of the said complaint the proceeding being case No. 01 of 2018 under Section 8B of the PRB Act was drawn up. Even in the order dated 25.09.2018 (Annexure-11 to the writ petition)



the DM has recorded the submission of the learned counsel of the complainant focused "to close the publication immediately".

**51.** By rejecting the prayer for adjourning the proceeding for 15 days as made by the petitioners, the case was again posted on 28.09.2018. In the said order dated 28.09.2018 (Annexure-13 to the writ petition) it has been recorded that the counsel for the petitioners admitted that Sri Gautam Das on behalf of the Communist Party of India (Marxist) was the editor, printer and publisher and the owner of the newspaper was the Communist party of India (Marxist). Janashiksha Co-Operative Printing Works Private Ltd. was the declared printer of the newspaper. In the website of the RNI, the said description was shown till that date, i.e. 28.09.2018.

**52.** Thereafter, it has been noted that it has become clear that the ownership of the newspaper was changed six years ago. Even the printing press from which it used to be printed has been changed. The first change that has been made was the change in the ownership of the newspaper from the Communist party of India (Marxist) to Daily Desher Katha [Society]. From the records available in the office of the DM, [the judicial Section in particular], a declaration made by the petitioner No.2 on 30.03.2015 in respect of change of editor, printer and publisher was filed, but the petitioner did not address any communication to the RNI and they continued the publication, when there was no revision in the certificate of registration.



**53.** Mr. Bhattacharjee, learned senior counsel has submitted that notwithstanding the declaration as produced from the judicial section of the DM, the entire liability has been saddled with the petitioners. Mr. Bhattacharjee, learned senior counsel has further submitted that not a single publication of the newspaper was carried out without following rule 8 of the Registration of Newspaper (Central) Rules, 1956. Every edition of the said newspaper has been published with the print line showing legibly the names of the printer, publisher, owner and editor.

**54.** By the order dated 24.06.2018, the petitioners were asked to produce the revised certificate issued by the RNI for showing the name of the editor, printer and publisher and also the name of the printing press and the owner of the newspaper. When the complaint was filed the editor, printer and publisher of the newspaper was the petitioner No.2 and the owner was Daily Desher Katha Trust and the newspaper was being printed from the Tripura Printing and Publishing Pvt. Ltd., but in this regard, admittedly, there was no revised certificate of registration on 28.09.2018.

**55.** Mr. Bhattacharjee, learned senior counsel has categorically submitted that Section 3 of the PRB Act provides that every newspaper printed within India shall have printed legibly, on it the name of the printer, place of printing and if the paper is published, the name of the publisher and the place of publication. The petitioners

have never faulted in complying with the provision of Section 3 of the PRB Act. The violation that has been identified by the DM is that the petitioners have not complied with provisions of Section 5(1), Section 5(2D) and Section 5(2E) of the PRB Act.

**56.** Mr. Bhattacharjee, learned senior counsel has submitted quite assertively that Section 5(1) of the PRB Act provides that every copy of every newspaper shall contain the names of the owner and editor thereof, printed clearly on such copy and also the date of its publication. In this regard, there is no allegation in the complaint. What has been alleged in the complaint, according to Mr. Bhattacharjee, is that what is shown in the website of the RNI in respect of the newspaper's owner, editor, printer and publisher and also of the printing place and the place of publication were not tallying with the declaration that was being printed by the newspaper everyday.

**57.** There is allegation of contravening Section 5(2D) [see the reply filed by the respondent No.2] and Section 5(2E) of the PRB Act. Section 5(2D) provides that when the title of any newspaper or its language or the periodicity of its publication is changed, the previous declaration shall cease to have effect and 'a new declaration' shall be necessary before the publication of the newspaper can be continued. Having regard to the reply filed by the respondent No.2 in particular, Mr. Bhattacharjee, learned senior counsel has submitted that there

had been no change in the title of the newspaper or in its language, even not in the periodicity of its publication. Therefore, the allegation of contravening the provisions of Section 5(2D) of the PRB Act is absolutely without foundation.

**58.** Further, Mr. Bhattacharjee, learned senior counsel has submitted that when the ownership was changed, a new declaration was submitted and on due authentication, it was communicated through the DM, West Tripura to the Press Registrar. As there was change of editor, publisher and printer as well as the printing press, a new declaration following the provisions of Section 5(2B) and Section 5(3) of the PRB Act was filed and following the due process, the DM had authenticated such declaration and had sent to the Press Registrar (RNI) for appropriate action.

**59.** When again the name of the owner was changed, a declaration was filed to the SDM, Sadar and that was duly authenticated on 01.10.2018. On that day itself, a revised certificate of registration was issued by the Assistant Press Registrar. According to Mr. Bhattacharjee, learned senior counsel, the entire action suffers from political expediency at the behest of the party in power to silence the newspaper so that it cannot carry any criticism against the government. Mr. Bhattacharjee, learned senior counsel has submitted that when the declaration is made and authenticated but the revised certificate is not issued, the owner or the publisher of the newspaper

cannot be blamed at all. It was the responsibility of the Press Registrar to act or not to act upon the authenticated declaration as sent through the DM.

**60.** Finally, Mr. Bhattacharjee, learned senior counsel has submitted that by such machination and on the pretext of unfounded allegation of violating the provisions of Section 5(1), Section 5(2) & 5(3) of the PRB Act, the DM has passed the order dated 01.10.2018 cancelling the declaration submitted by the petitioner No. 2 on 30.03.2015 in the purported exercise of power conferred by Section 8(B) of the PRB Act, as it has been purportedly found that the said newspaper has been violating Section 5(1) and Section 5(2E) of the PRB Act. The DM has requested the Registrar of Newspapers of India (RNI) to take cognizance of the cancellation of the declaration and to cancel the certificate of registration in favour of Daily Desher Katha (the newspaper). It has been warned by the said order dated 01.10.2018 [issued by the DM] that violation of that order shall be treated seriously and in case of violation, the petitioners shall be liable for legal action and also the publication premises and printing press shall be forcibly locked and sealed so as to stop the publication in order to uphold the rule of law.

**61.** Mr. Bhattacharjee, learned senior counsel has submitted that from the tone and tenor, it is apparent that the purpose of the order dated 01.10.2018 was to stop the publication of the newspaper.

Such action contravenes the guarantee extended by Article 19(1)(g) of the Constitution of India. The entire machination has been exposed when the SDM was compelled to cancel the authenticated declaration which was issued on the very same date and a copy of which was sent to the DM to meet any legal requirement which was, later on, the basis for cancellation of the declaration by the said order dated 01.10.2018. In this regard, Mr. Bhattacharjee, learned senior counsel has contended that when the fundamental right of the petitioners was jeopardized, even no opportunity was provided to the petitioner No.2 to have his say before cancellation of the declaration by the order dated 01.10.2018. From the records, it transpires that there was no suppression in the declaration and in respect of the content of the declaration there had been no allegation. The newspaper which was being regularly published (1979) on the basis of the certificate of registration had been sought to be closed down by the said order dated 01.10.2018. Mr. Bhattacharjee, learned senior counsel has submitted that in such circumstances, despite the provisions of Section 8(C) of the PRB Act, the writ petition is maintainable in view of infringement of the fundamental right of freedom of speech and expression under Article 19(1)(a) and (g) of the Constitution of India.

**62.** Mr. Bhattacharjee, learned senior counsel has referred a decision of the Constitution Bench of the Apex Court in **Gopal Dass Sharma Vs. DM, Jammu & Anr.**, reported in **(1973) 1 SCC 159**. In the said report, an order of the District Magistrate, Jammu was

challenged which was passed under Section 8B(ii) of the PRB Act cancelling the declaration of the newspaper (the petitioner before the Apex Court). The petitioner on February, 9, 1971 made a declaration under Section 5 of the PRB Act giving the particulars of the newspaper, the title of the newspaper, the language in which it was to be published and also the periodicity of the publication. Thereafter, a second declaration was made on April 23, 1971. The second declaration was necessitated because of two changes, one was as regards the date of publication, it was shifted from Saturday to Tuesday. The District Magistrate under Section 6 of the PRB Act authenticated the declaration made by the petitioner. Such authentication is necessary before the newspaper is published. When the first issue of the petitioner's weekly newspaper was published on March 20, 1971 the petitioner was served with a notice on July 7, 1971 asking him to show cause as to why the declaration dated April 23, 1971 might not be cancelled inasmuch as the petitioner's title of the weekly newspaper 'Blitzkrieg' was similar to that of 'Blitz' published from Mumbai. The petitioner was asked to show cause by August 9, 1971. The petitioner came to know on July 15, 1971 that the said declaration had been cancelled by the order dated July 8, 1971.

**63.** The petitioner had challenged the validity of the said order of cancellation on the ground that such order is violative of the fundamental right to carry on any occupation, trade or business. The District Magistrate in his affidavit has brought a new story that in the

notice dated July 7, 1971 and in the notice dated August 8, 1971 there was a printing error and as such by the order dated November 8, 1971 the similar notice was withdrawn and a fresh show cause notice was served on the petitioner asking him to show cause by November 20, 1971 as to why his declaration shall not be cancelled. Thereafter, the Apex Court has observed as follows:

"12. The cancellation of the declaration is made under section 8B of the Act. The Magistrate is to give a notice to the person concerned. An opportunity is to be given to show cause against the action proposed. An enquiry is to be held. An opportunity is to be given to the person concerned to be heard. If the Magistrate is thereafter satisfied that (a) the newspaper is published in contravention of the provisions of the Act or rules made thereunder, or (b) the newspaper mentioned in the declaration bears a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State, or (c) the printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration, or (d) the declaration was made on false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper, the Magistrate may, by order, cancel the declaration.

13. In the present case the respondents justify the cancellation on the ground that the title of Blitzkrieg is the same as that of Blitz. In the affidavit the District Magistrate stated that the title of Blitzkrieg "had been inadvertently cleared in favour of" the petitioner. That is not a ground for cancellation of declaration. The petitioner gave the title Blitzkrieg as the first in order of preference. 11 titles were given. The Magistrate authenticated the petitioner's declaration in respect of the title Blitzkrieg. The newspaper Blitz cannot be said to be either a recent publication or to be unknown. The petitioner contended that Blitz and Blitzkrieg were different titles. So they are.

14. The cancellation was wrongful. It was hasty. No opportunity was given to the petitioner. The explanation



of a typing error with regard to the date indicates the unseemly haste with which the District Magistrate took action against the petitioner.”

**64.** In the case of **Gopal Dass Sharma** (supra), the objection as raised by the respondents was that the petitioner had a right of appeal under Section 8C of the PRB Act. It is also stated that no fundamental right of the petitioner was infringed. The Apex Court did not subscribe to the said jurisprudential objection as to the maintainability of the writ petition and observed unambiguously as follows:

“The petitioner’s fundamental right to carry on the occupation of editor of newspaper as well as business of publishing a newspaper is infringed by the illegal act”.

