

SUPREME COURT OF INDIA

Sodhi Shamsher Singh

Vs.

State of Pepsu

Petitions Nos. 286 to 288 of 1953

(Mehr Chand Mahajan, B. K. Mukherjea and B. Jagannadhadas, JJ.)

01.10.1953

JUDGEMENT

B. K. MUKHERJEA, J.:

1. These three applications under Art. 32 of the Constitution, praying for writs of 'Habeas Corpus' on behalf of three detenus, to wit, Sukhdev Singh, Jagjit Singh and Hardayal Singh, were presented to this court by one Sodhi Shamsher Singh on 9-9-1953. After preliminary hearing, rules were granted on these petitions by our learned brother Ghulam Hasan J. sitting as Vacation Judge, and the rules have now come up for final hearing.

2. It appears that all these three detenus were arrested on 1-9-1953 under order of the Chief Secretary to the PEPSU Government issued in the name of the President of India, under S. 3(1), Preventive Detention Act, 1950 and after arrest they were taken to the Central Jail. Patiala where they are lodged since then. On the 5th of September following, the detenus were supplied with the grounds of detention and it is on the basis of these grounds that the legality of the detention has been challenged before us.

3. The grounds state, in substance, that the detenu Sukhdev Singh, who had been previously a Sessions Judge of Patiala and was subsequently removed from the service, published under the pseudonym of Lal Chand Sharma, a pamphlet dated 24-5-1953 under the caption of "The petition of mercy by the afflicted public of the Patiala Union to Pandit Jawaharlal Ji, Prime Minister" --- first instalment. Another pamphlet of a similar nature was published on 4-8-1953 and it was headed as follows :

"The public wants impeachment of Bhapa Mohan Singh and Billa Teja Singh; Merey petition to Shri Jawaharlal, Prime Minister" --- second instalment.

It is said that these pamphlets were widely circulated and they contain passages which make serious allegations against Shri Teja Singh, the Chief Justice of Patiala and convey to the people, residing in the State, an impression that the Chief Justice in the State administers justice based on communal considerations and that he benefits the Sikhs and persecutes the Hindus regardless of the merits of the case.

In the opinion of the Government, the said passages tend to encourage the Sikhs to resort to act of lawlessness and plunge the Hindus into a feeling of utter frustration and discouragement and

consequently, to make them take the law into their hands for the redress of their grievances. The other detenus are said to have assisted Sukhdev Singh in the publication and distribution of the pamphlets.

4. It has been held by this court, on more occasions than one, that the propriety or reasonableness of the satisfaction of the Central or the State Government upon which an order for detention under S. 3, Preventive Detention Act is based, cannot be raised in this court and we cannot be invited to undertake an investigation into sufficiency of the matters upon which such satisfaction purports to be grounded. We can, however, examine the grounds disclosed by the Government to see if they are relevant to the object which the legislation has in view, namely, the prevention of objects prejudicial to the defence of India or to the security of State and maintenance of law and order therein.

5. We have been taken through both these pamphlets by the learned Attorney-General and we are definitely of opinion that the publication or distribution of these pamphlets could not have any rational connection with the maintenance of law and order in the State or prevention of acts leading to disorder or disturbance of public tranquillity. It is true that the pamphlets are couched in the most filthy and abusive language and amount to a vitriolic attack upon the character and integrity of the present Chief Justice of PEPSU. He is accused 'inter alia' of gross partiality and communal bias in the matter of recruiting officers for judicial posts and also in deciding cases between the litigants.

Whatever other remedies that might be open to the aggrieved party or to the Government to prevent such scurrilous attack upon the head of the judiciary in the State, we do not think that the provisions of the Preventive Detention Act could be made use of for that purpose. The utmost that can be said is that the allegations in the pamphlets are calculated to undermine the confidence of the people in the proper administration of justice in the State. But it is too remote a thing to say, therefore, that security of the State or the maintenance of law and order in it would be endangered thereby.

After all, we must judge facts by the ordinary standards of common sense and probability and it is no answer to say that strange and unexpected things do sometimes happen in this world. In our opinion, the orders should be held to be illegal and must be set aside. We have already released the detenus and as was indicated on that occasion, we are giving here the reasons for our order.

Detenus released.

</html