

# **SUPREME COURT OF INDIA**

Bisharat Ali Rajput

Vs.

Union of India

(Ruma Pal and P.Venkatarama Reddi JJ.)

31.10.2003

## **ORDER**

1. There are three kinds of detenus whose cases are now before us, namely: (1) those who have served out their sentences in respect of various offences with which they were charged and who are Pakistani national; (2) those who have served out their sentences and are residents of Pakistan occupied Kashmir (PoK); and (3) those in respect of whom the trial is still pending or who have yet to serve out their sentences.

2. As far as the third group is concerned, their writ petitions/appeals are dismissed, As far as the first two groups are concerned, each of them is, at present, detained under order passed by the Government of Jammu and Kashmir under Section 8(i)(b) of the Public Safety Act, 1978. This section permits the States Government to pass an order detaining a person who is “foreigner within the meaning of the Foreigners Act” and “a person residing in the area of the State under the occupation of Pakistan”, inter alia, “with a view of making arrangements for this expulsion from the state”. No provision of the 1978 Act been drawn to our notice which gives the State Government the power to effect expulsion itself. It would, prima facie, appear that the expulsion referred to in

clause (b) of sub-section (i) of Section 8 is the deportation by the Union of India under the Foreigners Act. We accordingly adjourn the matter for a period of two weeks to enable the Union of India to pass appropriate orders.