

Odut Ali Miah

Vs

The State of West Bengal

Writ Petition No. 555 Of 1972

(D. G. Palekar, V. R. Krishna Iyer, P. N. Bhagwati JJ)

18.02.1974

JUDGMENT

KRISHNA IYER, J. -

1. Shri G. S. Rama Rao, appearing as amicus curiae, has urged five grounds in support of his challenge to the validity of the order of detention passed on the petitioner by the District Magistrate, 24 Parganas, under Section 3 (2) of the Maintenance of Internal Security Act, 1971 (for short, the Act) read with sub-section (1) thereof.
2. One point urged was that there was a delay of five months between the first incident relied upon in the grounds in support of the detention and the actual order of detention, but it is obvious that it was a course of conduct attributed to the petitioner which persuaded the District Magistrate into the conclusion that it was necessary to inhibit his activities prejudicial to the maintenance of supplies and services to the community. The last of such instances was in April, 1972 and within two months thereof the order of detention had been made. We are not impressed with the argument that there has been such a long gap between the materials on which reliance is placed and the actual order passed as to lead to the inference that the subjective satisfaction of the District Magistrate is unreal and invalid.
3. The second ground of attack is that the particulars furnished to the detenu are vague. There is no force in this either. The three episodes recited in the Annexure to the detention order give sufficient particulars to enable an effective representation contra.
4. The point that the associates of the petitioner in his prejudicial adventures were not named in the particulars furnished also has no legal force (vide this Court's decision in Hasan Ali v. State of West Bengal) ((1972) 2 SCC 677))
5. The other plea that the grounds or particulars mentioned by the District Magistrate have no relevance to the maintenance of supplies and services has no merit whatever. The prejudicial activity of the petitioner appears to be to remove the lighting equipments in the Diamond Harbour on the Hoogly leading obviously to the hindrance of vessels navigating and thus producing disruption in the maintenance of supplies and services. After all, the movement of ships is essential to supplies and services to the community at large.
6. Equally meritless is the contention that the counter-affidavit of the State describes the petitioner as "a notorious anti-social and he was indulging in stealing valuable river navigational lighting equipments from light posts and buoys in the river Hoogly", and that, therefore, more than what has

been communicated to the detenu has influenced the detaining authority and the higher authorities in directing or affirming the detention. We see nothing new as having been relied upon by the authorities under the Act and all that is stated in paragraph 7 of the State affidavit in return has in substance been communicated to the petitioner.

7. The plea that the detenu has been undergoing incarceration for a long time since the middle of 1972 and that, unless released, his poor family will be in great distress is no contention in law under the Act but has to be made to the State Government which has always the power to review the situation with reference to a detenu. Maybe, the State Government may consider the position if appropriately moved. We see no ground to direct release of the petitioner on any of the contentions set up on his behalf by Counsel.

8. In these circumstances we dismiss the petition.

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