

Bikash Chandra Saha

Vs

The State of West Bengal

Writ Petition No. 473 of 1972

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

26.02.1974.

JUDGMENT

PALEKAR, J. -

1. This is a petition under Article 32 of the Constitution for an order in the nature of habeas corpus on the ground that the petitioner is illegally detained. The detention order was passed by the District Magistrate, 24 Parganas, on January 22, 1972. It was passed in the exercise of the power conferred by sub-section (1) read with sub-section (2) OF Section 3 of the Maintenance of Internal Security Act, 1971 (Act 26 of 1971), since the district magistrate was satisfied that with a view to preventing the petitioner from acting in a manner prejudicial to the maintenance of supplies and services essential to the community it was necessary to detain him.

2. The detenu's case was placed before the Advisory Board on February 24, 1972 and after receiving the opinion of the Advisory Board the State Government confirmed the detention on March 29, 1972. It appears that the petitioner had approached the High Court but his petition was dismissed on June 19, 1972. The petitioner has come here under Article 32 of the Constitution by a separate petition.

3. The grounds which were communicated to the petitioner are as follows :

You have been storing and dealing in both foreign imported rice and indigenous rice keeping godown and shop on K.N.C. Road, Baraset town, P. S. Baraset, District 24 Parganas from February, 1970 without obtaining any licence or authority. On November 6, 1971, at about 23.00 hrs. you illegally procured a huge quantity of foreign imported Japanese rice from Sekendar Ali Mondal and Nurujaman at Digha, P. S. Baraset, District 24 Parganas and carried such rice to your shop and 2 godowns in a lorry at Baraset town in the same night without any permit for storing and subsequent sale without having any licence or authority. In pursuance of a statement of Sekendar Ali Mondal and on his cation on November 7, 1971 between 08.30 hrs. and 11.00 hrs., your shop and 2 godowns on K.N.C. Road, Baraset town were searched and 38.96 qtls. of foreign imported lapanese rice. 1.08 qtls. of atap rice and 00.60 qtls. of boiled nice, stored therein for sale, without any authority, were seized. As a result of your action, normal apply of rice to the public consumers was interrupted causing great hardship upon them. Thus you acted in a manner prejudicial to the maintenance or supplies and services, essential to the community.

4. It was contended by Mr. A. K. Gupta as amicus curiae for the petitioner that the grounds were not

really relevant for the satisfaction that a detention order was necessary. We do not agree. The detention order was necessary in the view of the District Magistrate because the activities of the petitioner were prejudicial to the maintenance of supplies and services essential to the community. Supply of rice to the community was an essential supply controlled by statute. The allegations made against the detenu show that he had been conducting clandestine business in rice. He had a godown and a shop in which he stored imported and local rice and dealt in it without a licence or authority. On one night he was seen storing imported rice in his godown and the very next morning when the place was raided, large quantities of both imported and local rice were recovered from his possession. On these facts the District Magistrate is entitled to be satisfied that by dealing in rice in such clandestine fashion on a large scale the petitioner was disrupting the delicately balanced supply of essential food stuffs to the community and, therefore, in order to prevent him from doing so it was necessary to detain him. In our opinion, the grounds were quite relevant to the detention order.

5. Nor do we find any substance in the argument that the grounds are vague. The grounds are quite clear. It was also contended that it appeared from the affidavit that grounds other than those which were communicated to the detenu must have been taken into consideration before passing the order. In this connection reference was made to para 7 of the affidavit made by the District Magistrate in which the following statement occurs :

The detenu-petitioner is a notorious smuggler and blackmarketeer of rice mainly operating in Baraset town District 24 Parganas.

It was contended that the grounds on which the District Magistrate called the petitioner a 'notorious smuggler' had not been communicated to the petitioner and since apparently that fact had entered into the consideration of his case before the satisfaction was arrived at by the District Magistrate the detention order was invalid. We do not think that this statement that he was a 'notorious smuggler' was intended to suggest, apart from what was said in the grounds, that there was other material for calling him a 'notorious smuggler'. The ground given showed that he was storing and selling imported rice which could have been done only after smuggling it. The reference in the affidavit to the fact that he was a smuggler is reflected in the specific ground communicated to the petitioner. That he was also a blackmarketeer is sufficiently reflected in the allegation that he was selling rice clandestinely. We do not, therefore, think that the District Magistrate had been influenced in making the order by considerations other than those which have been specified by him in the grounds communicated to the petitioner.

6. In our opinion the detention is not invalid for the reasons argued before us. The petition is, therefore, dismissed.

</html