

Sheoraj Prasad Yadav

Vs

State of Bihar and Others

Writ Petition No. 463 of 1974

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

20.12.1974

JUDGMENT

UNTWALIA, J. -

1. The District Magistrate of Katihar made an order of detention on March 7, 1974 against the petitioner under Section 3(1) of the Maintenance of Internal Security Act, 1971. In pursuance to the said order the petitioner was arrested on March 10, 1974. Grounds of detention were served on him within the time allowed by law. As many as six grounds were served in support of the petitioner's detention. The petitioner made a representation which was rejected. His case was sent to the Advisory Board and on receipt of its opinion the State Government confirmed the order of detention as per their order communicated under Memo No. A-1843-C dated April 30, 1974. By the said order the detention of the petitioner up to March 9, 1975 has been confirmed. In the first instance the petitioner challenged his detention order by filing a writ application in the Patna High Court. It was dismissed by a Bench of that Court on July 17, 1974. The present petition was thereafter filed in this Court under Article 32 of the Constitution of India challenging the petitioner's detention as illegal and invalid and praying for a writ of habeas corpus of his release.

2. A rule nisi was issued to the respondents. A counter has been filed by the District Magistrate, Katihar.

3. Three submissions were made on behalf of the petitioner by Mr. D. N. Sinha, his learned Counsel :

(1) That the grounds were vague and did not afford adequate opportunity to the petitioner to make his representation.

(2) That the grounds or at least some of them had no nexus to the fact that the petitioner was likely to indulge in activities prejudicial to the maintenance of supplies and services essential to the community. The subjective satisfaction of the detaining authority therefore was vitiated in law.

(3) That the agitation to work for 10 hours duty by the Loco Running Staff Association had been withdrawn as early as in June, 1974 and it was not necessary to keep the petitioner in detention any longer.

4. We have no difficulty in rejecting the first two submissions made on behalf of the petitioner. The petitioner could have asked for more particulars before filing his representation if the grounds were

not very clear to him. On perusal of the grounds we are not satisfied that any of them was vague and it did not enable the petitioner to make his adequate representation. Almost all necessary details were there in all the six grounds and none of them suffered from the vice of vagueness.

5. All the six grounds related to the prejudicial and illegal actions of the petitioner in preventing the running of the trains in North-East Frontier Railway. Ground No. 2 referred to an incident on December 3, 1973 of gherao of the D.M.E. (P) Katihar which resulted in the dislocation of the running of several passenger and goods trains. Ground No. 1 referred to the action of the petitioner as the Secretary of the Loco Running Staff Association, North-East Frontier Railway, Katihar in concert with his associates. A unilateral decision was taken against the then existing rules to adopt 10 hours duty schedule for the Loco Staff from February 16, 1974. In course of argument it was endeavoured to point out on behalf of the petitioner that an agreement had been reached before February 16 and therefore the facts stated in ground No. 1 were not correct. It was rightly pointed out by Mr. U. P. Singh, learned Counsel for the respondents that the said agreement had not been made effective to North-East Frontier Railway at the relevant time.

6. Grounds Nos. 3, 4, 5 and 6 recited the various violent incidents in which the petitioner had taken an active part, which took place on February 21, 1974, February 23, 1974 and March 1, 1974. The incidents alleged, if true (no investigation or trial is permissible under the law to find out the truth or falsehood of the facts stated in the grounds) did clearly show that the petitioner with his associates was indulging in illegal acts and disrupting the maintenance of supplies and services essential to the community. All the grounds, therefore, had clear nexus with the object of detention and it is not possible to take the view that the subjective satisfaction of the District Magistrate was vitiated in law.

7. Coming to the third submission made on behalf of the petitioner we would like to observe that there seems to be justification in the petitioner's grievance that he is being unnecessarily detained even after the agitation had been withdrawn and there is no likelihood of his indulging in acts prejudicial to the maintenance of supplies and services essential to the community. But this is a matter which is not within our domain to decide. It is for the State Government to consider the question as to whether the continuance of detention of the petitioner is necessary or not. In the facts and circumstances of the case, however, we do express our desire that the State Government should as soon as possible review the case of the petitioner to find out whether any further detention in his case is necessary or not.

8. Subject to the observations made above the writ application fails and is dismissed. The rule is discharged.

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