decision of this Court directly in point on this question in *Raghuvanshi Mills Ltd.* v. *C. I. T. Bombay City*,[2] and Mr. Palkhivala concedes that in view of that decision he cannot ask us to come to a contrary conclusion.

The result is that the answer to the question submitted to us will be in the negative. The Assessee to pay the costs.

Attorneys for Appellant:—S. P. Mehta.

Attorneys for Respondent:—N. K. Petigara.

Order accordingly.

P. M. P.

2. (1953) 24 I. T. R. 338.

APPELLATE CRIMINAL

Before the Chief Justice, Mr. M. C. Chagla and Mr. Justice Desai.

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April 2

Preventive Detention—Preventive Detention Act (IV of 1950), ss. 3, (1) (a) (ii), s. 3, (3), 4, 5, 9, and 10—Constitution of India, Arts. 162 245 (1)—Concurrent List, Entry 3—Construction of Preventive Detention Act— Basic principles of—Whether instigation to observe hartal in order to bring about the complete stoppage of work and business extraneous to s. 3 (1) (a) (ii)—Whether Detaining Authority can impute an unlawful object in respect of an innocent activity and treat it as an illegal activity for purposes of s. 3 (1) (ii)—Whether a Detaining Authority can rely on the defiance or disobedience of its own orders prohibiting assemblies or processions as a ground for detention —Whether s. 5 of the Preventive Detention Act contravenes Art. 162 of the Constitution of India—Whether Parliament can legislate so as to confer upon the State or an Officer of a State a power to detain a person beyond its territorial jurisdiction—Whether ss. 9, 10 of the Preventive Detention Act ultra vires*—Whether a corrigendum to the grounds for detention order shows lack of application of mind—Whether High Court can go into the truth or otherwise of grounds or particulars supplied to a detenue?—Nature of particulars to be supplied.*

When the validity of detention of a citizen is challenged before it, the Court must see that every constitutional safeguard which the Preventive Detention Act provides has been satisfactorily assured to the person detained.

If the Court comes to the conclusion that any constitutional safeguard has not been carried out, then even though the detention might be *bona fide*, even though it may be the result of high policy, the Court must set the detenue free.

*Criminal Application No. 253 of 1956.

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In considering the grounds the Court must examine each ground and satisfy itself as to its validity. The Court must also consider whether proper particulars are furnished in order to enable the detenue to make a proper representation to the Advisory Board.

But if the Court is satisfied that the order has been made *bona fide*, that care and caution has been exercised in the making of the order, that proper grounds have been furnished and every attempt has been made to give such particulars as are possible, then it is open to the Court to say that it should take a reasonable view of the order made by Government. It would then not be proper to dissect the order and to find out whether there are mistakes in punctuation, whether the language used is proper, and whether there has been lapses of grammer or of English.

If the detaining authority purports to detain a person under s. 3 (*1*) (*a*) (*ii*), the grounds on which the order is made and which are communicated to the detenue must be germane to the question of maintenance of public order. Even though the grounds may be germane to the other emergencies contemplated by s. 3 (*1*) (*a*), the order would be bad if any one of the grounds does not fall within the ambit of the exercise of the particular power under s. 3 (*1*) inasmuch as the power is not exercised for the purpose of meeting the particular emergency.

It was contended that the detention was illegal where the ground for detention viz. that the detenue was instigating the public to observe hartal and stop all business and transport—which activity is itself innocent—could not be regarded as illegal by attributing to the detenue a certain mental process or a certain outlook about which the detaining authority could have no knowledge or information; *Held*, that in the circumstances of the case, it was legitimate for the detaining authority to infer that the detenue was instigating in order to promote lawlessness and disorder and to cause breach of public order,

Whether a particular ground is or is not relevant for purposes of s. 3 (*1*) (*a*) must be decided on the facts of each case.

Shiban Lal Saksena v. *The State of Uttar Pradesh*,[1] *Dr. Ram Krishna Bhardwaj* v. *The State of Delhi and others*,[2] distinguished.
Shamrao Parulekar v. *The District Magistrate, Thana and others*.[3] explained.

