the land of which it continued in possession under that grant was not one by the State Government or that the State Government had not the authority to make the grant. If such contention is both not open to the Corporation and not tenable on the merits, it would follow that the impugned notification was fully justified by the provisions under s. 81 of the Jabalpur Corporation Act.

We therefore hold that the impugned notification was valid, though for reasons very different from those on which its validity was sustained by the learned Judges of the High Court. The appeal fails and is dismissed. In view however of the concession made by the respondent before the High Court which misled the learned Judges we consider it proper to direct that each party should bear its costs throughout.

Appeal dismissed.

THE CHIEF COMMISSIONER, AJMER

v.

BRIJ NIWAS DAS

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April 17.

(B. P. SINHA, C. J., P. B. GAJENDRAGADKAR, K. N. WANCHOO, N. RAJAGOPALA AYYANGAR and T. L. VENKATARAMA AIYAR, JJ.)

Cinematograph Films—Indigenous films—Cultural films—Exhibition of—Condition of license—Notification—Vires of—Cinematograph Act, 1952 (Act. 37 of 1952), s. 12(4).

The respondent was an exhibitor of films in a public cinema theatre. Under the powers conferred by s. 12(4) of the Cinematograph Act a notification was issued which among other things provided that a certain percentage of "approved film" should be shown at every performance and that films produced in India and certified by the Central

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Government as Cultural films will be deemed to be "approved films". In condition No. 22 of the license issued to the respondent the above terms of the notification were substantially reproduced. On the failure of the respondent to pay a certain amount to the Ministry of Information for the supply of "approved films" the Ministry threatened to stop further supply of "approved films" to the respondent. There upon he filed a writ in the High Court by which he challenged the *vires* of s. 12(4), the notification and the conditions in the license. The main contention was that s. 12(4) comprised two categories of films, namely, "cultural films" and "indigenous films" and that the two categories were alternative. Therefore it was urged that since condition No. 22 required that cultural films also should be produced in India the condition was bad. The High Court upheld the validity of the section but struck down the conditions. The appellant appealed to this court on a certificate of fitness granted by the High Court.

The sole question before the Supreme Court was whether the notification and condition No. 22 were valid within the terms of s. 12(4).

Held, that the words "indigenous films" are general and unqualified in their contents and must include in their ordinary and accepted sense cultural as well as other films. To read the words "indigenous films" as meaning "indigenous films" other than cultural films would be to cut down the plain and ordinary sense of the words and to import into the enactment words which are not there. The court would proceed on the basis that the Legislature meant precisely what it said. The words 'produced in India' in the impugned notification and condition No. 22 are not to be read as a qualification annexed to the first category of films but referable to the second category and would be perfectly *intra vires* under s. 12(4).

The notification in so far as it requires that cultural films should have been produced in India is within s. 12(4) and condition No. 22 which has been framed in accordance therewith is valid.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 310 of 1961.

Appeal from the judgment and order dated May 14, 1958, of the Rajasthan High Court (Jaipur

Bench) at Jaipur Writ Application No. 237 of 1956.

S. N. Sanyal, Additional Solicitor-General of India, S. K. Kapur and *P. D. Menon*, for the appellents and Interveners.

The respondent did not appear.

1962. April 17. The Judgment of the Court was delivered by

Aiyar J.

VENKATARAMA AIYAR, J.—This is an appeal against the Judgment of the High Court of Rajasthan, on a Certificate granted by that Court under Art. 133 (1) of the Constitution. The respondent carries on the business of exhibiting films in premises called the Royal Talkies at Beawar under licences granted by the appropriate authorities under the Cinematograph Act, 1952 (37 of 1952) hereinafter referred to me 'the Act'. Acting in exercise of the powers conferred by s. 12 (4) of the Act, the Chief Commissioner of Ajmer issued on November 23, 1954, a notification which, omitting what is not material, is as follows :—

> "(1) The licensee shall so regulate the exhibition of cinematograph films that at every performances open to the public, approved films are exhibited, the approved films to be exhibited in relation to other films at every such performance being in the same proportion as one is to five or the nearest lower or higher approximation thereto.
>
> (2) Only such films produced in India as are certified by the Central Government with the previous approval of the Film Advisory Board, Bombay to be scientific films, films intended for education purposes, films dealing with news, current events or documentary

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films shall be deemed to be approved films for the purposes of these directions."

This notification came into force on December 1, 1954. On November 24, 1955 the District Magistrate of Ajmer being the licensing authority under the Act sent to the respondent a statement of conditions of licence revised in accordance with the above notification. We are concerned in this appeal with two of them, conditions Nos. 15 and 22. They are, so far as they are material as follows :—

"15. The licensee shall, when and so often as the Chief Commissioner may require, exhibit free of charge or on such terms as regards remuneration as the Chief Commissioner may determine, films and lantern slides provided by the Chief Commissioner.

