
(1997) 04 DEL CK 0068

In the Delhi High Court

Case No : Criminal Writ Petition No. 623 of 1996

Kong Bun Thoeurn

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 23-04-1997

Acts Referred:

Citation : (1997) 68 DLT 373 : (1997) 42 DRJ 90 : (1998) 118 PLR 56(2) : (1997) 4 RCR(Criminal) 257

Hon'ble Judges : Mahinder Narain, Acting C.J.;S.K. Mahajan, J

Bench : Division Bench

Advocate : S. Bhayana, A.K. Vali, S.K. Agarwal and L.R. Luthra, for the Appellant;

Judgement

Mahinder Narain, A.C.J.

(1) The only point which is urged in this petition filed by Kong Bun Thoeurn, a Cambodian national, is that the representation made by him against the order of detention, has not been considered by the detaining authority who is authorised to consider and rule upon it. According to Ms. Sangita Bhayana, by virtue of Office Order No.A-22012/2/93-Admn.I dated 20.1.1993, the Minister of State (Revenue & Expenditure) will put up, inter alia, (a) representation for revocation and (b) confirmation of detention period made by the Cofeposa detenu, to the Minister of Finance.

(2) The petitioner before us is Cofeposa detenu. He had made representation against declaration. That representation by virtue of the Office Order dated 20.1.1993 had to be considered by the Minister of Finance.

(3) It is the case of Ms. Sangita Bhayana that the representation instead of being considered by the Minister of Finance, was in fact dealt with by the Revenue Secretary.

(4) There is no authorisation by the Minister of Finance in favor of the Revenue

Secretary to consider the representation against the declaration. In the counter-affidavit filed by the respondent it is not asserted by the Union of India that such an authorisation existed in favor of the Revenue Secretary.

(5) In this view of the matter, inasmuch as the representation against the declaration has not been considered by the person authorised to consider the same namely, the Minister of Finance, the detention has to be set aside. The detention order of the petitioner is set aside.

(6) The petitioner be released forthwith from detention if not required in any other case.