

(1999) 10 DEL CK 0032

In the Delhi High Court

Case No : Criminal Writ Petition No. 697 of 1999

Satish Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 13-10-1999

Acts Referred:

Citation : (2000) 3 AD 222 : (2000) 84 DLT 169 : (2000) 53 DRJ 413

Hon'ble Judges : R.S. Sodhi, J;A.D. Singh, J

Bench : Division Bench

Advocate : Ms. Sangita Bhayana, for the Appellant; Mr. H.J.S. Ahluwalia, with Inspector R. S. Jakha, SHO and P.S. Malviya Nagar, for the Respondent

Judgement

Anil Dev Singh, J.—Rule DB.

This petition can be disposed of at this stage itself.

2. By this writ petition the petitioner challenges the order of his detention dated 8th June, 1999 passed by the Commissioner of Police u/s 3(2) of the National Security Act, 1980. The short point urged by the learned counsel for the petitioner is that the relied upon documents accompanying the ground of detention at pages 43, 57 and 58 were not furnished to the petitioner in Hindi language. According to the learned counsel for the petitioner, the detenu does not know English language and knows and understands Hindi only. It is pointed out by the learned counsel for the petitioner that the petitioner had made a representation to the detaining authority to supply to him the documents relied upon in Hindi. Pursuant to the representation the petitioner was furnished with translated copies of the relied upon documents in Hindi except that documents at pages 43, 57 and 58 were in English language. This position has not been controverted by the State. It is well settled that where a detenu knows only a particular language, the relied upon documents must be given to him only in that language.

3. In Powanammal Vs. State of Tamil Nadu and Another, , it has been held as

follows:-

"However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because non-supply of such a document would amount to denial of the right of being communicated grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the document merely finds the grounds thereof. In such a case the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applied to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu, should the document be in different language."

4. The aforesaid observations clearly show that the documents relied upon by the detaining authority must be supplied to the detenu in the language which he knows and understands. In case the documents are not supplied in the language which the detenu understands, the continued detention of the detenu would be vitiated. Since the petitioner was not furnished with translated copies of the documents at page Nos. 43, 57 and 58 the continued detention of the petitioner stands vitiated. Accordingly the rule is made absolute and the petitioner is directed to be set free forthwith unless he is required in some other case.

5. Copy of the Order be given duly to the learned counsel for the petitioner. The operative portion of the order prepared separately be communicated to the Superintendent, Central Jail, Tihar, immediately.