

Kamla Prasad

Vs

The District Magistrate, Saran and Others

Writ Petition No. 481 of 1974

(. K. Mathew, P. N. Bhagwati, N. L. Untwalia JJ)

20.12.1974

JUDGMENT

MATHEW, J. -

1. The petitioner challenges the validity of an order of detention passed under Section 3(3) of the Maintenance of Internal Security Act, 1971, by the District Magistrate, Saran, on June 10, 1974 and prays for issue of a writ of habeas corpus.

2. The ground of detention served on the petitioner on June 15, 1974 states :

On a surprise inspection by the District Supply Officer, Chapra, on June 10, 1974, it was found that he had hoarded and concealed the following stock of essential commodities in his shop :

- (1) Match boxes sankh brand - 7 bundles - 15 dozen - (one bundle = 60 dozen).
- (2) Match boxes Tank brand - 2 bundles - 32 dozen.
- (3) Match boxes Sanpagam flower - 52 dozen.
- (4) Match boxes Delux - 2 dozen.
- (5) Soap - 501 brand - 33 (1/2 bars).
- (6) Soap - Nirmal 3 (1/2 bars)

In addition, the following stock was also found hidden under chauki in his residential house separate from the business premises :

- (1) Match boxes - 65 gross (9360 pieces).
- (2) Ashoka Soap - 5 cartons (360 pieces).

All these articles were unaccounted for. He did not display the stock and kept it concealed. When some customers, namely, Dhruvdeo Kumar, Sri Madan Kumar and Rajendra Singh wanted to buy match boxes, and soap earlier on June 10, 1974, the dealer refused to sell to them saying that he has no stock.

Thus at a time when soap and match boxes have become acute scarce, this dealer tried to conceal

and hoard the stock of these commodities with the obvious intention of black marketing and profiteering and creating further artificial scarcity of these articles in the market.

3. Counsel for the petitioner submitted that since there was no law fixing the limit up to which a dealer could stock match boxes and soaps, it could not be said that the petitioner had hoarded the scheduled commodities in question and therefore, the ground of detention was bad.

4. To answer this contention, it is necessary to have regard to the provisions of the Bihar Essential Commodities - Other Than Foodgrains - Prices and Stocks (Display and Control) Order, 1967. This is an Order passed by the Governor of Bihar in the exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955 read with the Order of the Government of India in the Ministry of Commerce published under notification No. S.O. 1844 dated June 18, 1966, with the concurrence of the Government of India. Clause 2 of the Order defines 'schedule commodity' as one or more commodities specified in Schedules I and II annexed to the Order and 'dealer' as a person carrying on business for the purchase, sale or storage or distribution of scheduled commodity whether wholesale or retail and whether or not in conjunction with any other business. Clause 4 states that every dealer shall display at a conspicuous part of the premises where he carries on his business the price list and stock position of the scheduled commodities specified in Schedules I and II annexed to the Order, held in stock by him for sale in a manner so as to be easily accessible for consultation by any customer. Clause 5 provides that no dealer, unless previously authorised in this behalf by the District Magistrate, Additional Collector, Special Officer Incharge Rationing, Patna or the Subdivisional Magistrate, or any other officer authorised by the Government in this behalf shall withhold from sale or refuse to sell to any person any scheduled commodity specified in Schedule II ordinarily kept by him for sale. Clause 7 provides for powers of entry, inspection, search and seizure.

5. The ground in effect stated that the petitioner had hoarded and concealed the essential commodities, namely, match boxes and soaps (which are specified in Schedule I) in his business premises and also in his residential house which is separate from the business premises, that he did not display the stock position at both the places of these commodities in his business premises, that when the customers wanted to purchase soaps and match boxes on June 10, 1974 he refused to sell to them saying that he had no stock and that he concealed and hoarded the stock with the intention of selling them in black market with a view to make undue profit.

6. The petitioner was bound under Clause 4 of the Order to display in his business premises the stock of match boxes and soaps held by him. From the fact that he did not display the stock of match boxes and soaps in his business premises the only possible conclusion was that the petitioner was hoarding the stock for the purpose of sale in black market and thus make undue profit. The word 'hoard' in the context means to amass and deposit in secret. As we said, the reason why the petitioner did not display the stock position in respect of these scheduled commodities in his business premises was that he wanted to hoard and conceal them. This would create scarcity of the commodities in the market and vitally affect the maintenance of services and supplies essential to the community.

7. It is, no doubt, true that Clause 5 of the Order only provides that a dealer shall not refuse to sell to any person any scheduled commodities specified in Schedule II except with the permission of the authorities specified therein and, match boxes are not included in that schedule. But that would not in any way affect the validity of the order of detention. The refusal to sell match boxes to the customers mentioned in the ground was not an independent ground of detention. The fact that the

petitioner refused to sell match boxes and soaps to those customers was stated in the ground only to show that the petitioner was hoarding match boxes and soaps with a view to sell them in black market as otherwise there was no reason why he should refuse to sell them to those customers.

8. In these circumstances we think that the subjective satisfaction of the detaining authority that if the petitioner was let at large he would indulge in activities prejudicial to the maintenance of supplies and services essential to the community was founded on adequate materials. Counsel did not urge any other point nor are we able to see any circumstance which vitiates the order of detention.

9. We dismiss the petition.

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