Held, also that where the detention order was based, *inter alia*, on the ground that the detenue instigated the members of the public wilfully to defy and disobey the lawful orders issued by the detaining authority prohibiting public meetings and processions and the detaining authority was satisfied from the circumstances that the detenue had instigated in order to promote lawlessness and disorder and to cause breach of public order, the order could not be challenged as invalid inasmuch as the ground on which the order was based fell within the purview of s. 3 (*1*) (*a*) (*ii*).

Where the preamble of the grounds for the detention order recited that the detenue committed various illegal acts "with a view to promote lawlessness and disorder in Greater Bombay and to cause breach of public order in Greater Bombay and thereby to compel Government to grant "Samyukta Maharashtra with Bombay", and it was contended

1. (1954) S. C. R. 418. 2. (1953) S. C. R. 708.
3. (1952) S. C. R. 683.

that the word 'government' meant the Government of Bombay and that the Government of Bombay, having no power in the matter, could not be compelled as stated in the preamble; *Held*, that the word 'government' in the context must be construed to imply the authority in a position to grant United Maharashtra and meant not only Parliament but also the Government of India.

Held, further, s. 5 of the Prevention Detention Act is not *ultra vires* the Constitution inasmuch as Art. 245 (*1*) read with Entry 3 in the Concurrent List empower Parliament to enact such law and Art. 162 does not affect this power. Preventive detention, being a subject falling within the ambit of Entry 3 in the Concurrent List, Parliament can confer powers upon its own officers or any officer of the State Government or the State Government to make such order as it empowers it to make including a power to detain a person outside the territorial jurisdiction of the State Government.

Held, ss. 8 and 10 of the Preventive Detention Act are not *ultra vires* the Constitution.

Held, the procedure laid down in s. 10 does not offend against either principle of natural justice or the test of a proper judicial inquiry.

Held, s. 3 of the Preventive Detention Act requires the approval of Government only to the order of detention and not to the order regulating the place or conditions of detention made by the proper authority under s. 4.

Held, where a corrigendum is added to the grounds of a detention order, the Court must consider whether the corrigendum is one which alters materially the grounds on which the order was based and which had led to the satisfaction of the detaining authority in the first instance. *Held* on facts that the corrigendum did not involve an amendment of substance and the mental state of the detaining authority was the same both before and after the corrigendum.

Where the detention order was challenged on the ground that the detaining authority did not disclose to the Court the exact words of the speeches on the basis of which the detention order was made and it was contended that detaining authority relied on a complete distortion of speeches torn out of their context, *Held*, that the function of the Court in cases arising under the Preventive Detention Act is not to decide or determine the truth of the grounds or the particulars furnished by the detaining authority to the detenu but to satisfy itself that the grounds fell within the ambit of the Act and the grounds furnished were such as to afford the detenu reasonable opportunity to make the representation to the Advisory Board.

Held, that if the grou[illegible] are furnished with sufficient particularity the Court cannot insist upon the detaining authority to furnish further materials or particulars to satisfy the Court as to the truth of the allegations made by it.

CRIMINAL Application under art. 226 of the Constitution of India and s. 491 of the Criminal Procedure Code.

The order of the Commissioner of Police, Greater Bombay challenged by the Petitioner, Pralhad Keshav Atre, was:—

"No. 927.

ORDER

Whereas the Commissioner of Police, Greater Bombay, is satisfied with respect to the person known as Pralhad Keshav Atre of Greater Bombay that, with a view to preventing him from acting in a manner prejudicial to the maintenance of public order, it is necesary to make the following order:

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Now, therefore, in exercise of the powers conferred by the Preventive Detention Act, 1950, the Commissioner of Police, Greater Bombay, directs that the said Pralhad Keshav Atre be detained.

(Sd.)
Commissioner of Police,
Greater Bombay.

Seal.

Dated at Bombay on the 26th Day of January 1956."

The Petitioner was supplied with the grounds as under:—

"No. 927.

