

## **Topic: The Communication Of Grounds Of Arrest To The Detenu Under Article 21**

Name of the Case: Khudi Ram Das v. State of West Bengal, AIR 1975 SC 550

Bench: Justice PN Bhagwati, Justice Jagmohan Reddy, Justice PK Goswami, Justice Ranjit Singh Sarkaria

Fact of the Case: The District Magistrate had before him detenu's history-sheet at the time of making the details order, but none of the facts contained therein was communicated to him. The detenu argued that the Magistrate was influenced in making the order by the material in the history-sheet which was not communicated to him and thus, his right under Article 22(5) was infringed. The magistrate asserted in an affidavit that beyond the grounds communicated, he did not take any material from the history - sheet into account in passing order. The State asserted that the court should accept the affidavit of the magistrate and should not probe into the nature of material before the District Magistrate or whether or not he was influenced by it in making the detention order.

Ratio: The Supreme Court rejected the argument of the State and declared that as the custodian of citizen Fundamental Right, it was his duty to satisfy itself whether there were other materials which could have influenced the District Magistrate in arriving at his objective satisfaction but which he did not communicate to the detenu. Whether the other materials on the record had or had not any effect on his mind could not be decided on the basis of magistrate's ipse dixit (a dogmatic and unproven statement).

Article 22(5) insists that all basic facts and particulars which influence the detaining authority in arriving at his satisfaction must be communicated to the detenu. It is, therefore, the duty of Court to examine what were the basic facts and materials which actually weighed with the District Magistrate in reaching his satisfaction and, to this end, the Court can enquire him to produce before it the entire record of the case which was before him.

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