

Abdul Rahman Bhadar Wahi

Vs

State of Jammu and Kashmir

Writ Petition No. 310 of 1970

(S. M. Sikri, V. Bhargava, I. D. Dua JJ)

16.10.1970

JUDGMENT

SIKRI, J. -

1. The petitioner filed a petition under Article 32 of the constitution alleging that he had been re-arrested after serving four years of detention in different jails of the State under the Preventive Detention Act and the Defence of India Rules, and that he was arrested on June 14, 1970 and was kept in Police Station Koti Bagh till June 30, 1970, without any warrants. He prayed that the Superintendent of Jails, Srinagar, be directed to produce him before this Court for pleading his case.

2. Upon perusing the petition this court ordered the issue of rule nisi and directed a counsel to be assigned as amicus curiae.

3. The Deputy Secretary to government of Jammu and Kashmir, Home Department, had filed an affidavit in reply on behalf of the State. In this affidavit it is stated that the District Magistrate, Srinagar, ordered, vide order No. PDA/DMS/85/70, dated June 25, 1970, that the petitioner be detained under the Jammu and Kashmir Preventive Detention Act, 1964, with a view to preventing him from acting in any manner prejudicial to security of the State. This order of detention was executed on June 30, 1970, by Shri Urgan Durjay, A.S.I., Police Station Koti Bagh, Srinagar. It is further stated that the petitioner was informed of the District Magistrate's order, dated June 25, 1970, that it was against the public interest to disclose to him the grounds on which detention order was made. It is also stated that "thereafter the Government after placing the case before the Chief Minister in charge, Home Department, approved the said detention, vide No. ISD-849 of 1970, dated 16th July, 1970". There was no specific denial of the allegation in the petition that the petitioner was kept in Police Station Koti Bagh till June 30, 1970, without any warrants.

4. The petitioner has filed a rejoinder affidavit denying that he was arrested on June 30, 1970. He further alleged that the order of detention, dated June 25, 1970, passed by the District Magistrate, was not read over and explained to him. He stated that the order was just shown to him on July 3, 1970, and he was not even furnished a copy of the said order, and further that he was never informed that the order, dated June 25, 1970, was approved by the Home Department and the order of Government, dated July 16, 1970, was not supplied to him.

5. The learned counsel contended, first, that the petitioner's detention from June 14 to June 30, 1970, was illegal. Assuming the facts stated by the petitioner to be correct and assuming that his detention by virtue of the detention order passed on June 25, 1970, is illegal.

6. The learned counsel then urged that the order of the District Magistrate that the petitioner be informed that it was against public interest to disclose the grounds of detention to him was never communicated to him. We may mention that in the order it is stated that the petitioner be informed that it is against the public interest to disclose to him the grounds on which the detention order was made, and the order as forwarded to the Superintendent of Jails, Srinagar, for information of the concerned. We have seen the order and we find that his order has been signed by the petitioner. This shows that the order must have been communicated to him.

7. The last point raised by the learned counsel was that it was necessary that this order should have been explained to the petitioner in vernacular even though he knew English. In this connection the learned counsel relied on the judgment of this Court in Chaju Ram v. The state of Jammu and Kashmir. ((1970) 1 SCC 536 : 1970 SCC (Cr) 277) There is nothing in that judgment to warrant the argument that even if a detenu knows English it is necessary that the order be explained to him in vernacular. We may mention that the original petition which was filed in this Court is in English and signed by the petitioner in English.

8. In the result the petition fails and is dismissed.

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