Mohd. Yousuf Rather

Vs

State of Jammu and Kashmir and Others

Writ Petition No. 581 of 1979

(R.S. Sarkaria, P.N. Shinghal, O. Chinnappa Reddy JJ)

10.08.1979

JUDGMENT

SHINGHAL, J.(for himself and Sarkaria, J.) -

1. This petition of Mohammad Yousuf Rather under Article 32 of the Constitution challenges his detention under Section 8(a)(i) of the Jammu and Kashmir Public Safety Act, 1978, hereinafter referred to as the Act. The order of detention has been made by the District Magistrate of Anantnag on April 12, 1979, and it is not in controversy that it has really been made under sub-section (2) of Section 8 of the Act on the basis of the satisfaction provided for in sub-clause (i) of clause (a) of sub-section (1) of that section. While the petitioner has stated that he did not receive the order of detention, and only the grounds of detention were communicated to him, his learned Counsel Mr. Ramamurthi has not raised any controversy on that account. He has in fact given up several other points on which the writ petition has been filed, and has contented himself by putting his arguments in two ways. Firstly, he has argued that some of the grounds are so vague that the petitioner has not found it possible to exercise his fundamental right of making a representation under Article 22(5) of the Constitution. Secondly, he has argued that some of the grounds are irrelevant for the purpose of making of an order under Section 8 of the Act. We shall therefore confine ourselves to a consideration of these two points of controversy.

2. The grounds of detention have admittedly been sent to the petitioner by way of an annexure to the District Magistrate's order No. 49-54/ST dated April 12, 1979. It has been stated therein that the detention has been ordered on "the grounds specified in the Annexure .... Which also contains facts relevant thereto", and the petitioner has been informed that he may make a representation to the Government against the order of detention if he so desires. We shall refer to the annexure in a while, but it may be stated here that the Counsel for the respondents has not found it possible to contend that no part thereof is vague. He has however tried to argue that the vagueness of the preamble as well as the grounds of detention, and that the vagueness of the preamble could not possibly justify the argument that the grounds of detention are also vague. Learned Counsel has tried to support his argument by reference to the decision of this Court in Naresh Chandra Ganguli v. State of W. B. ((1960) 1 SCR 411 : AIR 1959 SC 1335 : 1960 SCJ 303 : 1959 Cri LJ 1501). The annexure reads as follows :

> You are a die-hard Naxalite and you are notorious for your activities which are proving prejudicial to the maintenance of public order. You are in the habit of organising meetings, secret as well as public, in which your instigate the people to create lawlessness which spreads panic in the minds of common people. You are also reported to be in the habit of going from one village to the other, with intent to

compel the shopkeepers to close down their shops and participate in the meetings. You are reported to have recently started a campaign in villages, asking the inhabitants not to sell their extra paddy crop to the Government and in case they are compelled to do so, they should manhandle the Government officials deputed for the purpose of purchasing shali on voluntary basis from the villagers.

On February 9, 1979 you, after compelling the shopkeepers to close down their shops, organised a meeting at Chowalgam and asked the participants to lodge protests against the treatment meted out to Shri Z. A. Bhutto, late Prime Minister of Pakistan by General Zia-Ul-Haq; in fact, you did not have any sympathy for the late Prime Minister, but you did it with the intend to exploit the situation and create lawlessness.

On March 23, 1979 you presided over a meeting at Kulgam and delivered a speech. Among other things, you passed derogatory remarks against Sheikh Mohd. Abdullah, the Chief Minister of the State and compared him with General Zia of Pakistan, said that he (the Chief Minister) also wants to become a dictator. You further stated that the Mulas of Kashmir are preparing for distribution of sweets on the day when Shri Bhutto is sent to gallows. You also stated that the people of the State have been oppressed and blamed the Chief Minister for their oppression. You asked the audience to shun the life of dishonour and rise in revolt against oppression. You went to the extent of saying that India should vacate the forcible occupation of the State, as the Kashmir question has not so far been settled. These irresponsible utterances of you are likely to create feelings of hatred and enmity which will ultimately disturb the public order.

On March 29, 1979 posters were found pasted on walls in Kulgam area which were got published by the CPI(ML). It was learnt that there was your hand in pasting these posters, the posters were captioned 'Inqalab ke bager koe hal nahin'. The contents of the poster, among other things, revealed that it made a mention of plebiscite saying that the demand was given up with ulterior motives. It further stated that the people should prepare themselves for revolution.

