

# SUPREME COURT OF INDIA

Solomon Castro

Vs.

State of Kerala

(K.T.Thomas and M.B. Shah JJ.)

07.01.2000

## ORDER

**K.T. THOMAS, J.**

1. Leave granted.

2. Heard learned Counsel for the parties.

3. In the present case it is an admitted fact that by order dated 1st March, 1999 the appellant was detained under the COFEPOSA Act, 1974. He submitted a representation dated 20th March, 1999 through the Superintendent, Central Prison, Trivandrum. That representation was received by the Detaining Authority on 22nd March, 1999. It is submitted that on 23rd March, 1999 the Detaining Authority called for the remarks of the Sponsoring Authority. It is further stated that remarks of the Sponsoring Authority were received by the Detaining Authority on 9th April, 1999. Subsequently, on 23rd April, 1999 Detaining Authority prepared a re ply rejecting the representation. That re ply was kept by some officers on their file and it was intimated only on 28th April, 1999.

4. It has been repeatedly stated by this Court that representation of the detenu is required to be considered and disposed of as expeditiously as possible by the Government. In *Rajammal v. State of Tamil Nadu and Anr.* this Court again reiterated the constitutional obligation of the Government to consider the representation forwarded by detenu without delay and observed that even though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be" in Clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest. If there is delay in considering the representation the Court can consider whether the delay was occasioned due to permissible reasons or unavoidable causes. In the present case there is absolutely no explanation for justifying the delay between 9th April, 1999 to 23rd April, 1999 and thereafter till 28th April, 1999. In this view of the matter, the impugned order passed by the Detaining Authority requires to be quashed and set aside.

5. We, therefore, allow this appeal and set aside the impugned judgment and order passed by the High Court. The order of detention is quashed and set aside and the appellant is directed to be set at liberty forthwith unless required in any other case.

6. The appeal is disposed of accordingly.