**65.** Having observed thus, the order of the District Magistrate cancelling the petitioner’s declaration was quashed. Even the subsequent notice asking to show cause was quashed by the Apex Court.

**66.** Mr. AK Bhowmik, learned Advocate General being assisted by Mr. D Bhattacharjee, learned GA has made elaborate submission in defence of the orders dated 01.10.2018 passed by the DM, West Tripura and the SDM, Agartala.

**67.** Mr. Bhowmik, learned Advocate General has referred to the basic facts relevant in the context that Daily Desher Katha (the newspaper) got the RNI certificate of registration on 29.04.1980 and

as per the declaration, the said newspaper was owned by the Communist Party of India (Marxist), Tripura State Committee. At that time, the editor, printer and publisher was Sri Gautam Das. On the basis of the certificate of registration under No. 34238/1979 issued on 29.04.1980 the newspaper commenced its publication. Thereafter, on 18.07.2012 a declaration in Form-I was filed by Sri Goutam Das in respect of change of the printing press. The ownership was changed to Daily Desher Katha (the society) and the new printing press was Tripura Printers and Publishers Private Limited, Melarmath, Agartala.

**68.** According to Mr. Bhowmik, learned Advocate General, the said declaration dated 18.07.2012 along with a copy of the certificate of registration No. 6387/2012 in respect of the said change was submitted to the office of the DM, West Tripura. However, the said changes were not effected as the petitioners failed to submit any documents in respect of change in the ownership from the Communist Party of India (Marxist), Tripura State Committee to Daily Desher Katha (the Society) or copy of the Memorandum of Association or that of the Articles of Association (Rules of the society).

**69.** The declarant (Sri Gautam Das) according to Mr. Bhowmik, learned Advocate General had not only failed to produce any records of formation of society and that of transfer of ownership but had failed to produce any authority in writing authorizing him to make such declaration as required under Section 2D of the PRB Act, 1867.

**70.** Mr. Bhowmik, learned Advocate General has thereafter contended that *"probably for deficiency in the declaration and non submission of the necessary documents, the revised certificate of registration under Rule 3(v) of the Registration of Newspapers (Central) Rules, 1956 was not issued by the respondent No.4"*. Without obtaining the revised certificate of registration from the RNI and without submission of the declaration for transfer of the ownership, the newspaper continued its publication till 01.10.2018 in violation of sub-section 2E of Section 5 of the PRB Act.

**71.** According to Mr. Bhowmik, learned Advocate General, Sri Gautam Das had, without any competence, purportedly appointed the petitioner No.2 as editor, printer and publisher and there is no dispute that on such basis the petitioner No.2 submitted the declaration on 31.03.2015. Even the appointment of the petitioner No.2 as editor, printer and publisher of Daily Desher Katha has been called in question. Mr. Bhowmik, learned Advocate General has contended that the petitioner No.2 was not authorized by the owner to make such declaration.

**72.** In the written brief of submissions, filed before this Court by the respondents, except the respondents No.4 and 7, it has been noted that *"it is pertinent to mention here that such claim of editor, printer and publisher without any documents from the owner was of no effect but the newspaper was published continuously from 28.08.2015"*

*showing the petitioner No.2 as editor, printer and publisher illegally. The petitioners were given several opportunities to produce the revised registration certificate but the petitioner No.2 instead of submitting the revised registration certificate had done another major change in a sub judice matter by way of replacing the ownership to a trust, namely, Daily Desher Katha Trust and illegally obtained a declaration from the SDM, Sadar without disclosing the factual backgrounds and by way of concealment of facts and undue influence obtained the authentication of declaration by SDM, Sadar and also collected the revised certificate from RNI most unusually in the course of the day".*

**73.** The petitioners had continuously published the newspapers for several years in violation of the provision of the PRB Act and concealed the fact relating to transfer of ownership on two occasions and even changed the ownership by forming a trust while the matter was *sub judice* before the respondent No.2, i.e. the DM, West Tripura and subsequently, illegally obtained authentication of a purported declaration from the SDM, Sadar by suppressing the real facts. Thus, the petitioners are guilty of suppressing the facts and thus, they violated the provisions of PRB Act and the rules made thereunder. That apart, they illegally continued to publish the newspaper and for such conduct, they are not entitled to any equitable relief.

**74.** The declaration made by the petitioner No.2 in Form-I before the SDM, Sadar on 01.10.2018 is a declaration which appeared to be under Section 5 of the PRB Act. The respondent No.2, i.e. the DM, West Tripura had asked the petitioner to produce the valid declaration in writing from the owner authorizing the petitioner No.2 to make such declaration as required under Section 5(2E) of the PRB Act, 1867, but the petitioner failed to do so.

**75.** Mr. Bhowmik, learned Advocate General has pointed out that no change in the certificate of registration of RNI was made and in the official website of the TNI it continued to show the earlier details of the newspaper. Thereafter, he has succinctly submitted before this Court that the ownership was transferred to Daily Desher Katha [Society] from the Communist party of India (Marxist) and subsequently it was transferred to the said trust, but in absence of any valid instrument of transfer, the ownership cannot be established. The petitioners failed to produce the valid documents on 01.10.2018. On verification, the SDM, Sadar found that the newspaper bears the same name, title and language as used by the Daily Desher Katha which belonged to Communist Party of India (Marxist), Tripura State Committee. The declaration made by the petitioner No.2 in Form-I before the SDM, Sadar on 01.10.2018 is the declaration under Section 5 of the PRB Act and it was made by suppressing the fact. It is admitted by the petitioner that such newspaper, Daily Desher Katha, belonged to the Communist party of India (Marxist), Tripura State

Committee and no document of transfer was placed at the relevant time.

**76.** It has been contended that no valid document of transfer could be produced by the petitioner No.2 despite the time provided for the said purpose. On the query of the court, however, Mr. Bhowmik, learned Advocate General could not show that such requisition was made by the DM at any point of time. According to him, the respondent No.3 had no power to consider the matter of authentication, in view of pendency of the proceeding under Section 8B of the PRB Act. However, he had rightly cancelled the authentication.

**77.** It has been rightly pointed out by Mr. Bhowmik, learned Advocate General that from the newspapers published on 28.08.2015 and 31.07.2016 as produced in the proceeding before the DM, it would be apparent that the owner of the newspaper on those dates was CPI(M), Tripura State Committee, but the newspaper published on 28.10.2017, the name of the owner was printed as Daily Desher Katha [Society].

**78.** In the written submission it has been asserted as follows:

"It is pertinent to mention here that the petitioner No.2 had submitted a registered trust deed in the name of Daily Desher Katha which was executed on 01.09.2018 i.e. after institution of the case No. 01/2018 before the District Magistrate, West Tripura."

**79.** It has also been admitted by Mr. Bhowmik, learned Advocate General that on 01.10.2018 the petitioners produced a scanned copy of the revised certificate of registration dated 01.10.2018 and the declaration in Form-I as authenticated by the SDM, Sadar. In view of the discrepancies, as noted, in respect of the declaration, the DM, West Tripura came to the inference that a serious contravention of the provisions of Section. 5(1), Section 5(2D) and Section 5(2E) has been committed by the petitioners.

**80.** Not only that, as stated by Mr. Bhowmik, learned Advocate General, there was gross violation of Section 3 of the PRB Act, 1867. Even after receiving the notice from the office of the DM in respect of the said complaint, the newspaper continued its publication by suppressing the actual state of affairs and deceitfully obtained a fresh declaration by keeping the SDM in dark and even without informing the SDM about the pendency of the complaint proceeding before the DM and in this background, the SDM had rightly cancelled the declaration. Consequent upon such cancellation of the declaration by the SDM, the DM has passed the impugned order.

**81.** According to Mr. Bhowmik, learned Advocate General, the said order is appealable under Section 8C of the PRB Act. Without availing the said efficacious alternative remedy the petitioners have approached this court indulging in the abuse of the process and as such the writ petition merits dismissal at the threshold.



**82.** Mr. Bhowmik, learned Advocate General has relied on a decision of the Apex Court on the question of maintainability of the writ petition when there is existence of alternative and efficacious remedy, in ***Commissioner of Income Tax and Others Vs. Chhabil Dass Agarwal*** reported in **(2014) 1 SCC 603** where it has been enunciated as under:

10. In the instant case, the only question which arises for our consideration and decision is whether the High Court was justified in interfering with the order passed by the assessing authority under Section 148 of the Act in exercise of its jurisdiction under Article 226 when an equally efficacious alternate remedy was available to the assessee under the Act.

11. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under Article 226. (See: State of U.P. vs. Mohammad Nooh, AIR 1958 SC 86; Titaghur Paper Mills Co. Ltd. vs. State of Orissa, (1983) 2 SCC 433; Harbanslal Sahnia vs. Indian Oil Corpn. Ltd., (2003) 2 SCC 107; and State of H.P. vs. Gujarat Ambuja Cement Ltd., (2005) 6 SCC 499).

12. The Constitution Benches of this Court in K.S. Rashid and Son vs. Income Tax Investigation Commission, AIR 1954 SC 207; Sangram Singh vs. Election Tribunal, AIR 1955 SC 425; Union of India vs. T.R. Varma, AIR 1957 SC

882; State of U.P. vs. Mohd. Nooh, AIR 1958 SC 86 and K.S. Venkataraman and Co. (P) Ltd. vs. State of Madras, AIR 1966 SC 1089 have held that though Article 226 confers very wide powers in the matter of issuing writs on the High Court, the remedy of writ is absolutely discretionary in character. If the High Court is satisfied that the aggrieved party can have an adequate or suitable relief elsewhere, it can refuse to exercise its jurisdiction. The Court, in extraordinary circumstances, may exercise the power if it comes to the conclusion that there has been a breach of the principles of natural justice or the procedure required for decision has not been adopted.

[See: N.T. Veluswami Thevar vs. G. Raja Nainar, AIR 1959 SC 422; Municipal Council, Khurai vs. Kamal Kumar, (1965) 2 SCR 653; Siliguri Municipality vs. Amalendu Das, (1984) 2 SCC 436; S.T. Muthusami vs. K. Natarajan, (1988) 1 SCC 572; Rajasthan SRTC vs. Krishna Kant, (1995) 5 SCC 75; Kerala SEB vs. Kurien E. Kalathil, (2000) 6 SCC 293; A. Venkatasubbiah Naidu vs. S. Chellappan, (2000) 7 SCC 695; L.L. Sudhakar Reddy vs. State of A.P., (2001) 6 SCC 634; Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha vs. State of Maharashtra, (2001) 8 SCC 509; Pratap Singh vs. State of Haryana, (2002) 7 SCC 484 and GKN Driveshafts (India) Ltd. vs. ITO, (2003) 1 SCC 72].

