

# SUPREME COURT OF INDIA

Deban Das

Vs.

State of W.B.

Writ Petns. Nos. 219, 223, 224 and 227 of 1971

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

07.12.1971

## JUDGEMENT

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

1. These petitions under Article 32 challenge the Order of the District Magistrate detaining them under the West Bengal (Prevention of Violent Activities) Act 1970) (hereinafter called 'the Act'). The main contentions have been set out in Writ Petn No. 218 of 1971 (reported in AIR 1972 SC 1924 which we have just disposed of. These are, namely; (i) Whether the mandatory provisions of the Act have been complied with; (ii) Whether the grounds are irrelevant or vague; and (iii) Whether the State Government has confirmed the opinion of the Advisory Board that there was sufficient cause for detaining them within three months from the date of the detention and whether the communication to the detenu has been made within that period.

2. We have also in that petition held that the confirmation by the State Government of the opinion of the Advisory Board that there is sufficient cause for detention, should be made within three months from the date of detention though the communication to the detenu need not be made within that

period, but within a reasonable period.

3. In Writ Petition No. 219 of 1971 the accused was arrested on 27-2-71 on which date the grounds were served upon him. The detention Order which was made on 24-2-71 by the District Magistrate of the 24-Parganas and reported to the State Government on 26-2-71 was approved by the State Government on 4-3-71. On the same day the State Government made a report to the Central Government. A representation was received from the detenu on 11-3-71 and it was rejected on 27-3-71. The State Government on that very day sent the detention Order, representation and the grounds to the Advisory Board. It appears that the detenu made another representation on 22-4-71 and the State Government rejected that representation on 23-4-71. The opinion of the Advisory Board was received on 4-5-71, which was confirmed on 30-7-71 and communicated to the detenu on 4-8-71. It would appear that though the Advisory Board's opinion was received by the State Government within three months from the date of the detention of the petitioner, it was not confirmed within that time but beyond three months as such the detention is invalid.

4. Writ Petition No. 223 of 1971: An order of detention was made by the District Magistrate. Burdwan on 23-3-71 which was communicated to the Government on the same day and received the approval of the State Government on 1-4-71. On the same day a report was sent to the Central Government. The accused was arrested on 6-5-71 and was served with the order of detention and the grounds on the same day. A reference was made to the Board on 4-6-71. Two representations were received by the State Government on 5-6-71 and 11-6-71 and both of them were rejected on 1-7-71. The opinion of the Board that there was sufficient cause for detention was received on 6-7-71 which was confirmed by the Government on 10-3-71. The communication was made on the very next day on 11-8-71. The confirmation having taken place beyond three months, it is clear that the detention of the petitioner is invalid.

5. Similarly in Writ Petition No. 224 of 1971 an Order for detention was made by the District Magistrate of 24-Parganas on 24-3-71 and a report was made to the State Government on 30-3-71. The Government approved the order of detention of 3-4-71 and on the same day it reported to the Central Government. The petitioner was arrested on 2-4-71 and was served with the order of detention and the grounds on the same day. His representation was received on 26-5-71 which was rejected the next day on 27-5-71. The case of the petitioner was placed before the Board on 1-5-71 and the opinion of the said Board that there was sufficient cause for petitioner's detention was received on 11-6-71. The confirmation by the State Government was made on 7-7-71 which was communicated to the detenu on 12-2-71 (sic). The confirmation being beyond three months, the order of detention is illegal.

6. In Writ Petition No. 227 of 1971 also the confirmation was beyond three months and hence invalid. In this case the order of detention was made by the District Magistrate of 24-Parganas on 30-3-71. A report to the State Government was made on 1-4-71 which was approved on 8-4-71 and a report was made to the Central Government on the same day. The petitioner was arrested on 1-4-

71 and a representation was received from him on 13-4-71. It was rejected on 28-4-71. The matter was placed before the Board on 30-4-71 and the board made its report on 10-6-71, that there is sufficient cause for detention. The State Government confirmed this opinion on 15-7-71 beyond three months and communicated it to the detenu on 29-7-71.

7. As the detention of these petitioners are invalid we had already directed them to be released on 3-12-1971. The petitions are accordingly allowed.

Petitions allowed.