

**Devi Singh Vs. State of Rajasthan**

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**Court :** Rajasthan

**Decided On :** Jun-11-1952

**Reported in :** AIR1952Raj171

**Judge :** Sharma, J.

**Acts :** [Preventive Detention Act, 1950](#) - Sections 3 and 7; [Constitution of India](#) - Article 22

**Appeal No. :** Criminal Misc. Petn. Nos. 37 and 40 of 1952

**Appellant :** Devi Singh

**Respondent :** State of Rajasthan

**Advocate for Def. :** D.M. Bhandari, Adv.

**Advocate for Pet/Ap. :** C.L. Agrawal, Adv. in Cri. Misc. Petn. No. 37 of 1952 and; S.R. Chandra, Adv. in Cri. Misc. Petn. No.

**Disposition :** Application allowed

**Judgement :**

ORDER

**Sharma, J.**

1. These are two applications, one by Shri Devi Singh of Mandawa and the other by Shri Gordhan Singh of village Chirana under Article 226 of the [Constitution of India](#). It has been prayed that an appropriate writ, direction or order be issued or passed directing the State of Rajasthan to produce the person of the two-petitioners before this Court, and that the petitioners be set at liberty. Rules nisi were issued in both the cases--in the case of Devi Singh (hereinafter to be called the first petitioner) on the 2nd of June 1952, and in the case of Gordhan Singh (hereinafter to be called the second petitioner) on the 4th of June 1952. Both the cases are substantially similar, and therefore I consider it convenient to dispose them of by this single judgment.

2. The case of the first petitioner is that he is the only son and would-be successor of Shri Thakur Jaisinghji of Mandawa, who is a prominent landholder of Sheikhwati Pargana in Jaipur Division. He has been returned as a member of the Rajasthan Legislative Assembly from the Udaipur constituency of Jhunjhunu District in the last general elections on the ticket of Ram Rajya Parishad party, which is in opposition to the Congress. On account of his political activities, he was an eye-sore to the Congress leaders, who, on account of loss of quite a large number of seats in the last general elections, have been on the look out to find out some excuse to crush the Jagirdars of Rajasthan. With a view to win the support of the tenantry by rough and cheap methods and also to create class-hatred against the Jagirdars, the Congress Government reduced the kind rent to one-sixth of the gross produce.

The petitioner was arrested at Jaipur on the 19th of May 1952, on a warrant alleged to have been issued by Mr. B. N. Tankha, Collector and District Magistrate, Jhunjhunu, on the ground of preventing him from acting in any manner prejudicial to the security of the State and the maintenance of public order. Soon after the arrest, grounds of detention were served on the petitioner in jail. The order about arrest & detention was not passed by the District Magistrate at Jhunjhunu, where he is posted, but at Jaipur, under the pressure of the Members of the Cabinet, Chief and Home Secretaries of the Rajasthan Government, and the Congress leaders, and was not the result of mental satisfaction of the District Magistrate himself. The order of detention is alleged to be a fabricated document.

It has been stated that the grounds furnished to the petitioner are unfounded and are vague, which defeat the right of the petitioner of making an effective representation and some of the grounds are such as do not even bear any relation to any of the two objects mentioned in the order of detention. On these grounds it has been prayed that the petitioner be released from detention forthwith.

3. In the case of the second petitioner also substantially the same grounds have been taken as have been taken by the first petitioner. It is added that as a matter of fact this petitioner was never served with an order of detention, nor was it ever disclosed to him why he was arrested. Both the petitioners allege that the action of the District Magistrate is mala fide.

4. On behalf of the respondent in both the cases returns have been made and an affidavit has been filed by Mr. B. N. Tankha, the District Magistrate of Jhunjhunu, in the case of the first petitioner. It has been denied; in the case of the first petitioner, that the order of detention was made at Jaipur at the instance of the Members of the Cabinet, the Chief or Home Secretary, or the Congress leaders. It has been asserted that the District Magistrate was at Jhunjhunu on the day he passed the order, and that the order was passed at Jhunjhunu. It has also been asserted that the grounds supplied to the petitioner were neither vague nor irrelevant. It has further been asserted that by the police reports and other material placed before him, he was satisfied that it was necessary to detain the petitioner for maintaining public peace in Udaipurwati. It has further been stated that the order was passed after the mental satisfaction by the District Magistrate himself and not under pressure from any other source.

