

Nandlal Roy Alias Nonda Dulal Roy Alias Pagla

Vs

State of West Bengal

Writ Petition No. 15 of 1972

(A. N. Grover, M. H. Beg JJ )

11.04.1972

JUDGMENT

GROVER, J. -

1. This is petition under Article 32 of the Constitution challenging the detention of the petitioner under the West Bengal (Prevention of Violent Activities) Act, 1970, Hereinafter called the 'Act'.
2. An order was made on June 17, 1971 by the District Magistrate, 24 Parganas saying that with a view to preventing the petitioner from acting in any manner prejudicial to the maintenance of public order he be detained. This order was made in exercise of the power conferred by sub-section (1) read with sub-section (3) of Section 3 of the Act. The detenu was arrested on June 20, 1971, and the grounds were served on him on that date. The only ground for detention was as follows :

"That on the night of June 1, 1971, at about 01.30 hrs. while committing theft of rice from Wagon No. SE 39751 at Bongaon Railway Station Yard, you and your associates charged bombs upon the R. P. F. party on duty with a view to do away with their lives, when challenged by them. As a result of your bomb charge SR 3179 Himunshu Bhushan Dhar Sharma of the R. P. F. party sustained burn injury on his person. But the R. P. F. party with the help of the police party managed to secure your arrest on the spot with 30 kgs. of stolen rice in a gunny bag and one iron-made instrument. By explosion of bombs you and your associates created panic in the station area and in the adjoining locality you caused disturbance of the public order thereby.

You are hereby informed that you may make a representation to the State Government against the detention order and that such representation shall be addressed to the Assistant Secretary, Home (Special) Department, Government of West Bengal and forwarded through the Superintendent of the Jail in which you have been detained as early as possible. Under Section 10 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970), your case shall be placed before the Advisory Board within thirty days from the date of your detention under the order.

You are also informed that under Section 11 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970), the Advisory Board shall if you desire to be so heard by the Advisory Board you should intimate such desire in your representation to the State Government."

The State Government approved of the order of detention on June 28, 1971. As required by the provisions of the Act a report was made to the Central Government on the same date. The case of the detenu was placed before the Board, on July 19, 1971, his representation having been received earlier. The representation was also considered by the Government and was rejected on July 19, 1971. The decision of the Advisory Board was given on August 23, 1971, pursuant to which the State Government confirmed the detention by an order, dated September 3, 1971.

3. The only question for consideration is whether the particulars given in the grounds of detention are relevant to maintenance of public order. There can be no manner of doubt and the acts attributed to the petitioner would fall within (b) and (d) of sub-section (2) of Section 3 of the Act. It has been contended on behalf of the petitioner that the allegations made against him do not satisfy the test laid down by this Court in the various decisions about the meaning of the expression 'public order'.

4. In our opinion the acts attributed to the detenu are such as would bring him squarely within the ambit of clauses (b) and (d) of Section 3(2) of the Act. Attacking the Railway Police party with bombs at the Railway Station Yard is surely a serious matter and was bound to cause a scare among all the members of the public who would be visiting the station yard and interfere with their activities of getting the goods loaded or unloaded. It was not a mere question of maintenance of law and order. It was a kind of disturbance which would be comprehended by the expression "order publique" as explained in Madhu Limaye's case (AIR 1971 SC 2486 : (1970) 3 SCC 746.). The acts may be sometimes similar in quality but what has to be seen is their potentiality in the sense as to what reverberations may be caused which might affect the even tempo of the life of the community. (See W.P. No. 308 of 1971, Nagendra Nath Mandal v. State of West Bengal, decided on January 13, 1972.)

5. We are satisfied that there is no merit in this petition and it is therefore dismissed.

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