Supreme Court of India
Nabani Alias Alani Saha vs State Of West Bengal on 28 February, 1974
Equivalent citations: AIR 1974 SC 1706, 1974 CriLJ 1175, (1974) 4 SCC 500, 1974 (6) UJ 341 SC
Author: Chandrachud
Bench: M Beg, R Sarkaria, Y Chandrachud
JUDGMENT Chandrachud, J.

1. The grievance of the petitioner is two-fold. It is contended in the first place that in answer to the Rule Nisi issued by this Court the District Magistrate who passed the order of detention under the Maintenance of Internal Security Act, 1971, ought himself to have filed the affidavit in reply and that no valid reason is shown why, instead, the affidavit has been filed by the Deputy Secretary, Home (Special) Department, Government of West Bengal. Now the affidavit of the Deputy Secretary shows that the District Magistrate of Midanpore who passed the order of detention was not available for affirming the affidavit as he was transferred to another district. this Court has pointed out in numerous cases that as far as possible affidavit in answer to the Rule Nisi should be filed by the person who has passed the order of detention. It cannot however be laid down as a rule open to no exceptions that if the detaining authority does not file his own affidavit the order of detention must fail. Each matter has to be examined separately in the light of its own facts and it would not be appropriate to evolve a rule of universal application to cover every such matter. Considering the facts of this case we are of the opinion that no prejudice is caused to the petitioner by reason of the fact that the affidavit in reply has not been filed by the District Magistrate himself.

2. The other grievance of the petitioner is that the particulars furnished to him relate to two stray incidents spread over a period of four months and that is not sufficient to justify the detention. This argument is beyond the ken of judicial review as it is not for us to determine the sufficiency of reasons for detention.

3. This petition must therefore be dismissed.