

1947

Present: Canekeeratne J.

TOLARAM, Petitioner, and JINADASA (Acting Controller of Textiles),
Respondent.

S. C. 210—Application for a writ of Certiorari on the Controller of Textiles.

Defence Regulations—Textile control—Offence committed by dealer—Power to cancel licence—Regulation 62.

Where a textile dealer has been guilty of a contravention of the Textiles Control regulations it is not necessary that he should be prosecuted before an order can be made under regulation 62 cancelling his licence.

APPPLICATION for a writ of *certiorari* on the Controller of Textiles.

S. Nadesan, for the petitioner.

H. Deheragoda, C.C., for the respondent.

Cur. adv. vult.

December 5, 1947. CANEKERATNE J.—

The Controller has power to cancel a textile licence under section 58 for contravention of any regulation or under section 60 after conviction by a Court of a contravention of the regulations or under 62 where he has reasonable grounds to believe that a dealer is unfit to hold a licence.

The petitioner was informed about April 2, 1947, by a letter bearing the words "Non-compliance with the Textiles Control Regulations" that it has been reported to the controller that he had done four specific

acts, numbered *a*, *b*, *c*, and *d*. He was called upon to submit a written explanation and show cause on or before April 12, 1947, why he should not make a punitive order under regulation 58 or otherwise deal with the petitioner under the Textile Control Regulations. The petitioner sent an explanation on April 12. Any reasonable person reading the explanation could come to the conclusion that the petitioner charged a higher price than the maximum retail price, that he failed to obtain the required number of coupons and failed to issue a receipt to the purchaser; these relate to the acts specified as *a*, *b*, and *c*. He admitted that the price marked portion was rolled inside, but naively stated that it was so done for the sake of convenience. Finally he begged "to be excused for this minor offence I have committed" and ended the letter by thanking the controller "for his sympathetic consideration". By letter dated April 22 the Controller revoked his licence under regulation 62.

The Controller has given the petitioner a full opportunity to state his case on the matters referred to in the letter of April 4. It was argued that the petitioner ought to have been prosecuted for an offence under the regulations before an order under regulation 62 was made by the Controller. There is nothing in the regulations to lead one to this conclusion. I was not referred to, nor have I been able to find, any authority which shows that the specific regulation under which the Controller ultimately acted should have been expressly referred to in his letter. The statute under which the Controller acted does not prescribe the procedure to be adopted by him before making an order under regulation 62. As he is left without express guidance he must act honestly and by honest means. There is nothing to show that he failed to observe this rule. Nor is there anything to suggest that he did not perform his duties conscientiously and with a proper feeling of responsibility as his acts might affect the property and rights of an individual. Perhaps one might be inclined to say that it would have been better specifically to have drawn the attention of the dealer to regulation 62 before the making of the order.

The application for a mandate is dismissed—the petitioner will pay half the costs incurred by the respondent.

Application dismissed.
