

Satyabrata Seal Alias Dulu

Vs

State of West Bengal and Others

Writ Petition No. 278 Of 1972

(J. M. Shelat, I. D. Dua, Y. V. Chandrachud JJ)

31.10.1972

JUDGMENT

DUA, J. -

1. Satyabrata Seal alias Dulu has forwarded the present petition for a writ in the nature of habeas corpus from Dum Dum Central Jail in the State of West Bengal. Like Manu Bhusan Roy Prodhan in W.P. No. 252 of 1972 pursuant to the order of detention, dated August 21, 1971, he too was arrested on November 11, 1971, when the grounds of detention were also served on him. The fact of making the detention order was reported to the State Government on August 23, 1971, and the State Government approved the same on August 31, 1971. The same day the necessary report was submitted to the Central Government. His case was placed before the Advisory Board on December 9, 1971, and the Board gave its decision on January 19, 1971. His representation was received by the State Government on December 10, 1971, and was considered by the said Government on January 18, 1972. The State Government confirmed the detention order on February 2, 1972, and it was communicated to the detenu on February 7, 1972.

2. The grounds of his detention are :

"1. On April 16, 1971, at about 20.00 hours you along with others committed murderous assault on Shri Bulu Das Gupta on the road in front of the Mahila Samiti at Dhupguri, Police Station Dhupguri, District Jalpaiguri causing severe injuries to his person. Shri Das Gupta subsequently died in hospital. As a result of this murder committed by you people of the locality became highly terrorised and the public was greatly disturbed.

2. On July 18, 1971, at about 19.30 hours you along with others forcibly entered into Dhupguri High School, Police Station Dhupguri, District Jalpaiguri and set fire to the school buildings causing irreparable loss to the school with the ulterior object of causing dislocation in the present system of education and to compel the school authorities to close down the same. As a result of the fire set by you, the teachers and the local people became panic-stricken and the public peace was greatly disturbed."

3. These two grounds are exactly similar to the grounds on the basis of which Manu Bhusan Roy Prodhan was detained in W.P. 252 of 1972. As a matter of fact it appears that the present petitioner was one of the persons who, according to the detaining authority, associated with Manu Bhusan Roy Prodhan in the course of the two incidents mentioned in both these writ petitions. In W.P. 252 of 1972 we have held that ground No. 1 is irrelevant and that ground is not of an unessential nature and

its exclusion from consideration might reasonably have affected the subjective satisfaction of the authority making the impugned order of detention. On this ground the present petition has also to be allowed.

4. In the present case, however, there is also an additional infirmity. The representation made by the petitioner to the State Government was received by the State Government on December 10, 1971, but was considered by it only on January 18, 1972. The explanation for this delay as stated in the counter-affidavit is as under :

".....that delay was also caused due to abrupt increase in number of detention cases during that time as there was spate of anti-social activities by Naxalite and other political extremists in the State."

5. This explanation appears to be much too vague and indefinite and this would also have rendered the petitioner's detention thereafter illegal. However, as the grounds of detention are outside the statute the impugned order of detention is liable to be struck down on that ground alone. We had directed the petitioner's release on October 5, 1972. We have now recorded our reasons for doing so.

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