

1955

*Present : Gratiaen, J., and Swan, J.*

A. K. SUBRAMANIAM, Appellant, and COMMISSIONER FOR  
REGISTRATION OF INDIAN AND PAKISTANI  
RESIDENTS, Respondent

*S. C. 1,040—Indian and Pakistani Residents (Citizenship),  
No. X 3,739*

*Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949—Appeal from order  
of Commissioner—Time limit.*

The time limit for appeal under the Indian and Pakistani Residents (Citizenship) Act is three months from the date on which the order appealed from is communicated to the applicant.

**A**PPPEAL under the Indian and Pakistani Residents (Citizenship) Act.

*Walter Jayawardene*, for the applicant-appellant.

*V. Tennekoon*, Crown Counsel, for the respondent.

November 25, 1955. GRATIAEN, J.—

The applicant was refused his application for registration as a citizen of Ceylon on the ground that he admittedly owned certain property in India by inheritance. The Deputy Commissioner took the view that this was a fatal disqualification because in his opinion "the ownership of property in India is repugnant to the Ordinance and a person cannot

get citizenship rights so long as he owns property in India." There is no such disqualification and learned Crown Counsel states that he is unable to support the order refusing the application on the ground of that refusal. Learned Crown Counsel has however brought to our notice that although the inquiry was held on 18th February, 1955, the petition of appeal is dated 6th June, 1955. The time limit allowed by the Ordinance is three months from the date of the order and that clearly means the date on which the order was communicated to the applicant. Under the Ordinance, the Deputy Commissioner is required either to make his order at the close of the inquiry or to inform the applicant of the date on which the order will be made. There is no evidence on the record as to which of these steps was taken in the present case and I observe that the typed order in the record which was signed by the Deputy Commissioner is in fact undated. There is also evidence on the record that on 16th April, 1955, the applicant wrote to the Deputy Commissioner complaining that he had not been informed of the result of the inquiry which had been held by the Deputy Commissioner on 18th February, 1955. Even then a copy of the order was not sent to the applicant until he sent the Department a sum of 72 cents to defray the cost of typing. Accordingly, we are quite unable to decide when the order was in fact communicated to the applicant for the first time and for this very reason it is impossible for us to say that the appeal was made out of time.

We allow the appeal and direct the Deputy Commissioner to take action on the footing that a *prima facie* case for registration has been made out. The applicant is entitled to his costs which we fix at Rs. 105.

SWAN, J.—I agree.

*Appeal allowed.*

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