

THE HON'BLE SRI JUSTICE SANJAY KUMAR  
AND  
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.5797 of 2017

ORDER: (per SK,J)

The petitioner seeks release of her husband, Bathala Sallapuri alias Solapuri, who was subjected to preventive detention under the order of detention dated -12-2016 passed by the Collector and District Magistrate, Chittoor, in exercise of power under Sections 3(1) & (2) read with Sections 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 (for short 'the Act of 1986'). This detention was approved by the Government of Andhra Pradesh *vide* G.O.Rt.No.2619 dated 27.12.2016 and was thereafter confirmed for a period of 12 months commencing from 20.12.2016 under G.O.Rt.No.342 dated 13.02.2017.

Sri M.S.P.Kamaraju, learned counsel for the petitioner, would submit that the scheme of the Act of 1986 requires the time frames mentioned therein to be scrupulously adhered to. Learned counsel would draw our attention to Section 3(3) of the Act of 1986 which requires every order of detention made under Section 3(2) thereof to be reported to the Government together with the grounds on which such order has been made and stipulates that no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the Government. Learned counsel would further point out that after the detention order has been made, the Government is statutorily bound under Section 10 of the Act of 1986 to make a reference of the matter to the Advisory Board constituted under Section 9 of the Act of 1986 within three weeks and such Advisory Board is required to submit its report

to the Government within seven weeks from the date of detention in terms of Section 11 of the Act of 1986. Learned counsel would assert out that the fact that the order of detention passed by the Collector and District Magistrate, Chittoor, does not even bear a date would have to be seen in the context of the aforestated statutory regime and viewed thus, the order of detention in the present case cannot be sustained.

We find merit in this submission.

Perusal of the order of detention reflects that the date is mentioned as ' -12-2016' in the first page and the last page ends with the phrase '(Given under my seal & Signature on \_ \_ day of December, 2016)'. Significantly, the Collector and District Magistrate, Chittoor, affixed his signature under the aforestated sentence but did not even bother to note that the date had not been mentioned. This order of detention, along with the grounds of detention, seems to have been forwarded to the Government. The grounds of detention also bear the date in the first page. The typed date reads ' -12-2016' and the numerals '17' were inserted by hand in the blank portion. Similarly, on the last page in the sentence '(Given under my seal & Signature on \_ \_ day of December, 2016)', the numerals of '17' followed by 'th' were added by hand and thereunder, the signature of the Collector and District Magistrate, Chittoor, is found.

Had the aforestated dates been inserted at the initial point of time, the Collector and District Magistrate, Chittoor, would have noted that the date was not mentioned in the order of detention but was only mentioned in the grounds of detention. The failure to mention the date in the order itself coupled with the interpolation thereof in the grounds of detention therefore lends itself to the possibility that such interpolation was only made thereafter. Overlooking these aspects, the Government of Andhra Pradesh

seems to have blindly approved the order of detention under G.O.Rt.No.2619 dated 27.12.2016.

The Act of 1986 is a draconian law which empowers the State to subject a citizen to detention without following the due process of law. Exercise of this power is based purely upon the subjective satisfaction of the detaining authority. That is the reason why the Act of 1986 itself provides for time stipulations which are mandatory and must be scrupulously adhered to. The Collector and District Magistrate, Chittoor, being the detaining authority, did not even notice that no date was mentioned upon the order of detention signed by him. This only reflects upon the level of application of mind by the said authority. We are of the opinion that exercise of the power of detention in the present case stands vitiated on this preliminary ground.

The writ petition is accordingly allowed setting aside the order of detention dated -12-2016 passed by the Collector and District Magistrate, Chittoor, confirmed under G.O.Rt.No.342 dated 13.02.2017. The detenu, Bathala Sallapuri alias Solapuri, shall be set at liberty forthwith from the Central Prison, Kadapa, unless his detention is required in connection with any other case.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

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SANJAY KUMAR,J

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Dr. SHAMEEM AKTHER,J

Date:02.08.2017  
GJ