

**Lalit Mohan Vs. Union of India**

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**Court :** Delhi

**Decided On :** Jul-11-1997

**Reported in :** 1997IVAD(Delhi)570; 1997CriLJ4055; 1998(1)Crimes221; 68(1997)DLT482; 1997(42)DRJ583

**Judge :** Mahinder Narain and; S.K. Mahajan, JJ.

**Acts :** [Foreign Exchange and Prevention of Smuggling Activities Act, 1974](#); [Constitution of India](#) - Article 226

**Appeal No. :** Criminal Writ Petition No. 214 of 1997

**Appellant :** Lalit Mohan

**Respondent :** Union of India

**Advocate for Pet/Ap. :** Naveen Malhotra,; Harjinder Singh and; B. Babbar, Advs

**Judgement :**

Mahinder Narain, J.

(1) The petitioners Lalit Mohan and Harish Chander have filed these habeas corpus petitions in this Court questioning their detention under the Conservation of Foreign Exchange & Prevention of Smuggling Activities Act, 1974. It appears from the ground of detention, which is at page 58 of Cr.W. 214/97, that Lalit Mohan was acting as a Flight Attendant in the Ambassador Sky Chef for the last ten years and was on duty for loading and unloading trolleys in the aircraft on 8/9.7.1996. It is stated in para 6 of the grounds of detention that Harish Chander was working as a Flight Attendant with Ambassador Sky Chef for the last eight years and on 9.7.1996 he was on duty on the high loader of the business class and the driver of the High loader was Mahinder Singh Hada. These two persons Lalit Mohan and Harish Chander being Flight Attendant were alleged to be involved in removing of the catering trolleys in which gold was hidden and had removed such trolleys in the past. They were detained by the detention order passed by the detaining authority on 25.10.1996.

(2) These two persons Lalit Mohan and Harish Chander made representations dated 28.11.1996 to the Chairman, Advisory Board for revocation of the detention order dated 25.10.1996. These representations were also to be considered independently by the detaining authority as well as by the Central Government. It was alleged by the petitioners Lalit Mohan and Harish Chander that there is unusual and unexplained delay in consideration of their representations. It was a sorted that their representations have not been considered at all by the detaining authorities.

(3) In reply to the said averments, it was contended by the respondents that the representation dated 28.11.1996 sent to the Central Advisory Board for revocation of detention order dated 25.10.1996 was considered independently by the detaining authority as well as by the Central Government and the detenus were informed about rejection of the representation by the detaining authority vide a memo dated 15.4.1997 and by the Central Government vide memo dated 22.4.1997.

(4) Both of these were after filing of the present writ petitions.

(5) The respondents further explained that the delay in considering the representations was on account of the fact that the folder containing the representations received from the Advisory Board got mixed up with other miscellaneous documents. On receipt of the writ petition, all efforts were made to locate the folders received from the Advisory Board and those could be located on 11.4.1997. The representations were immediately processed and submitted to the detaining authority on 15.4.1997 as 12.4.1997, 13.4.1997 and 14.4.1997 were holidays. The detaining authority considered the representations and rejected the same on 15.4.1997 and memo intimating the detenus about rejection of their representation by the detaining authority was issued on 15.4.1997 itself. Representations were separately submitted to the Secretary (R) on the same day, i.e., 15.4.1997. The Secretary (R) considered their representation and rejected the same on 21.4.1997 as 16.4.1997, 18.4.1997, 19.4.1997 and 20.4.1997 were holidays being Ram Navami, ID-ul-Juha, Saturday and Sunday.

(6) We find that this Explanationn does not contain some essential information like with which file the representations received from the Advisory Board were got mixed up and who was the person who looked into the matter and discovered these representations. In the absence of the essential particulars, it is not possible to accept the Explanationn that the folders containing the representations received from the Advisory Board were got mixed up with miscellaneous documents. It is not even mentioned what is the nature of these miscellaneous documents.

(7) In the light of the judgment of the Supreme Court reported as 1986 Scc (Crl.) 60, wherein a Division Bench of the Supreme Court has considered 75 days delay as enormous in matters of preventive detention, in our view, the delay from 28.11.1996 to 15.4.1997 is large and enormous delay. In the present case the delay is of more than 90 days. The Supreme Court had quashed the detention on unexplained delay in the aforesaid judgment, and inasmuch as there is no sufficient Explanationn for the delay of more than 90 days in the instant case, we also have to quash the detention order passed in the instant case.

(8) In view of the above discussion, the writ petitions are allowed. The detention orders impugned in these writ petitions are hereby quashed.

(9) The petitioners Lalit Mohan and Harish Chander are directed to be set at liberty forthwith, if not required in any other case.

(10) No costs.

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