

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2943 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 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? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJESHKUMAR RAMESHCHANDRA	JAIWAL M/S BABULAL BHAGWANJI
Versus	
STATE OF GUJARAT	3RD SPECIAL LAND ACQUISITION

Appearance:

M/S THAKKAR ASSOC. for Petitioner
MR SJ DAVE, AGP for Respondent Nos.1 to 3
MS PJ DAWAWALA for Respondent No. 4

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 30/06/2000

ORAL JUDGEMENT

By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner has challenged the order of detention dated 15-3-2000

passed by the District Magistrate, Junagadh in exercise of powers under Section 3(2)) of the PBMA Act, 1980 with a view to prevent the petitioner from black marketing essential commodities like kerosene (S.K.A.O.) and acting in any manner prejudicial to the maintenance of supplies of essential commodities like kerosene (S.K.A.O.) essential to the community.

2. Mr.D.M.Thakkar, learned advocate for the petitioner has restricted his arguments on the point that the petitioner does not know English language and he knows only Hindi language, but the documents which have been supplied to the petitioner along with the grounds of detention are in English and the petitioner has demanded vide representation dated 29-3-2000 to supply translated copies of these documents, but same has not been supplied and, therefore, petitioner could not make an effective representation. Mr.Thakkar has further argued that the petitioner has sent a representation to the detaining authority on 29-3-2000 by registered post A/D, but the same has not been forwarded by the detaining authority to the State Government till 11-4-2000 and, therefore also, order of detention may be quashed and set aside as it violated the rights guaranteed under Article 22(5) of the Constitution of India.

3. It is true that in the affidavit-in-reply which has been filed by the detaining authority, the contention of the petitioner regarding supplying of translated copy of the document which was in English has been dealt with at page 6 para 17. While answering the contention of ground (p) of the petition, the detaining authority has not stated anywhere in the said reply that translated copies of the documents have been supplied to the petitioner as demanded by him and, therefore, there is infraction of rights enshrined under Article 22(5) of the Constitution of India. No satisfactory explanation is forthcoming from any of the respondents on this aspect. It appears that the representation dated 29-3-2000 which has been received by the detaining authority has not been forwarded to the State Government till 11-4-2000. Another representation of the petitioner dated 31-3-2000 addressed to the Additional Secretary, Government of India has not been decided till date. Under the circumstances, the order of detention is illegal and same cannot be sustained.

4. In view of the above, the petition is allowed. The order of detention dated 15-3-2000 passed against the petitioner-detenu is hereby quashed and set aside. The detenu-Rajeshkumar Rameshchandra Jaiswal is ordered to be

set at liberty forthwith, if not required to be detained
in any other case. Rule is made absolute accordingly
with no order as to costs.

(R.P.DHOLAKIA,J.)

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