

Baidya Nath Mandi

Vs

State of West Bengal and others

Writ Petition No. 839 of 1973

(H.R.Khanna, A.Alagiriswami JJ.)

07.09.1973

JUDGMENT

KHANNA, J. -

1. This is a petition for the issuance of a writ of habeas corpus by Baidya Nath Mandi, who has been ordered to be detained under Section 3 of the Maintenance of Internal Security Act.

2. No return in opposition to the petition has been filed, but Mr. Chatterjee on behalf of the respondents has at the hearing admitted the following facts. The original order for the detention of the petitioner under Section 3 of the Maintenance of Internal Security Act was made by the District Magistrate Burdwan on December 22, 1971. The petitioner was thereafter arrested and was kept in detention. While the petitioner was in detention, this Court gave its judgment in the case of Shambhu Nath Sarkar v. The State of West Bengal (1973 (1) SCC 0856: 1973 SCC (Cri) 0618). After the aforesaid decision, the State of West Bengal directed that the petitioner be released. The petitioner was, accordingly, released on April 25, 1973. The same day, according to Mr. Chatterjee, a fresh order for the detention of the petitioner was made by the District Magistrate Burdwan under Section 3 of the Maintenance of Internal Security Act. The grounds on which the fresh order of detention was made on April 25, 1973 were the same upon the basis of which the earlier order for the detention of the petitioner had been made on December 22, 1971.

3. We find that the facts of the present case have a close similarity to those of Chotka Hembram Vs. State of West Bengal (1973 (2) SCC 0401: 1973 SCC (Cri) 0966) wherein upon similar facts quashed the order for the detention of the detenu. Following the aforesaid decision, we quash the order for the detention of the petitioner and direct that he be set at liberty.

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