13. In Nivedita Sharma vs. Cellular Operators Assn. of India, (2011) 14 SCC 337, this Court has held that where hierarchy of appeals is provided by the statute, the party must exhaust the statutory remedies before resorting to writ jurisdiction for relief and observed as follows:

"12. In Thansingh Nathmal v. Supdt. of Taxes, AIR 1964 SC 1419 this Court adverted to the rule of self-imposed restraint that the writ petition will not be entertained if an effective remedy is available to the aggrieved person and observed: (AIR p. 1423, para 7).

"7. ... The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the

manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up."

13. In *Titaghur Paper Mills Co. Ltd. v. State of Orissa*, (1983) 2 SCC 433 this Court observed: (SCC pp. 440-41, para 11) "11. ... It is now well recognised that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by that statute only must be availed of. This rule was stated with great clarity by Willes, J. in *Wolverhampton New Waterworks Co. v. Hawkesford*, 141 ER 486 in the following passage: (ER p. 495) '... There are three classes of cases in which a liability may be established founded upon a statute. ... But there is a third class viz. where a liability not existing at common law is created by a statute which at the same time gives a special and particular remedy for enforcing it. ... The remedy provided by the statute must be followed, and it is not competent to the party to pursue the course applicable to cases of the second class. The form given by the statute must be adopted and adhered to.' The rule laid down in this passage was approved by the House of Lords in *Neville v. London Express Newspapers Ltd.*, 1919 AC 368 and has been reaffirmed by the Privy Council in *Attorney General of Trinidad and Tobago v. Gordon Grant and Co. Ltd.*, 1935 AC 532 (PC) and *Secy. of State v. Mask and Co.*, AIR 1940 PC 105. It has also been held to be equally applicable to enforcement of rights, and has been followed by this Court throughout. The High Court was therefore justified in dismissing the writ petitions in limine."

14. In *Mafatlal Industries Ltd. v. Union of India*, (1997) 5 SCC 536 B.P. Jeevan Reddy, J. (speaking for the majority of the larger Bench) observed: (SCC p. 607, para 77) "77. ... So far as the jurisdiction of the High Court under Article 226—or for that matter, the jurisdiction of this Court under Article 32—is concerned, it is obvious that the provisions of the Act cannot bar and curtail these remedies. It is, however, equally obvious that while exercising the power under Article 226/Article 32, the Court would certainly take note of the legislative intent manifested in the provisions of the Act and would exercise

their jurisdiction consistent with the provisions of the enactment.””

(See: G. Veerappa Pillai v. Raman & Raman Ltd., AIR 1952 SC 192; CCE v. Dunlop India Ltd., (1985) 1 SCC 260; Ramendra Kishore Biswas v. State of Tripura, (1999) 1 SCC 472; Shivgonda Anna Patil v. State of Maharashtra, (1999) 3 SCC 5; C.A. Abraham v. ITO, (1961) 2 SCR 765; Titaghar Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433; Excise & Taxation Officer – cum-Assessing Authority v. Gopi Nath and Sons, 1992 Supp (2) SCC 312; Whirlpool Corpn. v. Registrar of Trade Marks, (1998) 8 SCC 1; Tin Plate Co. of India Ltd. v. State of Bihar, (1998) 8 SCC 272; Sheela Devi v. Jaspal Singh, (1999) 1 SCC 209 and Punjab National Bank v. O.C. Krishnan, (2001) 6 SCC 569).

14. In Union of India vs. Guwahati Carbon Ltd., (2012) 11 SCC 651, this Court has reiterated the aforesaid principle and observed:

“8. Before we discuss the correctness of the impugned order, we intend to remind ourselves the observations made by this Court in Munshi Ram v. Municipal Committee, Chheharta, (1979) 3 SCC 83. In the said decision, this Court was pleased to observe that: (SCC p. 88, para 23).

“23. ... when a revenue statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all the other forums and modes of seeking [remedy] are excluded.””

15. Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under

which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

16. In the instant case, the Act provides complete machinery for the assessment/re-assessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals). The remedy under the statute, however, must be effective and not a mere formality with no substantial relief. In *Ram and Shyam Co. vs. State of Haryana*, (1985) 3 SCC 267 this Court has noticed that if an appeal is from "Caesar to Caesar's wife" the existence of alternative remedy would be a mirage and an exercise in futility.

17. In the instant case, neither has the writ petitioner-assessee described the available alternate remedy under the Act as ineffectual and non-efficacious while invoking the writ jurisdiction of the High Court nor has the High Court ascribed cogent and satisfactory reasons to have exercised its jurisdiction in the facts of the instant case. In the light of the same, we are of the considered opinion that the Writ Court ought not to have entertained the Writ Petition filed by the Assessee, wherein he has only questioned the correctness or otherwise of the notices issued under Section 148 of the Act, the re-assessment orders passed and the consequential demand notices issued thereon."

**83.** In *Chhabil Dass Agarwal* (supra) the Apex Court has held that where hierarchy of appeals is provided by the statute, the party must exhaust the statutory remedies before resorting to the writ jurisdiction.



**84.** In **Mafatlal Industries** (supra) the Apex Court, per majority, has observed, and which according to this Court lays the law more substantively, that so far the jurisdiction of High Court under Article 226 of the Constitution of India – or for that matter the jurisdiction of the apex court under Article 32 is concerned, it is obvious that the provisions of the Act cannot bar and curtail the remedies. It is, however, equally obvious that while exercising the power under Article 226/Article 32, the courts would certainly take note of the legislative intent manifested in the provisions of the Act and would exercise their jurisdiction consistent to the provision of the enactment.

**85.** In **Guwahati Carbon Ltd.** (supra) it has been also noted that where the statutory authority has not acted in accordance with the provisions of the enactment in question or in defiance of the fundamental principles of judicial process, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in **Thansingh Nathmal** case, **Titagurh Paper Mills** case and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken

upon itself contains a mechanism for redressal of grievance, the bar may not apply. The said proposition still holds good.

**86.** What has been stated by Mr. AK Bhowmik, learned Advocate General is that in the statute, i.e. the PRB Act, the existence of alternative remedy of appeal has been provided and it cannot be held that such remedy is not efficacious.

**87.** Having regard to the rival pleas as raised in the course of the submissions, the following questions appear pertinent for purpose of appreciating the challenge:

**(i) Whether for existence of Section 8C of the PRB Act, which provides to an aggrieved person who has been refused authentication of the declaration under Section 6 or cancellation of the declaration under Section 8B, scope of appeal to the appellate board, to be called the Press and Registration Appellate Board, the writ petition is not maintainable?**

**(ii) Whether, the District Magistrate, West Tripura, Agartala while passing the impugned order dated 01.10.2018 has exceeded his competence?**

**(iii) Whether the District Magistrate has taken extraneous materials not relevant for his consideration, into consideration while passing the impugned order?**

**(iv) Whether authentication of the fresh declaration made for change of the ownership can be refused on the ground that a proceeding was pending in respect of the declaration made in the newspaper?**

**(v) Whether the Sub-Divisional Magistrate, Sadar did act in accordance with the law while he had accused the petitioners of suppression of material facts in respect of 'sub judice' or acting illegally in obtaining the authentication?**

**(vi) Whether by ignoring the content of the communication dated 01.07.2018, the District Magistrate,**



**West Tripura has acted unreasonably inasmuch as it shows that the petitioners took steps for revised certificate of registration for change of ownership, editor, publisher and printer of the newspaper (Daily Desher Katha), which was duly inquired into and thereafter with all inquiry reports as referred thereto, the Additional District Magistrate and Collector sent it to the RNI for issuance of the certificate of registration of the said newspaper under Section 6 of the PRB Act?**

**88.** There cannot be any amount of controversy that the declaration is made by the publisher, printer or editor of a newspaper in order to implement the object of the PRB Act. The said object is delineated in Section 3 of the PRB Act, which lays down that every book or paper printed within [India] shall have printed legibly on it, the name of the printer and the place of printing and if the book or paper be published, the name of the publisher and the place of publication.

**89.** In *Queen Empress vs Hari Shenoy*, reported in *ILR 16 Mad 443*, in order to give a response to a question where a newspaper bearing the words 'printed and published' in a certain place for the certain company at the said company's press would satisfy the requirement contained in Section 3 of the PRB Act, as long ago as in 1983, it was held that the requirement was satisfied, by stating as follows:

"It appears to me that Section 3 is intended to inform the public who are the responsible printers and publishers of newspapers, and if the plain words of the section are to be departed from, the printers and publishers of newspapers might, under as assumed name or by using the name of an unregistered company, effectually prevent

their identity from being established, and that was the evil the section is intended to prevent.”

**90.** In respect of the said opinion, per Collins C.J., Muthuswamy Ayyar, J., has analyzed the purport of the said provision more meaningfully and in the following terms:

“It is urged that the object was to provide to the public facilities towards the discovery of the responsible printer and that any person might easily discover who the printer was on reference to the Economic Society. The intention was not simply to provide some facility or other, but to provide a specific facility on the face of the paper. It is possible that a person may not be able without considerable inconvenience to discover who the members of the Economic Society are, and that some member may refuse to give or evade giving information regarding the responsible printer.”

**91.** The similar view was taken by the Punjab Chief Court in **Emperor Vs. Bhawani Das, 2 Ind Cas. 978** where on interpreting Section 3 *ibid*, it has been curtly observed as follows:

“The object of the rule obviously is that the paper should clearly intimate who is liable as printer and who is liable as publisher.”

**92.** In this regard a reference may also be made to Section 12 of the PRB Act. The said Section is engrafted for penalty for printing contrary to the rule in Section 3. Section 12 in Chapter IV of the PRB Act, provides that whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in Section 3 of the Act, shall on conviction

before a Magistrate be punished by fine not exceeding Rs. 200/- or by simple imprisonment for a term not exceeding six months or by both. It is needless to say when there shall be question of conviction, the enquiry shall be made not by the District Magistrate but by the Judicial Magistrate of the competent jurisdiction. [**See Aradhya Vs. State of Karnataka, 2005 (1) Kar. LJ 391**].

**93.** In **Raghubar Singh vs Emperor, AIR 1931 Oudh 31**, the object and scope of Section 3 & 4 was dwelled upon to hold that the executive authorities shall not, where the press is situated and the second is that they shall know who the person in charge is. A removal of the premises clearly deprives the executive authorities of their knowledge as to the location of the press but the same cannot be said where there is a change in the personnel of the keeper of the press.

**94.** In **Bawa Narain Singh Vs. Empress** reported in **9 Pun Re Cr 1889** it has been held by the Punjab Chief Court that the PRB Act does not require a new declaration in cases where a press, as to which the printer has made a declaration prescribed by Section 4, is changed to another locality within the same local jurisdiction as the former place. There is no clause in Section 4 of the said Act corresponding to the provisions of Section 5 requiring a new declaration as often as a change of place takes place. The further object of this Section

seems to be that members of the public who might be slanderously or defamatorily attacked can always resort to the civil courts for their remedies against the publication of such slanderous and defamatory matter.

