

Mohd. Maqbool Damnoo

Vs

State of Jammu and Kashmir

Writ Petition No. 144 of 1971

(CJI S. M. Sikri, J. M. Shelat, G. K. Mitter, I. D. Dua, H. R. Khanna JJ)

05.01.1972

JUDGMENT

SIKARI, C.J. -

1. This is a petition under Article 32 of the Constitution challenging the detention of the petitioner under the Jammu and Kashmir Preventive Detention Act, 1964 (J.&K. Act XIII of 1964) - hereinafter referred to as the Act.

2. On June 24, 1970, the District Magistrate of Baramulla passed the impugned detention order in the following terms :

"OFFICE OF THE DISTRICT MAGISTRATE, BARAMULLA

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No. PDA/DMB/81

Dated 24-6-1970

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ORDER

Whereas I, S. S. Rizvi, District Magistrate, Baramulla, am satisfied that with a view to preventing Mohammad Maqbool Damnoo s/o Ghulam Mohi-ud-Din Damnoo alias Mahda Joo r/o Sangrampora from acting in any manner prejudicial to the security of the State, it is necessary so to do;

Now, therefore, in exercise of the powers conferred by Section 3(2), read with Section 5 of the Jammu and Kashmir Preventive Detention Act, 1964, I, S. S. Rizvi, District Magistrate, Baramulla hereby direct that the said Mohammad Maqbool Damnoo be detained in the Central Jail, Srinagar, subject to such conditions as to maintenance, discipline and punishment for breaches of discipline as have been specified in the J.&K. Detenus General Order, 1968.

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(Sd.)

District Magistrate, Baramulla.

No. Con/826-30

Dated 24-6-1970

Copy forwarded :

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"1. Shri Abdul Majid Lone, Dy. S. P. Sopore in duplicate for execution of the order as provided by Section 4 of the Jammu and Kashmir Preventive Detention Act, 1964. Notice of the order shall be given to Mohamad Maqbool Damnoo by reading over the same to him and one copy duly executed, returned to this office.

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3. On the same date, the District Magistrate passed an order under Section 2, read with Section 13-A of the Act directing that the petitioner be informed that it was against the public interest to disclose to him the grounds on which his detention was based. On July 11, 1970, the Government having considered the order of detention, the report of the District Magistrate, the grounds on which the order had been made, and other particulars bearing on the matter approved the said detention order.

4. The petitioner sent an application to this Court, dated April 10, 1971, requesting that he be produced before this Court so as to enable him to file an appropriate writ challenging his detention. This Court on May 11, 1971 directed that this application be treated as writ petition under Article 32 of the Constitution and directed issue of rule nisi. The Court further directed that the petitioner be produced before it two days before the hearing of the petition.

5. The State filed an affidavit in reply. The petitioner then filed the formal writ petition through an advocate on July 27, 1971. The State again filed an affidavit in reply. On an application having been made for permitting to raise additional grounds, the Court allowed the petitioner to file a comprehensive amended petition. On October 9, 1971, the amended writ petition was filed in this Court. The State filed another affidavit in reply.

6. Mr. Garg, who appeared on behalf of the petitioner, raised the following points before us -

(1) that the Jammu and Kashmir Preventive Detention (Amendment) Act, 1967 (Jammu and Kashmir Act VIII of 1967) - hereinafter referred to as the Amending Act - was invalid as it was not assented to by the Sadar-i-Riyasat;

(2) that the proviso inserted by Section 4(2) in sub-section (1) of Section 8 is bad because it suffers from excessive delegation;

(3) there has been violation of Article 21 and Article 22 of the Constitution;

(4) at any rate, the proviso is bad because it conflicts with Section 103 of the Constitution of Jammu and Kashmir;

(5) that the detention order is bad because the detaining authority has not applied its

mind; and

(6) that the order of detention order is bad because it was not served or executed in accordance with law.

7. In support of his first contention the learned counsel urged that under Article 370 of the Indian Constitution the only authority which is recognised as the Government of the State of Jammu and Kashmir is the Sadar-i-Riyasat. Article 370 contemplates that the Sadar-i-Riyasat would be the head of the State of Jammu and Kashmir and the Jammu and Kashmir Assembly had no power to abolish the office of the Sadar-i-Riyasat. He further urged that Section 147 of the Constitution of Jammu and Kashmir also contemplates that the Sadar-i-Riyasat shall exist and be the head of the State. He urged that the only possible way of getting rid of the Sadar-i-Riyasat would be the amendment of the Constitution of India as applied to Jammu and Kashmir.

