
(2000) 12 AHC CK 0084
In the Allahabad High Court
Case No : Writ Petition No. 509 (HC) of 2000

Anand Kumar Dubey

APPELLANT

Vs

D.M.,Sultanpur and Others

RESPONDENT

Date of Decision : 05-12-2000

Acts Referred:

National Security Act, 1980 — Section 3(1)

Citation : (2000) 12 AHC CK 0084

Hon'ble Judges : S.H.A.Raza, J and R.P.Nigam, J

Final Decision : Allowed

Judgement

1. This writ petition is directed against the detention order dated 2992000 passed by the District Magistrate, Sultanpur, detaining the petitioner under Section 3(1) of National Security Act, 1980. According to admitted case of the parties, the representation to the petitioner to the State Government was received in the Office of District Magistrate on 10102000 which was sent by a Special Messenger, by a covering letter dated 12102000 to the State Government. The representation of the petitioner was already sent to the Central Government on 12102000. The State Government sent the copies of the representation to the U.P. Advisory Board by its letter dated 21102000 and asked comments from the District Magistrate, Sultanpur. The comments to the detaining authority on the aforesaid representation was not received till 31102000, thus, the State Government once again asked District Magistrate, Sultanpur for comments on 1112000. The comments were not received till 2112000, thus, the State Government examined the representation of the petitioner independently and submitted a detailed note on 3112000. The Special Secretary examined it on 3112000 and thereafter submitted it to the Secretary (Home) and Confidential Department, who examined it on 4112000 and submitted to the higher authorities for final orders of the State Government. After due consideration, the said representation was finally rejected by the State Government on 411 2000.

2. From the aforesaid facts, it is evident that the representation of the petitioner was received in the office on 10102000, but was ultimately rejected on 4112000, after a lapse of more than three weeks. The delay in sending the representation by the detaining authority to the State Government as well as the Central Government has not been explained properly. If the comments from the District Magistrate were necessary, then it was incumbent upon the District Magistrate to have sent the comments immediately, but as the comments were not received till 2nd November, 2000, the State Government rejected the representation on 411 2000.

3. We are definitely of the view that the delay in passing appropriate orders on the representation of the petitioner amounted to denial of the petitioner's right as guaranteed under Article 22 (5) of the Constitution of India which has vitiated entire detention order. As this writ petition is allowed for that reason, we have desisted ourselves for considering the other grounds which have been raised in the present writ petition. The writ petition in the nature of habeas corpus is accordingly allowed. The order of detention dated 2992000 passed by District Magistrate, Sultanpur is accordingly quashed. The petitioner shall be released forthwith unless he is wanted in some other case. Petition allowed.