

Shri Keshab Chandra Das

Vs

State of West Bengal and Others

Writ Petition No. 439 of 1972

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

18.02.1974

JUDGMENT

KRISHNA IYER, J. -

1. The petitioner has challenged the validity of the order of detention passed on December 22, 1971 under Section 3(1) and (3), read with Section 5(a), of the Maintenance of Internal Security Act (Act 26 of 1971). The grounds on which the District Magistrate relied were communicated to the detenu and they relate to maintenance of supplies and services essential to the community. The three instances, all of 1971, relate to removal of rice from lorries carrying foodgrains of F.C. I. account, in Calcutta.

2. The petitioner was arrested on December 12, 1971, on which date grounds of detention were also served on him, as required by the statute. The Government was informed which approved the detention and communicated the factum of the detention to the Central Government. The representation of the detenu was received on January 14, 1972 and was considered by the Government on January 21, 1972, which rejected the representation. The Advisory Board to which the representation was forwarded also considered it but recommended the continuance of the detention. Finally, the State Government confirmed the detention of March 16, 1973.

3. The major ground of attack was based on the absence of any definite time-limit for the duration of the detention, since, according to the petitioner, "till expiry of Defence of India Act, 1971" did not satisfy the constitutional condition. However, this point does not survive now, having been overruled by a decision of this Court in *Fagu Shaw v. State of West Bengal*. (1974) 4 SCC 152 : 1974 SCC (Cri) 316.

4. We are satisfied that the grounds relied on have a rational relation to the subjective satisfaction regarding the prejudicial activities imputed to the petitioner. We are also satisfied that no valid ground has been made out on the basis of lack of proximity between the incidents relied on and the order made. Nor is there any infirmity in the nature of the communication of the grounds to the detenu, in answer to which he had a constitutional right to make a representation. While we affirm the decisions of this Court rendered in *Shaik Hanif v. State of West Bengal*, ((1974) 1 SCC 637 : 1974 SCC (Cri) 292) and *Bhut Nath mete v. State of West Bengal*, ((1974) 1 SCC 645 : 1974 SCC (Cri) 300) we are satisfied that there is no substance in the contention of the Counsel, Shri Maheshwari, appearing as *amicus curiae*, that there has been withholding of any material grounds which has influenced the authorities. In this view, there is no merit in the contentions of the petitioner, and while his preventive detention and its prolonged continuation is a matter for the State to look into, judicial review invalidating the detention order is not possible on the plea put forward.

The writ petition is accordingly dismissed.

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