

(1992) 07 AHC CK 0052

In the Allahabad High Court

Case No : Habeas Corpus Writ Petition No. 13381 of 1992

Wazir Yadav

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 10-07-1992

Acts Referred:

Constitution of India, 1950 — Article 14, 22
Criminal Law (Amendment) Act, 1932 — Section 7
General Clauses Act, 1897 — Section 21
National Security Act, 1980 — Section 12, 12(1), 14, 3(2), 3(3)
Penal Code, 1860 (IPC) — Section 147, 294, 307, 323, 336

Citation : (1993) CriLJ 1220

Hon'ble Judges : Palok Basu, J;G.S.N. Tripathi, J

Bench : Division Bench

Advocate : P.L. Sawhney, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Palok Basu, J.—In spite of several decisions by the Hon'ble Supreme Court and following them, by this Court and perhaps all other High Courts, counsel are emboldened to argue that the given case may not fall within the ambit of "acting in any manner prejudicial to the maintenance of public order" and shall be confined to the "law and order" problem. In the instant case, however, since the petitioner Wazir Yadav claims himself to be a 28 years aged man, being a student of Class M.Ed. in Nanak Chand Angle Sankrit College, Meerut and that he is a sportsman and a renowned social worker and further claims to be a student leader, his actions as reported through grounds 1, 2, 3 and 4 appear to be too serious to countenance the aforesaid argument.

2. It appears that on 26-2-92 the District Magistrate has passed an order of detention u/s 3(3) of the National Security Act (N.S.A.). In passing the said order, the District Magistrate felt satisfied that since it was necessary to prevent the petitioner from acting in any manner prejudicial to the maintenance of public

order, the passing of the order under N.S.A. was imperative. He based his satisfaction on the following grounds which too were supplied to the petitioner and served along with the said detention order dated 26th February 1992 when he was arrested :--

(1) On 20-1-92 at about 12 noon, Wazir Yadav along with his companions Om Prakash and others came to D. M. College, Meerut in connection with matters of Chhatra Sangh (Students' Union) for the purpose of inciting violence and terror through his speeches and within that end in view went to the Principal's room and caused damage to the property and also pulled up glass kept on the table and threw it on the Principal. As a result of all this lawlessness in the campus and feeling of insecurity gripped the teachers and employees etc. in the college and all of them became scared. Regarding this incident, First Information Report has been lodged at Police Station Delhi-gate Meerut, under Sections 147, 323, 504 and 506 IPC and Section 427 IPC against case crime No. 45/92 which is under investigation;

(2) On 21-1-1992 Wazir Yadav formed a group of miscreants whose object was to infuse lawlessness and terror in the college premises, amongst whom Om Prakash and Dheeraj were prominent. He along with said group arrived at N.A.S. College, Meerut at 10.20 a.m.; forcibly dragged students out of the class-rooms and started giving speech in order to incite the students to resort to a fight unto and indulge in violent activities in connection with matters of Chhatra Sangh, misbehaved with the Principal and the teachers and attempted to murder them with knives. As a result of all this, lawlessness in the campus and feeling of insecurity gripped the college. A report about it was lodged at Police Station Civil Lines, Meerut as crime No. 36/92 under Sections 147, 323, 352, 504, 341, 307 and 506 IPC and Section 7 Criminal Law Amendment Act, which is under investigation;

(3) In the same continuation, again on 13-2-1992 when Sri P. C. Pachaury, Principal D. N. College, Meerut was proceeding from his residence to his college around 10.30 a.m. at a public crowded road in front of Reghunath Girls Degree College the petitioner along with 20-25 accomplices in an utterly daring manner, surrounded him amongst whom Om Prakash and Dheeraj were prominent. Dr. P. C. Pachaury was beaten with fists and manhandled on the road and was threatened to be murdered by country-made pistol and similarly a threat was extended to liquidate his family members also. As a result of all this, feeling of insecurity and fear gripped the teachers in general and Dr. P. C. Pachaury in particular. Regarding this incident a report was lodged at police station Civil Lines Meerut as Crime No. 71/92 under Sections 147, 323, 506 IPC which is under investigation;