5. In the case of the second petitioner, the reply of the respondent shows that an order of detention was actually served on the petitioner, and that from the material placed before the District Magistrate at Jhunjhunu, he had the mental satisfaction that it was necessary to arrest and detain the petitioner for the preservation of the security of State and the maintenance of the public order.

6. I have heard the learned counsel for both the petitioners, and also Mr. D. M. Bhandari for the State. It was argued by Mr. C. L. Agrawal, appearing on behalf of the first petitioner, that the order of detention made by the District Magistrate was

actually made at Jaipur under pressure from the Members of the Cabinet and other authorities mentioned in the petition, and that it was not the result of the mental satisfaction of the District Magistrate himself.

It was argued that the grounds which were served on the petitioner were either irrelevant to the objects mentioned in the order of detention or were too vague and indefinite to enable the petitioner to make an effective representation. It was argued that according to the affidavit of the District Magistrate himself, the only mental satisfaction that he had was that the order was necessary for maintaining public peace in Udaipurwati. According to this statement, which is made in paragraph 14 of the District Magistrate's affidavit, he did not have a mental satisfaction that the order was necessary for preventing the petitioner from acting in any manner prejudicial to the security of State or maintenance of public order.

It was submitted that public peace is not the same thing as public order, and as according to the District Magistrate's affidavit itself, the grounds which he considered gave him the only satisfaction that the detention of the petitioner was necessary for maintaining public peace in Udaipurwati, the grounds are foreign to the two objects mentioned in the order of detention, that is, security of the State or maintenance of public order. The order of detention was, therefore, made on the grounds which had no connection with the objects mentioned in the detention order, and, therefore, the petitioner was entitled to release. It was further argued that even if some of the grounds are foreign to the objects mentioned in the detention order, the fact that other grounds were relevant to the said objects would not make the order of detention valid, as it cannot be said that the District Magistrate was not influenced by irrelevant grounds in making the order of detention.

6. It was further argued that the grounds were, at any rate, vague, and they were not adequate to enable the petitioner to make an effective representation as provided by Article 22(5) of the [Constitution of India](#) and Section 7 of the Preventive Detention Act (No. IV of 1950) (hereinafter to be referred to as the Act). On the first contention that if the grounds or some of the grounds furnished to a detenu are irrelevant, the order of detention is bad, the learned counsel took his

stand upon a ruling of the Federal Court of India reported in 'KESHAV TALPADE v. EMPEROR', A.I.R. 1943 F. C. I. This ruling was also relied upon to show that if one of the reasons mentioned in the detention order is bad, the order cannot be upheld simply on the ground that other reasons are valid. Reliance was also placed upon a recent ruling of the Supreme Court of India reported in 'STATE OF BOMBAY v. ATMA RAM', A.I.R. 1951 S.C. 157, in support of the contention that the grounds furnished to the detained person should not be so vague and indefinite as to deny him an opportunity of making an effective representation under Article 22(5) of the [Constitution of India](#) and Section 7 of the Act. Rulings reported in 'M. R. S. MANI v. DISTRICT MAGISTRATE, MATHURAI', A.I.R. 1950 Mad. 162; 'IN RE RAJDHAR KALU PATIL', A.I.R. 1948 Bom. 334; 'NEK MOHAMMAD v. PROVINCE OF BIHAR', A.I.R. 1949 Pat. 1; 'IN RE ANANT MAHADEV', A.I.R. 1949 Bom. 95; 'IN RE BHAURAO KARBHARI', A.I.R. 1950 Bom. 126; 'EMPEROR v. SUMER SINGH', A.I.R. 1948 All. 78; 'INDER PRAKASH v. EMPEROR', A.I.R. 1949 All. 37; 'DURGADAS v. REX', AIR 1949 All. 148; 'RAM BILAS v. REX', AIR 1949 All. 748; 'FAIYAZ ALI v. DISTRICT MAGISTRATE KANPUR', A.I.R. 1949 All. 158; and 'ASHA RAM v. STATE', A.I.R. 1950 All. 709; were also relied on to show that as full particulars should be supplied to the detenu as are possible to enable him to make an effective representation.

