

Ram Baochan Dubey

Vs

State of Maharashtra and Another

Writ Petition No. 389 of 1980

(Syed M. Fazal Ali, A.N. Sen JJ)

06.03.1981

ORDER

1. This is an application by the detenu for setting aside the order of detention on two grounds. In the first place it was submitted that there is no material on the record to show that the order of detention was approved by the approving authority after looking into the grounds of detention which do not appear to have been sent to the said authority. As regards this ground, we have gone through the records produced before us by the respondent and we find that the grounds of detention in respect of the detenu-petitioner and his brother, Dharamraj Ramkedar Dubey were absolutely identical and the approving authority had before it the grounds in case of Dharamraj Ramkedar Dubey. In these circumstances, therefore, it cannot be said that there was no application of mind by the approving authority to the grounds of detention on the basis of which the detenu was detained because the identical grounds were undoubtedly considered by the approving authority. This contention is therefore rejected.

2. It was then submitted that although the grounds of detention were served on the detenu immediately after the arrest, yet copies of documents which were mentioned in the order of detention and on which reliance was placed by the detaining authority were not supplied to the petitioner pari passu the grounds of detention. It has doubtless been held by this Court in several cases that a mere service of the grounds of detention is not a compliance of the mandatory provisions of Article 22(5) unless the grounds are accompanied with the documents which are referred to or relied on in the grounds of detention. In view on this serious lacuna, the continued detention of the petitioner becomes void. We therefore allow this petition and set aside the continued detention of the petitioner and direct the detenu to be released forthwith.

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