8. The learned Attorney-General, who appeared on behalf of the Government of India, and Mr. Chagla, who appeared for the State, contended that the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, which had received the assent of the Sadar-i-Riyasat, validly amended the Constitution of Jammu and Kashmir and validly provided for the appointment of a Governor in place of the Sadar-i-Riyasat, and therefore, the Governor was competent to give assent to the Jammu and Kashmir Preventive Detention (Amendment) Act, 1967.

9. In order to appreciate the points raised before us it is necessary to give a brief history of the various constitutional changes which took place in the State of Jammu and Kashmir. H.H. the Maharaja of Jammu and Kashmir, in a letter, dated October 26, 1947, addressed to His Excellency the Governor-General of India, offered to accede to the Dominion of India. On October 27, 1947, the Governor-General accepted the offer and made certain stipulations with which we are not concerned. On March 5, 1948, H.H. the Maharaja of Jammu and Kashmir issued a proclamation forming a responsible Government of a Council of Ministers headed by the Prime Minister which was to take steps to constitute a National Assembly based on adult franchise to form a separate Constitution for the State. On June 20, 1949, Maharaja Sir Hari Singh entrusted his legislative, executive and Judicial functions to his son, Yuvraj Karan Singh for a temporary period.

10. On November 25, 1949, a proclamation was issued by Yuvraj Karan Singh directing that the Constitution of India to be adopted by the Constituent Assembly of India be adopted by the Constituent Assembly so far as it was applicable in Jammu and Kashmir in order to govern the in relationship of the State and the contemplated Union of India.

11. The Constitution of India was adopted on November 26, 1949 and on the same date certain provisions came into force and the remaining provisions came into force on January 26, 1950.

12. Article 370 of the Constitution dealt with the relationship of the State of Jammu and Kashmir with the Union of India. Article 370 reads as follows :

"370. (1) Notwithstanding anything in this Constitution, -

(a) the provision of Article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to -

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation. - For the purposes of this article the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's proclamation, dated the fifth day of March, 1948;

(c) the provisions of Article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify :

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State :

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify :

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification."

13. On January 26, 1950, the Constitution (Application to Jammu and Kashmir) Order, 1950 was made by the President. On April 20, 1951, the Maharaja of Jammu and Kashmir issued a proclamation in pursuance of which the Constituent Assembly of Jammu and Kashmir was convened on November 5, 1951. On June 10, 1952, the Basic Principles Committee of Jammu and Kashmir Constituent Assembly submitted the interim report to the Constituent Assembly and recommended that -

(a) the form of the future Constitution of Jammu and Kashmir shall be wholly

democratic;

(b) the institution of hereditary Rulership shall be terminated; and

(c) the office of the Head of the State shall be elective.

14. The Constituent Assembly by a resolution adopted these recommendations. The following part of the resolution is relevant :

"Now, therefore, in pursuance of the resolution, dated June 12, 1952, and having considered the report of the Drafting Committee, this Assembly resolves :

(1)(i) that the Head of the State shall be the person recognised by the President of Union on the recommendations of the Legislative Assembly of the State;

(ii) he shall hold office during the pleasures of the President;

(iii) he may, by writing under his hand, addressed to the President, resign his office;

(iv) subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office :

Provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enters upon his office;

(2) that the recommendation of the Legislative Assembly of the State in respect of the recognition of the Head of the State specified in sub-para (1) of Paragraph 1, shall be made by election;.....

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(4) that the Head of the State shall be designated as the Sadar-i-Riyasat.

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15. On November 16, 1952, the President made Order No. C.O. 44 to the following effect :

"In exercise of the powers conferred by this article (Article 370) the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declared that, as from the 17th day of November, 1952, the said Article 370 shall be operative with the modification that for the Explanation in clause (1) thereof, the following Explanation is substituted, namely :

Explanation. - For the purpose of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office."

16. On May, 14, 1954, in the exercise of the power conferred by clause (1) of Article 370 of the Constitution, the President with the concurrence of the Government of the State of Jammu and

Kashmir, made the Constitution (Application to Jammu and Kashmir) Order, 1954. It superseded the Constitution (Application to Jammu and Kashmir) Order, 1950. It applied various provisions of the Indian Constitution to the State of Jammu and Kashmir. Under Article 35, after clause (b) the following clause (c) was added :

"(c) no law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this Part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of five years from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof."