You were also noticed instigating the "Educational" (sic) unemployed youth who had recently gone on a hunger strike at Anantnag.

On April 4, 1979 and April 5, 1979 after Mr. Z. A. Bhutto was hanged, you were found leading the unruly mobs in different villages and instigating them to set the house of J.E.I. worker on fire. As a result of this instigation a number of houses were set on fire, property looted and heavy damages caused to the people at village Rarigam. In this connection a case FIR No. 34/79, u/s 395, 436, 148, 307, etc. has been registered at police station Kulgam against you and others. Property worth thousands has so far been recovered during the investigation of this case.

Your activities are highly prejudicial to the maintenance of public order and I am convinced that unless you are detained, large scale disturbances resulting in wide spread loss to the public and private property and to the safety of peaceful citizens will occur.

3. 'Preamble' has been defined in the Oxford English Dictionary to mean "a preliminary statement, in speech or writing; and introductory paragraph, section, or clause; a preface, prologue, introduction". It has further been defined there as "an introductory paragraph or part in a statute, deed, or other document, setting forth the grounds and intention of it". The preamble thus betokens that which follows. The respondent's learned Counsel has not however found it possible to point out where the preamble could be said to begin or to finish, and which of the paragraphs could be said to

constitute the grounds of detention as such.

4. As it is, in the very first paragraph, which alone could be said to be in the nature of an introductory paragraph or a preliminary statement, it has been stated, inter alia, that the petitioner was reported to have "recently" started a campaign in villages asking the inhabitants not to sell their extra paddy crop to the Government and to manhandle the Government officials in case they have were compelled to do so. There is however no mention, in any other part of the annexure, of the petitioner's asking the inhabitants not to sell their paddy crop anywhere else or to manhandle Government officials deputed for its purchase. We are therefore unable to think that even the first paragraph is in the nature of a preamble to what has been stated in the subsequent paragraphs.

5. A reading of the first paragraph shows that it is vague in several respects. It does not state the place where the petitioner is said to have organised the meetings, or the nature of lawlessness instigated by him. It does not also mention the names of the villages where he is said to be in the habit of going for compelling the shopkeepers to close down their shops and to participate in the meetings. So also, it does not mention the villages where the petitioner was reported to have "recently" started the campaign asking the inhabitants not to sell their extra paddy, or to manhandle the government officials. The paragraph is therefore undoubtedly very vague.

6. But even if the first paragraph is left out of consideration on the pretext that it is in the nature of a preamble, the fifth paragraph is quite vague, for while it states that the petitioner was noticed instigating the educated unemployed youth who had recently gone on a hunger strike in Anantnag, the nature or the purpose of the alleged instigation has not been stated so that it is not possible to appreciate whether it could be said to fall within the mischief of clause (b) of sub-section (3) of Section 8 which defines what is meant by "acting in any manner prejudicial to the maintenance of public order" within the meaning of clause (a)(i) of sub-section (1) of Section 8. For instance, if it was noticed that the petitioner was instigating the educated unemployed youth to go on hunger strike for the purpose of pressing their demand for employment, that would not amount to acting in any manner prejudicial to the maintenance of public order as it would not be covered by any of the four meanings assigned to that expression in clause (b) sub-section (3) of Section 8.

7. The sixth paragraph is also vague, for while at states that the petitioner was found leading the unruly mobs in different villages and instigating them to set fire to the house of the worker of Jamaiat-e-Islami, the names of those villages and the name of the owner of burnt house have not been stated.

8. It is obvious therefore that the above grounds of detention are vague. This Court has disapproved of vagueness in the grounds of detention because that impinges on the fundamental right of the detenu under Article 22(5) of the Constitution to make a representation against the order of detention when the grounds on which the order has been made are communicated to him. The purpose of the requirement is to afford him the earliest opportunity of seeking redress against the order of detention. But as is obvious, that opportunity cannot be said to be afforded when it is established that a ground of detention is so vague that he cannot possibly make an effective representation. Reference in this connection may be made to this Court's decision in State of Bombay v. Atma Ram Sridhar Vaidya ((1951) SCR 167 : AIR 1951 SC 157 : 1951 SCJ 208 : 52 Cri LJ 373) where the guarantee of Article 22(5) has been characterised as an elementary right of a citizen in a free democratic State, and it has been held that if a ground of detention is not sufficient to enable the detained person to make a representation at the earliest opportunity, it must be held that his fundamental right in that respect has been infringed inasmuch as the material conveyed to