(4) In continuation of the aforesaid incident dated 13-2-1992, Wasir Yadav accompanied with 10 or 12 persons amongst whom Om Prakash and Dheeraj were prominent, entered the College precincts at 11 a.m. and threatend to set-fire to the office of the Principal Sri V. B. Chauhan and also set fire to the college

and threatened that the college shall not be permitted to run and they attempted to cause murder by firing through fire-arms. In this riotous action, laboratory in the chemistry department the case (motor-vehicles) of the Principal and teachers were damaged causing loss of about Rs. 2 lacs. As a result of all this criminal activity and lawlessness in the campus, a feeling of insecurity gripped the teachers and employees in the college forcing the teachers and students and the college students ran helter skelter in terror and fear;

(5) (In the grounds of detention, there is no separate serial number against this ground, but here it is so mentioned to maintain distinction.) In continuation of the same incident and misbehaviour, in furtherance of his highhanded action of causing damage again on 13-2-1992 at about 11.10 a.m. Wazir Yadav along with his 10-11 accomplices, amongst whom Om Prakash and Dheeraj were prominent, caused extensive Damage to the Chemistry laboratory and broke bottles of chemicals, damaged the furniture and also molested the college girls students. This riotous, unsocial and indecent act created a reign of terror amongst the girl students, students and teachers and the public which resulted in a melee and in the whole city, the entire teacher and students communities is feeling insecure and the academic life has been completely disrupted. Regarding these two incidents, First Information Reports at Crime No. 45/92 under Sections 147, 307, 336, 427 IPC and 7 Criminal Law Amendment Act and Crime No. 45-A/92 under Sections 147/427, 379 and 294 IPC have been registered, which are under investigation.

3. It was further narrated that the petitioner on bail since 17-2-1992 and ever since he is planning to indulge in, the same violent activities to spread indiscipline & violence, regarding which the police of Police Station Lalkurti Meerut through, Sub-Inspector Sri Rajendra Singh has registered a report in the General Diary No. 40 dated 18-2-1992, the aforesaid unsocial and criminal activities of the petitioner has disrupted the normal social life particularly the academic life amongst the teachers, male students and female students and a reign of terror is noticed.

4. It is further narrated by the District Magistrate in the grounds that in view of the grounds and reasons stated by him he was satisfied that the petitioner should be detained in order that he is prevented from acting in any manner prejudicial to the maintenance of public order, breach of which is rather imminent.

5. It appears that when the grounds "of detention were served on the petitioner, true attested copies of the report dated 19-2-1992 of the Senior Superintendent of Police report dated 19-2-1992 of the Superintendent of Police, City Meerut, report dated 1992 of the Circle Officer, Sadar Meerut report of Station Officer Police Station Lalkurti, Meerut dated 18-2-1992 were also served upon the petitioner, true copies whereof have been appended along with this petition.

6. It is also apparent that true copies of the five First Information. Reports relating to the aforesaid four grounds were also served upon the petitioners, true

copies have also been filed by the petitioner's counsel along with the petition. It is admitted that in body of the writ petition, due to typographical mistake, it is mentioned that as if four, first information reports were served, but through the Annexures it is apparent that in fact give copies of the First Information Reports were served upon the petitioner.

7. It appears that the petitioner was confined in the District Jail, Meerut after his arrest wherefrom he made representation dated 10-3-1992 for being forwarded to the Advisory Board, State Government as also to the Central Government. Having received the comments, the State Government forwarded the report on his representation to the Central Government. The Advisory Board decided the matter of the petitioner on 26-3-1992. The reports about the decision of the Advisory Board were forwarded to the State Government on 28-3-1992 and 31-3-1992. The State Government has rejected the representation of the petitioner on 3-4-1992 and the Central Government rejected his representation on 7-4-1992.

