

S. K. Ibrahim

Vs

The State of West Bengal and Others

Writ Petition No. 1641 of 1973

(M. H. Beg, H. R. Khanna JJ)

19.12.1973

JUDGMENT

KHANNA, J. -

1. The District Magistrate of Hooghly passed an order on May 9, 1973 under sub-section (1) read with sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971 (Act No. 26 of 1971) for the detention of the petitioner with a view to prevent him from acting in any manner prejudicial to the maintenance of supplies and services essential to the community. In pursuance of the detention order, the petitioner was arrested on May 14, 1973 and was served with the order of detention as also the grounds of detention together with vernacular translation thereof. Report about the making of the detention order was sent by the District Magistrate to the State Government and the said Government approved the detention order on May 18, 1973. The case of the petitioner was placed before the Advisory Board by the State Government on June 5, 1973. The petitioner sent a representation against his detention and the same was received by the State Government on June 2, 1973. The State Government rejected the representation on June 4, 1973 and forwarded the same to the Advisory Board. The Advisory Board after considering the representation and hearing the petitioner in person made report to the State Government on July 11, 1973. Opinion was expressed by the Board that there was sufficient cause for the detention of the petitioner. On July 30, 1973 the State Government confirmed the order for the detention of the petitioner.

2. The petitioner in the meantime filed petition under Section 491 of the Code of Criminal Procedure before the Calcutta High Court. The said petition was heard by a Division bench of the High Court and was dismissed as per judgment dated July 4, 1973. The present petition under Art. 32 of the Constitution was thereafter sent by the petitioner from jail on July 23, 1973 for the issue of a writ of habeas corpus.

3. The petition has been resisted by the State of West Bengal and the affidavit of Sri Sukumar Sen, Deputy Secretary, Home (Special) Department has been filed in opposition to the petition. Arguments have been addressed before us by Mr. S. C. Majumdar amicus curiae and Mr. Sukumar Ghosh for the State of West Bengal. Mr. Majumdar has assailed the detention of the petitioner on three grounds.

4. It has been argued in the first instance by Mr. Majumdar that there was delay on the part of the State Government in considering the representation of the petitioner and such delay vitiates the detention. This contention, in our opinion, is without any force. It would appear from the affidavit filed by Shri Sukumar Sen that the representation sent by the petitioner was received by the State Government in its Home department on June 2, 1973 after it had been forwarded by the

Superintendent Hooghly Jail. The said representation was then considered and was rejected by the State Government on June 4, 1973. It cannot, in our opinion, be said that there was any delay in the disposal of the representation of the petitioner by the State Government. It has been urged that the representation was sent by him from jail on May 25, 1973 and that a period of 10 days elapsed from the date of the submission of the representation and its actual disposal. The above period cannot also be said to be so inordinately long as might affect the validity of the detention.

5. It has next been argued on behalf of the petitioner that the detention order contained blanks which were filled in subsequent to the signing of that order by the District Magistrate. This allegation has been denied in the affidavit filed on behalf of the State Government and, in our opinion, there is no cogent ground to accept the correctness of the allegation. The petitioner was admittedly not present at the time the detention order was signed by the District Magistrate and, as such, he cannot be in a position to state whether the detention order contained blanks when it was signed by the District Magistrate. The mere fact that the detention order is on a cyclostyled sheet wherein necessary particulars were filled in ink would not go to show that the particulars in ink were filled in subsequent to the signing of the detention order.

