

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4520 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

NAJIRBHAI KASAMBHAI VHORA

Versus

STATE OF GUJARAT

Appearance:

MR NAVIN PAHWA FOR M/S THAKKAR ASSOC. for Petitioner
MR HL JANI, AGP, for Respondents Nos. 1,2 and 3.
MR BT RAO, ADDL STANDING COUNSEL for respondent
No.4.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 31/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 7-4-98 passed by the District Magistrate, Anand under Section 3 (2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as "the PBM Act"), has filed this petition under Article 226 of the Constitution

of India challenging the legality and validity of the order of detention.

Since this petition is required to be allowed on the first contention that the petitioner was supplied with illegible documents, with the result he could not make an effective representation, it is not necessary for me to refer to and deal with the other contentions and to renarrate the allegations made in the show cause notice.

Mr. Pahwa, learned Advocate appearing for the petitioner invited my attention to the bunch of documents supplied to the petitioner and more particularly pages 69, 75, 77, 87, 89, 91, 99, 101, 103, 105, 109, 114 and 116 thereof and submitted that some of the pages are blank and some of them are not legible at all. I have gone through those documents and I also find that most of the documents are not legible. Not only that Mr. Jani, learned Assistant Government Pleader appearing for the respondents Nos. 1, 2, and 3 has also after perusing the same accepted that they are not legible. In this view of the matter, I have no hesitation to hold that by supplying illegible documents the right of the petitioner guaranteed under Article 22 (5) of the Constitution of India is infringed and the petitioner has been deprived of his right to make an effective representation against the order of his detention. Consequently therefore the continued detention of the petitioner is vitiated.

In the result, this petition is allowed. The order of detention dated 7-4-98 is quashed and set aside. The detenu Najirbhai Kasambhai Vhora is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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