To

Shri Pralhad Keshav Atre:

In pursuance of s. 7 of the Preventive Detention Act, 1950 (Act IV of 1950) you are informed that the grounds on which a detention order has been made against you under sub-clause (*ii*) of Clause (*a*) of sub-s. (*1*) of s. 3 of the said Act, are:—

1. That with a view to promote lawlessness and disorder in Greater Bombay and to cause breach of public order in Greater Bombay and thereby to compel Government to grant "Samyukta Maharashtra with Bombay", you, since about 28th October 1955, have been instigating and inciting the members of the public to do the following acts viz.:—

(1) To observe hartals in order to bring about the complete stoppage of work and business and transport services in Greater Bombay:

(2) To wilfully defy and disobey the lawful orders of the Commissioner of Police, Greater Bombay, prohibiting assemblies and processions therein: and

(3) To resort to violence in order to achieve Samyukta Maharashtra with Greater Bombay.

II. The particulars of some of your said activities prejudicial to the maintenance of public order, are:—

(1) You are a member of the 'Action Committee' set up on the 15th November 1955, to carry out the agitation for the purpose of establishment of "Samyukta Maharashtra with Bombay"—The said "Action Committee" organised 'Morchas' and processions on the 18th day of November 1955 and on 21st Day of November 1955, to advance to the Council Hall, Fort, Bombay, in defiance and disregard of the lawful orders of the Commissioner of Police, Greater Bombay prohibiting all assemblies and processions in Greater Bombay and you took an active part in organising the said 'Morchas' and processions on the 18th November 1955.

(2) You as a member of the said 'Action Committee', called upon members of the public to observe complete 'Hartal' on the 18th November 1955 and to bring about a total stoppage of work, business and means of transport in Greater Bombay;

(3) On the 13th November 1955, in the evening, you addressed a meeting at Doctor's compound, near Chinchpokli, which was attended by about 7000 persons and in the course of your speech, you exhorted and instigated the audience to join the 'Morcha' to the Council Hall, Fort, Bombay, on 18th November 1955, in defiance and disregard of the lawful orders of the said Commissioner of Police, Greater Bombay, prohibiting assemblies and processions in Greater Bombay.

(4) On 15th November 1955, in the evening, you addressed a meeting at Shivaji Park, Dadar, Bombay, which was attended by about 50,000 persons and in the course of your speech, you exhorted and instigated the audience to join the 'Morcha' referred to in item No. 3 above.

(5) On 16th November 1955, in the evening, you addressed a meeting at Mogul House compound, Delisle Road, Bombay, which was attended by about 300 persons in which you exhorted and instigated the audience to participate in the "Morcha" referred to in item (3) above;

(6) On 16th November 1955, you also addressed another meeting in the evening, attended by about 800 persons at the same place where you again exhorted and instigated the audience to join the "Morcha" referred to in item (3) above;

(7) Again on the 16th November 1955, in the evening, you addressed another meeting held at Ganesh Maidan, Sewri Naka, Bombay, attended by about 1,500 persons where you exhorted and instigated the audience to join the "Morcha" referred to in item (3) above;

(8) On 17th November 1955, you addressed a meeting at an open maidan opposite Brahmin Seva Sangh Hall, Pipe Road, Kurla, Bombay, which was attended by about 2,500 persons and in the course of your speech, you exhorted and instigated the audience to assemble near Churchgate, Bombay, to join the "Morcha" referred to in item (3), above, which you yourself were going to join along with Shri Senapati Bapat;

(9) Again on 17th November 1955, in the evening, you also addressed another Meeting at Shivaji Park, Dadar, Bombay, which was attended by about 2,000 persons and in the course of your speech, you stated that you and your associates were not afraid of any repression and that a time would come when they would render it impossible for the Government to function, in case the demand of Samyukta Maharashtra with Bombay, is not conceded to;

III. As a result of the said exhortation and instigation and incitement aforesaid, a large number of persons wilfully defied on the said 18th Day of November 1955, the lawful order of the Commissioner of Police, Greater Bombay, prohibiting assemblies and processions in Greater Bombay, and as a result of the said exhortation, instigation and incitement, there was a 'Hartal' and partial stoppage of work and business in Greater Bombay and the said exhortation and incitement resulted in numerous incidents of violence and acts of prejudice to the maintenance of public order, to wit: throwing stones on buses of the B. E. S. and T. Undertaking, injury to numerous passengers travelling in such buses, incendiarism and burning of such buses, the attacking and stoning of men and Officers of the Police and burning down of a Police Chowky.

