

HON'BLE SRI JUSTICE SANJAY KUMAR

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.2694 OF 2017

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

The petitioner seeks a writ of *habeas corpus* to produce her husband, Karre Satish @ Satti Babu, who is detained at Central Prison, Chanchalguda, Hyderabad, before this Court and to release him forthwith after declaring his detention under order dated 01.12.2016 passed by the Commissioner of Police, Hyderabad City, as illegal.

The order of detention was passed by the Commissioner of Police, Hyderabad City, 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 (for brevity, 'the Act of 1986'). In terms of the statutory scheme contemplated under the Act of 1986, the order of detention was approved by the Government of Telangana *vide* G.O.Rt. No.2695, General Administration, (Special (Law and Order) Department), dated 08.12.2006. It was thereafter confirmed by the Government *vide* G.O.Rt. No.519, General Administration, (Special (Law and Order) Department), dated 21.02.2017, for a period of twelve (12) months from the date of the detention *i.e.*, 02.12.2006. The Act of 1986 requires such confirmation upon consideration of the recommendations of the Advisory Board constituted under Section 9 of the Act of 1986. The Advisory Board, in terms of Section 11 of the Act of 1986, has to consider the representation made by the detenu and also extend him a hearing in person, if it considers it necessary, and only thereafter submit its report to the Government. The Constitution of India as well as the provisions of the Act

of 1986 therefore guarantee the right of making an effective representation to the detenu so that the Advisory Board can consider the same, in accordance with law, before making its recommendation to the Government. For making such an effective representation, it is well settled that all the material relied on by the detaining authority must be made available to the detenu. It is equally well settled that where a detenu is incapable of understanding the language in which such documents are scribed, translations thereof in a vernacular language known to the detenu must be made available. This is a well settled legal position.

Applying the above said legal principle to the case on hand, we find that the material supplied to the detenu were mostly in English language. The acknowledgment obtained by the authorities from the detenu as to receipt of the order of detention, grounds of detention and the documents relied on by the detaining authority, certified to the effect that he knows English and Telugu languages and that he studied up to 10th class. This acknowledgment is in a prepared format wherein the name of the detenu was filled in by hand along with the name of his father and the date on which he received the documents. In the 2nd paragraph, the languages in which the detention order and the grounds for detention were read over and explained to him, being Telugu and English, were also filled in by hand. In the 3rd paragraph, English and Telugu are written by hand as the languages which are known to the detenu. The prepared format surprisingly records that he studied up to 10th class. No blank space was left for the detenu to fill in the level of his education. It therefore appears that the authorities proceeded on the ground that whoever fills the blanks in the said *pro forma* acknowledgment form would have studied up to 10th class.

Sri T.D. Phani Kumar, learned counsel for the petitioner, would point out that the confessional-cum-seizure panchanama dated 17.06.2016, recorded by the Inspector of Police, Suryapet Town Police station, Nalgonda District, which forms part of the material relied on by the detaining authority, indicates that the detenu stated therein that he had studied up to 4th class. Similar is the import of the confessional-cum-seizure panchanama dated 01.07.2016 recorded by the Detective Inspector of Police, Banjara Hills police station, Hyderabad, in Crime No.958 of 2015, wherein the detenu stated that he had studied up to 4th standard.

In the light of this material, it cannot be accepted that the detenu studied up to 10th class though he signed his name in English. That by itself may not be indicative of the level of his education or his knowledge of English. Giving the fact that the assumption of the authorities that the detenu studied up to 10th class is based on a prepared format and was not information divulged by him, the benefit of doubt would have to be given to the detenu.

As it is asserted before us by Sri T.D. Phani Kuamr, learned counsel for the petitioner, that the detenu does not know English to the extent of reading and understanding the various documents supplied to him in the said language, we are constrained to hold that he was denied the opportunity of making an effective representation to the Advisory Board. Consequently, recommendation of the Advisory Board and the confirmation of the detention by the Government would therefore stand vitiated on this ground.

The writ petition is accordingly allowed declaring the detention of the petitioner's husband, based on the detention order dated 01.12.2016,

which has been confirmed by the Government of Telangana *vide* G.O.Rt. No.519, (General Administration (Spl. (Law and Order) Department), dated 21.02.2017, as illegal and unsustainable. The petitioner's husband, Karre Satish @ Satti Babu, who is detained at Central Prison, Chanchalguda, Hyderabad, shall be set at liberty forthwith, unless his detention is required in connection with any other case.

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

SANJAY KUMAR, J

Dr. JUSTICE SHAMEEM AKTHER, J

Date: 22-08-2017.
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(Order of the Division Bench delivered by
Hon'ble Sri Justice Sanjay Kumar)

Date. 22-08-2017

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