

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

W.P. No.40862 of 2016

ORDER : (Oral)

(per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition the petitioner has challenged the order dated 21.6.2016, whereby the detenu was detained vide proceedings No.SB(1) No.331/PD/S-1/2016 and confirmed by the State Government by G.O.Rt.No.1983, dated 8.9.2016 after receiving the report of the Advisory Board.

2. Learned counsel appearing on behalf of the petitioner submits that the detenu is a resident of Hyderabad. She is educated up to the 5th standard from urdu medium, thus she can little bit read and write urdu only. However, she is not even able to read and write Telugu language. Admittedly, detention order and grounds of detention are in English language. Moreover, all other relied upon documents provided to the detenu are in English. As per the settled law, for making the effective representation, the detention order, the grounds of detention and relied upon documents have to be supplied in the known language of the detenu, failing which it makes prejudice to the detenu to make effective representation. The present case is clear violation of Article 22(5) of the Constitution of India. Thus, due to the illegal action of respondents, the detenu failed to

make the effective representation; firstly, before the Detaining Authority, thereafter the State Government and the Advisory Board.

3. Learned counsel appearing on behalf of respondents has fairly admitted that in the present case the detention order, grounds of detention and the relied upon documents are supplied in English language, not in the language known to the detenu.

4. As per Section 8 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits Drug Offenders, Goondas Immoral Traffic Offenders and Land Grabbers (Amendment) Act, 1986 (for brevity, 'the Act'), the relied upon documents have to be supplied within five days from the detention of the detenu. The detention orders are passed under various Acts including the COFEPOSA and the Detaining Authority is aware about the fact that the relied upon documents have to be furnished within the statutory period and in the known language of the detenu. Despite, the respondent No.2, who passed the detention order, did not bother to furnish the documents in the known language of the detenu within five days as per Section 8 of the Act. Consequently, the detenu failed to make the effective representation to the Detaining Authority, State Government and the Advisory Board. Thus, the respondent No.2 has violated Section 8 of the Act and Article 22 (5) of the Constitution of India.

5. Accordingly, the Writ Petition is allowed. Consequently, the impugned detention order, dated 21.6.2016 passed by the 2nd respondent in Proc.No.SB(1)No.331/PD/S-1/2016 is hereby quashed.

6. The Superintendent, Central Prison, Chanchalguda, Hyderabad is directed to release the detenu forthwith if not required in any other case.
7. No order as to costs.
8. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE U.DURGA PRASAD RAO

28th March, 2017

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