

(1993) 10 AHC CK 0061

In the Allahabad High Court

Case No : Habeas Corpus Petition No"s. 8850 and 12132 of 1993

Altaf alias Bare Abba

APPELLANT

Vs

District Magistrate and Others

RESPONDENT

Date of Decision : 01-10-1993

Acts Referred:

Constitution of India, 1950 — Article 22(5)
Criminal Procedure Code, 1973 (CrPC) — Section 161
Explosive Substances Act, 1908 — Section 3, 5
National Security Act, 1980 — Section 3(2), 3(3)
Penal Code, 1860 (IPC) — Section 147, 148, 149, 295, 307

Citation : (1993) 17 ACR 633

Hon'ble Judges : Palok Basu, J;J.P. Semwal, J

Bench : Division Bench

Advocate : Navin Sinha and Ramji Saxena, for the Appellant;

Final Decision : Dismissed

Judgement

Palok Basu, J.—Altaf is presently detained in pursuance of an order dated 6-1-1993 u/s 3(2) of the National security Act (for/short the Act) passed by the District Magistrate, Kanpur. Similarly, Sharif stands detained by an order dated 30-12-1992 also passed by the District Magistrate, Kanpur. Both those orders are under challenge in these two petitions which are being disposed of together, as prayed by the learned Counsel for the parties because the grounds of detention mentioned in both the orders are same.

2. The entire grounds of detention have to be mentioned in order to deal with various arguments advanced. Traslated into English, the grounds would read as under-

1. That on 18-12-1992, constable 269 Sri Shyam Singh Yadav of Reserve police Lines, Kanpur Dehat, lodged a written report at police Station Rail Bazar that, on 7-12-1992 at about 8.30 A.M. when he was going from Police Lines to Police office, you along with 200/250 persons of Muslim" Community came from the

eastern side shouting slogan "Allah-ho-Akbar" and surrounded him. You and your companions attacked the police constable with knives with intent to cause death and his H.M.T. Watch, A-I, cycle and Rs. 500/- were looted. Somehow he managed to protect himself and reached Police Lines, Kanpur Dehat from where he was taken to Ursula Hospital by his colleagues and after being discharged from Ursula Hospital he got registered the said report against you and your companions.

Constable Shyam Singh's report of offence u/s 395/307 IPC has been registered as Case Crime No. 443/92 at P.S. Rail Bazar against you and your companions, true copy of which is Annexure-I and true copy of the injury report is Annexure II.

On 8-12-1992 the newspaper Dainik Jagrari reported the incident with the heading "Kanpur Jal UTHA/SOLAH MAREY/S.P. KEY KAFILEY PAR HAMLA/SENA BULAI GAI/RAIL BAZAR BHI HINSA KI CHAPET MEN/JAGAH JAGAH AAG ZANI GOLI BARI WA BAM KE DHAMAKEY". The incident relating to knife injury to the police constable has also been mentioned. The copy of the newspaper "Dainik Jagran" dated 8-12-1992 is Annexure III.

You and your companions have committed the aforesaid criminal act being under the influence of communal feelings at about 8.30 in the morning. The place of incident is very significant as the Reserve Police Lines, Kanpur Dehat is close to it and the office of the D.E.G. Police and others including respectable persons and residential quarters of officers are also in the immediate neighbourhood. As a result of the said incident in the nearby locality and the area fear awe and terror spread causing stampede and all nearby residents closed their doors and windows and in this manner the incident resulting in knife injuries to the police employee compelled posting of additional Force in the Rail Bazar area, curfew order had to be imposed and the public order was completely disrupted.

The aforesaid criminal act of yours is prejudicial to maintenance of the public order.

