

Abdul Rahman Bhadar Wahi vs State Of Jammu & Kashmir on 16 October, 1970

Equivalent citations: AIR1971SC266, 1971CRILJ284, (1970)3SCC489, 1971(III)UJ56(SC)

Author: S.M. Sikri

Bench: I.D. Dua, S.M. Sikri, V. Bhargava

JUDGMENT

S.M. Sikri, J.

1. The petitioner filed a petition under Article 32 of the Constitution alleging that he had been re-arrested after serving four years' of detention in different jails of the State under the Preventive Detention Act and the Defence of India Rules, and that he was arrested on June 14, 1970 and was kept in Police Station Koti Bagh till June 30, 1970 without any warrants. He prayed that the Superintendent of Jails, Srinagar, be directed to produce him before this Court for pleading his case.

2. Upon perusing the petition this Court ordered the issue of rule nisi and directed a Counsel to be assigned as amicus curiae.

3. The Deputy Secretary to Government of Jammu and Kashmir, Home Department, has filed an affidavit in reply on behalf of the State. In this affidavit it is stated that the District Magistrate, Srinagar, ordered vide order No. PDA/DMS/85/70 dated June 25, 1970, that the petitioner be detained under the Jammu and Kashmir, Preventive Detention Act, 1964 with a view to preventing him from acting in any manner prejudicial to security of the State. This order of detention was executed on June 30, 1970 by Shri Urgin Durjay, A.S.I., Police Station Kotibag, Srinagar. It is further stated that the petitioner was informed of the District Magistrate's order dated June 25, 1970, that it was against the public interest to disclose to him the grounds on which detention order was made. It is also stated that "thereafter the Government after placing the case before the Chief Minister in charge, Home Department, approved the said detention vide No. ISD-849 of 1970 dated 16-7-1970." There was no specific denial of the allegation in the petition that the petitioner was kept in Police Station Koti Bagh till June 30, 1970 without any warrants.

4. The petitioner has filed a rejoinder affidavit denying that he was arrested on June 30, 1970. He further alleged that the order of detention dated June 25, 1970, passed by the District Magistrate, was not read over and explained to him. He stated that the order was just shown to him on July 3, 1970, and he was not even furnished a copy of the said order, and further that he was never

informed that the order dated June 25, 1970 was approved by the Home Department, and the order of Government, dated July 16, 1970, was not supplied to him.

5. The learned Counsel contended, first, that the petitioner's detention from June 14 to June 30, 1970 was illegal. Assuming the facts stated by the petitioner to be correct and assuming that his detention was illegal this does not entitle us to hold that the present intention by virtue of the detention order passed on June 25, 1970, is illegal.

6. The learned Counsel then urged that the order of the District Magistrate that the petitioner be informed that it was against public interest to disclose the grounds of detention to him was never communicated to him. We may mention that in the order it is stated that the petitioner be informed that it is against the public interest to disclose to him the grounds on which the detention order was made, and the order was forwarded to the Superintendent of Jails, Srinagar, for information of the concerned. We have seen the order and we find that this order has been signed by the petitioner. This shows that the order must have been communicated to him.

7. The last point raised by the learned Counsel was that it was necessary that this order should have been explained to the petitioner in vernacular even though he knew English. In this connection the learned Counsel relied on the judgment of this Court in *Chaju Ram v. The State of Jammu and Kashmir Writ Petition No. 32 of 1970* decided on March 3, 1970. There is nothing in that judgment to warrant the argument that even if a detainee knows English it is necessary that the order be explained to him in vernacular. We may mention that the original petition which was filed in this Court is in English and signed by the petitioner in English.

8. In the result the petition fails and is dismissed.