IV. You again started your activities prejudicial to the maintenance of the public order, the particulars of which are:—

(1) On the 11th December 1955, you addressed a meeting at Shivaji Park, Dadar, Bombay, which was attended by about 30,000 persons and in the course of your speech in support of the creation of Samyukta Maharashtra with Bombay, you in person, *inter alia* stated as follows:—

'The present day rulers do not come round by straight means. How was the partition of Bengal cancelled? Out of the partition that took place in Bengal in 1905, the 'Bhasmasur' of Revolution was born and murders of Officers were committed. Then the British Government was frightened and the partition was cancelled. History No. 2—How was linguistic Andhra created? Poti Shri Ramulu died by observing a fast. Nehru had stated: "I am not frightened by anybody going on fast". Then there were acts of violence in Andhra; damage amounting to crores and crores of rupees occurred. Then Nehru thought 'Let us give it'.

You, thus incited the members of the public in Greater Bombay to resort to violence, in order to achieve Samyukta Maharashtra with Greater Bombay.

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(2) On 15th January, 1956, you addressed a meeting at Tarabaug, Love lane, Mazgaon, Bombay, attended by about 3,000 persons and in the course of your speech, you said that the peaceful "Morcha" was taken out in Bombay on the 18th November 1955 to place their demand before the Assembly but Lathi Charge and tear gas were used against them by the Police. You further added that from this could be said that the Maharashtrians would not get anything by peaceful methods, thus exhorting the members of the public in Greater Bombay to resort to violence in order to achieve Samyukta Maharashtra with Bombay.

V. The said propaganda and exhortation and instigation of yourself resulted in strikes and hartals in Greater Bombay on 18th, 19th and 20th January 1956 and further the said exhortation and instigation of yourself resulted in numerous incidents of violence and acts prejudicial to the maintenance of public order to wit:—

(1) throwing of stones at buses of the B. E. S. & T. Undertaking, Railway trains and other vehicles moving in the streets in Greater Bombay, injury to numerous passengers travelling in such buses and vehicles (2) assaults on Officers and men of the Greater Bombay Police Force by means of stones, brick-bats, soda water bottles and acid bulbs causing injuries to such officers and men.

That in all probability you will continue to exhort and instigate the members of the public to commit acts prejudicial to the maintenance of public order as aforesaid and to instigate your followers to commit and instigate others to commit acts prejudicial to the maintenance of public order as aforesaid and in all probability in consequence of your said propaganda, exhortation and instigation, the members of the public in Greater Bombay, will act as aforesaid to the prejudice to the maintenance of public order in Greater Bombay.

It is not in the public interest to disclose further facts.

(2) If you wish to make a representation against the order under which you are detained you should address it to the Government of Bombay and forward it through the Superintendent of the Arthur Road Prison, Bombay.

You are also informed that you have a right to claim a personal hearing before the Advisory Board and that you should communicate to Government as soon as possible your intention of exercising or not exercising that right.

(Rubber Stamp)

Commissioner of Police,
Bombay.

(Sd.) Illegible.
Commissioner of Police,
Greater Bombay.

Dated at Bombay on the 29th Day of January 1956."

The Government of Bombay confirmed the Commissioner's order by its following order:—

No. S. D. II/PDA 1756/2769.

Home Department (Political).

ORDER

In exercise of the powers conferred by sub-s. (3) of s. 3 of the Preventive Detention Act, 1950 (IV of 1950), the Government of Bombay

is pleased to approve of the Order No. 927, dated the 26th January 1956, made by the Commissioner of Police, Greater Bombay, under s. 3 of the said Act directing that Shri Pralhad Keshav Atre be detained.

By order and in the name of the Secretary to the Government of Bombay.

