

Prof. Khaidem Ibocha Singh, etc.

Vs

The State of Manipur

Writ Petitions Nos. 289-295 of 1971

(C.A. Vaidialingam, P. Jagmohan Reddy, K.K. Mathew JJ)

08.10.1971

JUDGMENT

VAIDIALINGAM, J. -

1. The seven petitioners in these writ petitions under Article 32 of the Constitution, challenge the validity of the orders of detention, dated January 31, 1971 passed against each of them by the District Magistrate, Manipur (Central) under sub-section (2) of Section 3, read with sub-section (1) of the Orissa Preventive Detention Act, 1970 (hereinafter referred to as the Act) as extended to Manipur. They seek relief for issue of writ of Habeas Corpus and for directions being issued to the respondent - the State of Manipur to release them from custody.
2. The orders of detention state that they have been passed with a view of preventing the petitioners from acting in any manner prejudicial to the maintenance of public order. The petitioners, in consequence of these orders, were taken into custody and detained. Along with the petitioners another person, Prof. Nandlal Sharma, was also detained. The grounds of detention, as required by Section 7(1) of the Act were furnished to the detenus on the same day. The order of detention passed against Prof. Nandlal Sharma was later on revoked by the Lt. Governor and he was released.
3. The petitioners in Writ Petitions Nos. 289, 290, 291 and 295 of 1971, are either Masters of Arts (in Political Science) or Master of Arts, Education and are all Professors of Colleges of Moirang or Imphal. The petitioner in Writ Petition No. 294 of 1971 holds M.Sc., B.Ed., degrees and is an Assistant Head Master in a High School in Imphal. The educational qualifications of the petitioner in Writ Petitions Nos. 292 and 293 are not clear from the records but they claim to be social workers.
4. The District Magistrate made the necessary report to the Administrator under sub-section (3) of Section 3 on February 10, 1971, the Administrator under Section 3(3) approved the orders of detention passed by the District Magistrate on January 31, 1971, and the orders of approval were also communicated to the detenus.
5. All the petitioners made a joint representation on March 1, 1971, which was received by the Government on March 3, 1971. In the representation the petitioners had raised various grounds of attack against the order of detention. They had also very elaborately dealt with them and very strenuously refuted the various allegations contained in the grounds served on them, on the basis of which the orders of detention had been passed. The administrator considered the representation received from the detenus and rejected the same of March 20, 1971. The petitioners were informed about the rejection of the representation by communication, dated March 22, 1971. The cases of the

petitioners were referred to the Advisory Board on February 16, 1971, as required under Section 9 of the Act. The Advisory Board considered the matter and sent its report on April 18, 1971, expressing its opinion that the detention of the petitioners were justified. We may mention at this stage that the various dates given above are all taken from the counter-affidavit filed by the Secretary to the Government of Manipur, on behalf of the respondent. We are mentioning this aspect because there is a slight discrepancy in the dates given by the petitioners. That is why we have chosen to adopt the dates given on behalf of the State itself.

6. On behalf of the petitioners Mr. S. C. Manchanda has raised various grounds of attack against the orders of detention passed by the State Government. The counsel very strenuously urged that matters mentioned in the grounds furnished to the petitioners are absolutely false. According to him the petitioners are all educated persons and that they have been only writing articles pleading for improving the lot of the people of Manipur and for giving due recognition to the hopes and aspirations of the people of Manipur. The counsel has also urged that the grounds of detention are all vague and it was not possible for the detenus to make any effective representation against such vague allegations. The counsel further urged that in any event, there has been an inordinate delay of 17 days in the Administrator disposing of the representation made by the petitioners and as such there has been a violation of Article 22(5) of the Constitution. Therefore, the detention orders will have to be struck down even on this short ground.

7. On the other hand according to the affidavit filed on behalf of the State, all the petitioners are active members of the Pan Manipuri Youth League which is "an Over-ground Organisation of the Under-ground insurgents in Manipur." The petitioners have been publishing various matters in books and pamphlets with a view to create an atmosphere of distrust, hatred, disaffection and disloyalty in the mind of the people of Manipur. It is further urged that the petitioners, along with others were having secret meetings and using their influence as Professors and Teachers to incite the students to indulge in violent activities and take up arms against the Government. The respondent also urged that full particulars regarding the date, time and place, where the meetings were held or violent activities took place have all been very clearly given in the grounds of detention. As will be seen from the elaborate representation made by them, the petitioners can have no grievance that the grounds were vague. The representation deals with every one of the matters mentioned in the grounds. Even otherwise, if there was any vagueness in all or any of the grounds, it was open to the petitioners to have asked for further particulars, which they did not do. All these circumstances, according to the respondent, clearly show that the grievance that the grounds were vague is absolutely unjustified. It is further pointed out by Mr. R. N. Sachthey, learned counsel for the State, that there has been no delay on the part of the Government of considering the representation made by the petitioners and that there has been no violation of Article 22(5) of the Constitution. In order to enable the Administrator to properly dispose of the representation made by the detenus, certain information had to be collected from other officials and after the information was made available, the representation was rejected. Even if there has been any delay, it has been properly explained in the counter-affidavit filed on behalf of the State. Mr. Sachthey contended that the respondent seeks to justify the orders of detention on the ground that they have been made with a view to prevent the petitioners and others from indulging in activities prejudicial to the maintenance of public order.

8. We are of the opinion that the contention of Mr. Manchanda that there has been a delay in the State in passing orders on the representation made by the petitioners and that the said delay has not been properly explained by the State, has, in the circumstances of this case to be accepted. In consequence, it follows that there has been a violation of the constitutional right guaranteed under Article 22(5) to the petitioners. We are further of the view that the detention orders will have to be

struck down on this short ground. In the above view, we do not think it necessary to refer in detail to the grounds of detention, which have no doubt been very severely attacked on behalf of the petitioners. However, we should say that prima facie we are satisfied that the grounds are neither vague nor devoid of particulars, nor can it be said that in this case there were no materials on the basis of which the detaining authority could not have passed the orders of detention under Section 3(2), read with Section 3(1) of the Act for the purpose mentioned therein on the basis of the grounds furnished to the petitioners. However, as we are striking down the order for the reason mentioned earlier, it is unnecessary to pursue this aspect further.

9. In dealing with the question whether there has been any delay in disposing of the representation made by the petitioners, and if so, whether that delay has been properly explained by the State, it may be relevant to not only one of the grounds for detention. In ground No. 4, it has been alleged that the petitioners and other leaders of the Pan Manipur Youth League held a secret meeting on December 13, 1970 between 7 p.m. and 9 p.m. wherein it was decided to boycott the Republic Day functions to be held on January 26, 1971, at Manipur and to disrupt the celebrations by violent means. There is a further allegation that the petitioners along with other leaders of the league held another secret meeting on December 16, 1970, between 6 p.m. and 10.30 p.m. wherein the decision taken at the meeting of December 13, 1970, was confirmed and it was further decided to incite the students and the members of the public to boycott the Republic Day celebrations. It is further alleged that it was also decided at the said meeting to create an atmosphere of panic, confusion and public disorder by doing various acts referred to therein. As a consequence of these decisions taken at the two meetings, it is alleged, that the various violent acts, referred to in the ground No. 4 were committed.

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