7. Reliance was also placed on a somewhat recent and important case of the House of Lords in England reported in 'LIVERSIDGE v. ANDERSON', 1942 A.C. 206, in order to show that the word 'satisfied' which, like Section 3 of the Act, occurs in Regulation 18 B. of the Defence (General) Regulations, 1939, has been interpreted in this context as 'reasonably satisfied'. It was argued on the strength of this ruling, which has been followed in the Indian courts, including the Supreme Court, that the satisfaction of the detaining authority ought to have been reasonable satisfaction and not mere irrational or capricious satisfaction.

8. In the case of the second petitioner, the same line of argument was adopted by his learned counsel. It was argued that in the case of this petitioner even the order of detention was not served on him. In both the cases, it was argued that the action of the District Magistrate was mala fide.

9. On behalf of the State, it was argued in both the cases that it cannot be said that the grounds which were served on both the petitioners were in anyway irrelevant to both the objects mentioned in the detention orders. It was conceded that none of the grounds had any bearing on the question of the security of the State, but it was contended that all the grounds were relevant to the question of the maintenance of the public order. It was argued that because in the order of detention it was also mentioned that the arrest and detention of the petitioners was necessary in the interests of the security of the State as well, the order did not become bad simply because the grounds furnished had no bearing upon that object but only on the other object, that is the maintenance of public order.

With regard to the ruling in the case of 'KESHAV TALPADE v. EMPEROR', AIR 1943 F. C. 1, it was argued that in that case some of the reasons which led to the arrest and detention of the petitioner in that case did not come within the purview of Rule 26 of the Defence of India Rules. It was, therefore, held that it could not be said as to whether the order of detention would have been made if the detaining authority had not thought that it was also in the interest of other objects not coming within the purview of Rule 26. It was also argued that in that case Rule 26 itself was held to be ultra vires the provisions of Section 2(2) (x) of the Defence of India Act which authorised the Government to make rules for the apprehension and detention in custody of any person reasonably suspected of being of hostile origin or of having acted, acting or being about to act, in a manner prejudicial to the public safety or interest or to the defence of British India, whereas Rule 26 gave the Government power to arrest and detain any particular person only on being satisfied that it was necessary so to do with a view to preventing him from acting in any manner prejudicial to the Defence of British India, the public safety, the maintenance of public order, His Majesty's relations with foreign powers or Indian States, the maintenance of peaceful conditions in tribal areas or the efficient prosecution of the war. The rule, therefore, went beyond the powers given by Section 2(2) (x), and arrest and detention under that rule was, therefore, bad.

It was argued that it was not laid down in the said case that if a person was arrested and detained in the interest of two objects coming within the purview of Section 2(2) (x), and if it was found that there were grounds only in support of one

object but not in support of the other, the arrest and detention would be unlawful.

As regards the vagueness of the grounds supplied to the two petitioners it was argued that, in the first place, they were not vague and as many facts had been given as were necessary for an effective representation by the petitioners; but even if it be considered that they were in some respects vague, the order of detention could not be invalidated on that ground. For that reliance was placed upon the ruling of the Supreme Court in the case of the 'STATE OF BOMBAY v. ATMA RAM SHRIDHAR VAIDYA' (AIR 1951 S. C. 157), quoted above. It was argued that according to the view held in the said case, the vagueness of the grounds did not vitiate the order of detention. It was argued that the cases of different High Courts relied on by the learned counsel for the petitioners were under the different Public Safety Acts of various States and were decided on the particular wordings of those Acts. Those Acts provided that besides the grounds, particulars should also be given. Under Article 22(5) of the [Constitution of India](#), as well as Section 7 of the Act, it is necessary only to furnish the grounds and not particulars. Grounds are not necessarily the facts themselves, but mostly they are themselves deductions of facts from facts. From the materials placed before the District Magistrate, which this Court is not authorised to see on an application for habeas corpus, the District Magistrate made certain deductions of facts which are given in the grounds, and he was within his powers only to furnish those grounds to the petitioners and not to disclose to them any other facts.

