

1973
Dec. 31

NICOS
THEODORIDES

v.

REPUBLIC
(MINISTRY OF
INTERIOR)

[TRIANTAFYLLIDES, P.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

NICOS THEODORIDES,

Applicant.

and

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTRY OF INTERIOR,

Respondent.

(Case No. 281/70).

Administrative decision—In the sense of Article 146.1 of the Constitution and which can be challenged by the recourse under that Article—Ad hoc Committee set up by the respondent with the object of examining, or dealing with, applications for payment of relief for damage caused to property by a cyclone—Allocated public funds for the purpose by a decision of the Council of Ministers—Decision of said Committee refusing relief to applicant—A matter of public administration amounting to the exercise of administrative or executive authority in the sense of said Article 146.1—And which decision, therefore, can be attacked by a recourse under that Article—Principle laid down in Petrides' case (infra), applied.

Recourse under Article 146 of the Constitution—Such recourse lies against a decision of the ad hoc Committee set up by the respondent for the purpose of dealing with applications for relief for damage caused to property by a cyclone—See supra.

Executive or administrative authority—In the sense of Article 146.1 of the Constitution—See supra.

Applying the principle laid down in the *Petrides'* case (*infra*) and distinguishing the *Petrou's* case (*infra*), the learned President of the Supreme Court held that the refusal of the ad hoc Committee set up by the Council of Ministers for the purpose of dealing with applications for relief for damage caused to property in Limassol by the recent cyclone

(and of allocating the sum of £100,000 made available to it by the Council) is a matter of public administration, amounting to the exercise of executive or administrative authority in the sense of Article 146.1 of the Constitution; and that, therefore, a recourse under that Article lies against such refusal.

The facts are fully set out in the judgment of the Court.

Cases referred to :

Petrides and The Greek Communal Chamber, 5 R.S.C.C. 48;

Petrou and The New Co-operative Credit Society of Karpassia, 3 R.S.C.C. 58.

Recourse.

Recourse against the non-payment to applicant of any relief in respect of damage caused to property which was suffered by him as a result of a cyclone.

L. Clerides, for the applicant.

L. Loucaides, Senior Counsel of the Republic,
for the respondent.

Cur. adv. vult.

The following decision was delivered by :-

TRIANTAFYLLIDES, P. : By this recourse the applicant complains, in effect, against the non-payment to him of any relief in respect of damage to property which was suffered by him as a result of a cyclone which hit the town of Limassol on the 22nd December, 1969.

As it appears from the Opposition in these proceedings, though, due to the cyclone, the applicant suffered damage which was assessed at £5,521 he was refused any relief in respect thereof on the ground that he was a rich person; he was, instead, offered only a long term loan which he declined.

The decision not to pay to the applicant any relief was taken by an ad hoc Committee which was set up under the chairmanship of the District Officer of Limassol; it consisted of prominent citizens of Limassol,

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A preliminary objection was raised, by counsel for the respondent, to the effect that the decision in question of the ad hoc Committee is not a decision which can be challenged by a recourse under Article 146 of the Constitution, because the said Committee was not an organ exercising executive or administrative authority.

It is common ground that the Government of the Republic, by a decision of the Council of Ministers, made available to the Committee a sum of £100,000 and that another sum of about £42,000 was secured by it through donations. The said decision of the Council of Ministers (No. 9314) was published on the 9th January, 1970 (in the 4th Supplement to the Official Gazette, p. 5) and reads as follows :-

«Θεομηνία εις Λεμεσόv.

Τὸ Συμβούλιον ἀπεφάσισεν ὅπως ἐγκρίνη τὴν διόθεσιν ποσοῦ £100,000 διὰ τὴν ἀνακούφισιν πληγέντων ἐκ τῆς προσφάτου θεομηνίας εις Λεμεσόv».

(“Natural calamity in Limassol.

The Council decided to approve the allocation of a sum of £100,000 for the relief of those who were stricken by the recent natural calamity in Limassol”).

In this respect appropriate provision was made in the Budget Law, 1970 (11/70), under Sub-Head A59 (item 32).

In *Petrides* and *The Greek Communal Chamber*, 5 R.S.C.C. 48, it was held that where by a Law of the Greek Communal Chamber provision had been made that a sum of £200,000 would be used in order to pay compensation to members of the Greek Community who had suffered damage either due to action of security forces or because of intercommunal rioting a decision of the appropriate authorities not to pay such compensation to a claimant was to be treated as a decision which could be attacked by a recourse made under Article 146 of the Constitution; as pointed out in the judgment in that case, it was “a matter of public administration” and “an exercise of executive or administrative authority in the sense of Article 146.1”.

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Though in the present instance no Law was specifically enacted for the purpose of regulating the disposal of the sum of £100,000 which was placed by the Government in the hands of the ad hoc Committee under the chairmanship of the District Officer of Limassol, I am of the view, in the light of the principle on the basis of which the *Petrides* case was decided, that, as the said Committee was deciding about the disposal of public funds for a public purpose, the decision reached by such Committee regarding the applicant's application for relief is a matter of public administration and amounts to the exercise of executive or administrative authority in the sense of Article 146 of the Constitution; and, in this respect, it is very significant, too, that the assessment of the damage caused by the cyclone to the property of the applicant was assessed by public officers in the District Office of Limassol, in the Public Works Department and in the Welfare Department (see Annex "A" to the Opposition).

The case of *Petrou* and *The New Co-Operative Credit Society of Karpassia*, 3 R.S.C.C. 58, which was relied upon by counsel for the respondent, is clearly distinguishable from the present case, as it was decided in relation to a totally different legal and factual situation, namely the functions of a Co-Operative Society in relation to admission of members; therefore, it cannot be regarded as a precedent relevant to the issue with which I am dealing in this Decision.

For all the foregoing reasons I find that this recourse could be made under Article 146, and should be heard in relation to the other issues raised.

Order accordingly.