2. On 7-12-1992 the Station Officer, Rail Bazar. Sri Ravindra Singh Bhadauriya was informed by an informer at about 8.30 A.M. when he was busy in the law and order duty near Central Hotel within P.S. Rail Bazar to the effect that at Faithfulgunj Crossing rioters belonging to Muslim Community were indulging in looting the shops belonging to Hindu Community and setting fire to them. At this information the Station Officer informed the higher authorities on wireless and by the time he reached police Station Rail Bazar at 9 A.M. he saw about 100 or 150 rioters of Muslim Community, shouting inflammatory slogan, were indulging in breaking Kalj Mandir situated by the side of P.S. Rail Bazar, that the Station Officer Sri Bhadauriya accosted the rioters who ran towards the back side and the Station Officer then chased those to some distance when he noticed about 1000 or 1200 Muslim Community rioters had looted the shops of Hindu Community and had set fire to them. That in the meantime the C.O. Harbans Mohal, the A.C.M. reached there and they too accosted the rioters but for no effect and, in retaliation the rioters hurled bombs, threw brickbats and fired from

country-made firearms at which the police party fired in self-defence. Thereafter the S.P. (City) and Additional District Magistrate also reached the spot alongwith P.A.C. Force and it was with great difficulty that the rioters could be overpowered who then started fleeing hither and thither.

That regarding this incident the Station Officer Sri R.S. Bhadauriya registered an offence under Sections 147, 148, 149, 307, 436, 395, 397. 336 and 295 IPC read with Section 3/5 of the Explosive Substance Act which was registered as Case Crime No. 436 of 1992 at Police Station Rail Bazar, a true copy of which is Annexure IV. This case is still under investigation."

Witnesses of this incident, namely, S/S Radhey Kant Tiwari and Ram Prasad in their statements u/s 161 Code of Criminal Procedure have named you as participant in this incident. True copies of the statement of the witnesses u/s 161 Code of Criminal Procedure are Annexures V and VI.

Regarding this incident the reporting of the newspaper Dainik Jagran as included in Annexure III makes vivid the criminality involved in this incident.

You and your companions have indulged in the aforesaid criminal act in broad day-light at 9 A.M. and inspite of sufficient police strength, you and your companions could not be brought under control with the result that P.A.C., C.R.P. and Army help had to be called, resulting in complete disruption, of public order.

The aforesaid facts make it clear that you are a fundamentalist Muslim full of communal passions and the criminal acts of yours have resulted in disrupting public order.

"For the present you are in custody in District Jail, Kanpur, in connection with Case Crime 433/92 u/s 307/395 IPC, P.S. Rail Bazar, and you have moved an application for bail before the Court concerned, a true copy of which is Annexure VII in which there is every likelihood of your getting released on bail. If you come out of jail being released on bail there is every likelihood that you will again spread communal disharmony and disrupt public order and, therefore, it has become necessary that you should be detained.

In view of the aforesaid grounds I am satisfied that there is likelihood of your acting in any manner prejudicial to the maintenance of public order and, therefore, with a view to prevent you from acting in such a manner and for maintenance of public order it is necessary to direct that you be detained.

3. It may be mentioned here that in the petition of Sharif the true copy of the grounds indicate that in the penultimate paragraph where the detaining authority has recorded his satisfaction two further adjectives "Shatir and Khunkhwar" (notorious and hardened criminal) have been added but nothing turns upon these two words.

4. Sri Navin Sinha, learned Counsel for the Petitioner Altaf and Sri Ramji Saxena, learned Counsel for Sharif, have argued the matter with exceptional eloquence

arjd matured ability. Sri Arvind Kumar Tripathi, learned A.G.A. has likewise replied the arguments with commendable stubbornness and felicity. The entire record has been thoroughly scrutinised.

5. The arguments on behalf of the Petitioners can be summarised into three broad headings-

I. The single incident, even though shown numerically as two in the grounds of detention, can and should not be interpreted as showing future tendency to act in a manner prejudicial to the maintenance of public order.

II. The allegation regarding the likelihood of the Petitioners being released on bail is a complete misnomer because no bail application was moved on their behalf inasmuch as an enquiry was ordered by the C.J.M. relating to the said pendency of the bail application in Altaf's matter, even if moved for Petitioners, those could not be treated reliable and sufficient material.