Provided that the licensee shall not be required to exhibit at one entertainment films or lantern slides the exhibition of which will take more than fifteen minutes in all or to exhibit film or slides unless they are delivered to him at least twenty four hours before the entertainment at which they are to be shown is due to being".

"22. (a) The licensee shall so regulate the exhibition of cinematograph films that at every performance open to the public, approved films are exhibited, the approved films to be exhibited in relation to other films at every such performance being in the same proportion as one is to five or the nearest lower or higher approximation thereto.

(b) Only such films produced in India as are certified by the Central Government with the previous approval of the Films Advisory Board, Bombay to be scientific films, films

intended for education purposes, films dealing with news, current events or documentary films shall be deemed to be approved films for the purposes of these directions.

On July 25, 1956 the Films Division, Ministry of Information and Broadcasting, Government of India, made a demand on the respondent for a sum of Rs. 274/1/- on account of supplies of approved films made to him during the period March 3, 1956 to August 5, 1956 and further informed him that if the above demand was not complied with, further supplies of approved films would be stopped. The respondent disputed his liability to pay the amount on the ground that the supply was made not in pursuance of any contract entered into by him but voluntarily by the Government. A correspondence then followed and eventually the respondent was told that if the amount was not paid as demanded, further supplies of approved films would be stopped and the licence cancelled. Thereupon he filed the Writ Petition under Art. 226 of the Constitution, out of which this present appeal arises, in the Court of the Judicial Commissioner, Ajmer, challenging the *vires* of s. 12 (4) of the Act, the notification dated November 23, 1954 issued thereunder and conditions Nos. 15 and 22 inserted in the licence in accordance therewith. The petition was heard by a Bench of the High Court of Rajasthan to which it stood transferred under the provisions of the States Reorganisation Act, 1956, and by their Judgment dated May 14, 1958 the learned Judges sustained the validity of s. 12 (4) but struck down the impugned conditions Nos. 15 and 22 as not authorised by s. 12 (4) of the Act. It is against this Judgment that the present appeal, on certificate, has been preferred by the Government.

Before us the learned Additional Solicitor General who appeared for the appellant did not

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contest the correctness of the decision of the High Court insofar as it held that condition No. 15 was not valid, but he contended that the learned Judges were not right in holding that condition No. 22 was not authorised by s. 12 (4) of the Act. The sole point for determination in this appeal is therefore whether the notification dated November 23, 1954 is within the terms of s. 12 (4). If it is, then condition No. 22 which gives effect to it is valid. If not, both the notification and the condition must be struck down as *ultra vires*.

Section 12 (4) of the Act runs as follows :

> "The Central Government may, from time to time, issue directions to licensees generally or to any licensee in particular for the purpose of regulating the exhibition of any film or class of films, so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited, and where any such directions have been issued those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted."

It will be seen that the enactment comprises two categories of films, one consisting of scientific films, films intended for educational purposes, films dealing with news and current events and documentary films or what for conciseness may be called 'cultural films', and the other, of 'indigenous films'. The learned Judges of the High Court were of the opinion that these two categories were alternative as indicated by the disjunctive "or" and consequently the provision that cultural films should have been produced in India was to introduce a restriction in category No. 1 which is not authorised by the statute, and that in consequence the words

"produced in India" in condition No. 22 were unauthorised and *ultra vires*.

This view does not commend itself to us. It is true that the enactment classifies films into two categories but we do not read them as mutually exclusive. The words "indigenous films" are general and unqualified in their contents, and must include in their ordinary and accepted sense cultural as well as other films. If the two categories of films are to be construed as mutually exclusive, then we must read the words "indigenous films" as meaning "indigenous films other than cultural films". That would be to cut down the plain and ordinary sense of the words, and to import into the enactment words which are not there. Such a construction must, if that is possible, be avoided. We must proceed on the basis that the legislature meant precisely what it said.

This conclusion is further reinforced when regard is had to the policy underlying the enactment, which is to encourage exhibition of two classes of films (1) cultural and (2) indigenous, and so far as indigenous films are concerned they may be cultural films or they may not be. In this view the words "produced in India" in the impugned notification, and condition No. 22 are not to be read as a qualification annexed to the first category of films, but as referable to the second category, and would be perfectly *intra vires* under s. 12 (4). We must accordingly hold that the notification dated November 23, 1954 insofar as it requires that cultural films should have been produced in India is within s. 12 (4) and condition No. 22 which has been framed in accordance therewith is valid. The order of the Court below will be modified to this extent. As the respondent does not appear, there will be no order as to costs in this Court.

Order modified.