him does not enable him to make the representation. So as the aforesaid grounds of detention are vague, the petitioner is entitled to an order release for that reason alone. It is true that, as has been held in Naresh Chandra Ganguli case ((1960) 1 SCR 411 : AIR 1959 SC 1335 : 1960 SCJ 303 : 1959 Cri LJ 1501), "vagueness" is a relative term, and varies according to the circumstances of each case, but if the statement of facts contains any ground of detention which is such that it is not possible for the detenu to clearly understand what exactly is the allegation against him, and he is thereby prevented from making an effective representation, it does not require much argument to hold that one such vague ground is sufficient to justify the contention that his fundamental right under clause (5) of Article 22 of the Constitution has been violated and the order also be made to the decisions in Tarapada De v. State of W. B. ((1951) SCR 212 : AIR 1951 SC 174 : 1951 SCJ 233 : 52 Cri LJ 400), Dr. Ram Krishan Bhardwaj v. State of Delhi ((1953) SCR 708 : AIR 1953 SC 318 : 1953 SCJ 444 : 1953 Cri LJ 1241), Shibban Lal Saksena v. State of U. P. ((1954) SCR 418 : AIR 1954 SC 179 : 1954 SCJ 73 : 1954 Cri LJ 456), Rameshwar Lal Patwari v. State of Bihar ((1968) 2 SCR 505 : AIR 1968 SC 1303 : (1968) 2 SCJ 586 : 1968 Cri LJ 1490), Motilal Jain v. State of Bihar ((1968) 3 SCR 587 : AIR 1968 SC 1509 (1969) 1 SCJ 68 : 1969 Cri LJ 33) and Pushkar Mukherjee v. State of W. B. ((1969) 2 SCR 635 : (1969) 1 SCC 10).

9. It has next been argued by the learned Counsel for the petitioner that at least five of the grounds of detention are irrelevant.

10. It has been stated in paragraph 2 of the grounds of detention that after compelling the shopkeepers to close down their shops on February 9, 1979, the petitioner organised a meeting at Chowalgam and asked the participants to lodge a protest against the treatment meted out to Shri Z. A. Bhutto, and that while in fact the petitioner did not have any sympathy for the later Prime Minister of Pakistan, he did it with the intention of exploiting the situation and to create lawlessness. We have made a reference to clause (b) of sub-section (3) of Section 8 of the Act which defines what is meant by "acting in any manner prejudicial to the maintenance of public order" in sub-section (1) of that section, but the ground mentioned in the second paragraph does not fall within the purview of any of the four clauses of clause (b) as it does not state that the petitioner promoted, propagated, or attempted to create feeling of enmity or hatred or disharmony on grounds of religion, race, caste, community, or region, or that he made preparations for using or attempting to use, or using, or instigating, inciting, provoking, or otherwise abetting the use of force in a manner which disturbed or was likely to disturb the public order within the meaning of sub-clauses (i) and (ii) of clause (b). As is obvious, the remaining two sub-clauses (iii) and (iv) can possibly have no application to the allegation in paragraph 2. The ground contained in that paragraph was therefore clearly irrelevant for the satisfaction of the District Magistrate in making an order of detention under Section 8(2) of the Act.

11. Then it has been stated in paragraph 3 that the petitioner presided over a meeting at Kulgam and delivered a speech where, among other things, he passed "derogatory remarks against Sheikh Mohd. Abdullah, the Chief Minister of the State and compared him with General Zia of Pakistan, and said that he (the Chief Minister) also wants to become a dictator". That allegation also does not fall within any of the four sub-clauses of clause (b) of sub section (3) of Section 8, as it does not refer to the promoting or propagating or attempting to create feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community or region or making of preparations for using or attempting to use, or using, or instigating, inciting, provoking or otherwise abetting the use of force in any manner whatsoever. For this allegation also, the remaining two sub-clauses are of no relevance. What has been alleged is that the petitioner stated in his speech at the Kulgam meeting that the people of the State had been oppressed, that he blamed the Chief Minister for their

oppression, and that he asked his audience to "shun the life of dishonour and rise in revolt against oppression". It has not been stated that the petitioner thereby promoted, propagated or attempted to create feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community, or region, or that he instigated or incited or provoked the audience to use force. Peaceful and lawful revolt, eschewing violence, is one of the well-known modes of seeking redress in this country. A substantial part of the statement of facts mentioned in paragraph 3 of the grounds of detention is therefore irrelevant and cannot justify the order of detention under Section 8 of the Act.