8. This petition was filed in this Court on 25-4-1992 when the opposite parties were granted time to file counter affidavit. The State Government, the District Magistrate and the Deputy Jailer have done so. Rejoinder affidavit has also been filed by the petitioner. It may be pointed out that along with the rejoinder affidavit filed in reply to the counter affidavit filed by the Deputy Jailer, Annexure RA-3 has been annexed which appears to be photo stat copy of the radiogram message transmitted to the Jail authorities indicating that the aforesaid co-accused Om Prakash was released by the State Government and the State Government's order dated 5-3-1992 has been revoked by the State Government in pursuance of the recommendation of the Advisory Board. Incidentally, it is the admitted case that the aforesaid Om Prakash was detained in pursuance of detention order dated 26-2-1992, a true copy of which has been filed as Annexure RA-2 to the aforesaid rejoined affidavit. The incident, mode of satisfaction and the language used in the said grounds relating to Om Prakash are identical to the grounds relating to petitioner Wazir Yadav. It is also admitted that Om Prakash had filed writ petition in this Court challenging the aforesaid detention order which Was admitted by this Court and was connected with this petition, but after revocation of the aforesaid order, the learned counsel did not press his writ petition and it was consequently dismissed as withdrawn. Om Prakash has been consequently enjoying liberty, there being no detention order in force against him any more.

9. Sri V.P. Srivastava and Sri Shiv Shanker Yadav for the petitioners and Sri Sivaji Misra, learned A.G.A. have been heard at length and the entire record has been perused:

10. Three primary grounds have been argued on behalf of the petitioner which are as follows :--

(1) Since the grounds narrated in the detention order relate only to law and

order and do not affect public order, therefore, powers u/s 3(3) N.S.A. by the District Magistrate could not have been invoked,

(2) Representations of the petitioner have been decided by the two respective Governments after considerable time and, therefore, it cannot be said that mandate of Article 22 of the Constitution of India has been followed and thus, continued detention of the petitioner is void and bad in law and,

(3) Since co-detenu whose grounds of detention were identical, has been released in pursuance of revocation order passed by the State Government which was in consonance of the opinion of the Advisory Board; the petitioner's detention should also be declared void as the continuation Of the petitioner's detention is per se arbitrary action on the part of the State Government inasmuch as it is intentional avoidance of legal consequences of the action of the Advisory Board and, therefore, hit by Article 14 of the Constitution of India.

11. Taking up the first ground, reliance was placed on the celebrated decisions of the Hon''ble Supreme Court reported in Arun Ghosh Vs. State of West Bengal, . Reliance was also placed on State of U.P. Vs. Hari Shankar Tewari, : Gulab Mehra Vs. State of U.P. and Others, : Subhash Bhandari Vs. District Magistrate, Lucknow and Others, and Mrs. T. Devaki Vs. Government of Tamil Nadu and others, . Apart from these decisions of the Hon''ble Supreme Court, reliance was placed on Division Bench decisions of this Court reported in 1986 ACC 288 : (1988 AILLJ 1332) (re: Sanjiv Yadava v. Union of India) and 1988 ACC 397 : (1988 ALJ 1003 (re: Ghanshyah Nishad).

12. One need not emphasise any more that "public order" is disturbed when the even tempo of the life of the community is threatened; it is distinct from the term "law and order" which may be attracted only when directed against an individual which does not disturb the society to the extent of causing general disturbance of general tranquillity. Hon''ble Supreme Court had laid down :

It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take for instance, a man stabs another. People may be socked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of the act embrace large sections of the community and incite them to make further breaches of law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different Arun Ghosh Vs. State of West Bengal,

13. It is also true that the Hon''ble Supreme Court has reiterated that any disorderly behaviour of a person in the public or commission of a criminal offence is bound to some extent affect the peace prevailing in the locality and it may also

affect law and order but the same need not affect maintenance of public order. There is basic difference between "law and order" and "public order". The question whether a man has only committed a breach of law and order or has acted in a manner likely to cause disturbance of the public order is a question of degree and the extent of the reach of the act upon the society Mrs. T. Devaki Vs. Government of Tamil Nadu and others,

14. Whether it is Arun Ghosh Vs. State of West Bengal, or T. Devaki's case (supra), the pith and substance of the line of the decision of the Hon"ble Supreme Court is that it is the degree of disturbance and its effect upon the life of the community in the locality which determines the nature and character of breach of public order. It is, therefore, always a question of degree and the extent of the reach of the act upon the society which should be the determining factor as to whether action or actions taken in the grounds would be a matter said to be disturbing law and order or public order. In this connection, it may not be more necessary to go into the Division Bench decisions of this Court because those have only followed the decisions of the Hon"ble Supreme Court.