17. We may notice two other applications. Under Article 361, after clause (4) the following clause was added, namely :

"(5) The provisions of this article shall apply in relation to the Sadar-i-Riyasat of Jammu and Kashmir as they apply in relation to a Rajpramukh, but without prejudice to the provisions of the Constitution of that State."

To Article 367 was added the following clause, namely :

"(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir -

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(b) references to the Government of the said State shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers.

#....."##

To Article 368 was added the following proviso :

"Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of Article 370."

18. We may mention that, as far as the State of Jammu and Kashmir was concerned, some entries in the Union List were modified, Entry 97 was omitted, and the State List and Concurrent List were omitted.

19. On November 17, 1956, the Jammu and Kashmir Constitution was adopted. Some sections came into force on that date and the remaining sections came into force on January 26, 1957. On November 6, 1957, Karan Singh was elected Sadar-i-Riyasat for the second time. On October 31, 1962, Karan Singh was elected Sadar-i-Riyasat for the third time. On April 10, 1965, Jammu and Kashmir Constitution (Sixth Amendment) Act, 1965 received the assent of the Sadar-i-Riyasat. On November 24, 1965, the President, in exercise of the powers conferred by clause (1) of Article 370

of the Constitution, with the concurrence of the Government of the State of Jammu and Kashmir, made the Constitution (Application to Jammu and Kashmir) second Amendment Order, 1965. Under this Order, for sub-clause (b) of clause (4) of Article 367 the following clauses were inserted:

"(aa) references to the person for the time being recognised by the President on the recommendation of Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(b) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers :

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers."

20. The main point of dispute between the parties is the position and importance of the Explanation in Article 370 of the Constitution.

21. According to the Attorney-General this is a mere definition inserted for the purpose of the article in accordance with the constitutional conditions prevailing at that time. According to Mr. Garg, this is the king-pin of the whole relationship between the Union of India and the State of Jammu and Kashmir. According to him neither the Jammu and Kashmir Assembly nor the President were competent to impair the functioning of the Sadar-i-Riyasat and insofar as the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965 replaced the Sadar-i-Riyasat by the Governor it is ultra vires. According to him, either there has to be an amendment of the Constitution of India under Article 368 and Article 370(3) or a fresh Constituent Assembly has to be convened to amend the Explanation. He said that it is not the duty of the Courts to improve upon the Constitution because the constitution-makers had not anticipated such a change.

22. It seems to us that the essential feature of Article 370, sub-clauses 1(b) and (d) is the necessity of concurrence of the State Government or the consultation of the State Government. What the State Government is at a particular time has to be determined in the context of the Constitution of Jammu and Kashmir. The Explanation did no more than recognise the constitutional position as it existed on that date and the Explanation, as substituted from November 17, 1952, also did no more than recognise the constitutional position in the State.

23. We have, therefore, no difficulty in holding that Article 370(1)(b) and Article 370(1)(b) place no limitation on the framing or amendment of the Constitution of Jammu and Kashmir. If there is a limitation it must be found in the Constitution of the State. Section 147 of the Constitution of Jammu and Kashmir itself provides that under that section the Indian Constitution cannot be amended.

24. The learned counsel, relying on *Sampat Prakash v. State of Jammu and Kashmir*, [(1969) 2 SCR 365 : AIR 1970 SC 1118 : (1969) 1 SCC 562] contended that the only way of modifying Article 370 is specified in Article 370(3) itself. He said that this was expressly laid down by this Court in the decision just referred to. We are not concerned with the question whether Article 370(3) can now be

utilised to amend the provisions of Article 370(1) and (2), and therefore we do not express any opinion on that point. We are now not concerned with an amendment of Article 370(1). We are concerned with the situation where the explanation ceased to operate. It had ceased to operate because there is no longer any Sadar-i-Riyasat of Jammu and Kashmir. If the definition contained in the Explanation cannot apply to the words "government of the State" then the meaning given in Article 367(4), as amended, will have to be given to it. If this meaning is given, it is quite clear that the Governor is competent to give the concurrence stipulated in Article 370 and perform other functions laid down by the Jammu and Kashmir Constitution.

