

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

Writ Petition No.4283 of 2017

ORDER: *(Per Hon'ble Sri Justice U.Durga Prasad Rao)*

This Writ Petition is filed by the petitioner seeking a direction to declare the detention order dated 29.12.2016 passed by the 2nd respondent vide Proc.No.C2/PDAC/1/2016 and approved by the 1st respondent as illegal.

2) The petitioner is the wife of detenu namely Sri Shankar Singh S/o.Rajan Singh. Her case is that, 2nd respondent had passed the order of detention vide proceedings No.C2/PDAC/1/2016 dated 29.12.2016 under Sec.3(1) & (2) r/w Section 2(a) and (f) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers (Amendment), Act 1986 (for short "the Act") detaining the detenu in Central Prison, Chanchalguda, Hyderabad on the ground that the detenu was involved in three crimes i.e, Crime No.2241/2013-14 dt.25.02.2014, Crime No.592/2014-15 dt.28.06.2014 and Crime No.962/2016 dt.14.12.2016 of Prohibition and Excise Station, Dhoolpet, Hyderabad District, and he is a Drug Offender as defined under the Act and he was repeatedly involved in the illegal activities in peddling Narcotic drugs in the limits of Hyderabad endangering the health of public at large and thereby affecting public order. The detenu was under detention since 29.12.2016. The 2nd respondent had served the detention order, grounds

of detention and other material relied on by him to the detenu in English and in Hindi languages.

b) The further case of the petitioner is that certain crucial materials which the detaining authority relied on and arrived at subjective satisfaction, were not served on the detenu in Hindi language, which is the only language known to the detenu.

Hence the Writ Petition.

3) The 2nd respondent filed counter and opposed the writ petition contending that the detaining authority though referred three crimes i.e, Crime Nos.2241/2013-14 dt.25.02.2014, 592/2014-15 dt.28.06.2014 and 962/2016 dt:14.12.2016 of Prohibition and Excise Station, Dhoolpet, Hyderabad District, in which the detenu was involved, however relied upon Crime No.962/2016 only for passing the detention order and supplied the documents relating to the relied upon crime along with other documents in Hindi language which is said to be the known language of the detenu and therefore, there was no procedural irregularity. The 2nd respondent further contended that the detenu while acknowledging the spiral binding booklet, has stated that he has received the detention order, grounds of detention issued by District Collector in Proc.No.C2/PDAC/1/2016 dated 29-12-2016 and connected documents in English and known language (Hindi) containing (64) and the contents of the detention grounds were read over and explained to him in known language (Hindi). He submitted that in the decision reported in

*Haradhan Saha and another vs. The State of West Bengal and others*¹,

Hon'ble Supreme Court held that the essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. He also relied upon the decision reported in *Subrahmanian vs. State of Tamil Nadu*², wherein the Apex Court held that the Court does not interfere with the subjective satisfaction reached by the detaining authority except in exceptional and extremely limited grounds. He thus prayed to dismiss the petition.

4) Heard arguments of Smt. B.Mohana Reddy, learned counsel for petitioner and learned Government Pleader for Home (Telangana).

5) The main contention of learned counsel for petitioner is that though the detaining authority relied upon three crimes for passing the impugned detention order, nevertheless, the authorities supplied the documents relating to one crime i.e, crime No.962/2016 only in Hindi but they did not supply the documents relating to other two crimes in Hindi language which is known language of the detenu and thereby he failed to make an effective representation before the Advisory board. In view of the gross violation of the mandatory procedure laid under Article 22(5) of the Constitution of India, the detention order is wholly vitiated.

6) Per contra, learned Government Pleader would vehemently argue that the detenu was involved in three drug offences and thus he is a

¹ AIR 1974 SC 2154

² (2012) 4 SCC 699

habitual drug offender as defined under Sec.2(f) of the Act. Learned Government Pleader would further submit that Crime Nos.2241/2013-14 dt.25.02.2014 and 592/2014-15 dt.28.06.2014, were only referred to indicate that earlier he was involved in similar drug offences wherein he was enlarged on bail but the authorities have not relied upon those two earlier cases to impose detention against the detenu. On the other hand, in the grounds of detention the detaining authority has specifically relied upon Crime No.962/2016 dated 14.12.2016 of Prohibition and Excise Station, Dhoolpet, Hyderabad, which is the latest one of the three drug crimes committed by the detenu. So far as Crime No.962 of 2016 is concerned, documents along with detention order and grounds of detention were promptly served on the detenu in Hindi language, which is said to be his known language along with the copies in English language and obtained a receipt from him to that effect through the Jailor. As such, he would submit that the detenu cannot harp on any procedural violation. Finally he argued that the detenu is a habitual drug offender and each time after obtaining bail orders from the Court, he has been repeating the drug offences which have a demoralising effect on the society and public order is at peril. Therefore, the petition may be dismissed.

7) A perusal of the detention order and grounds of detention would give an impression that though the sponsoring authority placed material relating to crimes i.e, Crime No.2241/2013-14 dt.25.02.2014, Crime No.592/2014-15 dt.28.06.2014 and Crime No.962/2016 dt:14.12.2016 of

Prohibition and Excise Station, Dhoolpet, Hyderabad District, and also referred by the detaining authority, still in the grounds of detention it was clearly mentioned that the authority relied upon only one crime i.e, Crime No.962/2016 dated 14.12.2016 of Prohibition and Excise Station, Dhoolpet, Hyderabad for ordering detention. The other two crimes were only referred to show that after getting bail in those two cases, the detenu was again involved in similar offence i.e, Crime No.962/2016 dt.14.12.2016. The detaining authority thus opined that the illegal activities of the detenu would effect adversely in maintenance of public order since such activities would cause grave or widespread danger to public health and accordingly issued the detention order dated 29.12.2016.

8) A perusal of the material placed before this Court shows that the detention order, grounds of detention and documents relating to Crime No.962/2016 were furnished to the detenu through the Jailor, Central Prison, Hyderabad on 29.12.2016. The documents relating to the other two crimes which were only referred documents appears to have been furnished in English language. When the relied upon documents in Crime No.962/2016 were furnished in Hindi language, which is the known language of the detenu on the same day of detention, he cannot complain that he was not provided with all the documents in Hindi language i.e, both relied upon documents and referred documents and thereby he could not make an effective representation before Advisory

Board. Since the respondent authorities did not commit procedural breach, we find no merits in the petition.

8) Accordingly, the Writ Petition is dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

SURESH KUMAR KAIT, J

U. DURGA PRASAD RAO, J

Date: 24.04.2017

Note: Issue CC today.
(b/o)
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