

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

WRIT PETITION No.18425 OF 2016

O R D E R

(per Hon'ble Sri Justice Sanjay Kumar)

The petitioner challenges the detention of her husband, Mohd. Aleem, who was subjected to preventive detention under the order dated 08.02.2016 of the Commissioner of Police, Hyderabad City, issued in exercise of power under Section 3(2) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986. The said detention was confirmed by the Government of Telangana vide G.O.Rt.No.926, General Administration (Law & Order) Department, dated 27.04.2016, whereby the detention of Mohd. Aleem was extended for a period of twelve months from the date of his actual detention, 09.02.2016.

Smt.K.Sesharajyam, learned senior counsel representing Smt.Deepika Gadde, learned counsel for the petitioner, would state that the detenu, belonging to Muslim community, is not well-versed with Telugu or English languages but can only sign in English language. She would assert that he cannot read or understand English and that he only knows Urdu. It is her contention that the material relied upon by the detaining authority was not supplied to the detenu in Urdu language. Paras 10 and 11 of the writ affidavit bear out the petitioner's contentions in this regard.

The Commissioner of Police, Hyderabad City, filed a counter-affidavit denying the petitioner's contentions that the detention

order, the grounds of detention and the material relied upon by the detaining authority were not supplied in a language known to the detenu. According to the Commissioner, when the Inspector of Police, Mangalhat Police Station, made efforts to serve the detention order, the grounds of detention and the material relied upon by the detaining authority, together with translated copies in Urdu, the detenu bluntly refused to receive the same. The Jail authorities were stated to have certified the above fact of refusal by the detenu. Significantly, neither the certificate purportedly given by the Jail authorities or the material being the detention order, the grounds of detention and all the documents relied upon by the detaining authority, together with translated copies in Urdu, which were attempted to be served upon the detenu, were produced.

On the other hand, the learned counsel for the petitioner filed a set of documents in Urdu along with English translations thereof. Some of the Urdu documents bear the stamp of the Inspector of Police, Mangalhat Police Station, but it is not clear as to how these copies of documents came into the possession of the petitioner's counsel. In her reply affidavit, the petitioner again reiterated her contention that the detention order, the grounds of detention and the material relied upon by the detaining authority were not supplied. No steps were however taken by the learned Government Pleader to rebut this stand of the petitioner. The failure on the part of the State to place before us the certificate given by the Jail authorities to the effect that the detenu refused to accept the material is of crucial significance. Unless the detenu is provided with the detention order, the grounds of detention and the material relied upon by the detaining authority, the

constitutional right given to him to effectively make a representation against such detention is reduced to a mere mockery. In the event the detenu refused to receive such material, it was incumbent upon the State to at least deliver the said material under proper acknowledgement upon the detenu's wife, the petitioner herein. Admittedly, no such steps were taken.

In the light of the admitted failure on the part of the State to safeguard the constitutional right of the detenu to effectively make a representation against his detention by fully apprising him of all the details and materials relied upon by the detaining authority, the writ petition is allowed setting set aside the detention order dated 08.02.2016 which was confirmed thereafter vide G.O.Rt.No.926 dated 27.04.2016. The detenu, Mohd. Aleem, shall be set at liberty forthwith unless his detention is required in relation with any other case.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M.SEETHARAMA MURTI, J

28th September, 2016

PGS/Svv