25. The learned Counsel for the petitioner drew our attention to Section 147 of the Constitution of Jammu and Kashmir. He said that even this section contemplates the perpetual existence of the Sadar-i-Riyasat because this section expressly bars the Assembly from amending any provision of Article 147 and one of the provisions contained in this section is that the assent to an amendment of the Constitution must be given by the Sadar-i-Riyasat. It is true that Section 147 provides that "an amendment of this Constitution may be initiated only by the introduction of the Bill for the purpose in the Legislative Assembly, and when the Bill is passed in each House by a majority of not less than two-thirds of the total membership of that House, it shall be presented to the Sadar-i-Riyasat for his assent and, upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill." But the Constitution itself contains Section 158 which provides that "unless the context otherwise requires the General Clauses Act, Section 1977, shall apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the State Legislature." The General Clauses Act contains Section 18 which reads :

"18. In any Act made after the commencement of this Act, it shall be sufficient, for the purpose of indicting the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations."

By virtue of this Act, if the Governor is the successor to the Sadar-i-Riyasat, he would be entitled to exercise all the powers of the Sadar-i-Riyasat. There is no doubt that he is the successor. The original Constitution, by Section 26, provided :

"26(1). The Head of the State shall be designated as the Sadar-i-Riyasat.

(2) The executive power of the State shall be vested in the Sadar-i-Riyasat and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution....."

Section 27 provided for the election of the Sadar-i-Riyasat and Section 28 for the term of office. It is quite clear from these provisions that the Sadar-i-Riyasat is really the name given to the head of the State. Under the State Constitution as amended the Head of the State is designated as the Governor. Sub-section (2) of Section 26, as amended, vests the executive powers of the State in him.

26. It is true that the Governor is not elected as was the Sadar-i-Riyasat, but the mode of appointment would not make him any the less a successor to the Sadar-i-Riyasat. Both are heads of the State.

27. Mr. Garg argued that amendment of Sections 26 and 27 of the Constitution of Jammu and

Kashmir was bad. In support of his argument, he relied on the following passage in *Golaknath v. State of Punjab*. [(1967) 2 SCR 762 : AIR 1967 SC 1643 : (1967) 2 SCJ 486] :

"The next argument is based upon the expression "amendment" in Article 368 of the Constitution and it is contended that the said expression has a positive and a negative content and that in exercise of the power of amendment Parliament cannot destroy the structure of the Constitution, but it can only modify the provisions thereof within the frame work of the original instrument for its better effectuation. If the fundamentals would be amenable to the ordinary process of amendment with a special majority, the argument proceeds, the institution of the President can be abolished, the parliamentary executive can be removed, the fundamental rights can be abrogated, the concept of federalism can be obliterated and in short the sovereign democratic republic can be converted into a totalitarian system of government. There is considerable force in this argument."

But the passage cited by him can hardly be availed of by him for the reason that the amendment impugned by him, in the light of what we have already stated about the nature of the explanation to Article 370 of our Constitution, does not bring about any alteration either in the framework or the fundamentals of the Jammu and Kashmir Constitution. The State Governor still continues to be the head of the Government aided by council of ministers, and the only change affected is in his designation and the mode of his appointment. It is not as if the State Government, by such a change, is made irresponsible to the State Legislature, or its fundamental character as a responsible Government is altered. Just as a change in the designation of the head of that Government was earlier brought about by the introduction of the office of *Sadar-i-Riyasat*, so too a change had been brought about in his designation from that of *Sadar-i-Riyasat* to the Governor. That was necessitated by reason of the Governor having been substituted in place of *Sadar-i-Riyasat*. There is no question of such a change being one in the character of that Government from a democratic to a non-democratic system. A comprehensive argument, which was raised in *Golaknath's* case and with reference to which the aforesaid observations were made, was not raised before us, and therefore, we are not required at present to go into it.

28. Mr. Garg drew our attention to clause (aa) and (b) of Article 367(4), as substituted by C.O. 74 of 1966 [The Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1965]. We have already set them out above. He said that this was amendment of Article 370(1) by the back-door and the President could not exercise these powers under Article 370(1) when he had not purported to exercise these powers under Article 370(3). But as we have already said, the explanation had become otiose and references to the *Sadar-i-Riyasat* in other parts of the Constitution had also become otiose. There were two alternatives; first, either to leave the courts to interpret the words "government of the State" and give it its legal meaning, or secondly, to give the legal meaning in a definition clause. What has been done is that by adding clauses (aa) and (b) a definition is supplied which the Courts would have in any event given. Therefore, we do not agree that there has been any amendment of Article 370(1) by the back-door.

29. If we had regarded this as an amendment to Article 370(1), then we would have to consider whether the amendatory powers had been validly exercised or not, but as we have said, we are not concerned with this question.