12. It has been stated in paragraph 4 that a poster was found pasted on walls in Kulgam area on March 29, 1979, in the pasting of which the petitioner had a hand. The poster was captioned "Inqilab ke bager koi hal nahin", and it mentioned that the demand for plebiscite was given up with ulterior motive. It further said that the people should prepare themselves for revolution. But even if it were assumed that the petitioner had a hand in pasting the poster, which is alleged to have been published by the CPI(ML), it cannot be said that he thereby acted in any manner prejudicial to the maintenance of public order, for his alleged action did not fall within the purview of any of the sub-clauses of clause (b) of sub-section (3) of Section 8 of the Act. Apart from the fact that it has not been stated that the poster promoted, or propagated or attempted to create feelings of enmity or hatred or disharmony on grounds of religion, race, caste, community, etc., it has also not been stated that the poster instigated, incited, provoked or otherwise abetted the use of force so as to amount to acting in any manner prejudicial to the maintenance of public order. As has been stated, a revolution can be brought about by peaceful and lawful means, and asking the people to prepare themselves for it cannot be a ground of detention under Section 8.

13. We have made a reference to paragraph 5 of the grounds of detention, which states that the petitioner was noticed instigating the educated unemployed youth two had gone on hunger strike at Anantnag, to show the vagueness of that ground. It may further be stated that it is quite and irrelevant ground also, because any such instigation could not be said to fall within the purview of clause (b) of sub-section (3) of Section 8.

14. It is well settled that a ground is said to be irrelevant when it has no connection with the satisfaction of the authority making the order of detention under the appropriate law. It nevertheless appears that the aforesaid irrelevant grounds were taken into consideration for making the impugned order, and that is quite sufficient to vitiate it. Reference in this connection may be made to the decisions in Keshav Talpade v. King Emperor (1943 FCR 49), Tarapada De v. State of W. B. ((1951) SCR 212 : AIR 1951 SC 174 : 1951 SCJ 233 : 52 Cri LJ 400), Shibban Lal Saksena v. State of U. P. ((1954) SCR 418 : AIR 1954 SC 179 : 1954 SCJ 73 : 1954 Cri LJ 456), Pushkar Mukherjee v. State of W. B. ((1969) 2 SCR 635 : (1969) 1 SCC 10), Satya Brata Ghose v. Mr. Arif Ali, District Magistrate, Sibasagar, Jorhat ((1974) 3 SCC 600 : 1974 SCC (Cri) 82) and to K. Yadava Reddy v. Commissioner of Police, Andhra Pradesh (ILR 1972 AP 1025). It has been held there that even if one of the grounds of detention is irrelevant, that is sufficient to vitiate the order. The reason is that it is not possible to assess in what manner and to what extent that irrelevant ground operated on the mind of the appropriate authority and contributed to provide the satisfaction that it was necessary to detain the petitioner with a view to preventing him from acting in any manner prejudicial to the maintenance of the public order.

15. It is obvious that the detention of the petitioner was illegal, and that is why we made an order on August 3, 1979 for his release.

Chinnappa Reddy, J. (concurring) -

A good deal of vehement argument was advanced by Dr. Singhvi to sustain the order of detention and this has led me to add this brief note of the opinion of my brother Shinghal, J., with whose conclusions I agree.

