

1967  
April 11

REPUBLIC  
(MINISTER OF  
COMMERCE  
AND INDUSTRY  
AND ANOTHER)

v.  
YIANGOS  
DROUSHIOTIS

[VASSILIADES, P., JOSEPHIDES, STAVRINIDES, LOIZOU,  
HADJIANASTASSIOU, JJ.]

THE REPUBLIC OF CYPRUS, THROUGH  
1. THE MINISTER OF COMMERCE AND INDUSTRY,  
2. THE SENIOR MINES OFFICER,

*Appellants,*

v.

YIANGOS DROUSHIOTIS,

*Respondent.*

(*Revisional Jurisdiction Appeal No. 22*).

*Mines and Quarries—Appeal against decision of a Judge of the Supreme Court annulling, on a recourse under Article 146 of the Constitution, the Respondent's refusal to grant Applicant (Respondent) permits under the Mines and Quarries (Regulation) Law, Cap. 270—On the ground that the Public Authority concerned, in deciding to refuse such permits, did not properly exercise its discretion in the matter—Appeal taken by the aforesaid public Authority—Appeal dismissed, the Supreme Court finding no substance therein—See, also, herebelow.*

*Administrative Law—Discretionary powers vested in the executive organs—Principles upon which this Court will interfere with the exercise of such discretion—Improper exercise thereof—Excess or abuse of powers—Infringement of generally accepted principles of Administrative Law—Article 146.1 of the Constitution—See also, hereabove.*

*Discretionary powers of executive organs—The Court will never substitute therefor its own discretion in the matter—See above.*

This appeal is taken by the public authority concerned, against the judgment of the trial Judge—a member of the Supreme Court, acting on a recourse under Article 146 of the Constitution, see his judgment in (1966) 3 C.L.R. 722—annulling the decision of the authority, by which Respondent's application for certain prospecting permits under Cap. 270 (*supra*) were refused. The matter was referred back to the said administrative authority "to be reconsidered afresh" in the light of the findings and observations in the learned Judge's Judgment.

The Supreme Court in dismissing the appeal:

1967  
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—  
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*Held*, (1) (a). The jurisdiction under Article 146 of the Constitution has been exercised for several years now, in a big number of cases, of a great variety. Time and time again, this Court has stated the principles of administrative law which guide the Court in the exercise of the jurisdiction; and the extent to which the Court can go in dealing with the discretion which the law places in executive organs.

(b) It has always preserved and sustained such discretion when properly exercised; and, where the Court found that the discretion was exercised in the contrary way, it has invariably referred matters back to the executive for the exercise of their discretion in such matters, without substituting its own discretion.

(2) We are unanimously of the opinion that this Court has no cause for interfering in any way with the decision of the trial Judge and the reasons given therefor. We can find no substance in this appeal.

*Appeal dismissed with costs.*

### **Appeal.**

Appeal against a decision of a Judge of the Supreme Court of Cyprus (Triantafyllides J.) given on the 25.8.66 (Revisional Jurisdiction Case No. 61/65) annulling, on a recourse under Article 146 of the Constitution, the Appellants' refusal to grant Respondent (Applicant) permits under the Mines and Quarries (Regulation) Law, Cap. 270.

*K. Talarides*, Counsel of the Republic, for the Appellants.

*A. Myrianthis* for the Respondent.

The Judgment of the Court was delivered by:

VASSILIADES, P.: After hearing learned counsel for the Appellants in this revisional appeal, we are of opinion that we need not call on counsel for the Respondent.

The appeal was taken by the public authority concerned, against the Judgment\* of the trial Judge in the present recourse,

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\* *Note*: Judgment reported in (1966) 3 C.L.R. 722.

1967  
April 11  
—  
REPUBLIC  
(MINISTER OF  
COMMERCE  
AND INDUSTRY  
AND ANOTHER)  
v.  
YIANGOS  
DROUSHIOTIS

annulling the administrative decision of the authority, by which Respondent's application for certain prospecting permits under the Mines and Quarries (Regulation) Law (Cap. 270) were refused. The matter was referred back to the administrative authority "to be reconsidered afresh" in the light of the findings and observations in the Court's Judgment.

The appeal was founded on four grounds which may, however, be summarized in the contention that the trial Judge erroneously decided that the administrative authority did not act properly in the exercise of their discretionary power in the matter, thus taking a decision in excess or abuse of their powers.

Learned counsel for the Appellants submitted that the Administrative Court in a recourse of this nature, should only deal with the legality of the administrative decision; and should not concern itself with the exercise of the discretion, which the Law gives to the administrative authority in the performance of Government functions.

In dealing with a recourse, this Court exercises the jurisdiction prescribed in Article 146 of the Constitution. It has to adjudicate on complaints that "a decision, an act or omission of any organ, authority or person, exercising any executive authority is contrary to any of the provisions of the Constitution or of any law, or is made in excess or in abuse of powers vested in such organ or authority or person".

This jurisdiction has been exercised for several years now, in a big number of cases, of a great variety. Time and time again, this Court has stated the principles of administrative law which guide the Court in the exercise of the jurisdiction in question; and the extent to which the Court can go in dealing with the discretion which the law places in executive organs. It has always preserved and sustained such discretion when properly exercised; and, where the Court found that the discretion was exercised in the contrary way, it has invariably referred matters back to the executive for the exercise of their discretion in such matters, without substituting its own discretion.

In this particular case, the learned trial Judge, after stating in his careful and well considered Judgment, the reasons for which he reached the conclusion that the recourse should succeed, referred the case back to the administrative authority

to deal with it afresh, and in doing so to exercise the powers and discretion which the Law gives to such authority in this matter.

The reasons for which the trial Judge reached that conclusion, appear fully in his Judgment; and none of them has been challenged in the appeal.

We are unanimously of the opinion that, considering the nature of the proceedings, this Court, in its revisional jurisdiction, has no cause for interfering in any way with the decision of the trial Judge. We can find no substance in this appeal.

The appeal will, therefore, be dismissed with costs.

*Appeal dismissed  
with costs.*

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