It was argued, however, that if the petitioners, thought that the grounds were vague and were not precise and full, there was no bar to their requesting the detaining authority to furnish them with further particulars so as to enable them to make an effective representation. Such a request was never made by the petitioners and they cannot be heard to say so long as the grounds furnished have relevancy to the objects mentioned in the detention order, that they are vague and do not give them full particulars in order to make effective representation. It was further argued that even without any request from the detenus, the detaining authority might itself furnish particulars to the petitioners not making out any additional grounds but supporting the grounds already furnished.

It was argued that the action of the District Magistrate was not mala fide. The allegation about mala fides has been denied on oath by the District Magistrate in both the cases in his written statement, and he has also affirmed that he made the order in the case of the first petitioner at Jhunjhunu, and that he also issued the order of detention in the case of the second petitioner which was served on him. Under these circumstances, this Court has no material to hold that the action of the District Magistrate was mala fide, the burden of proving which lay heavily upon the petitioners.

10. I have considered the arguments of learned counsel on both the sides in both the cases. It cannot be denied that the rulings of the various High Courts referred to above cited on behalf of the petitioners, were based on the particular phraseology of the Public Safety Act or Maintenance of Public Order Acts passed by the different States before the [Constitution of India](#) came into force. Those Acts provided that besides grounds, particulars should also be supplied to the detenus. Take for instance, the wordings of Section 5 of the U. P. Maintenance of Public Order (Temporary) Act of 1947, on which the ruling reported in 'DURGADAS v. REX', AIR 1949 All 148 is based. The said section is as follows:

'As soon as may be after an order in respect of any person is made under clause (a) of Sub-section (1) of Section 3, the officer or authority making the order shall communicate to the person affected thereby the grounds on which the order against him has been made and such other particulars as may in the opinion of such officer or authority, be sufficient to enable him to make a representation against the order and such person may at any time thereafter make a representation in writing to such officer or authority against the order. It shall be the duty of such officer or authority to inform such person of his right of making such representation and to afford him the earliest practicable opportunity of doing so. If the Government is satisfied on considering the representation made, that it is no longer necessary to maintain the order, the order made under Section 3 shall be cancelled.'

It is therefore clear that the said section requires not only grounds but particulars also to be supplied, which should not be vague, indefinite or incomplete, and must

convey sufficient information to the detenu to enable him to make a representation that the detaining authority was wrong in its belief that his detention was necessary in the interest of public safety etc.

Similarly, in the Bihar Maintenance of Public Order Act of 1947, it was provided in Section 4 that the detenu shall be served with the grounds on which the order of detention has been made against him and such other particulars as are in the opinion of such authority sufficient to enable him to make, if he wishes a representation against the order. The ruling reported in 'NEK MOHAMMAD v. PROVINCE OF BIHAR', AIR 1949 Pat 1, referred to above, is based upon the wordings of the Bihar Act. No assistance can, therefore be derived from these rulings as none of them is based upon the wordings of Section 7 of the Act or Article 22(5) of the [Constitution of India](#). It was observed by his Lordship Patanjali Sastri J. in the case of 'STATE OF BOMBAY v. ATMA RAM', AIR 1951 S C 157, with respect to the rulings based on different Public Safety and Maintenance of Public Order Acts of various States passed before the [Constitution of India](#) came into force, that such decisions turned on the provisions of various provincial Public Safety Acts which were passed before the commencement of the Constitution and which in most cases specifically provided for the communication of particulars.

