

detention had not been supplied to the detenue depriving him of his Constitutional right to make representation to the Government against his detention.

Omission of the State-respondents to take steps to place Rajesh Singh's detention order before the Advisory Board constituted under Section 14 of the Act, has not been disputed by learned State Counsel, Mr. V.K.Chopra, who submitted that in view of the past record of the detenue, his detention by the District Magistrate was justified.

Non-supply of copies of FIRs referred to in the grounds of detention to the detenue too has not been disputed by the learned State Counsel.

I have considered the submissions made at the Bar.

Article 22 of the Constitution of India provides certain protections to every person against his preventive detention. One of such protections is to place detenue's case before an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court within a period of three months of his detention.

In view of the provisions of Article 22 of the Constitution of India, detention of a person beyond three months is permissible only if the Advisory Board, opines existence of sufficient cause for such detention.

Conjoint reading of the provisions of Sections 15, 16 & 17 of the Act, too, in unequivocal terms requires placing of

detenue's case before the Advisory Board within the period prescribed under Section 15 of the Act.

Detention beyond the period prescribed under Section 15 of the Act is permissible only if the Advisory Board justifies it on finding sufficient cause for such detention.

Rajesh Singh's detention, without reference of his case to the Advisory Board, has thus been rendered unconstitutional and in violation of the provisions of Sections 15, 16 & 17 of the Act.

Non-supply of the material relied upon by the District Magistrate, to the detenue too has deprived him of his right to make effective representation to the Government against his detention, rendering his detention unsustainable for violation of the provisions of Article 22(5) of the Constitution of India and Section 13 of the Act.

State Counsel's submission that Rajesh Singh's detention was justified in view of his past activities is found unsustainable in view of the omission of the State functionaries to place detenue's case before the Advisory Board.

For all what has been said above, I find sufficient force in detenue's counsel's submission and am of the view that Rajesh Singh's detention being in violation of Article 22 of the Constitution of India requires to be quashed.

Accordingly, allowing this petition, District Magistrate Samba's Order No.01/PSA of 2008 dated 08.03.2008 is



quashed. A direction shall therefore issue to the respondents to set the detinue to liberty forthwith, if not required, in any other case.

(J. P. Singh)
Judge

Jammu.
30.12.2008
Pawan Chopra