**95.** The purpose therefore is obvious. So that the printer and publishers are not able to shroud themselves in a cloak of anonymity and carry on their nefarious cloak and dagger business without any possibility of their being successfully discovered. That is exactly what has been enunciated in ***Hari Shenoy*** (supra).

**96.** Even in ***Queen Empress vs. Banka Patni, ILR 23 Cal. 414*** it has been observed that the intention of Section 3 requiring that the name of the printer and the place of printing and the name of publisher and the place of publication should be printed on every book or paper was to inform the public who is the responsible printer or publisher was and to convey that information on the face of the paper. The word 'publisher' has been used in the Act in a restrictive sense.

**97.** The noted commentator G.K. Roy in his commentary on PRB Act has observed by bringing the constitutional perspective in understanding the provisions of the PRB Act. G.K. Roy has observed:

“The provisions of the PRB Act have to be viewed against the background of freedom of speech and expression guaranteed in Article 19(1)(a) of the Constitution of India.

Article 19(1)(a) guarantees freedom of speech and expression. The word ‘speech’ means a formal discourse in public while the word ‘expression’ represents generally an utterance of one’s thoughts or feelings, whether by word of mouth, writing, printing, picture or in any other manner. Freedom of expression includes not only the freedom of Press, but the expression of one’s ideas by any visible representation, such as by gestures and the like. Freedom of speech obviously includes freedom of discussion and has been interpreted to include all that may be said to be covered by freedom of expression”.

**98.** Section 3 of the PRB Act saddles the printer, publisher and the editor with the responsibility or to own the responsibility whatever they published or printed. No other purpose can be explored or attached to the object of Section 3 to the PRB Act.

**99.** Sections 4, 5, 6 & 7 are the procedures for such declaration, authentication and preservation of the newspaper with such declaration. As a preface to the further discussion, it would be absolutely necessary to refer to those provisions.

**100.** Section 4 saddles the printer to make the declaration. It provides that, no person shall within [India] keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the District, Presidency or Sub-Divisional Magistrate within whose local jurisdiction such press may be. Sub-section (2) of Section 4 in particular has its ramification in

the present controversy inasmuch as it provides that as often as the place where a press is kept is changed, a new declaration shall be necessary, provided that, where the change is for a period not exceeding 60 days and the place where the press is kept is within the local jurisdiction of the Magistrate referred to under sub-section (1), no new declaration shall be necessary if a statement relating to change is furnished to the said Magistrate within 24 hours thereof and if the keeper of the press continues to be the same.

**101.** Section 5 of the PRB Act provides the rules of publication of the newspaper. Section 5(1), in particular, provides that without prejudice to the provisions of section 3, every copy of every such newspaper shall contain the names of the owner and editor thereof printed clearly on such copy and also the date of its publication. Section 5(2) provides that the printer and the publisher of every such newspaper shall appear in person or by agent authorized in this behalf in accordance with rules made under Section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe in duplicate the declaration as provided in the form.

**102.** Every declaration as provided by Section 5(2A) shall specify the title of the newspaper, the language in which it is to

be published and the periodicity of its publication and shall contain such other particulars as may be prescribed. Section 5(2B) further provides that where the printer or publisher of a newspaper making a declaration is not the owner thereof, the declaration shall specify the name of the owner and shall also be accompanied by an authority in writing from the owner authorizing such person to make and subscribe such declaration. Section 5(2C) provides that a declaration in respect of a newspaper so made be authenticated under Section 6 before the newspaper can be published.

**103.** Section 5(2D) provides that where the title of any newspaper or its language or the periodicity of its publication is changed, the declaration shall cease to have effect and a new declaration shall be necessary before the publication of the newspaper can be continued. Section 5(2E) provides that as often as the ownership of a newspaper is changed, a new declaration shall be necessary.

**104.** Section 5(3) of the PRB Act provides that as often as the place of printing or publication is changed, a new declaration shall be necessary, provided that where the change is for a period not exceeding thirty days and the place of printing or publication after the change is within the local



jurisdiction of the Magistrate referred to in sub-section (2), no new declaration shall be necessary if, -

- (a) a statement relating to the change is furnished to the said Magistrate within twenty-four hours thereof; and
- (b) the printer or publisher or the printer and publisher of the newspaper continues to be the same.

Other provisions under Section 5 are not relevant for the present controversy and as such, those are not referred.

**105.** As stated, Section 6 provides for authentication of declaration. It provides that each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made, provided that where any declaration is made and subscribed under Section 5 in respect of a newspaper, the declaration shall not, save in the case of newspapers owned by the same persons, be so authenticated unless the Magistrate is, on inquiry from the Press Registrar, satisfied that the newspaper proposed to be published does not bear a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State.

**106.** Section 7 of the PRB Act provides that in any legal proceeding whatever, civil or criminal, the production of a copy

of such declaration as is aforesaid, attested by the seal of some court empowered by the PRB Act to have the custody of such declarations, or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor, shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, or printed on such newspaper, as the case may be that the said person was printer or publisher, or printer and publisher of every portion of every newspaper whereof the title shall correspond with the title of the newspaper mentioned in the declaration of the editor or every portion of that issue of the newspaper of which a copy is produced.

**107.** Section 7, if read with Section 3 of the PRB Act, would make it further clear the object of making such declaration. There is no controversy as such. Even the petitioners have not raised any plea that they are exempted from making any declaration even if there is a change of printer, publisher and editor or the owner of the newspaper or the printing press from which the newspaper is published.

**108.** Section 8 of the PRB Act is relevant for our present purpose. It provides that any person has subscribed to any declaration in respect of a newspaper under Section 5 and the declaration has been authenticated by a Magistrate under

Section 6 and subsequently that person ceases to be the printer or publisher of the newspaper mentioned in such declaration, he shall appear before any district, presidency or sub-divisional magistrate and make and subscribe in duplicate the declaration in the prescribed form.

**109.** Section 8A provides that if any person, whose name has appeared as editor on a copy of newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or sub-divisional magistrate and make a declaration that his name was incorrectly published in that issue as the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given, the provisions of section 7 shall not apply to that person in respect to that issue of the newspaper.

**110.** We are not concerned with the provisions of Section 8 and Section 8A of the PRB Act so far the present controversy is concerned. We are confronted with a controversy relating to the operation of Section 8B of the PRB Act which provides as under:

"8B. Cancellation of declaration:

If, on an application made to him by the Press Registrar or any other person or otherwise, the Magistrate empowered to authenticate a declaration under this Act, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, after giving the person concerned an opportunity of showing cause against the action propose to be taken, hold an inquiry into the matter and if, after considering the cause, if any, shown by such person and after giving him an opportunity of being heard, he is satisfied that –

(i) The newspaper, in respect of which the declaration has been made is being published in contravention of the provisions of this Act or rules made thereunder; or

(ii) The newspaper mentioned in the declaration bears a title which is the same as, or similar or, that of any other newspaper published either in the same language or in the same State; or

(iii) The printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration; or

(iv) The declaration was made on false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper;

the Magistrate may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar."

**111.** We have also referred that by Section 8C of the PRB Act, the scope of appeal by the aggrieved person has been created to the Press Registration Appellate Board within a period of 60 days from the date on which such order is communicated.

**112.** Within this arrangement of legal provisions and the perspective of the law, we would proceed to address the controversy. Before that, it would be further apposite to refer to the order dated 10.10.2018 when after hearing the counsel appearing for the respective parties, this Court had passed the following interim order:

“In the meanwhile, the future effect and operation of the order of the District Magistrate, West Tripura dt.01.10.2018 followed with the order passed by the Sub-Divisional Magistrate, Sadar dt.01.10.2018 are hereby stayed. However, the respondents will be at liberty to file application for vacation/modification of the interim order after filing of the counter affidavit.”

The said interim order was in force till hearing of this petition.

**(i) Whether for existence of Section 8C of the PRB Act, which provides to an aggrieved person who has been refused authentication of the declaration under Section 6 or cancellation of the declaration under Section 8B, scope of appeal to the appellate board, to be called the Press and Registration Appellate Board, the writ petition is not maintainable?**

**113.** This court has already taken note of the two decisions, one referred by the petitioner and the other by the respondents. In **Gopal Dass Sharma** (supra), which is a post independence decision, the Apex Court in the perspective facts held on the face of the objection that the petitioner had a right to appeal under Section 8C of the Act, as the fundamental right of the petitioner was infringed by the cancellation, the Apex

Court has held that the petitioner's fundamental right to carry on the occupation of editor of newspaper as well as business of publishing a newspaper was infringed by the illegal act. As consequence, the order of the District Magistrate cancelling the petitioner's declaration was quashed.

**114.** In para 12 of **Gopal Dass Sharma** (supra), it has been observed by the Apex Court that the cancellation of the declaration is made under Section 8B of the Act. The designated Magistrate has to give notice to the person concerned. An opportunity has to be given to show cause against the action as proposed and inquiry has to be held. An opportunity is to be given to the person concerned of being heard. If the Magistrate is thereafter satisfied that (a) the newspaper is published in contravention of the provisions of the Act or rules made thereunder, or (b) the newspaper mentioned in the declaration bears a title which is the same as or similar to that of other newspaper published either in the same language or in the same state, or (c) the printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration, or (d) the declaration was made on false representation or concealment of any material fact in respect of a periodical work which is not a newspaper, the Magistrate may by order cancel the declaration.

**115.** To be precise as regards the position of law as enunciated in **Gopal Dass Sharma** (supra) there is no dispute. But the question which is paramount is that, whether the newspaper is published in contravention of the provisions of the Act or rules made thereunder, or the printer or publisher has ceased to be printer or publisher of the newspaper mentioned in the declaration or the declaration was made on false representation or on the concealment of any material fact. In the present case, the allegation that was projected in the complaint dated 26.05.2018 is that there was serious discrepancy in the name of editor, printer and publisher as shown in the website of the RNI and the declaration published in the newspaper in respect of the editor, printer and publisher. In this regard, it has to be noted that this allegation is *ex facie* correct. But the petitioners have asserted that they cannot be made accountable or blameworthy for such apparent discrepancy inasmuch as it would be apparent from the declaration dated 18.07.2012 [Annexure-R/2(i)] that by the said declaration the name of the printing press from Janashikshya Co-Operative Printing Works Ltd. to Tripura Printers and Publishers Pvt. Ltd. was changed. That apart, the selling price of the newspaper, address of the publisher, printer and editor stood changed and also the name of the proprietor was incorporated by substituting the name of earlier proprietor,



Communist Party of India (Marxist), Tripura State Committee to the registered society of Daily Desher Katha. But no change was caused by the Press Registrar for unexplained reason. No averment is available on this aspect in the reply filed by the respondent No.4.

