



**INDUSTRIAL LICENSING, MONOPOLIES AND RESTRICTIVE TRADE PRACTICES, LAW AND PRACTICE.** By F.L. Berarwalla. Jasmine Law Publishers, Bombay. Pp. xviii+1055. Rs. 125.

THE INDUSTRIES (Development and Regulation) Act, 1951 and The Monopolies and Restrictive Trade Practices Act, 1969 are two post-independence Acts brought into force with a view to implementing the directive principles of state policy set out in part IV of the Constitution. The directive principles, which are 'fundamental in the governance of the country', have been implemented hitherto, if at all, only tardily, almost reluctantly, for fear that the measures would entrench upon the fundamental rights of citizens. Very recently, the Supreme Court in *Kesvananda Bharati's* case,<sup>1</sup> has drawn attention to the importance of the directive principles of the Constitution and done away with any supposed impediment standing in the way of their implementation. In the above context the book under review is a timely publication.

As J.C. Shah, former Chief Justice of India, points out in his foreword to the book :

We have witnessed during the last two decades enactment of several statutes intended to control development and regulation of a number of important industries, and to prevent concentration of economic power to the common detriment, and for the control of monopolies and prohibition of monopolistic and restrictive trade practices.<sup>2</sup>

This is a topic on which there is sharp difference of opinion in the country. When a vociferous section hails such measures as the harbinger of a new era there is a powerful section condemning it outright as unwarranted and unmerited intrusion into affairs of industry. N.A. Palkhivala says in his foreword to the book (there are two forewords) :

The control and regulation of what are fondly termed as 'monopolies' and 'big businesses' has assumed vast proportions. The Monopolies and Restrictive Trade Practices Act, 1969, was enacted to curb the economic power that was said to be concentrated in a few hands. Mr. F.L. Berarwalla, has in his new book, dared to grapple with the imprecise, vague and often-difficult-to-construe provisions of the law.<sup>3</sup>

The book under review running into 1055 closely printed pages

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1. A.I.R. 1973 S.C. 1461.
  2. F.L. Berarwalla, *Industrial Licensing, Monopolies and Restrictive Trade Practices, Law and Practice* vii (Hereinafter referred to as *Berarwalla*).
  3. *Id.* at ix.



consists of the texts of two enactments with commentaries, appendices and addenda.

Pages 1 to 99 deal with the Industries (Development and Regulation) Act, 1951 and commentaries thereon. Pages 100 to 648 are taken up by the Monopolies and Restrictive Trade Practices Act, 1969 and commentaries thereon. The rest of the book consists of two appendices containing the rules, notifications, press notes, *etc.*, under the two enactments, and an "Addenda" which is a conglomerate of many useful odds and ends. There is a table of cases and index too.

The commentaries are exhaustive. It is certainly useful considering the fact that there are not many books available on the topic. The enactments are commented upon section by section. The commentaries are preceded by a synopsis which enables one to put one's finger on the point required. Time is not wasted in looking up a point. A useful index is provided. The index and the synopsis of the commentaries on each section make reference to the book quite easy. The book is even a good source book for more elaborate study of the subjects dealt with for those who would like to specialise in the field covered. The appendices are mines of information. There are, in addition to the rules and notifications, press notes of the Government of India, judgment of the Supreme Court in the *Car Prices Fixation* case,<sup>4</sup> extract from the Dutt Committee Report on Industrial Licensing System (running into 35 pages), the lists of industries issued by the Government of India relating to industrial licensing for the financial year 1968-1969, sections on small scale industries, foreign collaboration agreements including taxation for regulation of foreign collaborations, incentives for industries in less developed areas setting out central and state incentives, import policy, a survey of British Monopolies Commission, *etc.* (From the footnote on page 970 the survey running into 55 pages appears to be a reprint from Sutherland's book.<sup>5</sup> At least reference to individual cases such as *Kodak*,<sup>6</sup> *Courtaulds*,<sup>7</sup> *Pilkington*,<sup>8</sup> *etc.*, could have been avoided. It has only served to add to the bulk). Then comes the "Addenda" which is a curious amalgam of many things. It contains sections on collaboration—views for and against, U.K. Monopolies Commission's views, individual applications by some Indian companies and decisions of the Monopolies Commission, excerpts from the judgments of High Courts, value of assets, the Constitution (Twenty fourth and Twenty fifth) Amendment Acts, development of technical consultancy in India, export policy resolution of the Government of India, excerpts from the Companies (Amendment) Bill, 1972, *etc.* While there is no doubt that all

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4. *Premier Automobiles Ltd., v. Union of India*, A.I.R. 1970 S.C. 1386.

5. Alister Sutherland, *The Monopolies Commission in Action* (1970).

6. *Berarwalla* at 949.

7. *Id.* at 951.

8. *Id.* at 950.



these may be useful, the attempt savours more of compiling an encyclopaedia than writing a commentary. The comments get out of focus as the appendices and addenda contain material much of which should have come under the commentaries. The commentaries, appendices and addenda become roving and rambling as matters coming under one heading are found scattered in all the three.

Did the learned author write a commentary on the two enactments or did he write a good book of reference? It looks as if he wanted to accomplish the latter. In that he has succeeded exceedingly well. The lawyer and the businessman look at a law book from different angles. When a book is intended to be useful to both, some amount of mixing up is inevitable. That detracts from the value of a book as a law book, but not a whit as a book of reference. The title of the book refers to the law and practice of licensing, monopolies and restrictive trade practices. The effort justifies the title, and makes the book indispensable for the lawyer, administrator and businessman alike, whether one likes the arrangement of the subjects or not.

Considering the effort that has gone into the compilation and the commentaries, and the cost of printing these days, the price of Rs. 125 is not unreasonable. Printing mistakes are few enough to be ignored.

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