III. In any case, the non-sending of the comments by the District Magistrate along with the representation to the State Government, and five days having been consumed by the District Magistrate in sending his comments to the State Government should be interpreted to mean that the right conferred by Article 22(5) of the Constitution of India has been impaired though the representation of both the Petitioners have been decided by the State Government within 10 or 12 days respectively from the date the representations were received by the State Government.

Point No. 1.

6. At the outset it may be mentioned that on the basis of what was stated in the grounds noted above there were two distinct incidents though both of them happened on the same day with an interval of about half an hour between them. It does not appear correct to assume that these two incidents are one and the same inasmuch as the first one related to an attack on the police personnel who received several knife injuries. The second incident was at a different place of occurrence, half an hour later in point of time and related to looting shops belonging to another community as also burning them. The report about the second incident was by the Station Officer concerned while the former one was an FIR which was registered by the victim. Therefore, it is perhaps not right to contend that both the incidents are one and the same.

7. It was, however, strenuously argued on behalf of the Petitioners that looking at the immediate cause of the incident, considering the objective to be gained and noticing the proximity of the time and place of occurrence, both the incidents need not be separated and can be said to form part of the same transaction. It may be stated here that the aforesaid argument is not acceptable because the evidence mentioned in the grounds" are entirely different inasmuch as all the participants in the first and the second incident may not have been necessarily the same though both the Petitioners are shown to have taken part in both the

incidents.

8. Assuming for the sake of argument that for the purposes of using powers under the National Security Act the said two incidents may be clubbed together, it has to be examined whether, even if both the incidents are assumed to be the outcome of one and the same objective, can it be used as a basis for passing the detention order by the District Magistrate.

9. A "single-incident" matter has been subject matter of enquiry by the Supreme Court in several decisions. However, three of them cited for Petitioner require mention at once because those three emanated from the same Bench of the Hon. Supreme Court through in Debu Mahato Vs. The State of West Bengal, and in Madhab Roy alias Madha Roy Vs. State of West Bengal, , the decisions have been delivered by Hon. P.N. Bhagwati, J (as his Lordship then was) whereas in Anil Dey Vs. State of West Bengal, , the judgment was pronounced by Hon. Krishna Iyer, J. In Debu Mahto the detention order was set aside and it was held that the satisfaction of the District Magistrate recorded in the order of detention, which was based on a single evident of wagon breaking, was no satisfaction at all. In this connection the background resulting in detention on a single transaction was so aptly described by Hon" Bhagwati, J. His Lordship says:

...Now in a given situation where wagon breaking as a crime has assumed alarming proportions "and." it is seriously obstructing and thwarting smooth and quick flow of supplies and services essential to the community, even a single act of wagon breaking by an individual may be regarded in a different light and conceivably afford justification for reaching a satisfaction that such individual may be detained in order to prevent him from acting in a prejudicial manner. But here we do not find anything in the affidavit filed by the District Magistrate in reply to the petition even remotely suggesting that wagon breaking was a crime which had become very rampant....

In Anil Dey, Hon. Krishna Iyer, J. has held as under:

Where the ground of detention supplied to the detenu indicated a single incident of theft in respect of Railway signal materials, feed and transformer from the junction box near signal which caused disruption of train service for a considerable long time affecting supplies and services but it was clear from the affidavit of the District Magistrate that he has derived subjective satisfaction from the circumstances that the detenu was a "notorious stealer of Railway stores" operating in Dum Dum Railway yards the ground given was neither too distant nor too trifling to strain judicial credulity to breaking point, on the contrary it was proximity and permiscuous;...but technical talent, functional perversity and conveyor-belt system of collaborating instrumentalities were all implied in the episode of removal of extremely complicated parts referred to in the ground set out. That single act necessarily commutated a course of previous conduct whereby some specialization had been acquired, some specialised agencies had been fabricated and some mischief had been planned to be perpetrated.