**116.** From the replies filed by the respondent No.1, the respondent No.3 and the respondents No.2&5 separately, it appears that the said declaration dated 18.07.2012 as submitted to the office of the respondent No.2 was not given effect to and in the reply filed by those respondents and it has been stated that *"such changes were not effected on the ground that no document of change of ownership from the Communist Party of India (Marxist), Tripura State Committee to Daily Desher Katha (Society) was submitted and even copy of memorandum of association and that of articles of association (rules of the society) were not submitted. Further, it has been submitted that Sri Gautam Das who made the declaration and claimed to be publisher under the new owner namely, the registered society in the name of Daily Desher Katha did not only fail to produce any authenticity of the formation of the society and that of transfer of ownership from CPIM party to Daily Desher Katha as a registered society and also failed to produce any authority in writing authorizing him to make such declaration as required under Section 5(2D) of the PRB Act.*

*According to those respondents, the respondent No.4 did not issue any revised certificate of registration under rule 3(v) of the Registration of Newspaper (Central) Rules, 1956 "presumably for the deficiency in the declaration and non-submission of necessary documents". Without obtaining revised registration certificate from RNI and without submission of declaration for transfer of ownership from CPI(M) to Daily Desher Katha Society, they continued to publish name of owner Daily Desher Katha Society till 01.10.2018 thus violating sub-section 2E of Section 5 of PRB Act. Respondent said that Sri Gautam Das had without having any competence purportedly appointed the petitioner No.2 as Editor, Printer and Publisher and on such basis the petitioner No.2 submitted a declaration on 31.03.2015 claiming that he is the new editor, printer and publisher. It would be evident such claim of editor, printer and publisher without any document from the owner was of no effect but the newspaper was published continuously from 28.08.2015 showing the petitioner No.2 as editor, printer and publisher illegally. In view of the above factual position the allegation made by complainant Sri Shyamal Debnath that the newspaper was being published violating the provisions of the said act was found correct."*

**117.** The respondent No.4 has filed their reply but did not assert those facts as afore-noted. They did not at all state

those facts, as presumed by the respondents No.1,2,5&3, even though such information is within the exclusive domain of the respondent No.4. Those respondents came to the inference "presumably" or "probably"! This shows clear *mala fide* inasmuch as in para 5 of the reply filed by the respondent No.4, the respondent No.4 has categorically stated that they have no comments to offer. They have confined their reply to the declaration authenticated on 01.10.2018.

**118.** Even, the respondents No.1, 2, 5 & 3 did not place on record any order or communication made to the petitioners observing or stating that for the defects as shown above, their declaration cannot be authenticated. Therefore, what can be inferred is that the declaration that was submitted by the petitioners or their predecessors was without any defect. What else can be inferred when the declaration was authenticated. It may be by omission, the revised certificate was not issued. It is clearly stated that in order to discharge the responsibility as saddled by Section 5(2D), Section 5(2E), Section 5(3) and Section 5(1), if the declaration is filed and it is not rejected by clear order for fatal flaws, it has to be presumed that the obligation has been discharged fully by the person who is obliged to make such declaration. For non-issuance of the revised certificate of registration, the printer, publisher or the editor cannot be made responsible or the publication of the

newspaper cannot be interfered with in any manner. It has to be deemed as if the revised certificate of registration has come into effect from the date when the declaration has been made and authenticated. Therefore, the stand taken by the respondents No.1, 2, 5 & 3 are grossly arbitrary and unsustainable.

**119.** For this purpose, we may look back to the notice issued in the proceeding being case No. 01/2018 as drawn under Section 8B of the PRB Act, 1867 by the respondent No.2. The notice is confined to the complaint only. In respect of the declaration filed by the petitioner No.2 as the editor, printer and publisher on 31.03.2015 was 'not acted upon', according to those respondents, except the respondents No. 4 and 7 Sri. Gautam Das (the chairman of the society and the trust), the previous declarant had appointed the petitioner No.2 as editor, printer and publisher. On the basis of the said authority, the petitioner No.2 submitted the declaration on 31.03.2015. The respondents No. 1,2,5&3 have stated that *"it would be evident that such claim of the editor, printer and published without any document from the owner was of no effect but the newspaper was published continuously from 28.08.2015 showing the petitioner No.2 as editor, printer and publisher illegally"*. How those respondents can question the authority of Sri Gautam

Das under the PRB Act when inquiry into the title is beyond jurisdiction.

**120.** In view of the above factual position, the allegation made by the complainant, Sri Shyamal Debnath that the newspaper was being published violating the provisions of the Act was found incorrect. Even the respondents No.1, 2, 5&3 have failed to produce any record to show that the said declaration dated 31.03.2015 had been rejected at any stage. Therefore, the similar inference what has been drawn by this Court in respect of the declaration dated 18.07.2012 has to be drawn in case of the declaration dated 31.03.2015. Even the respondent No.4 did not disclose such materials that the declaration that was filed on 31.03.2015 was defective and that is the reason why they did not act upon the said declaration.

**121.** By their silence and refusing to make any response on such matters, the respondent No.4 has not subscribed the view or supported the action or inaction of the respondent No.1, 2 5&3. Their contentions adverted in their replies have not found any support from the respondent No.4. Thus, for all purposes the declaration dated 31.03.2015 has to be deemed to have been filed properly and rightly authenticated.

**122.** In this regard, the requirement of law can be examined. There is no dispute that Daily Desher Katha is an old

newspaper and was being published regularly by virtue of the certificate of registration dated 29.04.1979. For this purpose, the provisions of Section 5(2) may be referred again. It provides that the printer and the publisher of every such newspaper shall appear in person or by agent authorized in this behalf in accordance with the rules made under Section 20 before the District, Presidency or Sub-Divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe in duplicate the declaration and the form. It is the printer or publisher or printer and publisher who shall make such declaration taking the responsibility of the publication. Unless the owner challenges the status of the declarant as the publisher or the printer no objection can be raised when such declaration is made under authority of the owner. The printer and the publisher have a responsibility under Section 5(2B) of PRB Act to declare specifically the name of the owner.

**123.** True it is that the said declaration shall be accompanied by an authority in writing from the owner authorizing such person to make and subscribe such declaration. It is admitted that Sri Gautam Das has appointed the petitioner No.2 as the editor, publisher and printer of the said newspaper.

**124.** According to this Court, such letter cannot be questioned by the District Magistrate without any dispute raised by any person claiming ownership or without asking for the further evidence in this regard, if in any case the District Magistrate is not satisfied during the authentication of the declaration. But no such requisition was ever made. Only in the reply filed in this writ petition, these questions have been raised. At the relevant time, the respondent No.5 was not discharging the duties and responsibilities of the respondent No.2. Even no record has been placed before this Court and as such, the plea raised by the respondent No.2 or the other respondents cannot be sustained.

**125.** Section 5(2C) is also relevant as it provides that a declaration in respect of the newspaper be made under subsection 2 of Section 5 of the PRB Act and authenticated under Section 6 before the newspaper can be published. After filing of the declaration the part of authentication is the responsibility of the District Magistrate or other designated authority. If he does not authenticate, by an express order he shall provide reasons why the declaration has not been authenticated. The reason, as it is well entrenched from the common law tradition to the rule of law, is that unless by express reasons the decision is provided, that decision is liable to be treated as grossly arbitrary and unsustainable.



**126.** In this case, if no authentication has been made, the petitioners cannot be blamed. Moreover, the respondent No.4 has also not stated anything. In the considered view of this Court, the averments as made in the reply by the respondents No.1,2,5&3 in respect of the declaration dated 18.07.2012 and 31.03.2015 are de hors the records and it is a clear improvement by the subsequent affidavit and as such those grounds are discarded.

**127.** On the face of such action, this Court is of the view that clearly those improved versions which were stated in the reply were never disclosed to the petitioners and as such, these are the glaring examples of denial of natural justice and depriving the petitioners to have their say appropriately in the proceeding.

**128.** That apart, by the communication dated 01.07.2018 (Anexure-14 to the writ petition), the respondents No.2&5 have categorically stated that during inquiry SP, West Tripura has reported on 21.05.2015 and SDM, Sadar has inquired the relevant facts through his field machinery. Based on the inquiry report of the concerned RI and DCM on 22.04.2015, the SDM had sent the proposal to the DM & Collector, West Tripura on 05.05.2015 for authentication of the same. Accordingly, the then ADM and Collector, Sri Manoranjan

Das had sent the petitioner No.2's application with related papers along with the inquiry reports of SP(DIB), West Tripura vide No. 579/SP/DIP/W/2015 dated 21.05.2015 and the report to the SDM, Sadar vide No. 735/F.5(1)SDM/SDR/GL/09 dated 05.05.2015 for taking necessary action. After submission of the authenticated declaration it is the responsibility of the RNI to issue the revised certificate of registration for the newspaper.

**129.** Thus, if the averments of the respondents No.1,2,5&3 are juxtaposed and compared with the content of the communication dated 01.07.2018, it would transpire that the averments and the reasons so given in the reply and as noted before, emanate from concealment of fact and deliberate act by the public officer for deliberately misleading the court. It is a deplorable act. In future, if the respondents No.1,2,5&3 are found indulging in such act they shall face stern action.

**130.** Thus, in view of the decision in **Gopal Dass Sharma** (supra) as well as the decision as relied by the respondents in **Chhabil Das Agarwal** (supra) this court can invoke the jurisdiction under Article 226 of the Constitution of India as denial of principles of natural justice and violation of statute are manifest on the face of the records. The said jurisprudential objection as raised by the respondents in respect of the maintainability of the writ petition for existence

of the remedy of appeal as provided under Section 8C of the PRB Act, inasmuch as the petitioner's fundamental right to carry on occupation of editor of the newspaper as well as the business of publishing a newspaper is infringed by the said act, as stated above.

**(ii) Whether, the District Magistrate, West Tripura, Agartala while passing the impugned order dated 01.10.2018 has exceeded his competence?**

**131.** This question should be dwelled upon with the question that has been formulated as the question No. (vi) which reads as under:

**(vi) Whether by ignoring the content of the communication dated 01.07.2018, the District Magistrate, West Tripura has acted unreasonably inasmuch as it shows that the petitioners took steps for revised certificate of registration for change of ownership, editor, publisher and printer of the newspaper (Daily Desher Katha), which was duly inquired into and thereafter with all inquiry reports as referred thereto, the Additional District Magistrate and Collector sent it to the RNI for issuance of the certificate of registration of the said newspaper under Section 6 of the PRB Act?**

**132.** The District Magistrate, West Tripura while passing the order dated 01.10.2018 has not only refused to take note of his own communication dated 01.07.2018 (Annexure-14 to the writ petition) content of which has been reproduced before, but failed to give any reason for discarding the fact, that was revealed by him to the petitioner No.2 in respect of the verification and authentication of the declaration dated 31.03.2015. How thereafter the petitioner's can be blamed for

non-production of the revised certificate of registration. This Court has already observed that after the declaration has been made and has not been rejected by the District Magistrate for any defect, the analogy as advanced by the DM is unsustainable. In this case, according to the communication dated 01.07.2018 (Annexure-14 to the writ petition), after due authentication, the said declaration was sent to the RNI. As such, the obligation as saddled by Section 5 of the PRB Act had been discharged completely by the petitioners. Therefore, they cannot be blamed.

