

SUPREME COURT OF INDIA

Micki Khan

Vs.

State of W.B.

Writ Petn. Nos. 316, 317, 320, 323 and 356 of 1971

(P. Jaganmohan Reddy and D. G. Palekar, JJ.)

07.12.1971

JUDGEMENT

P. JAGANMOHAN REDDY, J.:-

1. These are habeas corpus petitions under Article 32 of the Constitution challenging the detention made under the West Bengal (Prevention of Violent Activities) Act, 1970 (hereinafter called the Act).

2. The arrest of the detenus in each of these five cases was made on 13-4-71, 2-1-71, 30-1-71, 27-2-71 and 17-4-71 respectively while the order of confirmation of the opinion of the Board that there was sufficient cause for detention was made on 16-8-71, 6-5-71, 27-7-71, 30-7-71 and 9-8-71 respectively. It will be seen that they are beyond 3 months. We have held in Judgment pronounced today in Writ Petition No. 218 of 1971 that under the mandatory provisions of the Article 22 (4) of the Constitution not only should the report of the Advisory Board be received within 3 months from the date of detention but the confirmation and continuance must also be within three months. Inasmuch as the confirmation in all these cases has not been made within 3 months, the detention is

not valid. Accordingly the Petitions are allowed and the petitioners are directed to be released forthwith.

Petitions allowed.