

Akbar and Others Vs. Union of India and Others

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Court : Delhi

Decided On : Jul-14-2000

Reported in : AIR1999Delhi374a; 2000(54)DRJ861

Judge : R.S. Sodhi, J.

Acts : [Foreigners Act, 1946](#) - Sections 3

Appeal No. : Crl M. (M) No. 2140/2000

Appellant : Akbar and Others

Respondent : Union of India and Others

Advocate for Def. : Mr. K.C. Mittal, Standing Counsel

Advocate for Pet/Ap. : Mr. J.K. Dambla, Adv

Judgement :

ORDER

R.S. Sodhi, J.

Crl. M. (M) 2140/2000

1. Learned counsel for the petitioner has contended that by an order dated 14th August, 1954, the power to examine persons whether they are foreigners is vested with the civil authorities who may examine any person and that power also

includes the power to deport those who have in any manner infringed the [Foreigners Act, 1946](#). He further submits that the police in this case have been making indiscriminate arrests and have singled out members of the family rather than dealing with the family as a unit. To elaborate this he submits that in many cases either the wife is picked up and the husband and the children are left or the husband is picked up and the wife and children are left or the children are picked up and the wife and husband are left out. This he craves besides being arbitrary compounds the misery of those who are left behind. I have heard learned counsel for the respondent State who has drawn my attention to Section 3 of the Act which empowers the Foreigners Regional Registration Officer (FRRO) to identify and deport those who are staying in India in contravention of the Act. This power has been validly delegated upon the DCP FRRO by the Lt. Governor u/s 3(1) of the Act. The learned counsel for the State submits that if there have been any aberrations as stated by the learned counsel for the petitioner they shall be looked in to and all such aberrations shall be taken care of. On the question of law raised by the learned counsel for the petitioner in as much as in the Foreigners Order 5(A) the power lies with the civil authority to deal with the matter and the police is not a civil authority, is not sustainable. Police is a part of the civil administration and it cannot be said that is not a civil authority under the order. The learned counsel for the petitioner has shown me ration cards and election cards which he claims have been issued to person who are sought to be deported and he claims that once a ration card or an election card is issued to a person he is deemed to be an Indian citizen. This argument of his also does not find favor with me. Merely because ration card has been issued does not ipso-facto confer citizenship. Conferring of citizenship is an Act which is governed by law: A Foreign national cannot automatically be deemed to be an Indian citizen without complying with the procedure established by law in this respect. Learned counsel for the petitioner also points out that most of the people who are identified to be Bangladeshis by the Administration are horded together and deported across the boarder where they are normally fired upon by the Bangladeshi force and if they return they are attacked by the Indian forces. If such a thing is happening it must be stopped immediately. The procedure for deportation must be scrupulously followed so as to minimise misery and/or any violation of human rights. Learned counsel for the

State strongly refutes the contention of the counsel for the petitioner that any high handedness is being shown in deporting the foreigners. He submits that there is a regular procedure adopted for deportation and it is not even conceivable that persons are pushed across the border merely to be killed. Such stories are made up only to gain sympathy and are figments of fertile imagination. I propose not to take the matter further. However, if there be any incident that violates any human right or statutory right it will be open for the individual to approach this Court with their grievance.

2. The petition is dismissed accordingly.

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