In Madhab Roy Hon. Bhagwati, J. again held as under-

Cutting and removal of copper return feeder wire of Railway traction was sophisticated and complex operation which required technical skill and expertise and was not the work of a layman or a novice. Therefore, though the incident referred to in communication served on the Petitioner was a single solitary incident, it could not be looked upon as an isolated act. It necessarily commutated a course of previous conduct of such or similar activities where specialised experience had been acquired and specialised kind of mischief had been planned to be perpetrated.

The ratio from the aforesaid three decisions is that if the solitary action which is made the basis of satisfaction by the detaining authority for passing the detention order indicates in itself some prior planning, meeting organising, the said single act can will be treated as a valid ground for passing a detention order. Strong reliance however, was placed by the learned Counsel for the Petitioners on two other decisions of the Supreme Court where, as it were, single incidents were rejected by the Supreme Court as being valid to convey satisfaction to the detaining authority for passing those impugned orders.

10. In Ramveer Jatav Vs. State of U.P. and Others, , the incident of murderous attack in day light to obtain possession of some property was held not sufficient for ordering detention even though in that case also the detaining authority had mentioned that the Petitioner in that case was trying to get bail and was then confined in detention. In Ramvir Jatav's case (supra) Hon. P.N. Bhagwati, C.J. observed as under:

It cannot be laid down as a bald proposition that one ground can never be sufficient for founding the satisfaction of the detaining authority for detaining a person. There are cases where one ground may be regarded as satisfaction if the activity alleged is of such a nature that the detaining authority could reasonably infer that the detenu must be habitually engaged in such activity, or there may be other circumstances set out in the grounds of detention from which the detaining "authority could reasonably be satisfied even on the basis of one ground that unless a detenu is detained he might indulge in such activity in future. But here the only ground alleged against the Petitioner is that he, along with others, jointly committed murder in broad day-light. This is the only ground given in the grounds of detention without any other circumstances from which any inference could be drawn that the Petitioner would be likely to commit such act, if left free....

11. It is interesting to mention here that in Ramvir Jatav's case the District Magistrate in his counter affidavit wanted to suggest various other circumstances to show that the Petitioner therein was habitually indulging in criminal activity but the grounds of detention served on the Petitioner in that case did not mention those circumstances at all. For this reason the additional circumstances were discarded by the Hon. Supreme Court and the solitary incident without any

attending circumstance whatsoever was held as insufficient to enable passing of the detention order. In view of the special facts mentioned in Ramvir Jatav's case the said ruling has absolutely no application to the facts of the present case.

12. In Fazal Ghosi AIR 1977 SC 1877, and the connected writ petitions and appeals, before the Supreme Court several persons were detained under the Act in pursuance of the orders passed by the District Magistrate Faizabad.

13. The solitary ground of detention in Fazal Ghosi's case was that after opening of the Ram Janam Bhoomi Temple at Ajodhya there was considerable agitation amongst the Muslim community. On the day of incident, Fazal Ghosi and his son Wahid addressed meetings after their after-noon prayer at Bhola Nath Ka Kuwan inciting them to beat the police and the P.A.C. At another place-Sarkata Nala--the Muslim community was similarly addressed by Ayaz Ahmad and Riyaz Ahmad in consequence whereof the crowd pelted stones and discharged firearms on the Government officials causing injuries. The Petitioners and the Appellants were arrested along with other persons. FIR was lodged against them under Sections 147, 148, 149, 307 and 331 IPC. The Petitioners and the Appellants applied for grant of bail and while the bail applications were pending, the District Magistrate, Lucknow, passed detention orders u/s 3(3) of the Act on 20-2-1986.

14. On the facts and grounds mentioned above the Supreme Court held as under:

In the present case, we are unable to discover any material to show that the detenus would act, in the future, to the prejudice of the maintenance of public order. Even if it is accepted that they did address the assembly of persons and incited them to lawlessness there is no material to warrant the inference that they would repeat the misconduct or do anything else which would be prejudicial to the maintenance of public order. The District Magistrate, it is true, has stated that the detention of the detenus was effected because he was satisfied that it was necessary to prevent them from acting prejudicially to the maintenance of public order, but there is no reference to any material to support of that satisfaction. We are aware that the satisfaction of the District Magistrate is subjective in nature but even subjective satisfaction must be based upon some pertinent material. We are concerned here not with the sufficiency of the material but with the existence of any relevant material at all.

