

# SUPREME COURT OF INDIA

Munna

Vs.

State of W.B.

Writ Petn. Nos. 231, 284-286, 328-330, 305, 310 and 312 of 1971

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

07.12.1971

## JUDGEMENT

### **P. JAGANMOHAN REDDY, J.:-**

1. These are petitions under Article 32 challenging the detention made under the West Bengal (Prevention of Violent Activities) Act 1970 (hereinafter called the Act). In these Writ Petitions the opinion of the Advisory Board has been confirmed by the State Government on respective dates, which are beyond 3 months from the date of arrest of the petitioners. We have in the judgment pronounced in Writ Petition No. 218 of 71 = (reported in AIR 1972 SC 1924) held that the confirmation and communication by the Government of the order of detention beyond 3 months makes the detention illegal. Mr. P. K. Chatterjee who appeared for the State of West Bengal brought to our notice that President has promulgated emergency and wanted time to examine that order when these matters came up for hearing yesterday, the 6th December, 1971. They were adjourned till today for facilitating him to produce the order. He has reported that he has not been able to get any definite information whether Article 21 and 22 have been suspended by the President under Article 359. We are now informed by the Registrar that no such order has been made. We are, therefore, free to consider these cases.

W. P. No. 231 of 1971.

2. The order of detention in this case was made on 11-1-71, on which date the State Government was also informed. The detenu was arrested on 17-1-71 and served with the orders of detention and the grounds therefor. The State Government approved the detention order on 19-1-71 and on the same day made a report to the Central Government. The case was placed before the Advisory Board on 15-2-71. Two representations were made by the detenu on 4-2-71 and 13-2-71. These representations were considered by the State Government and rejected on 6-3-71. The Advisory Board gave its opinion on 27-3-71 and the detention order was confirmed by the State Government on 4-8-71.

W.P. No. 284 of 1971.

3. The order of detention in this case was made on 2-4-71, on which date the State Government was also informed. The detenu was arrested on 8-4-71, on which date the orders of detention and the grounds therefor were also served on the detenu. A report was made to the State Government on 2-4-71 and the State Government approved that order on 10-4-71. On the same day it sent a report to the Central Government. The case was placed before the Board on 7-5-71. Before that a representation was received on 23-4-71, which was considered by the Government and rejected on 8-6-71. The Advisory Board's opinion was given on 14-6-71 which was confirmed by the State Government on 21-8-71.

W. P. No. 285 of 1971.

4. The detention order in this case was made on 26-12-70 and on the same day communicated to the State Government, which approved of it on 4-1-71. On the same day a report was made by the State Government to the Central Government. Two representations were received on 11-1-71 and 1-2-71. These were considered by the State Government on 21-1-71 and 9-2-71, and rejected. On 25-1-71 the case was placed before the Advisory Board which gave its opinion on 12-2-71. The order of detention was confirmed on 30-7-71.

W. P. No. 286 of 1971.

5. The order of detention in this case was made on 14-2-71 and on the same day it was reported to the State Government, which approved of it on 25-2-71. The petitioner was arrested on 17-2-71, on which date the orders of detention and grounds therefor were also served on the detenu. A report was also made to the Central Government on 25-2-71. A representation was received on 11-3-71 which was considered and rejected by the State Government on 8-4-71. On 18-3-71 the case was

placed before the Advisory Board which gave its opinion on 23-4-71. The detention order was confirmed by the State Government on 10-8-71.

W. P. No. 328 of 1971.

6. The order of detention in this case was made on 16-4-71 and sent to the Government for approval on the same day and the Government approved of it on 26-4-71, and made a report on the same day to the Central Government. The detenu was arrested on 21-4-71, on which date the order and the grounds of detention were served on him. He made a representation which was received on 17-5-71. The Government considered this representation and rejected it on 20-5-71. The case was placed before the Advisory Board on 20-5-71 and the Board gave its opinion on 28-6-71 which was confirmed by the State Government on 2-9-71.

W.P. 329 of 1971.

7. The order of detention in this case was made on 29-1-71 and sent to the State Government for approval on the same day. The State Government approved of the order on 9-2-71 and made a report to the Central Government in respect thereof on the same day. The detenu was arrested on 25-3-71. It does not appear that he made any representation. The case was placed before the Advisory Board on 21-4-71, and the Board gave its opinion that there was sufficient cause for detention on 31-5-71 which was confirmed by the State Government on 2-8-71.

W.P. No. 330 of 1971.

8. The order of detention was made in this case on 5-1-71 and sent to the Government on the same day for approval. The State Govt. approved of it on 14-1-71 and made a report to the Central Government on the same day. The detenu was arrested on 28-5-71 on which date he was served with the order of detention and the grounds of detention. He made a representation which was received on 1-7-71. This was considered and rejected on 31-7-71. The State Government placed the case before the Advisory Board on 26-6-71 and the Advisory Board gave its opinion that there was sufficient cause for detention on 4-8-71, which was confirmed by the State Government on 3-9-71.

W.P. 305 of 1971.

9. The order of detention in this case made on 13-4-71 and communicated to the State Government on the same day. It was approved by the State Government on 24-4-71. The case was placed before the Advisory Board on 22-5-71 and the opinion of the Board that there was sufficient cause was sent to the Government on 22-6-71. The detenu was arrested on 23-4-71 on which date the grounds and the order of detention were also served on him. The Government confirmed the detention order on 7-9-71.

W. P. No. 310 of 1971.

10. The order of detention in this case was made on 25-3-71 and approved by the State Government on 3-4-71. The detenu was arrested on 26-3-71 when the order of detention and the grounds therefor were also served on him. A representation was made by the petitioner on 3-4-71 which was dismissed by the State Government on 22-4-71. The case was placed before the Advisory Board on 24-4-71 and the Board submitted its opinion that there was sufficient cause for detention on 2-6-71. The order of detention was confirmed on 23-8-1971. W. P. No. 312 of 1971.

11. The detention order in this case was passed on 4-1-71 and the Government approved of the same on 12-1-71. The detenu was arrested on 8-1-71 and served with the order and the grounds therefor on the same day. His representation was rejected on 20-2-71. The case was placed before the Advisory Board on 4-2-71 and the report of the Board that in its opinion there was sufficient cause for his detention was sent to the Government on 13-3-71. The detention order was confirmed by the State Government on 9-8-71.

12. It will be seen from the facts stated above that in all those Writ Petitions the mandatory provisions of the Act with regard to detention have been duly observed except that confirmation and continuation of the detention order under Section 12 has not been made within 3 months from the date of detention. In this view the further detention becomes illegal and accordingly the Petitions are allowed and the petitioners are directed to be released forthwith.

Petitions allowed.