

CHAPTER I

INTRODUCTORY

Due to the impact of the present-day thinking regarding a socialistic pattern of society and a welfare state, government regulation of trade and commerce is the order of the day. The Indian Constitution clearly and explicitly enunciates this policy in several Articles, *inter alia*, Art. 39 in the Chapter on Directive Principles of State Policy enjoins the State to direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good, and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; Art. 19(6) envisages the State as carrying on any trade, business, industry or service. It is, therefore, that Parliament and State Legislatures have enacted a number of laws which have resulted in a vast system of regulatory control on trade and business coming into operation in the country.¹ Of these enactments, by far the most important is the Essential Commodities Act which confers on the government broad powers to control the economic life of the country and under which a system of control and regulation of production, supply, trade and commerce of a number of commodities is in force. The purpose of this study is to investigate the administrative process operative under this Act. An attempt has been made to find out what powers are given to the government officials under the Act and the orders made thereunder, what procedures have been laid down for the exercise of various administrative powers, what safeguards are available to those whose interests are thereby affected, and what further safeguards are necessary keeping in view administrative exigencies, fairness of administrative proceedings, the rights of the individual and the democratic values.

The study confines itself to the orders promulgated by the Central Government under the Act. The orders of the State

1. Some of these Acts are: The Industries (Development and Regulation) Act, 1951; The Imports and Exports Control Act, 1947; The Forward Contracts Act, 1952; The Foreign Exchange Regulation Act, 1947.

Governments are far too numerous and due to limitations of time and space, have not been noted here.

The pedigree of the present day commodity control in the country is not very ancient. It dates back to the days of the Second World War, 1939-45. During the emergency, controls were resorted to on an extensive scale in order to fight inflation, scarcity and high prices of essential commodities. There appears to run a kind of historic continuity through the legal provisions in the area of commodity control since its inception in 1939. The foundations of the modern system can be traced back to the Defence of India days². The present study, therefore, opens with this early period. It then moves through the transitory post-war period (1947-1955) and comes to the modern period which forms its major and, from a practical point of view, the most important component. The Indian economy has not returned to normalcy since after the war; the impact of the Five Year Plans has made it all the more vulnerable to inflation and scarcity; therefore, the continuance of commodity control for quite some time has become inevitable and hence the need for this study.

2. Many provisions of the Essential Supplies Act, 1946, were analogous to the Defence of India Act and the Defence of India Rules, and many provisions of the present-day Essential Commodities Act are analogous to many provisions in the Essential Supplies Act. Similarly, many provisions in the present-day control orders can be traced back to the control orders issued during the Defence of India days, *infra*, p 31 and App. D.