6. Lastly, it has been argued by Mr. Majumdar that the grounds of detention on the basis of which the order for the detention was made were vague. In this connection we find that the grounds of detention were as under :

(1) On March 31, 1973 in the early hours of the morning you and your associates were found to smuggle rice by train No. ST 2 Dn. (Tarakeswar-Sheoraphuli local) from non-rationed areas to rationing areas of Hooghly and Howrah District in contravention of the provisions of the West Bengal Rice and Paddy (Restriction on Movement) Order, 1968. At 04-27 hours of date when the train reached Kamarkundu Railway Station the anti-smuggling staff of Dankuni P.S. checkpost under the command of S. I. Biren Das, Seized 14 quintals and 55 kgs. of smuggled rice belonging to you and your associates after rummaging the said train. At this you and your associates launched a violent attack on the anti-smuggling party and threw ballasts towards them causing injuries on the persons of some of the anti-smuggling staff with a view to scare them away and thus attempted to escape with the smuggled rice. The anti-smuggling party had to open fire in self defence and could be able to arrest two of your associates on chase when you and your other associates managed to escape. As a result of this, there was serious disruption in the smooth running of train services on Tarakeswar Howrah line causing inconvenience to the travelling public and transshipment of commodities essential to the community. The said activity of yours thus attracts Section 3(1)(a)(iii) of the Maintenance of Internal Security Act, 1971 (Act No. 26 of 1971).

(2) On April 12, 1973 at 11-12 hrs. you and your associates were found to board train No. 4 Dn. (Bombay-Howrah mail) with huge quantity of rice with a view to smuggle them from non-rationed area to the industrial belts of Howrah in contravention of the provisions of the West Bengal Rice and Paddy (Restriction on Movement) Order, 1968 when the train stopped at Jaugram Railway Station on Burdwan-Howrah Chord line due to alarm chain pulling by some of your associates as per previous arrangements, S.P.N.O. Dey, of G.R.P. Enforcement Branch, Howrah with his staff who were travelling by the said train could be able to stop the train at Chandanpore Railway Station with the help of the Guard of the train. On seeing the S.I. and his party, you jumped down from the train and fled away from there leaving behind the bags of smuggled rice weighing 5 quintals. The S.I. and his staff could also be able to seize 41 quintals and 75 kgs. of smuggled rice from the possession of your other associates

who also managed to escape with you. The total value of smuggled rice seized was about Rs. 10,000/-. By your such act you tried to frustrate the food policy of the Government in respect of supply and distribution of essential commodities to the community. The said activity of yours thus attracts Section 3(1)(a)(iii) of the Maintenance of Internal Security Act, 1971 (Act 26 of 1971).

(3) On April 23, 1973 at 12.30 hrs. when train No. C-258 Down (Burdwan Howrah Chord line local) arrived at Kamarkundu Railway Station, the anti-smuggling party of Howrah G.R.P. Cordoning saw you in a 3rd class compartment of the said train with two bags of smuggled rice in contravention of the provisions of the West Bengal Rice and Paddy (Restriction on Movement) Order, 1968. The anti-smuggling staff under the command of S.I.J.C. Das arrested you from the 3rd class compartment of the said train with two gunny bags containing 169 kgs. of rice which you were carrying without any permit or authority. By your such act you tried to frustrate the food policy of the Government in respect of supply and distribution of essential commodities to the community. The said activity of yours thus attracts Section 3(1)(a)(iii) of the Maintenance of Internal Security Act, 1971 (Act 26 of 1971).

It would appear from the above that the date, time and place of each of the incidents were specified in the grounds. Particulars were also given regarding the nature of the activities of the petitioner. The facts stated in the grounds of detention were sufficient to apprise the petitioner of the precise activities on account of which the detention order had been made. It cannot in the circumstances be said that the petitioner was in any way handicapped in making an effective representation. The fact that the names of the associates of the petitioner were not mentioned in the grounds of detention would not go to show that they suffered from the infirmity of vagueness. The courts look with disfavour upon vague grounds of detention, because such grounds fail to convey to the detenu the precise activity on account of which he is being detained. The detenu is thus prevented from making an effective representation which he might possibly have made, if he had been apprised of the objectionable activity which led to his detention. Where, however, as in the present case the requisite details of the activity for which the order for detention was made, have been conveyed to the detenu and he is not shown to have been prejudiced or handicapped in making an effective representation, the argument about the vagueness of grounds of detention must plainly be held to be not tenable.

7. The petition consequently fails and is dismissed.

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