

Dharua Kanu

Vs

State of West Bengal

Writ Petition No. 447 of 1974

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

14.01.1975

JUDGMENT

MATHEW, J. -

1. The petitioner challenges the validity of an order of detention passed under sub-section (1) read with sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971 by the District Magistrate, Nadia on March 15, 1973. In pursuance to the order, the petitioner was detained on March 19, 1973. The grounds of detention were communicated to the detenu. The petitioner sent a representation and that was received by the State Government on March 30, 1973. The State Government placed the case of the detenu before the Advisory Board on March 31, 1973. The representation of the petitioner was considered by the Government and it was rejected on April 4, 1973 but the same was forwarded to the Advisory Board. The Advisory Board submitted its report stating that there was sufficient cause for detention of the petitioner on May 10, 1973. The detention order was confirmed by the Government on May 15, 1973.

2. The ground of detention stated :

That on January 24, 1973 night between 01.00 hrs. to 02.00 hrs. you along with your associates committed theft of four pairs of fish plates from the running track at KM post No. 47/1, 47/3, 47/5 in between Kalyani R. S. and Kanchrapara R. S. and as a result train services were disrupted for a considerable period affecting supplies and services.

You have thus acted in a manner prejudicial to the maintenance of supplies and services essential to the community.

3. There can be no doubt that removing fish plates from the running track and disrupting service for a considerable period would affect the maintenance of supplies and services essential to the community. It cannot be said that the satisfaction of the detaining authority on the basis of this single occurrence that if the petitioner were to be let at large he would indulge in similar activities in future and thus act in a manner prejudicial to the maintenance of supplies and services essential to the community was not based on adequate materials.

4. We also do not think that there is any merit in the contention of Counsel for the petitioner that the State Government went wrong in forwarding the representation to the Advisory Board after rejecting it. In law, the State Government was bound to consider the representation before forwarding it to the Advisory Board. It may be recalled that the State Government rejected the representation on April 4, 1973 and the same was forwarded to the Board. And it was after

considering the representation that the Board made the report. We see no circumstances vitiating the order of detention.

5. We dismiss the petition.

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