

Jagannath

Vs

State of West Bengal

Writ Petition No. 13 of 1972

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

12.04.1972

JUDGMENT

KHANNA, J.

1. This is a petition through jail for the issue of a writ of habeas corpus by Jagannath Das alias Jaga 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).

The order of detention reads as under :

ORDERNo. 86/71 Dated : 29-6-1971##

Whereas I am satisfied with respect to the person known as Shri Jagannath Das alias son of Late Bhanu Das of Kurimatu, P. S. Bangaon, Distt. 24 Parganas, that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, I therefore in exercise of the powers conferred by sub-section (I) 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 Jagannath Das alias Jaga be detained.

Given under my hand and seal of office.

(Sd.) Illegible DISTRICT MAGISTRATE 24-PARGANAS, 29-6-71##

2. The ground of detention which was served along with the order of detention upon the petitioner recited that on the night of June 1, 1971 at about 1.30 a.m. while committing theft of rice from wagon No. 39751 at Bangaon railway station yard, the petitioner and his associates charged bombs upon the party of Railway Protection Force on duty with a view to doing away with their lives when challenged by them. As a result of the throwing of bombs, Himunshu Bhushan Dhar Sharma of the Railway Protection Force sustained burn injury on his person. The above explosion of bombs created panic in the station and in the adjoining locality and, as such, there was disturbance of public order.

3. The petitioner in pursuance of the detention order was arrested on July 2, 1971 and was served with the said order and the ground of detention together with vernacular translation thereof. The order of detention was approved by the State Government on July 9, 1971. Representation made by the petitioner against his detention was received by the State Government on July 10, 1971 and after being considered was rejected by the State Government on July 30, 1971. The case of the petitioner

was placed before the Advisory Board on July 31, 1971. The representation of the petitioner was also forwarded to the Advisory Board. The Board, after considering the material before it and after hearing the petitioner in person submitted its report on September 3, 1971. Opinion was expressed by the Advisory Board that there was sufficient cause for the detention of the petitioner. The detention order was confirmed by the State Government on September 11, 1971 and intimation about the confirmation of the detention order was immediately thereafter sent to the petitioner.

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

5. We have heard Mr. S. S. Khanduja, who has addressed arguments *amicus curiae* on behalf of the petitioner, and Mr. G. S. Chatterjee on behalf of the respondent State, and are of the opinion that there is no merit in the petition. The first contention which has been advanced by Mr. Khanduja is that there has been no valid communication of the ground of detention to the petitioner. It is stated that the petitioner is an illiterate person as would appear from the fact that he affixed his thumb impression on the detention order at the time it was served upon him. The service of the detention order and the ground of detention which were in English upon the petitioner who was illiterate, according to the learned counsel, was not a sufficient compliance with law as it had the effect of denying him the right of making a representation against the order. In this connection, we find that the affidavit of Shri Chandi Charan Bose shows that at the time of his arrest the petitioner was served not merely with the order of detention and the ground of detention but also with vernacular translation thereof. It, therefore, cannot be said that the order of detention and the ground thereof were in a language which the petitioner could not understand. No ground was taken by the petitioner either in the representation submitted by him or in the petition sent to this Court that the order of detention and the ground thereof had not been comprehended by him as they were in a language which he could not understand. No grievance can, consequently, be made by the petitioner on that score. It may also be stated that the petitioner does not appear to be illiterate as the petition sent by him from jail has been signed by him. The signature of the petitioner on the petition has been attested by the jail authorities.

6. In the case of *Hadibandhu Das v. District Magistrate, Cuttack and Another* ((1969) 1 SCR 227 : AIR 1969 SC 43), to which a reference has been made by Mr. Khanduja, the District Magistrate served an order on the appellant on December 15, 1967 under Section 3 of the Preventive Detention Act for his detention. The appellant filed a petition in the High Court, on December 19, 1967, challenging the order of detention on the ground, *inter alia*, that the order and the grounds in support thereof, which had been served upon the appellant, were written in English language which he did not understand. On January 18, 1968 the District Magistrate supplied to the appellant Oriya translation of the order and the grounds. Dealing with the order of detention passed on December 15, 1967, this Court referred to the fact that the said order ran into 14 typed pages. It was held that mere oral explanation of a complicated order of the nature made against the appellant without supplying him the translation thereof in a script or language which he understand would amount to denial of the right of being communicated the grounds and of being afforded an opportunity of making a representation against the order. The subsequent supply of the Oriya translation of the order of detention and grounds thereof was found to be of no avail as under Section 7(1) of the Preventive Detention Act the authority making the order of detention has to communicate to the detenu the ground on which the detention order has been made within five days from the date of detention. None of the infirmities which were noticed by this Court in the cited case vitiates the impugned order of detention. As mentioned earlier, the petitioner was supplied at the time of his

arrest with vernacular translation of the order of detention and the ground on which it was based. As such, the cited case can be of no assistance to the petitioner.

7. It has also been argued by Mr. Khanduja that the representation submitted by the petitioner was not placed before the Advisory Board within 30 days of the date of receipt of representation. This contention is devoid of force because we find from the affidavit of Shri Chandi Charan Bose that the representation of the petitioner was received by the State Government on July 10, 1971 and the same was forwarded immediately after being rejected by the State Government on July 30, 1971 to the Advisory Board. It, therefore, cannot be said that the State Government failed to forward the representation to the Advisory Board within 30 days of its receipt.

8. The petition consequently fails and is dismissed.

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