

(2006) 07 GAU CK 0040
In the Gauhati High Court

Lairenlakpam Joychandra

APPELLANT

Vs

District Magistrate, Imphal West, Manipur and Ors.

RESPONDENT

Date of Decision : 18-07-2006

Acts Referred:

Citation : (2006) 07 GAU CK 0040

Hon'ble Judges : M.B.K.Singh, J and T.Nanda Kumar Singh, J

Bench : Division Bench

Advocate : K.Kumar, Th.Ibohal Singh, Ch.Ngongo Singh, Advocates appearing for Parties

Judgement

1. Heard Mr.Ch.Ngongo, learned counsel appearing on behalf of the petitioner, Mr. Th.Ibohal, learned Addl. Govt.Advocate appearing on behalf of the State respondents and Mr.K.Kumar, learned counsel appearing on behalf of the respondent No.4.

2. In this case the petitioner is challenging the legality of his detention order under National Security Act. As per records, he was ordered to be detained by the District Magistrate, Imphal West on 28th April, 2006 purportedly to prevent him from acting in any manner prejudicial to the security of the state and maintenance of public order. The detention order was approved vide order No. 17(1)1002/2006H dated 8th May, 2006 issued by the Joint Secretary (Home), Govt. of Manipur. Then the State Government confirmed the said detention vide order No. 17(1)1002/2006 dated 14th June, 2006.

3. Mr. Ngongo, learned counsel appearing on behalf of the petitioner submits that the petitioner was never informed about his right to make representation to the Central Government and as such, his detention under National Security Act has been vitiated for violation of the provisions of Article 22(5) of the Constitution read with Section 14 of the National Security Act.

4. We have also perused the grounds of detention dated 2nd May, 2006 which was furnished to the detenu. It is ascertained that the detenu was never

informed about his right of making representation to the Central Government. Mr.Th.Ibohal learned Addl.GA frankly submits that the original records are with him and there is nothing in the said records showing that the detenu was informed about his right of making representation to the Central Government.

5. It is well settled that it is obligatory on the part of the detaining authority to inform the detenu about his right of making representation to the Central Government. In view of the noncompliance of the above said well settled position of law, continuing detention of the detenu under the National Security Act is not sustainable in the eye of law. Accordingly, the detention order and confirmation order are hereby quashed and the detenu, namely, Shri Lairenlakpam Joychandra Meitei s/o L.Nemnem Singh is to be released at his liberty immediately if he is not required to be detained in connection with any other cases.

6. With this, this writ petition stands disposed of.