**133.** As already observed, in such circumstances it has to be deemed that the revised certificate of registration has come into effect from the date of authentication of such declaration. No action can be taken against the printer, publisher and editor for non-issuance of the revised certificate of registration. This court has observed that the respondent No.4, the Press Registrar (Registrar of Newspaper in India) has maintained an unbroken silence over that aspect in their reply and thus, it has to be deemed as acceptance of their omission. Hence, the petitioners cannot be made responsible.

**134.** The records relating to the communication dated 01.07.2018 was produced in the proceeding. Most surprisingly, after having a copy of the revised certificate of registration as issued by the RNI on 01.10.2018 in favour of the petitioner

No.2 as editor, publisher and printer, the SDM, Sadar was examined in the proceeding for purported elucidation of the following issues:

- (a) Written application on behalf of Sri Samir Paul for authentication of declaration along with date of application.
- (b) The notice issued on his behalf for authentication of declaration.
- (c) The field inquiry report of Deputy Collector, and Police regarding antecedents of the applicants.
- (d) Clarifying the basis on which the said declaration was signed by him.
- (e) Whether the due process of law was followed before signing of such declaration.
- (f) Reference and details of registered post by which it was sent to the Registrar of Newspaper of India.

**135.** Thereafter, in the said order dated 01.10.2018 following statements have been recorded as the reply of the SDM, Sadar:

“Accordingly, SDM, Sadar submitted reply as follows:

Clarification as sought	Reply received from SDM, Sadar
Written application on behalf of Sri Samir Paul for authentication of declaration along with date of application	Not received
The notice issued on your behalf for authentication of declaration	No notice was issued.
The field inquiry report of Deputy Collector, Police regarding antecedents of the applicants	Not obtained.
Clarifying the basis on which the said declaration was signed by you	Based on interaction made orally with the declarant.
Whether the due process of law was followed before signing of such declaration	Process was not followed duly.
Reference and details of registered post by which it was sent to the Registrar of Newspaper of India	No registered post was sent.”

**136.** It has been also stated that the SDM, Sadar had cancelled the declaration that he authenticated on 01.10.2018. On the basis of that the Press Registrar was requested to cancel the certificate of registration given on 01.10.2018 in favour of the petitioner No.2 as printer, editor and publisher. It has been observed in the order that the ownership of the newspaper was changed on paper from the CPI(M) to Daily Desher Katha [the society]. Section 5(1) of the PRB Act provides that without prejudice to the provisions of Section 3, every copy of every such newspaper shall contain the names of the owner and editor thereof printed clearly on such copy and also the date of its publication. It has also been correctly reflected in the order. Section 5 (2E) of the PRB Act provides that as often as the ownership of a newspaper is changed, a new declaration shall be necessary.

**137.** It is noted by this Court with surprise that even though the declaration was filed for change of ownership in the proper form and even though those were not rejected by any authority having competence, those relevant facts were not taken into cognizance and consideration for undisclosed reasons by the District Magistrate. Without any notice to the petitioner No.2, abruptly, the declaration as submitted by the petitioner No.2 on 30.03.2015 has been cancelled. As no notice was issued on cancellation, the provisions of Section 8B which



clearly provides that if any application is made to him by the Press Registrar or any other person the Magistrate empowered to authenticate a declaration under this Act, is of the opinion that any declaration made in respect of a newspaper should be cancelled, he may, *"after giving the person concerned an opportunity of showing cause against the action propose to be taken, hold an inquiry into the matter and if, after considering the cause, if any, shown by such person and after giving him an opportunity of being heard."* The satisfaction has to be made within the four corners as well delineated under Section 8B of the PRB Act.

**138.** No notice was issued to the petitioners asking why the declaration dated 31.03.2015 which was authenticated following the due process of law as reflected in the communication dated 01.07.2018 (Annexure-14 to the writ petition) shall not be cancelled. The District Magistrate has arbitrarily, acting as a reviewing authority, cancelled the declaration. His observation that the newspaper has been violating Section 5(1) and Section 5(2E) is not supported by any reason inasmuch as from his own admission it is apparent that the declaration dated 31.03.2015 was thoroughly scrutinized, inquired into and after authentication with all reports from the various authorities, the said declaration was sent to the Press Registrar. There is no statement of fact or to

demonstrate reason where lied the defect in the said authentication process. This is grossly arbitrary, motivated and as such, such cancellation is interfered with and set aside. In the result, the entire order dated 01.10.2018 is quashed.

**139.** In this regard, an observation made by this Court in ***Anal Roy Choudhury*** (supra) is relevant. It has been observed in ***Anal Roy Choudhury*** (supra) that the proviso to Section 6 has unambiguously stipulated that where a declaration is made or subscribed under Section 5 in respect of a newspaper, the declaration shall be authenticated when the District Magistrate, Presidency Magistrate or the Sub-Divisional Magistrate will, on inquiry from the Press Registrar, be satisfied that the newspaper as proposed to be published does not bear a title which is the same or similar to that of a newspaper published either in the same language or in the same State. It has been further observed in that case that the District Magistrate had assumed the power of directing an expansive inquiry in respect of the antecedent of the person or how many criminal action and civil action are pending against him. Such action is not only unwarranted but completely extraneous to the scheme of the PRB Act, in so far as the process of authentication of declaration is concerned. Thus, it has been observed that the District Magistrate had overstepped his

jurisdiction of inquiry. His inquiry should have been restricted in terms of the proviso to Section 6 of the PRB Act.

**140.** Proviso to Section 6 of the PRB Act provides as follows:

*"Provided that where any declaration is made and subscribed under Section 5 in respect of a newspaper, the declaration shall not, save in the case of a newspapers owned by the same person, be so authenticated unless the Magistrate [is, on inquiry from the Press Registrar, satisfied] that the newspaper proposed to be published does not bear a title which is same as, or similar to, that of any other newspaper published either in the same language or in the same State".*

**141.** No additional power has been conferred upon the District Magistrate, the Presidency Magistrate or the Sub-Divisional Magistrate. This proviso has to be read with the object as laid down in Section 3. Therefore, the inquiry has to be made only in terms of the proviso below Section 6 of the PRB Act. Hence, the District Magistrate has overstepped his jurisdiction even in this case also. The District Magistrate has acted completely in derogation and defiance of the statutory arrangement made in the PRB Act.

**142.** This Court is shocked to note that the District Magistrate has acted as the superior authority having wielded with power of superintendence over the Sub-Divisional

Magistrate. The District Magistrate does not have such authority as in terms of the statutory arrangement of the PRB Act, the District Magistrate and the Sub-Divisional Magistrate are holding concurrent powers of authentication independently.

**143.** The 'concurrent power' means the co-terminus power conferred on two different authorities for the same purpose. Option to choose the authority lies with the person who would like to invoke their power for purpose of authentication. The District Magistrate had gone to such an extent that he had called the Sub-Divisional Magistrate as the witness in the proceeding to verify the process that he had followed. Such action is high-handed. Such action is not approved by Section 10B of the PRB Act.

**144.** It is clearly held that the District Magistrate does not have any power of the superior court, such as, the appellate court, nor does he wield the power of superintendence over any action taken by the Sub-Divisional Magistrate in respect of authentication. The District Magistrate has messed up his administrative jurisdiction over the Sub-Divisional Magistrate with the authority created under the PRB Act. As stated, both the District Magistrate and Sub-Divisional Magistrate, so far it relates to the authentication of the declaration is concerned, wield same and similar powers.

Therefore, that part of the proceeding is grossly illegal, unsustainable and jurisprudentially bad. This action shows how the DM has become the self-styled "guardian" of the entire proceeding relating to authentication.

**145.** In this juncture, it has to be noticed that the declaration made by the publisher or printer under Section 5(2B), when the printer or the publisher of a newspaper making such declaration under Section 5(2) of the PRB Act, is not the owner thereof, the declaration shall specify the name of the owner and authorization to make such declaration. It has been admitted by the District Magistrate that the former publisher and the authority of the Daily Desher Katha Trust [Sri Gautam Das] has authorized the petitioner No.2 to make such declaration. No further inquiry by the District Magistrate was permissible into the veracity of the title. The declaration made by the printer or the publisher under Section 5(2B) of the PRB Act is sufficient for the purpose of Section 3 of the PRB Act.

**146.** In this regard, a decision of the Apex Court in ***Dwarka Prasad Agarwal (dead) by LRs & Anr. Vs. Ramesh Chandra Agarwal & Ors.***, reported in ***AIR 2003 SC 2696*** is relevant to understand the short question in respect of who would decide the question of ownership. In that case, the dispute was on the right of one partner against the other to

submit a declaration in terms of the PRB Act. The basic dispute was relating to the ownership of the newspaper namely, Dainik Bhaskar which was being published by M/S Dwarka Prasad Agarwal and Brothers. A person, not authorized, had filed a declaration for publishing the same newspaper from Bhopal which was disputed by the other partner. There had been some other disputes such as illegal dispossession of the printing press. The District Magistrate with whom the matter was pending had passed a common order on both the disputes directing the parties to maintain the status quo. Having considered the nature of the dispute, the Apex Court had observed that *"a bare perusal of the aforementioned provisions leaves no manner of doubt that thereby the jurisdiction of the civil court has not been ousted. The civil court, in the instant case, was concerned with the rival claims of the parties as to whether one party has illegally been dispossessed by the other or not. Such a suit, apart from general law, would also be maintainable in terms of Section 6 of the Specific Relief Act, 1963. In such matters the court would not be concerned even with the question as to title/ownership and title of the property."*

**147.** It is well established that in that case the Apex Court has further observed as follows:

*"In Suvvari Sanyasi Apparao and Another Vs. Bodderpalli Lakshminarayana and Another : (1962) Supp 1 SCR 8, this Court upon considering the Press and Registration of Books Act, 1867 observed that the matter relating to ownership of the press is a matter of general law and the Court, thus, must follow the law. It was observed that a declared keeper of the press is not necessarily the owner thereof so as to be able to confer title to the press upon another."*

The same principle is applicable to the title of the newspaper as well.

**148.** This Court is constrained to observe that showing absolute disregard to the law, the District Magistrate had made it a point that he had the authority to independently inquire into the title of the newspaper. In this regard, it has to be stated that, as stated earlier, the District Magistrate or the other Magistrate who are conferred with the power to authenticate does not have any authority to inquire the veracity of the title of the newspaper. The publisher or the printer having due authorization, when makes the declaration in respect of the owner, that has to be accepted by the District Magistrate as the purpose and object of such declaration was to make known who the proprietor, printer or editor was in regard to a newspaper or other publication so that the responsibility for an improper publication might be fastened on the proper person. Any person who was a major could declare himself a publisher and such



declaration does not depend on a grant of permission by any authority. Change of place of the publication or the publisher and of the latter leaving India would require a fresh declaration. Failure to make such declaration would entail penal consequences, as noted before.

