

Satya Sundar Sen

Vs.

The State of West Bengal

Writ Petition No. 342 of 1971

(J. M. Shelat, H. R. Khanna, K. K. Mathew JJ)

03.02.1972

JUDGMENT

SHELAT, J. -

1. The order of detention impugned in this petition is in identical terms as the one in Writ petition 322 of 1971, Ananta Mukhi alias Ananta Hari v. The State of West Bengal. For the reasons given in the judgment in that petition the impugned order must be held to be bad. Consequently, the respondent State is directed to release the petitioner and set him at liberty forthwith.

KHANNA, J. -

This is a petition through jail under Article 32 of the Constitution of India for the issuance of a writ of habeas corpus by Satya Sundar Sen who has been ordered to be detained under Section 3 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970).

3. The order of detention which was made against the petitioner reads as under :

"Whereas I am satisfied with respect to the person known as Shri Satya Sundar Sen alias Mathur Sen, son of late Amulya Ratan Sen of Lalbazar, Dubrajpur, P. S. Dubrajpur, Dt. Birbhum, that with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order, it is necessary so to do, I, therefore, in exercise of the powers conferred by sub-section (1), read with sub-section (3) of Section 3 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970), make this order directing that the said Shri Satya Sundar Sen alias Mathur Sen be detained.

Given under my hand and seal of office.

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(Sd.)

M. Gupta

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District Magistrate, Birbhum."

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4. The petition has been resisted on behalf of the respondent and the affidavit of Shri Chandi Charan Bose, Deputy Secretary, Home (Special) Department, Government of West Bengal, has been filed in opposition to the petition.

5. Mr. Francis, who has argued the case amicus curiae on behalf of the petitioner, has raised only one contention. It is urged that the order of detention made against the petitioner by the District magistrate shows an element of casualness and absence of due application of mind, as according to the order the petitioner was detained "with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order". It is urged that the use of the word "or" in the order shows that the detaining authority was not definite regarding the ground of detention. Similar argument was advanced before us in the case of Ananta Mukhi alias Ananta Hari v. The State of West Bengal (Writ Petition No. 322 of 1971, decided today) ((1972) 1 SCC 580 : 1972 SCC (Cri) 344) and was rejected. It has been held by us that the use of the word "or" in the detention order would not introduce an infirmity as might justify the quashing of that order.

6. The petition consequently fails and is dismissed.

7. Order. - In view of the opinion of the majority, the Writ Petition is dismissed.

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