

SUPREME COURT OF INDIA

Batul Chandra Ghosh

Vs.

State of W.B.

Writ Petn. No.9 of 1972

(G. K. Mitter, K. S. Hegde and A. N. Grover, JJ.)

03.05.1972

JUDGEMENT

HEGDE, J.:-

1. In this petition under Art. 32 of the Constitution the petitioner challenges the validity of his detention under the provisions of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 9 of 1970) (which will hereinafter be referred to as the Act). He prays for a writ of Habeas corpus requiring the respondent - State of West Bengal to release him from detention forthwith.

2. On July 6, 1971, the District Magistrate, 24-Parganas issued the following order:

"Whereas I am satisfied with respect to the person known as Shri Batul Chandra Ghosh alias Amar son of Shri Jitendra Nath Ghosh of Subhapalli P. S. Bongaon, Dist 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-s. (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 Batul Chandra Ghosh alias Amar be detained.

Given under my hand and seal of office.

Sd/-Illegible

DISTRICT MAGISTRATE

24-Parganas

6-7-1971."

3. In pursuance of the said order the petitioner was duly arrested on the same day. After his arrest he was served with the grounds of detention. Those grounds read as follows:

"Government of West Bengal

Office of the District Magistrate 24- Parganas.

No.353/71 Dated 6-7-71.

Grounds under sub-section (1) of Section 8 of the West Bengal (Prevention of Violent Activities) Act, 1970 (President's Act No. 19 of 1970) for detention under sub-section (1) read with sub-section (3) of Section 3 thereof:

To : Shri Batul Chandra Ghosh alias Amar, son of Shri Jitendra Nath Ghose, of Subhaspalli, P. S. Bongaon, Dist. 24-Parganas.

You are being detained in pursuance of a detention order made in exercise of the power conferred by sub-section (1) read with sub-section (3) of Section 3 of the West Bengal (Prevention of Violent Act) Act, 1970 (President's Act No. 19 of 1970) on the ground that you have been acting in a manner

prejudicial to the maintenance of public order as evidenced by particulars given below:

1. On 12-2-71 at about 01.00 hrs. you and some of your associates being armed with daggers, bombs and other lethal weapons attacked the house of Shri Ranjan Kumar Baidya, s/o Late Dukhiram Baidya of Saktigar, P. S. Bongaon, over a party faction and some of the inmates by hurling bombs. You, thereby, created a great panic in the locality and disturbed the public order.

2. On 23-2-71 between 01.45 hrs. and 02.15 hrs, Bongaon Police on receipt of a secret information searched the house of Amulya Ghosh of Subhaspalli, Bongaon and recovered 3 high explosive bombs and some explosive materials from you and your associates' possession.

You are hereby informed that you, 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, 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 heard, hear you in person and if you desire to be so heard by the Advisory Board, you should intimate such desire in your representation to the State Government.

Sd/- Illegible

District Magistrate 24-Parganas

6-7-71."

4. The representations made by the petitioner were considered and rejected by the Government as well as by the Advisory Board. Thereafter the petitioner moved this Court as mentioned earlier.

5. The order made in this case and the grounds served on the detenu are similar in all material respects to the order made and the grounds served on the detenu concerned in Writ Petn. No. 7 of 1972 (Nishi Kant Mondal v. State of West Bengal), decided by this Court on 18-4-1972 = (reported in AIR 1972 SC1497 = 1972 Cri L. J. 904). In the case this Court held the detention to be valid.

Following the ratio of that decision, this writ petition is dismissed.

6. In this case Mr. S. C. Mazumdar acted as amicus curise at our instance. The preparation of the case involved considerable work for him. The decision of this Court in Writ Petn. No.7 of 1972 = (reported in AIR 1972 SC 1497 = 1972 Cri L. J. 904) was brought to our notice only after the arguments in this case were complete and the case was reserved for the judgment. Under these circumstances, we think that the State should bear the expenses of defence. We fix the advocate's fee at Rs. 100. Issue necessary certificate in favour of Mr. S. C. Mazumdar.

Petition dismissed