

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

**W.P.No.30407 of 2016**

**ORDER : (Oral)**

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner has challenged the detention order dated 06.08.2016 vide ROC.No.C2/13024/2016 by the Collector and District Magistrate, Chittoor and confirmed by the 1<sup>st</sup> respondent vide G.O.Rt.No.2073 General Administration (Law and Order) Department, dated 27.09.2016.

2. After filing the present petition, learned counsel for the petitioner sought permission to take additional ground and to file amended petition and the same was allowed on the same day. Consequently, the petitioner has filed the amended petition, whereby two more grounds were taken stating that the petitioner, who is wife of the detenu submitted her representation to the Collector and District Magistrate, Chittoor District with a request to set aside the detention order passed against the detenu for various other reasons mentioned in the representation. Though the said representation was submitted on 12.08.2016, but the Collector and District Magistrate, who is the detaining authority has neither considered the said representation nor rejected the same. Therefore, non consideration of the representation vitiates the entire detention order. It is further stated that a perusal of communication dated 02.09.2016 clearly shows that even by 02.09.2016, the representation submitted by the petitioner against the detention order was not considered. In view of the above, the petitioner seeks setting aside the detention order noted above.

3. Learned Government Pleader appearing on behalf of the respondents submitted that the detention order was passed on 06.08.2016 and wife of the detenu, petitioner herein filed its representation on 12.08.2016 and thereafter, the Central Government approved the detention order on 16.08.2016. He has fairly conceded that the law has been settled by various High Courts and Supreme Court, the representation, if any made, has to be considered by the detaining authority and decide whether to accept or reject, however, that has to be done before passing the approval order by the State Government. Learned counsel submitted that in the present case, the 2<sup>nd</sup> respondent/detaining authority has not passed any order on the representation dated 12.08.2016, before the State Government approved the same vide its order dated 16.08.2016. He fairly conceded that the 2<sup>nd</sup> respondent rejected the representation after approval granted by the State Government, which is contrary to settled law.

4. The issue raised in the present petition has been considered by this Court vide order dated 26.10.2016 in Writ Petition No.16211 of 2016 keeping in view the dictum in **Ranbir Singh v T.George Josep, District Magistrate, Meerut and another**<sup>1</sup> whereby the Apex Court has quashed preventive detention order on the sole ground that the State has not discharged its responsibility of disposing of the representation as enjoined by Article 22(5) of the Constitution of India.

5. In another case, this Court in W.P.No.14816 of 2015 quashed the detention order on the ground that the representations dated 13.04.2015 and 17.04.2015 were not decided by the detaining authority before approval granted upon the detention order.

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<sup>1</sup> 1990 (Supp) SCC 54

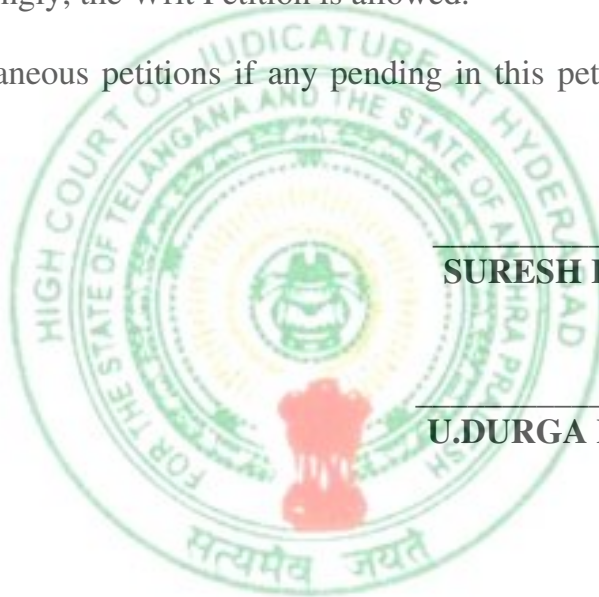
6. Keeping in view the settled position of law and the facts admitted by the learned counsel for the respondent that before approval of detention order dated 06.08.2016, no decision was taken by the detaining authority on the representation submitted by the petitioner, but rejected the same only thereafter, this writ petition is liable to be allowed.

7. Accordingly, we hereby quash the detention order dated 06.08.2016. Consequently, the jail authorities are directed to release the detenu forthwith, if he is not required in any other case.

8. Accordingly, the Writ Petition is allowed.

Miscellaneous petitions if any pending in this petition, shall stands dismissed.

14.03.2017  
kvrn/murthy



**SURESH KUMAR KAIT,J**

**U.DURGA PRASAD RAO,J**