17. The Constitution of India recognizes preventive detention as a necessary evil, but, nonetheless, and evil. So we have, by Constitutional mandate, circumscribed the making of laws providing for preventive detention. While Article 22 clauses (4), (5), (6) and (7) expressly deal with preventive detention, Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law and Article 19(1)(d) guarantees to citizen the right to move freely throughout the territory of India subject to reasonable restrictions made in the interests of the general public as mentioned in Article 19(5). At one time it was thought that Article 22 was a complete code in regard to law providing for preventive detention and that the validity of an order of detention should be determined strictly according to the terms and "within the four corners of that article". It was held in A. K. Gopalan v. State of Madras (1950 SCR 88 : AIR 1950 SC 27 : 1950 SCJ 174 : 51 Cri LJ 1383), that a detenu may not claim that the freedom guaranteed by Article 19(1)(d) was infringed by his detention, and that the validity of the law providing for preventive detention was not to be tested in the light of the reasonableness of the restrictions imposed thereby on the freedom of movement, nor on the ground that his right to personal liberty was infringed otherwise than according to procedure established by law. A theory was evolved that the nature and extent of the Fundamental Rights was to be measured by the object and form of the State action and not by the operation of the State action upon the rights of the individual. This has now been shown to be wrong. In R. C. Cooper v. Union of India ((1970) 1 SCC 248 : (1970) 3 SCR 530 : AIR 1970 SC 564) the Full Court opted for a broader view and it was held that it was not the object of the authority making the law impairing the right of the citizen, nor the form of action taken that determined the protection the citizen could claim; it was the effect of the law and of the action upon the right which attracted the jurisdiction of the Court to grant relief. So, in that case, they rejected the submission that Article 31(2) was a complete code in relation to the infringement of the right to property by compulsory acquisition and the validity of the law was not to be tested in the light of the reasonableness of the restrictions imposed thereby. So it follows that a law providing for preventive detention and action taken under such a law, to pass muster, have now to satisfy the requirements of both Articles 19and 22 of the Constitution.

18. We are primarily concerned in this case with Article 22 (5) which is as follows :

> When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earlier opportunity of making a representation against the order.

The extent and the content of Article 22(5) have been the subject-matter of repeated pronouncements by this Court vide State of Bombay v. Atma Ram ((1951) SCR 167 : AIR 1951 SC 157 : 1951 SCJ 208 : 52 Cri LJ 373), Dr. Ram Krishan Bhardwaj v. State of Delhi ((1953) SCR 708 : AIR 1953 SC 318 : 1953 SCJ 444 : 1953 Cri LJ 1241), Shibban Lal Saksena v. State of U. P. ((1954) SCR 418 : AIR 1954 SC 179 : 1954 SCJ 73 : 1954 Cri LJ 456) and Dwarka Das Bhatia v. State of J. & K. (1956 SCR 948 : AIR 1957 SC 164 : 1957 SCJ 133 : 1957 Cri LJ 316). The interpretation of Article 22(5), consistently adopted by this Court, is, perhaps, one of the outstanding contributions of the Court in the cause of Human Rights. The law is now well settled that a detenu has two rights under Article 22(5) of the Constitution : (1) To be informed, as soon as may be, of the grounds on which the order of detention is based, that is, the grounds which led to

the subjective satisfaction of the detaining authority, and (2) to be afforded the earliest opportunity of making a representation against the order of detention, that is, to be furnished with sufficient particulars to enable him to make a representation which on being considered may obtain relief to him. The inclusion of an irrelevant or non-existent ground among other relevant grounds is an infringement of the first of the rights and the inclusion of an obscure or vague ground among other clear and definite grounds is an infringement of the second of the rights. In either case there is an invasion of the constitutional rights of the detenu entitling him to approach the Court for relief. The reason for saying that the inclusion of even a simple irrelevant or obscure ground among several relevant and clear grounds is an invasion of the detenu's constitutional right is that the Court is precluded from adjudicating upon the sufficiency of the grounds and it cannot substitute its objective decision for the subjective satisfaction of the detaining authority.

19. Dr. Singhvi very strenuously submitted that the first paragraph of the 'grounds' supplied to the petitioner was of an introductory nature, that paragraphs 2, 3, 4 and 5 referred to the events which furnished the background and that the penultimate paragraph alone contained the grounds of detention as such. He submitted that it was permissible to separate the introduction and the recital of events constituting the background from the grounds of detention and if that was done it would be apparent that the order of detention suffered from no infirmity. He sought to draw support for his submission from the decision in Naresh Chandra Ganguli v. State of W. B. ((1960) 1 SCR 411 : AIR 1959 SC 1335 : 1960 SCJ 303 : 1959 Cri LJ 1501).