In view of the aforesaid finding the Hon. Supreme Court directed release of those Petitioners and Appellants.

15. During the course of arguments, serious controversy arose as to what was meant by the Hon. Supreme Court by using the words "there is no reference to any material in support of that satisfaction." In order to appreciate the facts, the original record from the Lucknow Bench of those two matters was summoned. Riyaz Ahmad's writ petition was numbered as Habeas Corpus petition No. 1405 of 1986 with which Aijaz Ahmad's Habeas Corpus-Petition No. 1448 of 1986 was connected and both these writ petitions were dismissed on 31-3-1986 by a Division Bench of this Court at Lucknow. From a perusal of the record it appears

that neither copy of the bail application nor its details were mentioned in the Dossier supplied to the District Magistrate by the Sponsoring Authority nor was the copy of the bail application produced before the detaining authority. Consequently, no copy of the bail application was served on any of the detenus. In spite of all this, the District Magistrate recorded his satisfaction that if the Petitioners were permitted to come out of jail, there was likelihood of their indulging in acts prejudicial to the maintenance of public order. Under those circumstances the Hon. Supreme Court had clearly observed that "there was no material to support the satisfaction" of the District Magistrate that those detenus would be or there way any likelihood of their participating in acts prejudicial to the maintenance of public order. Photostat copies of both the records have been made part of the present writ petition to make those available, if and when necessary.

16. Consequently, neither the facts and circumstances nor the observations of the Hon. Supreme Court in Fazal Ghosi (Supra) came to the aid of the arguments on behalf of the Petitioner in the instant cases.

17. A combined reading of all the aforesaid decisions would lead one to the irresistible conclusion that where in a district it is found that communal tensions have run high and some or the other community led by one or two or its leaders or in which some of the participants take active and specific part and they assault the district officials or police officials and attempt to set fire to the business establishments belonging to another community, the said incident would be taken to be one disturbing public order and, therefore, action under the Act can be taken on that solitary ground alone.

18. On the factual aspect involved in the present case even if the two incidents are taken to be one continuous offence, even then the result of the said incident was certainly calculated to disturb public order and, therefore, action against persons participating in that incident could be lawfully taken under the provisions of the Act.

19. In view of the aforesaid discussion the first point canvassed on behalf of the Petitioners fails and is hereby rejected.

Point No. 2:

20. Coming to the second point it may be at once stated here that in the writ petitions the Petitioners have averred that their bail applications were pending before the court below for considering their release in the crimes in which they had surrendered voluntarily before the court. In the face of this admission it appears prima facie difficult to accept the argument on behalf of the Petitioners that the bail applications were net moved on their instructions. An attempt was also made to indicate that as if the bail applications may have been got moved at the behest of the district officials themselves in order to create a ground that in future the Petitioners were likely to indulge in acts prejudicial to the maintenance of public order. Apart from the fact that the said argument is much too far

fetched, it may be mentioned that the so-called enquiry said to have been instituted by the C.J.M. in the case of Altaf's bail application has not been got completed and there is absolutely no averment on behalf of either of the Petitioners as to whether the enquiry had really commenced or not, and if so, what was its stage. The C.J.M. where the Petitioners had surrendered had called for the police report through the public prosecutor posted in his Court. Those endorsements exist on the photostat copy of the bail applications. It is common knowledge that when an accused surrenders in court and makes an application for bail report from the concerned police station is always called. In this case also, therefore, it appears that after the police came to know of the surrender of the two Petitioners on the respective dates that the Authorities moved in the matter and ultimately got the detention orders passed so that in the event of their being bailed out they be not permitted to act in any manner prejudicial to the maintenance of the public order.