**149.** In **KN Ganesh Vs. Chief Presidency Magistrate** reported in **AIR 1959 Mad 519**, the Madras High Court has observed as follows:

*"7. That Act provided for a declaration by the printer and publisher of a newspaper giving a true and precise account of the premises of publication with an obligation to inform the change of place in which case a fresh declaration was made necessary. There was also a penalty for non-declaration. The effect of that enactment was that no licence or previous permission was necessary for either publishing or conducting a newspaper. A mere declaration alone was sufficient.*

*The object of the declaration was to make known who the proprietor, printer or editor was in regard to a newspaper or other publication so that the responsibility for an improper publication, might be fastened on the proper person. Any person who was a major could declare himself as a publisher and such declaration did not depend on the grant of a permission by any authority. Change of place of the publication or the publisher and the latter leaving India necessitated a fresh declaration. Failure to make a declaration entailed penal consequences."*

**150.** No other interpretation in respect of the power of the District Magistrate or the other Magistrates who are conferred with the power to authenticate in respect of authentication of the declaration under Section 5 is tenable.

**151.** The PRB Act is a product of the colonial rule. Even in the colonial era, the unbridled power was not seen with the District Magistrate or the Chief Presidency Magistrate or with the Sub-Divisional Magistrate in respect of authentication. A few decisions of that era has been referred herein so as to show that the necessity and object of the declaration was to make known who the proprietor, printer, publisher or editor was in regard to the newspaper or publication so that the responsibility for an improper publication might be fastened on the proper person. Therefore, the limit of the power of the District Magistrate or the Chief Presidency Magistrate or the Sub-Divisional Magistrate has to be understood within the ambit of Section 3 of the PRB Act.

**152.** This Court has observed that there is a propensity to wield the power of a guardian of the newspaper by the District Magistrate or the other magistrates who are conferred with the power to authenticate even though the law does not acknowledge such power. In the name of inquiry, as we have noticed those magistrates resort to highhandedness and

consider the extraneous materials for purpose of authenticating the declaration. Emergence of such propensity is a "threat in disguise" to the freedom of press as derived from the freedom of expression under Article 19(1)(a) of the Constitution of India.

**153.** In this regard, an American case, i.e. **Thomas Vs. Collins : 323 US 516** may be referred where it has been held that:

*"The restraint is not small when it is considered what was restrained. The right is a national right, federally guaranteed. There is some modicum of freedom of thought, speech and assembly which all citizens of the republic may exercise throughout its length and breadth, which no state, nor all together, not the nation itself, can prohibit, restrain or impede. If the restraint were smaller than it is, it is from petty tyrannies that large ones take root and grow. This fact can be more plain than when they are imposed on the most basic rights of all. Seedlings planted in that soil grow great and, growing, break down the foundations of liberty.*

*100. In the above decision the Privy Council cited with approval the view expressed by this Court in Romesh Thappar case and the US Court in Martin v. City of Struthers. The Privy Council observed thus:*

*A measure of interference with the free handling of the newspaper and its free circulation was involved in the prohibition which the circular imposed. It was said in an Indian case (Romesh Thappar V. State of Madras):*

*..... there can be no doubt that freedom of speech and expression includes freedom of propagation of ideas, and that freedom is ensured by the freedom of circulation.*

*'Liberty of circulation is as essential to that freedom as the liberty of publication. Indeed, without circulation the publication would of little value.'* "

**154.** In another decision in the "**Associated Press vs. National Labour Relation Board : (1936) 301 US 103** is also instructive. In the **Associated Press** (supra) it had been held as follows:

*"Due regard for the constitutional guarantee requires that the publisher or agency of the publisher of news shall be free from restraint in respect of employment in the editorial force."*

**155.** In **Schneider Vs. Irvingtor, (1939) 308 US 147** in the course of its decision, the US Court made the following observation:

*"This court has characterized the freedom of speech and that of the Press as fundamental personal rights and liberties. The phrase is not an empty one and was not lightly used. It reflects the belief of the framers of the Constitution that exercise of the rights lies at the foundations of free government by free press. It stresses as do many opinions of this court the importance of preventing the restriction of enjoyment of these principles."*

**156.** The first amendment provision of the American Constitution is the soul of Article 19(1)(a) of the Constitution of India. In this regard, the observation of the Apex Court in **Express Newspaper (Private) Ltd. Vs. Union of India,**

reported in **AIR 1958 SC 578** may be referred. In **Express Newspaper (Private) Ltd.** (supra) the Apex Court has observed that the fundamental right to freedom of speech, an expression enshrined under Article 19(1)(a) of the Constitution is based on this provision. The First Amendment of the Constitution of United States of America being soul, it would therefore, be legitimate and proper to refer the decision of the Supreme Court of USA in order to appreciate the true nature, scope and extent of these rights in spite of the warning administered by this court against the use of American and other cases. [See **State of Travancore – Cochin Vs. Bombay Co. Ltd., reported in 1952 SCR 1112 and State of Bombay Vs. RMD Chamarbagwala reported in AIR 1956 SC 699**].

**157.** In **Thomas Vs. Collins : (1944) 323 US 516**, non- interference by the State with the said right (the First Amendment right) was emphasized observing inter alia, as under:

*"But it cannot be the duty because it is not the right of the State to protect the public against false doctrine. The very purpose of the First Amendment is to foreclose public authority from assuming the guardianship of the public mind through regulating the press, speech and religion. In this field every person must be his own watchman for his truth because the forefathers did not trust any Government to separate the true from the false for us. ...."*

**158.** In **93 Law Ed at P-1151** is given a summary of the decisions of the Supreme Court of United States of America on the subject under the heading "The Supreme Court and the right of Free Speech and Press" as reproduced in **Express Newspaper (Private) Ltd.** (supra), and it contains at P-1153 under the caption "Right in General: Freedom from Censorship and Punishment" as follows:

*"The freedom of press and of speech are fundamental right and liberties, the exercise of which lies at the foundation of free Government by free men..... . The very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind through regulating the press, speech, and religion; it rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."*

**159.** From a reading of these opinions vis-à-vis the first amendment right of the American Constitution, it grapples that those are equally applicable in respect of the rights guaranteed under Article 19(1)(a) of the Constitution of India. The Indian Constitution also forecloses public authority from assuming a guardianship of the public mind through regulating the press.

**160.** The propensity of overstepping the authority is dangerous for the rule of law or the constitutional democracy. Even a smaller contravention cannot be liberally dealt with. The impugned action of the District Magistrate is an example how

an authority wields power and jurisdiction beyond the power which has been delegated to him by the statute.

**(iii) Whether the District Magistrate has taken extraneous materials not relevant for his consideration, into consideration while passing the impugned order?**

**161.** The District Magistrate, West Tripura as already discussed, has taken into consideration the veracity of the declaration dated 31.03.2015 without giving a specific notice in this regard in compliance of Section 8B of the PRB Act. That apart, he had no competence to reopen the authentication of the declaration dated 31.03.2015. To apply the power of review the statute must provide such power to an authority inasmuch as it is not correcting a mere mistake that has been done bona fide by the authority that had authenticated the declaration. The fault lines are eminently visible. Abruptly and following a procedure which is alien to law, the declaration dated 31.03.2015 has been cancelled by the District Magistrate.

**(iv) Whether authentication of the fresh declaration made for change of the ownership can be refused on the ground that a proceeding was pending in respect of the declaration made in the newspaper?**

**162.** This is no more *res integra* inasmuch as in ***Anal Roy Choudhury Vs. State of Tripura & Ors.*** [judgment dated 19.09.2019 delivered in WP(C) 04/2019] this Court has noted:



".....The petitioner even though initially approached this court when this court providing the petitioner, a very limited protection, asked him to approach the Press and Registration Appellate Board under Section 8(C) of the PRB Act. In the said appeal, the Appellate Board has not substantively interfered in respect of the order of the District Magistrate, but since a fresh declaration, filed by the petitioner, was pending for authentication, by the order dated 20.07.2018, the Press and Registration Appellate Board ordered and directed as follows:

"It is true that on 04.07.2017 Shri Anal Roy Chaudhury along with one Ld. Advocate came to the chamber of the District Magistrate, West Tripura District and tried to submit a declaration for change of address and location of his printing press. As already the District Magistrate, West Tripura District has cancelled all the declarations (whether genuine or fake) in respect of the newspaper "Pratibadi Kalam" by an order u/s 8B of PRB Act, 1867, on 24.06.2017, the question of authentication of any declaration of already banned newspaper does not arise at all. Hence the District Magistrate, West Tripura District did not entertain the said illegal prayer of the Appellant and advised him to file an appeal before the Hon'ble Press & Registration Appellate Board, New Delhi as per Section 8C of the PRB Act 1867 against the order passed by the undersigned i.e. the District Magistrate, West Tripura District."

[Extracted from the reply filed by the District Magistrate supported by an affidavit on 19.07.2018 before the Press and Registration Appellate Board in reply to the appeal memorandum filed by the petitioner.]

The learned counsel appearing on behalf of the appellant submits that when the appellant had filed a fresh declaration, the District Magistrate was under an obligation to consider the same on merit. Although the counsel for the State of Tripura, appears but he has not made any submission.

Mr. Anupam Bhattacharya, appearing on behalf of respondent No.1 submits that the appellant had gone to the High Court without the permission of the Board and on this ground alone the appeal be dismissed. The submission has only been noted to be rejected. No permission is required of the Board for going to the High Court against the Order of the District Magistrate.

The Appellate Board is of the opinion that the District Magistrate singularly failed to exercise his statutory obligation. Once the declaration is filed, the District Magistrate is obliged to consider that on merit. Accordingly, the Appellate Board directs the District Magistrate to entertain the declaration made by the appellant and pass appropriate order in accordance with law. As the publication of the newspaper has stopped, the Appellate Board directed the District Magistrate to pass appropriate order within 4 weeks from the date of receipt of this Order."

[Emphasis added]

On reading of the said order, it appears that the contention of the District Magistrate for denying the authentication of the subsequent declaration has been

interfered by the Press & Registration Appellate Board holding categorically that the District Magistrate has failed singularly to discharge his statutory duty to authenticate the declaration.”

**163.** In *Anal Roy Choudhury* (supra), the order dated 24.10.2018 passed by the Press and Registration Appellate board has been extracted and that reads as under:

“The Appellate Board is of the opinion that the earlier order passed by the District Magistrate cancelling the declaration may or may not be right and even if not set aside by the Appellate Board, he is not denuded with the power to entertain or authenticate fresh declaration. In the opinion of the Appellate Board whenever fresh declaration is filed the only enquiry which the District Magistrate needs to make is as to whether on the date of consideration, the newspaper seeking authentication of the declaration satisfies the requirements of law. Further, in the opinion of the Appellate Board once the District Magistrate comes to the conclusion that the Appellant had satisfied the requirements of authentication on the day he is considering the question, he is left with no option then to authenticate the declaration and cannot refuse authentication of declaration on the ground that he had cancelled the declaration earlier. The Appellate Board regrets to record that in a matter like this, the District Magistrate has directed the Appellant to seek clarification. The District Magistrate is expected to have this basic knowledge of law.”