20. It is impossible to agree with the submission of Dr. Singhvi. The annexure to the order of detention detailing the grounds of detention has been fully extracted by my learned brother Shinghal, J. We are unable to see how factual allegations such as those contained in the paragraphs 1 to 5 of the grounds of detention can be said to be merely introductory or as constituting the background. In Naresh Chandra Ganguli v. State of W. B. ((1960) 1 SCR 411 : AIR 1959 SC 1335 : 1960 SCJ 303 : 1959 Cri LJ 1501) what was read by the Supreme Court as the 'preamble' was the recital in terms of Section 3(1) clause (a) and (b) of the Preventive Detention Act, namely : that the detenu was being detained in pursuance of a detention order made in exercise of the power conferred by Section 3 of the Preventive Detention Act on the ground that the detenu was acting in a manner prejudicial to the maintenance of public order as evidenced by the particulars given thereafter. The particulars given in the subsequent paragraphs, the Court said, constituted the grounds. We do not understand Naresh Chandra Ganguli v. State of W. B. ((1960) 1 SCR 411 : AIR 1959 SC 1335 : 1960 SCJ 303 : 1959 Cri LJ 1501) as laying down that it is permissible to dissect or trisect the grounds of detention into introduction, background and 'grounds' as such. There is no warrant for any such division.

21. The distinction made in Naresh Chandra Ganguli case ((1960) 1 SCR 411 : AIR 1959 SC 1335 : 1960 SCJ 303 : 1959 Cri LJ 1501) between the 'preamble', meaning thereby the recital in terms of the statutory provision and the 'grounds' meaning thereby the conclusions of fact which led to the passing of the order of detention does not justify any distinction being made between introductory facts, background facts, and 'grounds' as such. All allegations of fact which have led to the passing of the order of detention are 'grounds of detention'. If such allegations are irrelevant or vague the detenu is entitled to be released.

22. The attempt of Dr. Singhvi was to treat that allegation which according to him was the immediate cause of the order of detention as the only ground of detention and all other allegations earlier made as mere introductory and background facts. We are unable to dissect the factual allegations mentioned in the document supplied to the detenu as furnishing the grounds of detention.

The last straw which breaks a camel's back does not make weightless the other loads on the camel's back.

23. The grounds of detention being with the statement that the detenu is a 'die-hard Naxalite'. Dr. Singhvi described a Naxalite as a 'votary of change by resort to violence' and urged that as the meaning ascribed to the expression by the daily press (Marxist Exclamation : the Capitalist Press !). Many may not agree with Dr. Singhvi. Some think of Naxalites as blood-thirsty monsters; some compare them to Joan of Arc. It all depends on the class to which one belongs, one's political hues and ideological perceptions. At one stage of the argument Dr. Singhvi himself described a Naxalite as an 'ideological revolutionary'. The detenu himself apparently thought that it meant no more than that he was a believer in the Marxist-Leninist ideology and so he affirmatively declared that he was a firm believer in that ideology and was proud of that fact. Though he did urge that the expression Naxalite connoted a person who sought change through violent means. Dr. Singhvi had, ultimately, to confess that the expression 'Naxalite' was as definite or as vague as all words describing ideologies, such as democracy, etc., were. It is enough to say that it is just a label which can be as misleading as any other and is, perhaps, used occasionally for the very purpose.

24. In the third paragraph of the grounds of detention it is said that the detenu made a speech in which he asked his audience to shun the life dishonour and rise in revolt against oppression. In the fourth paragraph he is stated to be responsible for posters bearing the caption "No solution without revolution". It is also stated that the posters asked the people to prepare themselves for revolution. Now, expressions like 'revolt' and 'revolution' are flung about by all and sundry in all manner of context and it is impossible to attach any particular significance to the use of such expressions. Every turn against the establishment is called 'revolt' and every new idea is labelled as 'revolutionary'. If the mere use of expressions like 'revolt' and 'revolution' are to land a person behind the bars what would be the fate of all our legislators ? It all depends on the context in which the expressions are used. Neither paragraph three nor paragraph four of the grounds of detention specifies the particular form of revolt or revolution which the detenu advocated. Did he incite people to violence ? What words did he employ ? What, then, is the connection between these grounds and "acting in any manner prejudicial to the maintenance of the public order" ? There is no answer to be gleaned from the grounds recited in paragraphs three and four which must therefore, be held to be both irrelevant and vague.

25. In paragraph five it is said that the detenu instigated educated unemployed youth to go on a hunger strike. A hunger strike, in our country, is a well-known form of peaceful protest but it is difficult to connect it with public disorder. We consider this ground also to be vague and irrelevant. The allegation that the detenu made derogatory remarks about Shri Sheikh Mohammed Abdullah, Chief Minister of Kashmir, and compared with General Zia of Pakistan appears to us, again, to be entirely irrelevant. I do not think it is necessary to refer to all the grounds in any further detail as that has been done by my brother Shinghal, J.

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