

1945

Present: Jayetilleke J.

JAMES PERERA v. GOVERNMENT AGENT, KANDY.

IN RE APPLICATION FOR A WRIT OF "MANDAMUS" ON
GOVERNMENT AGENT (CENTRAL PROVINCE).

Village Committee—Election of members—Authority of Government Agent to issue notice for nomination and election of member—Power to cancel notice—Village Communities Ordinance (Cap. 198).

A Government Agent who is authorized to issue notices for a nomination and election of members to Village Committees has power to cancel the notices and issue fresh notices for election and nomination.

THIS was an application for a writ of *mandamus*.

E. B. Wikremanayake in support.

T. S. Fernando, C.C., for the respondent,

Cur. adv. vult.

June 20, 1945. JAYETILEKE J.—

The facts out of which these three applications for writs of *mandamus* arise may be summarized as follows:—On or about November 7, 1944, the respondent, who is the Government Agent of the Central Province, caused notices to be published fixing the nomination and the election for members of three wards of the Village Committee of Udapalata for November 20, 1944, and December 13, 1944, respectively, at the Galaha Government Mixed School. Thereafter he found that the Galaha Government Mixed School was not a convenient polling place for the inhabitants of the ward and he cancelled the notices issued by him and published fresh notices fixing December 7, 1944, for nomination and December 20, 1944, for election. The petitioners ignored the latter notices and tendered their nomination papers on November 20, 1944, which the respondent refused to accept. These applications are made to compel the respondent to accept the nomination papers tendered by the petitioners and to declare them to be duly elected members for the respective wards as no other nomination papers were tendered on that day. The petitioners contend that the respondent had no power under the Village Communities Ordinance (Cap. 198) to cancel the notice issued by

him on November 7, 1944. I think a very short and simple answer to that contention is to be found in section 15 of the Interpretation Ordinance (Cap. 2). It reads—

“ Where any Ordinance, whether passed before or after the commencement of this Ordinance, confers power on any authority to issue any proclamation, or make any order or notification, any proclamation, order, or notification so issued or made may be at any time amended, varied, rescinded, or revoked by the same authority and in the same manner, and subject to the like consent and conditions, if any, by or in which or subject to which such proclamation, order, or notification may be issued. ”

The words of the section are very clear. The respondent had, in my opinion, the right to cancel the notices issued by him on November 7, 1944.

I would refuse the applications with costs.

Application refused.

