

Tarak Nath Chakraborty

Vs

State of West Bengal

Writ petitions No. 376 of 1971

(P. Jagmohan Reddy, D.G. Palekar JJ)

07.12.1971

JUDGMENT

JAGANMOHAN REDDY, J. -

1. This petition under Article 32 challenges the validity of the detention under the West Bengal (Prevention of Violent Activities) Act, 1970 (hereinafter called the Act).

2. The District Magistrate, Malda by an order dated May 26, 1971, directed the detention of the petitioner. Accordingly, he was arrested on May, 27, 1971, and served with the order of detention and the grounds thereof on the same day. He made a representation on July 1, 1971, after the case was already placed before the Board on June 26, 1971. This representation was considered and rejected by the Government on July 31, 1971. Thereafter the Advisory Board sent a report to the Government that in its opinion there was sufficient case for detention. The detention order and the continuance of detention was confirmed on August 25, 1971, by the State Government. It will appear from the above dates that all the mandatory provisions required to be complied with both under Clause 22(4) as well as the relevant provisions of the Act have been complied with. The only question for consideration is whether the grounds on which the petitioner has been detained are vague and irrelevant. We may examine these grounds which are as follow :

(1) That on February 16, 1971, evening you with your associates threw three bombs to explode aiming at Bishnulal Ghosh Dastidar, a clerk of Irrigation Department at his quarters at Ramnagar Irrigation Colony under Englishbazar P.S. Dist. Malda. The missile missed the target hitting the staircase, verandah and Shri Ghosh Dastidar was narrowly escaped.

(2) That on March 2, 1971, evening during prayer when the pupils, students and outsiders were in meditation at Ram Krishna Mission in Englishbazar town, Dist. Malda, you with your associates entered into the Asram office, destroyed photos of Sarada Ma and Swami Paramananda and also office articles. You also threw a bomb upon the altar of prayer exploded but luckily caused no damage or injury.

3. The petitioner in his petition has stated in respect of the first ground that at the time he is alleged to have committed the act, for which he has been detained, he was in the house of his private tutor Sri Birendra Kumar Chakraborty. In respect of the second ground that on March 2, 1971, he had gone to the Ram Krishan Mission to throw a bomb, it is his case that from February 25, 1971, to March 10, 1971, he had been bed ridden with typhoid. If these facts are proved his detention cannot be justified but we are not under the Act called upon to examine the veracity or otherwise of the allegations. He could best place all the material in respect of his detention before the Advisory

Board and it is for the Board to determine the sufficiency or otherwise of the justification for his detention. The Board's opinion is based on the material placed before it by the petitioner as well as by the State Government and the opinion expressed by them is arrived at after hearing the petitioner, if he so chooses to be heard. In any case the State of West Bengal in the affidavit by the Deputy Secretary has denied the allegations made by the petitioner and controverted that fact has that he was not present on the respective dates, which are mentioned in grounds 1 and 2. The grounds themselves are relevant to the prevention of disturbance of public order, and under the definition given in sub-section (2) of Section 3 of the Act the acts alleged against the detenu are covered by the expression prejudicial to the maintenance of public order.

4. In this view the petition is dismissed.

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