15. Coming to the grounds based upon the narration in the five First Information Reports, it is beyond ones comprehension that such series of criminal activity should be confined to the category of disturbing law and order only. It is impossible to persuade one that such broad day light criminalities in college after college, days after days, bearing and man-handling teachers after teachers, damaging property worth lacs of rupees, disturbing the student community and teachers community and molesting and manhandling girl students should be disturbing law and order confined to the college in which such incidents happened. The five First Information Reports indicate a series of acts of certain persons including the petitioner and Om Prakash erstwhile co-detenu; throwing of a glass on the Principal in one college, namely, D. N. College, Meerut which happened on 20-1-1992; the other incident relating to attempt to murder with knives on the teachers and indecent behaviour towards the entire teacher community and the Principals and the students and taking out of the students from classes forcibly which has been done in N.A.S. College, Meerut; and three incidents being dated 13-2-1992 which were committed in the public thoroughfare in front of Raghunath Girls Degree College in which Principal of D. N. College, Meerut Dr. P. C. Pachaury was attempted to be shot dead by country made pistol at 10.15 a.m. and for that purpose Sri Pachaury was assaulted with fists and kicks and threat was extended to him that he and his family members shall be done away with the fourth incident dated 3-2-1992 which in fact happened in Meerut College at 11 a.m. includes threat to set at fire the office of the Principal and other property in the college and attempt to kill him by firing fire arms; and causing extensive damage to the college property and Chemistry Department causing loss to the tune of several lacs of rupees. Much could be said about the claim of the petitioner that he is a student leader and has been detained with some ulterior reasons. The five grounds noted above are too serious and it cannot be said that they were connected in any way only with

matters of college union or may be termed as ordinary acts of indiscipline. In the very nature of things, the incidents noted above individually and cumulatively, has the potentiality and in fact it did disturb the public order and, therefore, the argument is rejected.

16. The last incident incorporates specifically that those miscreants had, while committing those offences, molested and extended indecent behaviour towards the girl students, apart from student community in general.

17. By the aforesaid considerations the chain of incidents if termed as capable of disturbing law and order, there cannot be imagined any action disturbing public order.

18. In view of this detailed discussion, it must be held that the grounds of detention as narrated in the order of detention of the District Magistrate, refer to problem of public order and there is no force at all in the argument of the learned counsel for the petitioner that each individual ground should be taken as individual law and order problem.

19. Coming to the second ground that there was delay in the disposal of representations by the State and the Central Government respectively, it is mentioned only to be rejected. Date-wise explanation of the reports having been called, sent and received by the respective authorities have been given in the respective counter affidavits. In any case, the State Government decided the representation on the 25th day of its making and the Central Government has done so on the 27th day of its making. On the facts of the present case, it cannot be said that there had been any delay in deciding the representations of the petitioner. This ground also fails.

20. The third ground has occupied anxious moments of this Court that should this court intentionally close its eyes to the admitted fact that Om Prakash, whose grounds of detention were identical and against whom those five First Information Reports were the material as against the petitioner has been released by the State Government because it has revoked his detention order in view of the opinion of the Advisory Board but continued with the detention of the petitioner?

21. One is not sure how far Article 14 of the Constitution of India, which says that the State shall not deny to any person equality before the law and equal protection of the laws within the territory of India, could be applied to the facts and circumstances of the present case. The Hon'ble Supreme Court has observed:--

The Preamble of the Constitution of India resolves to secure to all its citizens; Justice, social, economic and political; and Equality of status and opportunity. Every State action must be aimed at achieving this goal.... This being the philosophy of the Constitution, can it be said that it contemplates exclusion of Article 14 non-arbitrariness which is basic to rule of law from State actions in

contractual field when all actions of the State are meant for public good and expected to be fair and just Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others, Article 14 was sought to be relied upon by the learned counsel for the petitioner saying that non-interference by this Court is likely to result in mis-carriage of justice and applying different laws to two persons who stand on the same footing.

