

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

W.P.No.37565 of 2016

Between :

Samiullah Khan.

.....Petitioner

And

The State of Andhra Pradesh, rep. by its Chief Secretary & others.

....Respondents.

JUDGMENT PRONOUNCED ON : 26.04.2017

HON'BLE SRI JUSTICE : SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE : G. SHYAM PRASAD

1. Whether Reporters of Local newspapers may be allowed to see the Judgment ? : Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals ? : Yes/No
3. Whether Their Ladyship/ Lordship wish to see the fair copy of the judgment ? : Yes/No

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE G. SHYAM PRASAD**

WRIT PETITION No.37565 of 2016

DATE: 26.04.2015

Between :

Samiullah Khan.

.....Petitioner

And

The State of Andhra Pradesh,
rep. by its Chief Secretary & others.

.....Respondents.

For petitioner : Sri D.Purna Chandra Reddy, Advocate.

For Respondent : G.P. for Home.

< Gist:

> Head Note:

? CITATIONS:

Nil

C/15



**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD**

WRIT PETITION No.37565 of 2016

ORDER : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioner has challenged the detention order dated 3rd September 2016, whereby, the detenu has been detained and till date, he is under detention.

2. Learned counsel appearing on behalf of the petitioner submits that the detenu is resident of the State of Karnataka. His known languages are Kannada and Urdu, therefore, the respondents supplied detention order and grounds of detention in Urdu i.e. the known language of the detenu. However, rest of the relied upon documents are supplied in Telugu and English, therefore, the detenu failed to make effective representation to the authorities concerned. Thus, the detention order deserves to be quashed.

3. Learned counsel appearing on behalf of the respondents has fairly conceded that the known languages of the detenu are Kannada and Urdu, however, the relied upon documents are not supplied in the said languages, but are supplied in Telugu and English.

4. Similar issue came before this Court in W.P.No.30001 of 2016 and order dated 15.02.2017, the detention order therein was quashed. Paras 8 and 9 of the said order read as under :

“8. *In case of Powanmmal v. State of T.N. and another [(1999) 2 SCC 413], whereby, 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 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.

9. *It cannot be disputed that such type of issues have been coming before the Courts from 1960's and various High Courts and Supreme Court have passed the orders and gave directions again and again, despite, respondent authorities are committing such type of silly mistakes, which is not acceptable."*

5. In addition to above, this Court vide order dated 06.09.2016 passed in W.P.No.23972 of 2016, quashed the detention order therein, issued by the District Collector, Chittoor, and held that this is necessary to protect and safeguard the constitutional right of the detenu to make a representation effectively against his detention. 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 an effective representation to the authorities against his detention. Therefore, it is the constitutional duty of the State to make the document available in any language known and understood by the detenu, failing which, it would violate his constitutional right."

6. Coming to the present case, the detention order was passed on 3rd September 2016 by the 2nd respondent, on the documents placed by the 3rd respondent. It was the duty of the 3rd respondent to ensure that the detention

order and the grounds of detention are served upon the detenu. The said respondent is duty-bound to provide under Section 8 of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, the relied upon documents in the known language of the detenu, within Five (05) days from the date of detention.

7. We observed in W.P.No.30001 of 2016 that it cannot be believed that the detaining authority was not aware of the procedure. It is not the first case in this State that they never had experience of the same. It seems that respondent No.3 was determined to detain the detenu under any circumstances, thus, he succeeded in getting the detention order passed. However, thereafter, he never bothered whether the documents relied upon have been served to the detenu within Statutory period in the known language of the detenu.

8. In the present case also, due to the carelessness of respondent No.3, the detenu could not make effective representation, which is the right provided under Article 22(5) of the Constitution of India. Thus, his liberty guaranteed under the Constitution of India was curtailed for about Seven (07) months.

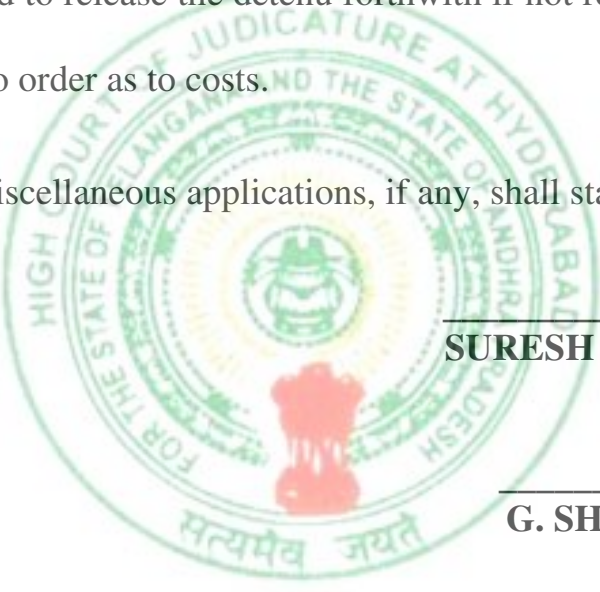
9. It is pertinent to note that in W.P.No.30001 of 2016, while quashing the detention order therein, this Court imposed costs of Rs.25,000/- upon respondent No.3 and directed that Rs.5,000/- to be recovered from his salary.

10. This is 2nd case before this Court, wherein, the very respondent did not bother to supply the relied upon documents in the known language of the detenu, which is required under the Statute.

11. We are conscious that the present detention order is not passed after the costs are imposed vide order dated 15.02.2017 in W.P.No.30001 of 2016. Therefore, we hereby caution the 3rd respondent to be careful in future.

12. Accordingly, we allow the writ petition and quash the further detention of the detenu. The Superintendent, Central Prison, Kadapa, YSR Kadapa District is directed to release the detenu forthwith if not required in any other criminal case. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.



SURESH KUMAR KAIT, J

G. SHYAM PRASAD, J

26th April 2017

N.B:

L.R.copy be marked.

(b/o)

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