

Bhrigunath Tewary and Ramlal Rajbhar

Vs

The State of West Bengal

Writ Petitions Nos. 332 and 347 of 1969

(CJI M. Hidayatullah, A.N. Ray, I.D. Dua JJ)

01.12.1969

JUDGMENT

HIDAYATULLAH, C.J. -

1. These are two petitions under Article 32 of the Constitution seeking writs of Habeas Corpus against the detention of the petitioners under Section 3(2) of the Preventive Detention Act. The facts in these two petitions are practically the same. We shall take up first the petition of Bhrigunath Tewary (Writ petition No. 332 of 1969). He was detained under the orders of the District Magistrate, Burdwan, passed on September 1, 1969 under Section 3(2) of the Preventive Detention Act. He was arrested a week later and the grounds were served on him the vary same day. He made his representation which was rejected by the Government and later by the Advisory Board. His detention has now been confirmed and the petitions against his detention.

2. In the grounds which were furnished to him, four matters are stated. He was seen in the act of removing railway stores and materials on January 5, 1969 in a truck. Later, on April 9, 1969, he was associated in a raid on a railway siding and the raiding party stole railway stores and materials and carried them off in a truck. His name was being taken by his associates and it was presumed that he was one of the raiders. On August 9, 1969 in the early hours of the morning, he was arrested red-handed with a piece of brass with railway markings on it which was serviceable railway material. Again, on August 14, 1969, two persons were arrested with some brass materials having railway markings on them and they confessed that they were taking them to the petitioner for sale. In the affidavit which has been sworn, it has been stated that the petitioner is a dangerous person who indulges in stealing railway stores and equipments essential for the running of trains and maintenance of railway communications, and by his activities has caused great loss to the railway administration and inconvenience to the general public.

3. We have considered the matter from the grounds of expedition which has to be observed in disposing of representations, etc., made by detenu. There is not evident of any delay in this case. We have also considered it from the point of view of whether the grounds are germane to the detention for maintenance of services essential to the community. Affidavit shows that he is carrying on large-scale operations with a view to stealing railway stores and materials and thereby impairing the proper running of trains and communications. This is not case in which a man steals something which is discarded by the railways and considered to be unserviceable. He steals serviceable and useful parts of railway equipments and thereby prevents the proper operation of railway facilities to the public. His activities cannot be looked at as isolated incidents. They must be considered to be a part of an organised operation in which not only this petitioner but also the other petitioner before us participated. They were found carrying away railway property not in small quantities but in

trucks. In these circumstances we cannot but hold that the grounds are relevant to the detention. The petition accordingly fails and will be dismissed.

4. As regards the remaining petitioner Ramlal Rajbhar (W.P. No. 347 of /69), it is sufficient to say that the grounds are identical. We see no reason to interfere in the case of this petitioner also. For the reasons we have already given, this petition also fails and will be dismissed.

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