

A STATE LEGAL AID COMMITTEE, J & K  
v.  
STATE OF J & K AND ORS.

NOVEMBER 5, 2004

B [ARIJIT PASAYAT AND S.H. KAPADIA, JJ.]

*Preventive Detention:*

*Jammu and Kashmir Public Safety Act, 1978:*

C s. 13— *Order of detention—Ground to be disclosed/communicated to the detenu—Plea that grounds of detention were served upon, read over and explained to the detenu and he was informed of his right to make representation, but he refused to receive copy of the order and also refused to put his signatures on the documents—Held, there is no affidavit of the person who wanted to serve the documents nor is there any endorsement of refusal—Even the name of the official has not been indicated in the affidavit—Order of detention quashed.*

D CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Crl.) No.8  
E of 2004.

Bhim Singh, B.S. Billowria, L.K. Gupta, S.K. Bandhyophadyay and P.V. Yogeswaran for the Petitioner.

F Ravi P. Mehrotra, Mrs. Deepti R. Mehrotra, Garvesh Kabra, Mrs. Neelam Singh and Anis Suhrawardy for the Respondents.

The following Order of the Court was delivered:

G ARIJIT PASAYAT, J. Though several questions have been raised in this petition, it is not necessary to deal with them in detail as we find that there is no definite material to show that the requirements of Section 13 of the Jammu & Kashmir Public Safety Act, 1978 (in short the 'Act') requiring the grounds of order of detention to be disclosed/communicated to the person affected by the order has been complied with. Though, in the affidavit filed by State, it has been stated that the contents of the warrants and grounds of

detention were served, read over and explained to the assessee and he was informed about his right to make a representation against the detention, if he so desired, there is no material placed on record to substantiate this stand. It is stated in the affidavit that the detenue refused to receive copy of the detention order and also refused to put his signatures on the documents. The least the State could have done is to file an affidavit of the person who wanted to serve the relevant documents and an endorsement to the effect that there was refusal. Even the name of the official has not been indicated in the affidavit. That would have been sufficient to comply with the requirements of Section 13 of the Act. A B

Though a prayer for extension of time is made to file the details, we find that the currency of the detention order is expiring on 06.11.2004. Therefore, we do not accept the prayer for extension of time. Learned counsel for the State submitted that there is no bar on a fresh order of detention being passed. We do not express any opinion in this regard. In the present proceedings, the order of detention of the detenue is quashed. This however, shall not stand in the way of such action being taken by the State and/or any authority in accordance withlaw. C D

The writ petition is, accordingly, disposed of.

R.P.

Writ Petition disposed of.