22. In extending the aforesaid argument, the learned counsel has filed supplementary affidavit stating that the petitioner had made yet another representation to the Chairman of the Advisory Board, State of Uttar Pradesh and the Central Government through the Home Department. This representation is dated 18-6-1992 through which it was claimed that since Om Prakash's case stands on identical footing, the petitioner's matter should be reconsidered; his detention order should also be revoked and he should be set at liberty forthwith. The mere fact that the petitioner's detention is still continuing indicates that the representation has not met with success so far. This necessitates a look at sections 12 and 14 of the National Security Act :--

12. Action upon the report of the Advisory Board.

(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of a person, the appropriate Government shall revoke the detention order and cause the person concerned to be released forthwith." Section 14 reads thus:--

Revocation of detention order. Without prejudice to the provisions of Section 21 of the General Clauses Act, 1897 (10 of 1897), a detention order may, at any time be revoked or modified:--

(a) notwithstanding that the order has been made by an officer mentioned in Sub-section (3) of Section 3, by the State Government to which that officer is subordinate or by the Central Government.

(b) notwithstanding that the order has been made by a State Government, by the Central Government.

...

...

23. The language in Sub-section (1) of Section 12 indicates that continuous detention of a citizen even after affirmative report of the Advisory Board is optional inasmuch as such a detenu may still be released. But Sub-section (2) makes it imperative that if the opinion of the Advisory Board is in the negative with regard to further continuation of a citizen, release order by the State

Government shall have to mandatorily follow.

24. The question arising for consideration here is that when the grounds of detention are identical; one served on Om Prakash and the other served upon the petitioner, can it be permitted to be said by the State that the detention order still stands. It is impossible to countenance such an argument as that will permit extreme arbitrariness on the executive. It is reprehensible to permit a citizen to enjoy liberty on the same grounds while permit another to languish in jail in detention. This will be in the teeth of the purpose and objective behind section 12 N.S.A. read along with Section 14, quoted above.

25. At the request of the Court Sri D.S. Misra, a leading counsel of this Court gave reference of two decisions of the Lucknow Bench of this Court where observations akin to holding that Article 14 may be invoked in case of co-detenu having been released on revocation of his detention order on the similar grounds exist which may be incorporated here to add strength to the view we are taking.

26. In Habeas Corpus Petn. No. 11 of 1991 and 12 of 1991 of the Lucknow Bench of this Court, decided by the said Bench on 2-4-1991 by Hon"ble Virendra Kumar and Hon"ble J. K. Mathur, JJ., though several grounds were canvassed, the relevant paragraph is quoted hereunder from the certified copy produced by the learned counsel at the bar:--

In the first place learned counsel for the petitioners assailed the orders of detention on the ground that the third detenu Wahid against whom similar order of detention on the same ground was passed, has already been released after cancellation of his detention order of the same date passed by the District Magistrate, Lucknow u/s 3(2) of the Act. To be specific, in Paragraph 19 of the writ petitions, the petitioners submitted that Wahid's detention order was not confirmed by the Advisory Board though the ground for detention of the petitioners and Wahid was one and the same. In the reply given to this point, in the counter affidavit furnished by the detaining authority, that is, the District Magistrate, Lucknow, all that is stated is that the order of detection against Wahid was revoked by the State Government. On receipt of the opinion of the Advisory Board and that each case depended on its own facts and circumstances. Thus, it is not the case of the opposite parties that the case Off the detenu Wahid was different and distinct from that of the present petitioners. The contents of the First Information Report (reproduced above) which formed the basis of the detention order against Wahid and the present petitioners, makes out that the implication of Wahid and the present petitioners in the occurrence was identical and Wahid was in no way less involved in that occurrence or the offence. Thus, there is force in the contention of the learned counsel for the petitioners that the cases of all the three detenu being identical and they having been detained on the same ground, the present petitioners are entitled to their release like that of Wahid on the ground of parity. In writ petition No. 9493 of 1988, Khalil v. State of Uttar Pradesh, Division Bench of this Court has decided on 1-5-89 that a detenu was entitled to release on the ground of parity when the co-detenu with identical

cases had already been set at liberty. The writ petition, therefore, deserves to be allowed on this score alone.

27. It is true that several grounds in the said cases were also taken due note of and it was held that the order of detention could not survive on those additional grounds also.

