

Sardar Kashmir Singh

Vs

Union of India and Others

Writ Petition (Criminal) No. 27 of 1980

(Syed M. Fazal Ali, A.D. Koshal JJ)

13.02.1981

JUDGMENT

FAZAL ALI, J. -

1. This writ petition by the detenu is directed against an order of detention dated June 6, 1979 passed by the Lieutenant Governor of Delhi under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974. In pursuance of this order the detenu was arrested on June 10, 1979 and on the same date he was served with the grounds of detention. On June 14, 1979 he applied for such copies of documents as were relied on in the order of detention, and the matter was, therefore, referred to the Directorate of Intelligence and ultimately the copies were supplied to the detenu on July 7, 1979. Before this date, however the detenu made an incomplete representation to the detaining authority on June 29, 1979. Despite the provisions of Article 22(5) of the Constitution of India which enjoin that the representation filed by the detenu be expeditiously disposed of, the detaining authority took as long as about 22 days in rejecting the representation. It is manifest that at the time when the order of detention was passed the detaining authority had all the materials in its power and possession and there was thus no justification whatsoever for such an inordinate delay in disposing of the representation filed by the detenu.

2. The delay of 22 days not having been properly explained by the Delhi Administration, the continued detention of the petitioner is void. We, therefore, allow this petition and direct the detenu to be released forthwith.

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