

Avtar Singh and Others

Vs

State of Jammu and Kashmir and Others

Writ Petitions (Criminal) Nos. 1581-83 of 1984

(O. Chinnappa Reddy, R. B. Misra JJ)

24.01.1985

ORDER

CHINNAPPA REDDY, J. -

1. These three writ petitions have also to be allowed. Though the petitioners alleged that they were in custody from long before June 28, 1984, this is denied in the counter-affidavit filed by the respondents. But it is admitted that they were arrested on June 28, 1984 pursuant to orders of detention made against them against the Jammu & Kashmir Public Safety Act. These orders were however revoked on September 4, 1984. The counter-affidavit does not disclose and the records produced before us do not disclose why the orders of detention were revoked. All that is mentioned in the counter-affidavit is that the orders of detention were revoked for technical reasons. What those technical reasons were, we are not informed. However, fresh orders of detention were made against the petitioners on September 6, 1984. A reading of the grounds of detention does not indicate that the detaining authority was aware that the detenus were already in detention for some months; nor does it indicate whether the detaining authority considered the question whether further detention of the detenus was necessary in the circumstances. In the absence of any indication from the record as to why the earlier orders of detention were revoked and the failure of the detaining authority to consider the question whether the further detention of the detenus was necessary despite the revocation of the earlier orders, we can only conclude that the orders of detention were made in a mechanical fashion without application of mind. We have, therefore, no option but to direct the release of the petitioners unless they are wanted in connection with some other cases.

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