

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

WRIT PETITION No.23972 of 2016

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the mother of Vikas Mehendi who was subjected to preventive detention under Section 3(1)(2) read with Section 2 (a) & (g) of the Andhra Pradesh Prevention of Dangerous activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, under detention order dated 28.05.2016 passed by the Collector and District Magistrate, Chittoor. The detention was approved by the Government of Andhra Pradesh *vide* G.O.Rt.No.1193, General Administration (Law & Order) Department, dated 04.06.2016. The detention was then confirmed by the Government of Andhra Pradesh after considering the report of the Advisory Board *vide* G.O.Rt.No.1689, General Administration (Law & Order) Department, dated 10.08.2016. By way of her amended prayer, the petitioner seeks to subject to challenge the detention order dated 28.05.2016 and the Government Orders passed by the Government of Andhra Pradesh and seeks a writ of habeas corpus to produce Vikas Mehendi before this Court and to release him forthwith.

Though various grounds are sought to be urged by *Sri E. Manohar*, learned senior counsel appearing for Sri P. Dharmesh, learned counsel for the petitioner, we are of the opinion that the case is amenable to disposal on a short ground.

The petitioner stated in the affidavit filed in support of the writ petition that the detenu knows only Hindi language and he can sign in English. She further stated that he cannot even understand anything which is in English language.

In his counter affidavit, the District Collector, Chittoor, stated that the detenu knows English and also understands Telugu language.

Admittedly, the detenu is from Delhi and was arrested at Delhi in January 2016 in connection with Crime No.86 of 2014 on the file of Gudipala Police Station, Chittoor District. *Sri E. Manohar*, learned senior counsel, would submit that the detenu has been in custody since then and in the interregnum, the main detention order dated 28.05.2016 came to be passed.

We find no basis for the statement made by the District Collector, Chittoor, that the detenu understands Telugu or even that he knows English. The extent of the detenu's education is not demonstrated before us and no inference can be drawn that the detenu would know English language merely because he is able to sign in English. That apart, it is doubtful as to whether the detenu, who hails from Delhi, would be in a position to understand Telugu, let alone read it.

This being the situation, it is not in dispute that the relevant documents relied upon by the detaining authority to arrive at subjective satisfaction that the detention of Vikas Mehendi was warranted in the interest of public order and which were duly supplied to him were in Telugu and English language. The said material is placed before us and perusal thereof reflects that several documents are in Telugu language while most of the others are in English. It is also interesting to note that

the order and grounds of detention were furnished to the detenu in all three languages, English, Telugu and Hindi.

Learned Special Government Pleader attached to the Office of the learned Advocate General, State of Andhra Pradesh, would point out that each page of the material supplied to the detenu bears an endorsement in Hindi which reads to the effect that the contents of each such page was explained to the detenu in his mother tongue, Hindi, and was understood by him. Each page bears the signature of the detenu in English under this endorsement.

However, when we put a question as to whether the detenu was also furnished translated copies of all such documents, the learned Special Government Pleader fairly conceded that this measure was not adopted.

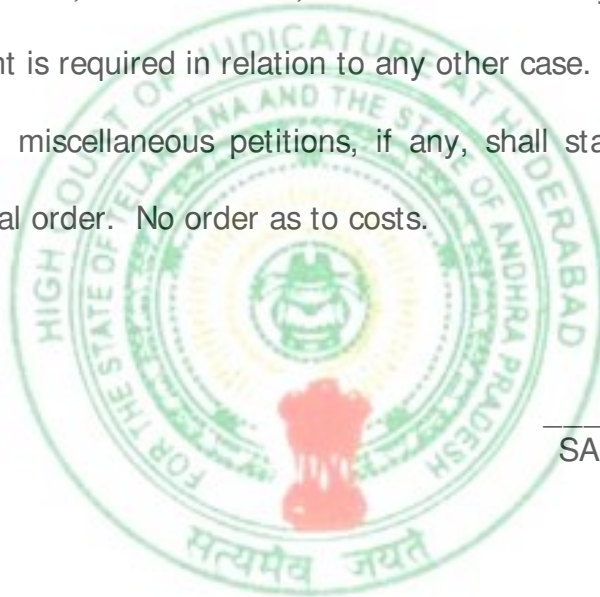
In the light of the law laid down by this Court in *Vasanthu Sumalatha v. State of Andhra Pradesh*¹, it is incumbent upon the State to make available translated copies of documents which could not be read and understood by the detenu in a language which he could read and understand. This is necessary to protect and safeguard the constitutional right of the detenu to effectively make a representation against his detention. Be it noted that such detention is effected without following the ordinary due process of law. Reading over and explaining the contents of all the documents to the detenu in his own language at one go would not be sufficient as the detenu may not retain in his memory the voluminous material explained to him and may not be in a position to recall the same when needed. Once translated copies of all the relevant material is provided to the detenu, it would be open to him to take the assistance of others, including his family and friends, to formulate

¹ 2016 (1) ALT 738 (DB)

an effective representation to the authorities against his detention. If the State fails in its constitutional duty of making available to the detenu all the material relied upon by the detaining authority in a language known and understood by him, it would violate his constitutional right. In the present case, there is clear indication of such failure.

In the light of the admitted failure on the part of the State, the Writ Petition is allowed. We accordingly set aside the order of detention dated 28.05.2016 passed against the petitioner's son, Vikas Mehendi, by the Collector and District Magistrate, Chittoor, and the consequential G.Os. The petitioner's son, Vikas Mehendi, shall be set at liberty forthwith unless his confinement is required in relation to 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

06.09.2016
Vjl