Those decisions were of no assistance as neither in Article 22 nor in the Act is there any express provision that particulars of the grounds of detention should be given to the person detained. Looking to the wordings of Article 22 of the [Constitution of India](#) and Section 7 of the Act, it was, therefore, not necessary that any particulars should have been given by the detaining authority in the grounds furnished to the petitioners. Article 22(5) of the [Constitution of India](#) uses the word 'grounds' only and no mention is made therein of any particulars. Similarly Section 7 of the Act uses the word 'grounds' only and does not speak of the furnishing of any particulars to the detenu. Grounds, as observed by his Lordship Kania C. J. in the majority judgment in the case of the 'STATE OF BOMBAY v. ATMA RAM', which form the basis of satisfaction when formulated are bound to contain certain facts, but mostly they are themselves deductions of facts' from facts. It was further observed that simply because the grounds are such that no answer can be given to them excepting a simple denial, it cannot be said that the grounds are vague. Of

course, it is desirable that the detaining authority should give the information with reasonable details to the detenu, but when it is not so given and only the grounds for the order are given, it cannot be said that the provisions of either Article 22 of the [Constitution of India](#) or of Section 7 of the Act are not complied with. An order of detention cannot, therefore, be vacated simply on that ground so long as the grounds furnished are not irrelevant to the objects mentioned in Section 3 of the Act. His Lordship has held that it is open to a detenu to ask the detaining authority for further particulars if he thinks that he is not in a position to make an effective representation on the grounds supplied to him, or the Government itself might at a later date furnish such particulars, but it is not incumbent upon the detaining authority to furnish all sorts of particulars in its possession, besides the grounds having a bearing on the objects which satisfied the detaining authority that a particular person should be detained.

I am, therefore, not impressed by the argument of the learned counsel for the petitioners that because the names of Bhomias with whom the petitioners are said to be associated, or the names of the members of the alleged committee of Bhomias, or the dates and places of certain events, mentioned in the grounds are not given, the grounds are bad, and the order of detention based thereon cannot be justified. As regards the truth of the grounds, I am afraid, it is not open to, me to go into them unless I record a finding that the action of the District Magistrate was mala fide. There is the counter affidavit of the District Magistrate in reply to the affidavit filed by the petitioners that his action was bona fide, and in good faith and not mala fide. The burden of proving the mala fides of the detaining authority lies heavily on the petitioner and under the circumstances by their mere affidavits which have been answered by the counter affidavit of the District Magistrate, it cannot be said that they have established a case of mala fides. I cannot, therefore, go into the question of the falsity or truth of the grounds given. It is also not permissible for me to see whether the grounds were sufficient for the satisfaction of the District Magistrate that the detention of the two petitioners was necessary in the interest of the two objects mentioned in their orders of detention. All that I am authorised to see is whether the grounds bear any relevancy to the two objects mentioned in the detention orders. It has been held over and over again by different High Courts in India that under Section 491 of the Code of Criminal

Procedure, which provides a remedy in the nature of habeas corpus that unless mala fides are proved, a Court on a petition under Section 491 cannot go into such questions. This view is based on the leading English case of 'LIVERSIDGE v. ANDERSON', (1942) A. C. 206 in which it has been held that where the detaining authority recites that he has reasonable cause to believe a person to be of hostile associations and that by reason thereof it is necessary to exercise control over him and directs that, that person be detained, a court of law cannot inquire whether in fact the detaining authority had reasonable grounds for his belief. The matter is one for the executive discretion of the detaining authority. It was held also in the case of 'A. K. GOPALAN v. STATE OF MADRAS', AIR 1950 S C 27, that the, satisfaction of the detaining Authority being subjective, the court cannot arrogate to itself the power of examining the sufficiency or otherwise of the grounds. Further, in the case of 'STATE OF BOMBAY v. ATMA RAM', AIR 1951 S C 157, it was observed in the majority judgment by his Lordship Kania C. J. that so long as there is some connection, that is, the ground by itself is not so convincingly irrelevant and incapable of bringing about satisfaction in any rational person, the question whether such ground can give rise to the satisfaction required for making the order is outside the scope of the inquiry of the Court. It was held in 'MACHINDAR SHIVAJI v. KING', AIR 1950 F C 129, that

'the responsibility for making a detention order rests on the provincial executive, as they alone are entrusted with the duty of maintaining public peace, and it would be a serious derogation from that responsibility if the Court were to substitute its judgment for the satisfaction of the executive authority, and, to that end, undertake an investigation of the sufficiency of the materials on which such satisfaction was grounded.'