28. However, as the aforesaid quotation indicates, in yet another petition (Writ Petn. No. 9493 of 1988; Khalil v. State of U.P.) similar view had been taken which was cited with approval. The observations are candid enough to indicate that the said two writ petitions deserved to be allowed on the aforesaid ground of parity alone.

29. One need not be told the distinction between State entering into contractual dealings and passing certain orders in connection therewith as distinct from the orders of the State which may be passed in some other capacity, and, that, Principles of stare decision should remain confined to judicial orders; principles of constructive res judicata should also confine to proceedings in Courts of law and principles of issue estoppel and promissory estoppel should also remain confined to those executive actions which have been passed in exercise of administrative powers of the State. But regarding its actions touching preventive detention, it was rightly argued that there is nothing more important in a civilised democratic society than individual liberty. Conceding that the State Government is bound to follow the opinion of the Advisory Board relating to release of a detenu, it is to be emphasised that the reciprocal action would be necessitated on the part of the State regarding his co-detenu also if his grounds and facts are same and identical. Any other interpretation is likely to result in gross discrimination between person to person and may beacon the end of Rule of law. From this point of view, quasi-judicial opinion of the Advisory Board should be respected vis-a-vis the order regarding even that person also who remains in detention in view of the Advisory Board's earlier opinion.

30. What is parity in common language is perhaps equality before law in legal terminology and what is equality before law in legal terminology has its foundation in Article 14 of the Constitution. The word "parity" is generally used in regular criminal matters such as bail applications or where a set of evidence against one stands on the same footing as against another, which may not in all cases be drawn in use in detention matters. But, as on the facts and circumstances of the present case, the grounds were identical inasmuch as the wordings in the detention order were also identical with the only difference of the names of the two detenues in the two respective orders and no dissimilarity could be found and, therefore, in order to uphold the Rule of law, Article 14 shall have to be invoked to avoid any misgiving in the minds of the citizen that non-interference by this Court perpetuates injustice vis-a-vis the petitioner.

31. In the case of District Magistrate and Anr. v. Kulbirchand 1990 SCC 538 the Hon'ble Supreme Court has passed the following order:--

Special leave granted. Arguments heard. After hearing learned counsel for the parties, we are distressed to find that there was complete non-application of mind on the part of the learned Judges. While it is true that they were entitled to come to a particular conclusion upon the facts of a given case, they could possibly have quashed the impugned order of detention merely on the ground that detention orders in similar cases had earlier been revoked. Each case has to be decided on its own facts. Accordingly, the appeal succeeds and is allowed. The judgment and order of the High Court are set aside and it is directed to dispose of the writ petition as expeditiously as possible; and in any event, not later than four weeks from today.

32. On the aforesaid observations of the Hon"ble Supreme Court it was argued by Sri Shivaji Misra that the instant matter should also meet the same fate in the sense quashing of the detention order regarding the petitioner cannot be possible only because of revocation of order of detention regarding Om Prakash. He emphasised that a judicial order cannot be substituted in place of an executive order and therefore, at best the matter is to be decided with the observation that the State Government may reconsider the matter of the petitioner and the representation which is pending be directed to be decided at the earliest.

33. This argument was retorted by the learned counsel for the petitioner on the simple apprehension that even though the order revoking detention of Om Prakash was passed by the State Government on 29-4-1992, no justice was expected from the State Government as till this date the petitioner continues in detention in spite of second representation.

34. It may be that the action of releasing Om Prakash may not be correct on the facts of the case and, therefore, his revocation may not have been done and, on that ground, the petitioner's detention may be upheld. The other way of looking to the problem is that by exercising extra-political influence, one citizen may get his order revoked u/s 14 of the NSA or place the matter before the Advisory Board with such niceties which may persuade the said Board to recommend release of that detenu. In either case, the result is that on the same ground, the detention of one shall continue while that of the other would have ended. This would not seem to be just and proper and indicative of non-application of mind on the part of the State Government.

35. In view of the aforesaid discussion, the third point should prevail and in order to uphold the principles behind Article 14 of the Constitution of India and also to be given effect to Sections 12 and 14 of the National Security Act.

36. In view of the above discussion, this petition succeeds and is allowed. The continued detention of the petitioner is held bad and he is directed to be set at liberty forthwith if not wanted in any other case.