

# SUPREME COURT OF INDIA

Noor Mohd.

Vs.

Union of India

(Ruma Pal and P.Venkatarama Reddi JJ.)

18.09.2003

## ORDER

1. Notice in this matter was issued to the union of India and the other respondents on the basis of a letter written by 15 detenus who are all Pakistani nationals and who claimed that they continued to be in jail despite the fact that they had long served out the sentence which had been imposed against them in respect of various crimes with which they charged. These detenus prayed that orders of deportation may be passed to enable them to go back to Pakistan. Since the detenus were unrepresented, the Court requested Mr. K. Parasaran and Mr. Bhim singh to assist the Court in the capacity of amicus curiae. They have assisted the Court extremely ably and which the Court acknowledges. They have been able to do so with the able assistance of Mr. A. Subba Rao, Advocate-on-Record.

2. We have been taken through a wealth of materials to indicate what would be the appropriate steps which could be directed to be taken by the respondent authorities in such a case.

3. We have also been helped considerably by the Attorney General who has effected, what, in our view, appears to be a satisfactory solution to the problem. Subsequent to the appearance of the Attorney General on the last occasion, on 20-8-2003, the Government of India passed orders under Section 3(2)(c) of the Foreigners Act, 1946 on 5-9-2003 in respect of 8 of the petitioners. This order is an order of deportation and requires these 8 detenus not to remain in India and to depart from India by 30-9-2003.

4. On 8-9-2003, the Government of India passed a second order under Section 3(2)(e) of the Foreigners Act, 1946 in respect of 13 petitioners including the 8 petitioners herein in which all the 13 petitioners were required to reside at the Security Ward, Alwar District, Jail Premises (outside main jail) and not to move out of the said place till appropriate travel arrangements were made for their repatriation to Pakistan. The distinction between the first 8 and the remaining 5 in this list of 13 detenus is that as far as the first 8 are concerned, the Government of Pakistan had agreed to accept their repatriation and the formalities with regard to their repatriation are stated to be underway. Steps are also being taken to repatriate the remaining 5.

5. As far the remaining two detenus out of the original list of 15 are concerned, they are both undergoing trial in the Court of ACJM No.5, Jaipur City, Jaipur. Until and unless the trials are complete and they have served their period of sentence, if any, which may be imposed on them as a consequence of the trial, there can be no question of their being deported from the country.

6. The documents produced by the learned Attorney General at hearing may be kept on record of this Court. In view of this development no further orders are required to be passed in these proceedings which are accordingly disposed of. However, the Deputy Secretary (Foreigners), Ministry of Home Affairs will keep Mr Subba Rao informed of the developments regarding the deportation of the 13 detenus every six months and, if necessary, Mr A. Subba Rao will draw the matter to the attention of Court.