11. The only thing, therefore that I have to consider is whether the District Magistrate can be said from the grounds furnished to the petitioners to have had mental satisfaction that it was necessary to detain them with a view to preventing them from acting in any manner prejudicial to the security of the State and the maintenance of the public order, which 'objects have been mentioned in their detention orders. For this, it would be necessary to give the grounds furnished to both the petitioners in detail. They are as follows:

- ' 1. That as an influential landlord of Mandawa he has been actively associated with the resistance movement of Bhomias of Udaipurwati over the issue of the grain produce rents payable to them by the cultivators;
2. That in company of Shri Alamsingh and Barisal Singh of Jhajar and two others he waited on deputation before the authorities at Jaipur;-
3. That on 19th March 1952 he called a meeting of the Bhomias in camera at Udaipur and formed a committee of 36 Bhomias who were directed to report to him day to day developments affecting the Bhomias resistance movement in Udaipurwati;
4. That he instigated the Bhomias not to accept the grain rent at the rate fixed by the Government of Rajasthan by legislation and thereby incited them to violence;
5. That as a result of his instigation, the Bhomias of Jhajar resorted to violence against the tenants on 17th April 1952 at Jhajar culminating in a riot;
6. That he contacted the leading Bhomias of Udaipurwati at Nawalgarh about the 24th April 1952 and instructed them that if Government insisted on the sixth of the produce as rent they should also insist on one sixth of the cash crop such as tobacco, chillies, dhanian, garlic, onion etc.;
7. That on 10th May 1952 the feelings were very tense in village Chanwara but due to the timely intervention of the local police the situation was narrowly saved. The Bhomias then contacted him for necessary instructions. Extensive patrolling by the police was made in the ilaqa;
8. That he has been in active association with the Bhomias of Udaipurwati, particularly, the Bhomias of Deppura Ponk and Ghuda who are bent upon violence;
9. That on 13th May 1952 at Chanwara Sri Karmiram, Advocate, and Shri Ramdev Singh, Congress workers, who had come to settle the dispute between the Bhomias and the tenants and who were staying at Sedu Gujar ki Dhani were murdered in cold blood. It is reported that at about 12 noon some Bhomias came

to this Dhani and after seeing where Shri Karniram and Shri Ramdeo Singh were sitting quietly went away and informed other conspirators who were standing outside closeby. At about 3 o'clock in the noon the Bhomias numbering about 40 came and entered inside the Chhappar where Shri Karniram and Ramdevsingh were resting. Four of them fired shots simultaneously killing Shri Karniram and Shri Ramdeo Singh instantaneously.

10. That the Bhomias of Udaipurwati are still continuing resistance on the question of grain produce rents and there is danger that if he is allowed to remain free there would be more wide-spread violence.'

12. Grounds to the second petitioner.

' 1. That as an influential leader of Bhomias he has been actively associated with resistance movement of Bhomias of Udaipurwati over the issue of the grain produce rents payable to them by the cultivators.

2. That he has been instigating the Bhomias of Udaipurwati particularly of Chirana and Jhajhar to eject the tenants unlawfully & to use force and violence in case of resistance.

3. That as a result of his instigations the Bhomias of Chirana resorted to violence against the tenants on 6-3-52 at Chirana culminating in a riot.

4. That on 19th March, 1952 a meeting of the Bhomias was called in camera by Shri Devi Singh of Mandawa who formed a committee of 36 Bhomias who were directed to report to him day to day developments affecting the Bhomias resistance movement in Udaipurwati. That you are a member of the Committee and you have been actively and secretly assisting unlawful aim.

