1953 *Present :* **Swan J.**

S. P. PORAVIA PILLAI, Appellant, *and* COMMISSIONER FOR REGISTRATION OF INDIAN AND PAKISTANI RESIDENTS, Respondent

S. C. 621—Indian and Pakistani Residents J. 284

Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949—Inquiry thereunder—Evidence and procedure—Section 14 (4)—Scope of.

Where application is made for registration as a citizen of Ceylon under the Indian and Pakistani Residents (Citizenship) Act, the fact that the applicant had, after the coming into operation of the Act, declared himself temporarily resident in Ceylon does not amount to an estoppel but can be taken into consideration by the Commissioner, under section 14 (4), in arriving at his decision.

APPEAL from an order of the Commissioner for the Registration of Indian and Pakistani Residents.

D. S. Jayawickreme, for the appellant.

M. Tiruchelvam, Crown Counsel, for the respondent.

Cur. adv. vult.

February 3, 1953. SWAN J.—

This is an appeal from an order made by the Commissioner for the Registration of Indian and Pakistani residents refusing the application of the appellant to be registered as a citizen of Ceylon. The grounds of refusal which are contained in the order dated $\frac{10}{23}$. 1. 1952 are that the appellant had failed to satisfy the Commissioner that he was permanently settled in Ceylon. The appellant had made an application for registration upon which the Commissioner took action as required by Section 8. Apparently the investigating officer sent an adverse report and the Commissioner in the exercise of the discretion vested in him made order under Section 9 (2) stating that he had decided to refuse the application unless cause was shown to the contrary within the stipulated period of three months from the tentative order of refusal. The appellant showed or purported to show cause by letter as well as at the inquiry which the Commissioner decided to hold. Eventually the Commissioner made order refusing the application and the grounds of refusal are set out in his order dated 10.1.1952 which was communicated to the appellant on 23.1.1952. I shall reproduce the entire text of that order :—

" The applicant has declared himself temporarily resident in Ceylon after the coming into operation of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949. If that declaration was true, he could

hardly have been permanently settled in Ceylon at the time of coming into operation of the Act. He now represents that he signed the declaration in order to send money to India immediately. He was either deceiving the Government at that stage in regard to the nature of his residence or, if he was not, he was not then permanently resident. He can hardly be heard now to say that he was deceiving the Government. In making the declaration he created evidence against himself and is estopped from seeking to prove now that he had permanently settled in Ceylon at the time of coming into operation of the Act.

The Act itself was designed to benefit Indians and Pakistanis who had already permanently settled in Ceylon, and it is not, in my opinion, relevant to inquire whether the applicant, not being permanently settled at the time of coming into operation of the Act, subsequently, and before the date of his application had permanently settled.

The application is refused. "

Section 14 (4) of the Act provides as follows :—

" The proceedings at an inquiry shall as far as possible be free from the formalities and technicalities of the rules of procedure and evidence applicable to a court of law, and may be conducted by the Commissioner in any manner, not inconsistent with the principles of natural justice, which to him may seem best adapted to elicit proof concerning the matters that are investigated. "

Undoubtedly in the order made the Commissioner has taken a mistaken view of the legal doctrine of estoppel. But as Lord Greene pointed out in the case of *B. Johnson (Builders) Ltd. v. the Minister of Health* [1],

" . . . . if the legislature chooses to mix, for the purpose of one essentially administrative process, a quasi-judicial element so as to make a sort of hybrid operation of it, one cannot expect lines of division to produce an entirely logical result. "

Although the declaration of the appellant does not amount to an estoppel it was a fact that the Commissioner could take into consideration in arriving at his decision. One has also to bear in mind that the Commissioner was entitled to take into consideration the report of the investigating officer made under Section 8 (2) (*b*). In the circumstances I am unable to say that the order made was wrong. The appeal, therefore, fails and is dismissed.

Appeal dismissed.

[1] *(1947) 2 A.E.R. 395.*