30. In conclusion we hold that the Amending Act was validly assented to by the Governor.

31. Coming to the second point urged by Mr. Garg, we are unable to appreciate how the Jammu and Kashmir Preventive Detention (Amendment) Act, 1967 delegates any legislative powers to anybody. It confers executive powers on the detaining authority by the insertion of the proviso to Section 8 to direct that the person detained may be informed that it would be against the public interest to communicate to him the grounds on which the detention order had been made. When the detaining authority chooses so to direct, it cannot be said that the detaining authority is exercising any legislative power. In view of this matter it is not necessary to refer to various authorities of this Court where the question of delegation or excessive delegation of legislative powers has been considered.

32. It is also not necessary to dwell on the third point, namely, violation of Articles 21 and 22 of the Constitution because it is clear that they are excluded by Article 35(c) of the Constitution.

33. Regarding the sixth point that the order of detention was not served or executed in accordance with law, we are unable to find any force in this point. The order expressly directed that the petitioner be detained in the Central jail, Srinagar, and the copy of the order was endorsed to Shri Abdul Majid Lone, Dy, S. P. Sopore, in duplicate, for execution of the order, as provided by Section 4 of the Jammu and Kashmir Preventive Detention Act. It was urged by Mr. Garg that there is no endorsement below this note, but we are unable to see that the law requires that every copy forwarded should be signed by the detaining authority himself. There is no doubt that the order was executed as directed.

34. It was suggested that Section 75(1) of the Criminal Procedure Code was violated, but it seems to us that Section 75(1) has been clearly complied with inasmuch as the detention order is in writing and has been signed by the detaining authority. Reference was made to Section 76, Cr.P.C., but this provision has no application. It only applies when the Court directs that security be taken.

35. The fourth point is that the proviso to Section 8 inserted by the Jammu and Kashmir Preventive Detention (Amendment) Act, 1967 is bad because it is in conflict with Section 103 of the Jammu and Kashmir Constitution. It is quite clear that the Legislature has no right to directly amend Section 103, nor has it the power to make the exercise by the High Court of its jurisdiction under Section 103 illusory. (See *Prem Chand Garg v. Excise Commissioner, U.P.*, [1963 Supp 1 SCR 885 : AIR 1963 SC 996 : (1963) 2 SCA 125] where this Court struck down Rule 12, Order XXXV, Supreme Court Rules on the ground that it retarded the assertion or vindication of the fundamental right under Article 32). Mr. Garg said that it was impossible for the detenu to satisfy the Court that he had been unlawfully detained because he had been given no information whatsoever as to the reasons for his detention, and to tell him that he had been detained to prevent him from acting in any manner prejudicial to the security of the State is to tell him next to nothing, and it may be that the real grounds on which he had been detained have no relation to the security of the State. There is some force in what Mr. Garg contends, but we are unable to hold that this proviso is ultra vires because the proviso and the Act do not bar the High Court or this Court from looking into the validity of the detention. It should be remembered that in *A. K. Gopalan v. The State of Madras*, [1950 SCR 88 : AIR 1950 SC 27 : 1950 SCJ 174] Section 14 of the Preventive Detention Act was struck down. Kania, C.J., observed on this point at page 130 :

"By that section the Court is prevented (except for the purpose of punishment for such disclosure) from being informed, either by a statement or by leading evidence, of the substance of the grounds conveyed to the detained person under Section 7 on which the order was made, or of any representation made by him against such order.

It also prevents the Court from calling upon any public officer to disclose the substance of those grounds or from the production of the proceedings or report of the advisory board which may be declared confidential. It is clear that if this provision is permitted to stand the Court can have no material before it to determine whether the detention is proper or not. I do not mean whether the grounds are sufficient or not. It even prevents the Court from ascertaining whether the alleged grounds of detention have anything to do with the circumstances or class or classes of cases mentioned in Section 12(1)(a) or (b)."

But fortunately there is no similar provision in this Act and it leaves the High Court and the Supreme Court free to exercise the jurisdiction by calling upon the State in appropriate cases to produce before it the grounds of detention and other material in order to satisfy itself that the detenu was being detained in accordance with law. If it were not so, we would have difficulty in sustaining the proviso.

36. We have looked into the file produced before us by the State and we are satisfied that the grounds on which the detenu has been detained have relevance to the security of the State, and with this also fails the fifth point raised by Mr. Garg that the detaining authority had not applied its mind to the facts of the case.

37. In the result the petition fails and is dismissed.

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