5. That he instigated the Bhomias not to accept the grain rent at the rate fixed by the Government of Rajasthan by legislation and thereby incited them to violence;

6. That he contacted the leading Bhomias of Udaipurwati at Nawalgarh about the 24th of April 1952 and instructed them that if Government insisted on one sixth of the produce as rent they should also insist on one sixth of the cash crop such as

tobacco, chillies, dhania, garlic, onion etc.;

7. That on 10th May 1952 the feelings were very tense in village. Chanwara but due to the timely intervention of the local police the situation was narrowly saved. The Bhomias then contacted him for necessary instructions. Extensive patrolling by the police was made in the Haqa.

8. That on 13th May 1952 at Chanwara Shri Karniram Advocate and Shri Ramdev Singh, Congress workers, who had come to settle the dispute between the Bhomias and the tenants and who were staying at Sedu Gujar-ki-Dhani were murdered in cold blood.

9. That the Bhomias of Udaipurwati are still continuing resistance on the question of grain produce rents and there is a danger that if he allowed to remain free there would be more widespread violence.'

13. It has been conceded by the learned counsel for the State that none of the grounds has any bearing on the question of security of State. The District Magistrate, however, when he made the orders in the two cases, made it under a belief that the detention of both the petitioners was necessary with a view to preventing them from acting in any manner prejudicial not only to the maintenance of public order but also to the security of the State. In paragraphs 24 and 26 of the reply in the case of the first petitioner and paragraphs 17 and 20 in the case of the second petitioner, it is said that the acts of the petitioners were unlawful and dangerous to the security of the State and maintenance of public order in the State of Rajasthan. Both these replies have been signed and verified by Mr. B. N. Tankha, the District Magistrate of Jhunjhunu, who is responsible for the issuing of the order of detention in question and they, make it clear that he thought that the facts furnished to him necessitated detention of both the petitioners in the interest of security of State as well as the maintenance of public order. It has been conceded, as noted above, by the learned counsel for the respondent himself that the grounds furnished to both the petitioners do not show that they were acting in any manner prejudicial to the security of the State.

What operated on the mind of the District Magistrate at the time of issuing orders of detention in the two cases was not only that it was in the interest of the maintenance of public order that the petitioners should be detained, but also that it was in the interest of the security of State. It cannot be said whether the District Magistrate would have ordered detention of the two petitioners if he were only satisfied that their acts were prejudicial only to the maintenance of public order. Under the constitution Of India, it has been guaranteed by Article 21 that no person shall be deprived of his life or personal liberty except according to procedure established by law. It has been provided by Section 3 of the Act that a person can be deprived of his liberty if the Central Government or the State Government or any other detaining authority to whom the powers of detention have been delegated by either of the two Governments is satisfied with respect to him, inter alia, that with a view to preventing him from acting in any manner prejudicial to the security of State or the maintenance of public order it is necessary so to do.

The term 'satisfied' in this context has been held in the case of 'LIVERSIDGE v. ANDEB-SON', (1942) A.C. 206 in which a provision similar to Section 3 of the Act was under consideration, to mean 'reasonably satisfied'. From the grounds it cannot be said that the District Magistrate had a reasonable satisfaction that any of the two petitioners was acting in any manner prejudicial to the security of the State. It has been conceded by the learned counsel for the respondent himself, as stated above, that the grounds have no bearing upon this object. I am, therefore, of opinion that the learned District Magistrate did not apply his mind to the grounds at all with a view to satisfy himself whether they had any bearing upon the security of the State or the maintenance of public order or any other object mentioned in Section 3 of the Act. It appears as if he had some ready-made copies in his office with the words of Section 3(1) (a) (ii) of the Act, and without applying his mind whether the material furnished to him bore any relation to the security of State or the maintenance of public order or for the matter of that of any other object provided by Section 3 he issued the order of detention against the petitioners. Of course, as has been said above, it is not permissible for this Court to see whether the grounds given are true or sufficient. It is, however, certainly permissible for it to be satisfied whether the detaining authority was reasonably satisfied that the

material supplied to him showed that an intended detenu was acting in any manner prejudicial to one or more of the objects given in Section 3. It is not permissible to a detaining authority to issue an order of detention mechanically incorporating the words of Section 3. It is necessary for it to issue such order after mental satisfaction. This does not appear to have been done in the present case. In the case of 'KESHAV TALPADE v. EMPEROR', (A.I.R. 1943 F.C.I), quoted above, the order of detention of the Government of Bombay was in these terms :

'Whereas the Government of Bombay is satisfied that with a view to preventing the said Keshav Talpade from acting in a manner prejudicial to the defence of British India, the public safety, the maintenance of public order and the efficient prosecution of the war, it is necessary to make the order of detention against him.'