[Emphasis added]

**164.** The directive of the Press and Registration Appellate Board, being the superior forum of the District Magistrate is

binding on the District Magistrate. The Board in clear terms, as is evident, has observed that whenever a fresh declaration is filed the only inquiry which the District Magistrate needs to make is as to whether on the date of consideration, the newspaper seeking authentication of declaration satisfies the requirements of law. Further, the Appellate Board is of the opinion that newspaper has satisfied the requirement of authentication on that day, the DM or the other Magistrate is left with no option than to authenticate the declaration and cannot refuse authentication of the declaration on the ground that he had cancelled the declaration earlier. Their opinion is lucid. Despite such precedent being available to the respondent No.2 & 5, the respondent No.2 & 5 have obnoxiously ventured to unsettle an authenticated declaration of the petitioner No. 2 which was submitted on 31.03.2015. Even a proceeding pending, in respect of the declaration cannot deter the District Magistrate or the Presidency Magistrate or the Sub-Divisional Magistrate to authenticate a declaration if the declaration satisfied the requirement of law.

**(v) Whether the Sub-Divisional Magistrate, Sadar did act in accordance with the law while he had accused the petitioner of suppression of material facts in respect of 'sub judice' or acting illegally in obtaining the authentication?**

**165.** Let us, at this juncture, appreciate the order dated 01.10.2018 passed by the SDM under No. F.8(27)/SDM/SDR/

JDL/08/1517 which has been annexed with the order dated 01.10.2018 passed by the District Magistrate. The grounds as assigned by the Sub-Divisional Magistrate for cancellation of the authenticated declaration may be noted. Those are as under:

- (i) The declaration made in Form-I was not duly supported by evidence/documents in the light of which the declaration was made;
- (ii) No written application on behalf of the petitioner No.2 for authentication of the declaration was received;
- (iii) No notice was issued for authentication of the declaration;
- (iv) The required field inquiry by the Deputy Collector, Police regarding antecedent of the application had not been done;
- (v) Authentication has not been sent through registered post to the Registrar of Newspaper for India;
- (vi) Such declaration has been considered by the SDM without going through the material fact and as such the process is incomplete;
- (vii) The declarant had concealed the truth that a case related to issue as contained in the very declaration is lying pending in the court of the District Magistrate, West Tripura Agartala; and lastly
- (viii) The matter/issue relating to the declaration as submitted in Form-I is sub-judice.

**166.** So far the ground No.(i) is concerned, the allegation is that the petitioner No.2 did not submit any document/evidence in support of the declaration. It has to

clearly stated that the statute does not require submission of any supportive document. It is the declaration and the declaration alone is sufficient to suffice the purpose of Section 3 of the PRB Act. This Court taking an extra-ordinary recourse has laid down elaborately the purpose and necessity of declaration. The object has been laid down in Section 3 of the PRB Act as discussed.

**167.** In *Anal Roy Choudhury* (supra) this court has observed as follows:

“[31] Proviso to Section 6 has unambiguously stipulated that where any declaration is made or subscribed under Section 5 in respect of a newspaper, the declaration shall be authenticated when the Magistrate will on inquiry from the Press Registrar be satisfied that the newspaper as proposed to be published does not bear a title which is the same or similar to that of a newspaper published either in the same language or in the same State. But, this court is shocked to notice the District Magistrate has assumed the power of directing an inquiry in respect of antecedent of the person or how many criminal actions and civil actions are pending against him. These are not only unwarranted but completely extraneous so far the process of authentication of the declaration is concerned. This court does not have any hesitation to hold the District Magistrate has overstepped his jurisdiction of inquiry. His inquiry should have been restricted in terms of the proviso to Section 6 of the PRB Act. This court does not have any hesitation at the same time to hold that so far the cancellation is concerned, the Press and Registration Appellate Board did not interfere but they have directed

the District Magistrate to consider the fresh declaration of the petitioner within the parameters of law and to take a decision whether to authenticate the declaration or not.

[32] In this regard, this court is not oblivious to observe that our Constitution tilts heavily for protection of freedom of expression which includes the freedom of press. Thus, no person can be allowed to tweak the law or to act arbitrarily by completely brushing aside the law. Hence, this court is constrained to interfere with the reports of the Superintendent of Police or of the Sub-Divisional Magistrate as those are uncalled for. But the District Magistrate or the Sub-Divisional Magistrate can direct inquiry for the purpose as discussed above. The report of such inquiry can be considered by the District Magistrate while authenticating a declaration. For violation of provisions of the PRB Act, the penal provisions are provided under Part-IV of the PRB Act. The procedure as laid down is a complete code. ....”

**168.** In view of this, the ground (ii) is bound to fall through. When a declaration is placed for authentication in the prescribed before the authorities mentioned in the PRB Act, what further application is required is beyond apprehension. No application is required by the statute.

**169.** So far the ground No.(iii) is concerned, who would issue what notice in the matter of authentication? This is completely irrelevant in view of the PRB Act. As there is no provision to issue a public notice while authenticating a declaration made under Section 5 of the PRB Act for purpose of authentication under Section 6 of the PRB Act.



**170.** The ground No. (iv) has to be treated as redundant in view of the observation made in ***Anal Roy Choudhury*** (supra).

**171.** The ground No. (v), in respect of mode of sending the authenticated declaration to the RNI, is completely ridiculous inasmuch as this cannot be a ground for cancellation of the authenticated declaration. If there had been any defect in the process, the proper course was to send the authenticated declaration by registered post to the RNI or by any other mode as accepted by the RNI.

**172.** So far as the ground No.(vi) is concerned, it is infantile that someone without going through the material fact had authenticated the declaration. What falls therefrom is that the person is admitting his own incompetence but under the circumstances this Court finds that when the SDM was summoned by the DM, before he attended the proceeding, under duress he had cancelled the "authenticate declaration" and made his statement in the proceeding [as noted above].

**173.** So far the ground No.(vii) is concerned, the same cannot be treated as concealment inasmuch as the said fact of pending proceeding is not relevant for authentication of a declaration in respect of a post-complaint change in the constitution of ownership and in view of the observation of the

Press and Registration Appellate Board as reproduced above, that cannot create an embargo in consideration of a fresh declaration.

**174.** So far as ground No. (viii) is concerned, it stokes an issue relating to sub judice. This Court is constrained to observe with all humility, that the concerned SDM is not aware of the meaning and purport of the word 'sub judice'. The meaning of 'sub judice' is, a matter pending before any judicial court and not before any administrative authority.

**175.** In Black's Law Dictionary, in its centennial edition, the word 'sub judice' has been annotated as follows:

"sub judice – any order before a judge or court, under judicial consideration, undetermined."

**176.** Neither of these elements was available to the SDM for holding that the issue relating to the authentication of declaration was sub judice. Therefore, all the grounds are grossly unsustainable. As such, the order dated 01.10.2018, as passed by the District Magistrate, by cancelling the authenticated declaration warrants to be interfered with. Accordingly, it is ordered.

**177.** It may further be observed that while cancelling the authenticated declaration dated 01.10.2018, the SDM has

flouted the provisions of Section 8B of the PRB Act where it has been provided that after hearing, the SDM or the other authorities who can authenticate a declaration, may cancel if he is satisfied that (i) the newspaper in respect of which the declaration has been made is being published in contravention of the provision of this Act or Rules made thereunder, or (ii) the newspaper concerned which the declaration is made bears a title which is the same as or similar to that of any other newspaper published either in the same language or in the same state, or (iii) the printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration, or (iv) the declaration was made on false representation or on concealment of material fact or in respect of periodical work which is not a newspaper. Only one ground is valid in order to satisfy, is the ground of concealment of material fact, i.e. ground No. (iv). This court has already discussed that the element as identified cannot be treated as concealment of material fact inasmuch as the said declaration was made on the basis of a post-complaint change in the ownership of the newspaper. Thus, the impugned order dated 01.10.2018 as passed by the SDM is grossly illegal. Consequently, the said order stands quashed.

**178.** *Lee Bollinger* is one of the foremost scholars of the First Amendment. In his book titled "Uninhibited, robust and

wide open” he has traced the history, logic and structure of our contemporary understanding of freedom of press and then explores current and possible future challenges of the nature and content of that freedom in an ever changing world. Bollinger identified what he describes as “the three pillars of our current jurisprudence of the freedom of press: extra ordinary constitutional protection against the government censorship of the press, the absence of any constitutional right of the press to demand information from the government, and a complex set of rules governing the circumstances in which the government can constitutionally regulate the press in order to improve the market place of ideas”.

**179.** Although these three pillars have generally stood as in good stead, Bollinger cautions that “world in which the free press operates is undergoing tectonic shifts” that will have “momentous implications for our understanding of the First Amendment”. How well we respond to these shifts, he predicts, “will determine not only the kind of press we will have but also the kind of lives we will live” in the future.

**180.** Thus, to protect the freedom of press from any machination, wholly unacknowledged by the statute or by delegation of power, is of utmost importance in order to protect the constitutional democracy. Thus, the way the District Magistrate has conducted the proceeding or finally passed the

impugned order dated 01.10.2018 is grossly illegal and hence it has been interfered with.

**181.** Having observed thus, the respondent No.3 is directed to restore the declaration which was authenticated by him on 01.10.2018 and was sent to the Press Registrar, (the respondent No.4 in the writ petition) as this Court has set aside the order under No. F.8(27)/SDM.SDE/JDL/08/1517 dated 01.10.2018 whereby the said authenticated declaration dated 01.10.2018 was cancelled by the petitioner No.2.

**182.** The respondent No.4 is directed to restore the certificate of registration dated 01.10.2018 issued in favour of the Daily Desher Katha having RNI registration No. 342381/1979 forthwith.

**183.** It is made absolutely clear that since the basis of cancellation of the said certificate of registration dated 01.10.2018 was the order of cancellation of the authenticated declaration by the respondent No.3, as evident from the reply filed by the respondent No.4 on 29.04.2019 and the said order of cancellation has been set aside by this Court. As corollary the respondent No.4 is hereunder directed to restore the said certificate of registration.

**184.** Finally, it is held that the petitioners shall not be required to file further declaration in respect of the changes as reflected in the authenticated declaration dated 01.10.2018. However, if any change occurs in future and a fresh declaration is required to be filed, they shall remain obligated to file such declaration strictly in accordance with law.

**185.** In the result, the writ petition stands allowed.  
There shall be no order as to costs.

**JUDGE**