21. In *State of Punjab Vs. Surjan Singh and Another*, and in *Birendra Kumar Rai alias Virendra Kumar Rai Vs. Union of India (UOI) and Others*, , it has been held that the likelihood of release on bail would be a sufficient material to empower the detaining authority to foci satisfied that in order to prevent the accused an order of detention under the Act was necessary. In this connection five decisions of the Hon. Supreme Court having direct repercussions on matters having communal overture, must have to be referred to.

22. In *Wasiuddin Ahmed Vs. District Magistrate, Aligarh, U.P. and Others*, , the questions of maintenance of public order and maintenance of law and order were re considered. In paragraph 24 of the judgment it has been held as under:

The post conduct or antecedent history of a person can appropriately be taken into account in making a detention order, it is usually from prior events showing tendencies or inclinations of a man that an inference can be drawn whether he is likely, in the future, 10 article in a manner prejudicial to the maintenance of public order.

23. *Fitrat Raza Khan Vs. State of Uttar Pradesh and Others*, , he same Bench of the Hon. Supreme Court which decided *Wasiuddin's* case has held as under:

The two grounds set out are nothing but narration of facts bringing out the antecedent history of the Petitioner, it is obvious thereform that the-grounds for making the order for his detention is one and the same viz., to prevent him from inciting communal violence in Moradabad city.

Further discussing the question as to whether the first incident and the second incident could be joined together the Hon. Supreme Court in *Fitrat Raza Khan* observed in paragraph 4 as under:

...the act on the part of the Petitioner squarely fell within the realm of public order as it was calculated to disturb public peace and tranquilly. It is needless to emphasis that in casement of the members of a particular community to

communal violence in. a town like Moradabad where the Muslim population predominates pertains to public order and not merely to law and order.

24. In *Kamlabai (Smt) Vs. Commissioner of Police, Nagpur and Others*, , where the detention of the Petitioner was upheld on the solitary grounds, other grounds having been rejected, that on 1-2-1992 at about 9-45 hours when the police Sub-Inspector was patrolling, the detenu questioned the S.I. as to on what authority the S.I. took search of the stable of the Petitioner and found the liquor bottles and threatened him that they will finish him if he does not act according to their wishes. So saying, the detenu caught hold of the S.I. and surrounded him. The S.I., however got released and went to the police station. This act and conduct of the detenu was considered to display gonads. Consequently the detenu therein was detained under an order passed under the Act. The Hon. Supreme Court has held as under:

We cannot say that this is a stray act affecting law and order. Catching hold of the Sub Inspector find threatening him in a public place like that naturally would have created panic in the locality. We cannot say that the ground Ins no nexus to the public order.

25. In *Shafiq Ahmad 1989 SCC 774*, the Hon. Supreme Court through Hon. Sabhya Sachi Mukerji, J. (as his Lordship then was) spoke as under:

The difference between public order and law and order is a matter of degree. If the morale of the police Force or of the people is shaken or undermined by making them lose their faith in law enforcing machinery of the State, then prejudice is occasioned to the maintenance of public order. Such attempts or actions which undermine public faith in the Police Administration at a time when communal tensions are high, affects maintenance of public order and as such, conduct is prejudicial....The court has to ensure that the order of detention is based on materials before it. If it is found that the order passed by the detaining authority was no materials on record, the court can examine the record only for the purpose of seeing whether the order of detention was based on no material of whether the materials have rational nexus with satisfaction that public order was prejudiced. Beyond this, the court is not concerned.

26. In *Smt. Bimla Rani 1989 SCC 756*, it has been clearly laid down that:

When an incident was such that it created communal tension and the authorities were apprehensive of the breaking of communal riot, such incident in itself may be sufficient and may afford justification for the satisfaction of the detaining authority for the detention of the detenu in order to prevent him from indulging in such activity prejudicial to public order even though there are no antecedent acts of similar nature or past history of commission of crime by the detenu.

(emphasis supplied)

Before parting with this point it may be recalled that the "objects and reasons" for which the Act was passed itself takes note of the contingency of resorting to

the provisions in the Act where "prevailing circumstances of communal disharmony exists.

