

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No. 33156 OF 2016

ORDER: (oral):

(Per HON'BLE SRI JUSTICE SURESH KUMAR KAIT)

Vide present Writ Petition, the petitioner challenges the proceedings Rc.No.C2/1298/2016-13024/63/16, dated 23.06.2016 passed by the second respondent, which was confirmed by the first respondent vide G.O.Rt.No.1751, General Administration (Law & Order) Department, dated 17.08.2016, detaining the husband of the petitioner (herein after referred to as 'detenu') in jail.

In the affidavit filed in support of the Writ Petition, it is stated that the detenu hails from Karnataka and he can speak in Kannada only. It is stated that the order of detention and grounds of appeal were supplied in English, Telugu and Kannada languages, where as, relied upon documents were supplied in English and Telugu Languages. Except Kannada, the detenu can not read and write other languages. Thus the respondent authorities have violated the provision under Section 8 of THE TELANGANA PREVENTION OF DANGEROUS ACTIVITIES OF BOOT LEGGERS, DACOITS, DRUG-OFFENDERS, GOONDAS, IMMORAL TRAFFIC OFFENDERS AND LAND GRABBERS ACT, 1986 (for short ' the Act'), due to which, the detenu could not

make effective representation as embodied in Article 22 (5) of the Constitution of India.

In the counter affidavit filed on behalf of the respondent, it is stated that the order of detention and grounds of detention were served on the detenu in English, Telugu and Kannada languages which contain details of allegations and all the required information. The relied upon documents were served in English and Telugu languages. Even otherwise also, as a precautionary measure, the material supplied was read over and explained to him in Kannada language. Further the detenu through the petitioner has made a detailed representation dated 1.7.2016 to the Detaining Authority.

Learned Government Pleader appearing on the behalf of the respondents submits that the order of detention, grounds of detention and relied upon documents were supplied and explained to the detenu in his known language and therefore there is no violation of any law .

We have heard Sri D. Purna Chandra Reddy, learned Counsel appearing on behalf of the petitioner and learned Government Pleader appearing on behalf of the respondents.

On a perusal of the representation dated 01.07.2016 which is at page No. 35 annexed to the Writ Petition shows that the detenu is a resident of Govindapuram Village of Jadgana Halli Village in Bangalore rural District and he only knows Kannada and

all the material which was supplied to him is strangely in Telugu and English languages. Therefore he is not in a position to understand the accusation levelled against him.

The detention order dated 23.06.2016 passed by the second respondent was approved by the first respondent on 1.07.2016 and on the same day, the petitioner filed a representation to the second respondent. Therefore we can safely conclude that as on the date of representation, the petitioner was not aware about the approval order dated 1.7.2016. The fact remains that as stated in the counter affidavit, the detention order and grounds of detention were supplied in three languages, i.e. Kannada, English and Telugu. Therefore the respondents are aware that the detenu hails from State of Karnataka and his known language is Kannada. However, the relied upon documents were supplied to the detenu in English and Telugu languages, but not in Kannada language. Thus the petitioner (wife of detenu) failed to make an effective representation to the Government on behalf of detenu.

Identical issue came up for consideration before this Court in Writ Petition No. 30001 of 2016 whereby detention order dated 12.07.2016 therein was quashed and consequently the detenu therein was directed to be released from jail. While passing the said order, we also imposed costs of Rs.25,000/-.

In the case of POWANAMMAL Vs STATE OF TAMILNADU {(1999) 2 SCC 413} the Supreme Court held that the amplitude of the safeguard embodied in Article 22(5) extends not merely to oral explanation of the grounds of detention and the material in support thereof in the language understood by the detenu but also to supplying their translation in script or language which is understandable to the detenu. Failure to do so would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making a representation against the order.

It is clear from the facts recorded hereinabove that the respondents failed to supply the relied upon documents in the language of Kannada known to the detenu. Therefore we are constrained to quash the detention order dated 23.06.2016 passed by the second respondent.

For the foregoing reasons and in the result, we hereby allow the Writ Petition and quash the detention order in Proceedings Rc.No.C2/1298/2016-13024/63/16, dated 23.06.2016 passed by the second respondent, which was confirmed by the first respondent vide G.O.Rt.No.1751, General Administration (Law & Order), dated 17.08.2016. Consequently the detenu shall be released forthwith, if not required in any other case.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE SURESH KUMAR KAIT

JUSTICE U.DURGA PRASAD RAO

DATED 21st FEBRUARY, 2017.
Msnr_x