It was observed by his Lordship Gwyer C.J., who delivered the unanimous judgment:

'This reads like a mere mechanical recital of the language of Rule 26..... The order does nothing to remove the apprehension we have already expressed that in many cases the persons in whom this grave power is vested may have had no opportunity of applying their minds to the facts of every case which comes before them.'

From a reading of the order of detention in the case of the first petitioner (order of detention in the case of the second petitioner has not been filed by him as he swears in his affidavit, not contradicted by any affidavit by the opposite party, that it was not delivered to him, nor has it been filed by the respondent) and the grounds and reply by the respondent in both the cases, as well as the admission of the learned counsel for the respondent at the bar that none of the grounds have any bearing on the question of security of State, I am of opinion that the orders in the present case were not the results of mental satisfaction of the District Magistrate on the consideration of the materials supplied to him, but the orders were made like a routine order. In grave cases of detention without trial, it would not do to pass routine orders, but the detaining authority should carefully consider the materials before it, and then form its opinion whether it warrants order of detention for the fulfilment of any of the objects given in Section 3. In the same

ruling of the Federal Court, which I have just cited, their Lordships observed that :

'If a detaining authority give four reasons for detaining a man, without distinguishing between them, and any two or three of the reasons are held to be bad, it can never be certain to what extent the bad reasons operated on the mind of the authority or whether the detention order would have been made at all if only one or two good reasons had been before them.'

Of course, in that case one of the reasons for decision was that Rule 26 of the Defence of India Rules was 'ultra vires' the provisions of Section 2 (2) (x) of the Defence of India Act, but it was also argued on behalf of the detenu, that some of the reasons for which he was detained fell outside the purview of Section 2(2)(X). Their Lordships had, therefore, to consider whether, granting that only some of the reasons given in the order of detention were good, the detention order could be upheld. It was held that it could not be upheld.

I see no difference in principle between a case in which some of the reasons for detention are warranted by law and some are not and another in which all the reasons of detention are warranted by law but for only some of them the detaining authority had grounds while for other it had none. In both the cases when orders of detention are made for several reasons without distinguishing between them, there is a reasonable doubt as to whether the detaining authority was reasonably satisfied that the materials placed before it were sufficient for making a detention order, because it cannot be said which of the reasons principally influenced the detaining authority in making the detention order. In the present case also two reasons are given for the detention of the petitioners that is the maintenance of the security of State as also of the Public Order, but it cannot be said to what extent the consideration that the detention of the petitioners was in the interest of the security of the State influenced the District Magistrate in detaining the petitioners. It cannot be said whether if the District Magistrate had only been satisfied that the materials showed that the petitioners were acting prejudicially to the maintenance of public order, he would have made the order of detention of the petitioners. It is necessary for the detaining authority to examine the materials before it, and then to form a clear opinion as to whether it was necessary to make an order of

detention in the interest of one or the other object given in Section 3 of the Act. It is not permissible to recite all, or more than one objects given in Section 3 in the order of detention, and when it is shown by the grounds that they have no bearing upon some of those objects, to fall back upon the argument that they have at least bearing upon one or more of those objects. This argument, I regret to say, is only an argument in despair. It does not take note of the fact that it is necessary for the detaining authority to apply its mind before making an order of detention to the question as to which of the acts alleged against the intended detenu have bearing on a particular object for which he is going to be detained.

14. For the reasons given above, I am unable to maintain the order of detention of the two petitioners. Both the applications are allowed, and it is ordered that they shall be released at once, if not required in connection with any other case.

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