27. The learned State counsel had drawn the attention of this Court to the two decisions in Nairn Kana 1988 ALJ 43 and in Bhullu 1988 ALJ 249. In both these matters the respective Division Benches went into the question of public order and law and order and in the latter of them (In Bhullu) a single incident without any past history was held sufficient to satisfy the detaining authority to pass an order of detention under the Act.

Point No. 3:

28. In order to register this point the learned Counsel relied upon two decisions of a Division Bench passed in Habeas Corpus Petition No. 8922 of 1992 (Amin Baba v. State and Ors.) and in Habeas Corpus Petition No. 8893 of 1993 (Mohammad Hafiz v. Union of India and Ors.). In Amin Baba the representation of the Petitioner was sent on 7-1-1993 through the District Magistrate. The District Magistrate had not forwarded his comments though he forwarded representation on 8-1-1993. The District Magistrate, however, sent his comments on 15-1-1993 which was received by the State Government on 16-1-1993. However, the State Government rejected the representation of Amin Baba on 21-1-1993. It was held by the Division Bench that delay of 9 days forwarding the representation and the delay of 5 days in deciding the representation by the State Government thereafter was not at all explained, and, therefore, it was held that Article 22(5) of the Constitution was violated. Without mentioning the dates it may be mentioned here that in Mohammad Hafiz's petition delay of 11 days in sending of the comments and thereafter the rejection of the representation by the Government concerned long thereafter was not at all explained and therefore, Article 22(5) of the Constitution of India was held to have been violated in Mohd. Hafiz's case also. In the present case the representation of Sharif is dated 18-1-1993 which reached the District Magistrate on 20/21-1-1993 on which date it reached the State Government. It was placed before the Advisory Board on 21-1-1993. The Petitioner was heard personally by the Advisory Board on 23-1-1993. In the meantime the District Magistrate's comments on the representation was received by the State Government on 27-1-1993 which was also placed before the Advisory Board on 28-1-1993. The State Government rejected the representation of the Petitioner on 30-1-1993. Therefore, the entire exercise of sending of the comments and the decision thereon by the State Government was over within exactly 10 days.

29. In Altaf's petition the facts are that on 19-1-93 the representation was handed over which was sent to the District Magistrate on the same day whereas the detention order was passed and served on the Petitioner on 6-1-1993. The Petitioner was personally heard by the Advisory Board on 18-2-1993 and the report of the Advisory Board was received by the State Government on 23-2-1993, Comments on the representation were sent by the District Magistrate on 27-1-1993 which were received by the Government on 28-1-1993 and placed

the same before the Advisory Board on 28-1-1993 On 29-1-1993 the representation was rejected by the State Government. Consequently in this matter the making of the representation and its decision were all over within 10 days.

30. Reliance was placed by the learned Counsel for the Petitioner in Mahesh Kumar Chauhan alias Banti Vs. Union of India and others, and a Division Bench decision of this Court in Habeas Corpus Petition No. 37028 of 1992 of Ram Chandra Singh, H.V.D. 1993 (1) All. 311. In this case 13 days" delay by the District Magistrate in sending his comments which resulted in consequent delay in disposal of his representation by the State Government was held violating Article 22(5) of the Constitution of India. As stated above, in the instant case those questions simply do not arise because of the speed and promptness with which the District Magistrate and the State Government had acted in dealing with the representation of the Petitioner.

31. It was argued that in some cases relating to district Kanpur where provisions of the Act had been invoked, detention" orders have either been quashed by this Court or has rem negatived by the Advisory Board and in some the orders have been revoked by the State Government and, therefore, this Court may revoke or, at least, direct revocation of the two detentioa orders under challenge in these two petitions. It may be stated here that the right of the appropriate Government to revoke a detention order is absolute. If it is true that in some matters relating to district Kanpur the State Government has revoked some detention order, in that event it would be open to the Petitioner to make application for revocation of the detention orders passed against them before the appropriate authority which is hereby directed to consider the same in accordance with law as expeditiously as possible.

32. No other point survives for discussion.

33. In view of the aforesaid discussion these petitions are hereby dismissed. This order will govern both the petitions.