Sd. (Illegible).

Assistant Secretary to the Government of Bombay,
Home Department.

Dated at Sachivalaya, Bombay, this 6th Day of February 1956."

All other facts material to this report are set forth in the Judgment.

A. S. R. Chari, with *V. D. Mengde* and *V. K. Pai*, for the Detenu.

M. P. Amin, Advocate General with *H. M. Choksi*, Government Pleader for the State.

Chagla C. J.—These are several petitions made by persons who have been detained under the Preventive Detention Act in connection with the agitation that was carried on for Samyukta Maharashtra with Bombay, and in these petitions certain common questions arise and these questions have been argued before us, and we proceed to give our decision on these common questions leaving it later to apply the principle laid down in this decision to each individual petition on the particular facts of that petition.

We will deal with these common questions in the light of the petition presented by Mr. Pralhad Keshav Atre. He was detained by an order made by the Commissioner of Police on January 26, 1956 and the grounds of his detention were communicated to him on January 29, 1956, and the order of detention was approved by the Government of Bombay on February 6, 1956. Before we deal with the questions which have been argued with considerable ability at the Bar, it will be perhaps desirable to re-state certain basic principles which must be applied by a Court in construing the provisions of the Preventive Detention Act. This is an Act which confers very wide powers upon the executive and it undoubtedly constitutes an inroad upon the personal freedom of a citizen which is guaranteed to him under the Constitution. It is true that Parliament in its wisdom enacted this piece of legislation for the security of the State and, as we had occasion to point out recently, there is always the conflict between the security of the State on the one hand and the personal freedom of the citizen on the other. But as far as the Court is concerned, it

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should be unaffected by questions of policy which lead the executive to detain a particular citizen. The function and the duty of the Court is to see that every constitutional safeguard which the Act provides has been satisfactorily assured to the person detained. If the Court comes to the conclusion that any constitutional safeguard has not been carried out, then even though the detention might be *bona fide*, even though it may be the result of high policy, the Court must set the detenu free. In considering the grounds the Court must examine each ground and satisfy itself as to its validity. The Court must also consider whether proper particulars are furnished in order to enable the detenu to make a proper representation to the advisory board. But if the Court is satified that the order has been made *bona fide*, that care and caution has been given to the making of the order, that proper grounds have been furnished and every attempt has been made to give such particulars as are possible, then we think it is open to the Court to say that it should take a reasonable view of the order made by Government. It would then not be proper to dissect the order so as to find out whether there are mistakes in punctuation, whether the language used is proper, and whether there has been lapses of grammar or of English. It is from this point of view that we must approach the questions that have been agitated at the Bar on this petition.

The grounds furnished to Mr. Atre are:

"That with a view to promote lawlessness and disorder in Greater Bombay and to cause breach of public order in Greater Bombay and thereby to compel Government to grant 'Samyukta Maharashtra' with Bombay, you, since about 28th October 1955, have been instigating and inciting the members of the public to do the following acts, viz.—

(1) To observe hartals in order to bring about the complete stoppage of work and business and transport services in Greater Bombay;

(2) To wilfully defy and disobey the lawful orders of the Commissioner of Police, Greater Bombay, prohibiting assemblies and processions therein; and

(3) To resort to violence in order to achieve Samyukta Maharashtra with Greater Bombay."

Then follow particulars of these grounds and these particulars are nine in number and they are, first, that Mr. Atre was a member of the Action Committee set up on November 15, 1955 and this Committee was set up to carry out the agitation for the purpose of establishment of Samyukta Maharashtra with Bombay, and this Action Committee organised Morchas and processions on November 18, 1955 and on November 21, 1955 to go to the Council Hall in defiance and disregard of the lawful orders of the Commissioner of Police, Greater Bombay, prohibiting all assemblies and processions in Greater Bombay, and that Mr. Atre took part in organising these Morchas and processions. The second set of particulars is that Mr. Atre as the

member of the Action Committee called upon the members of the public to observe complete hartal on November 18, 1955 and to bring about a total stoppage of work, business and means of transport in Greater Bombay. The third is that on November 13, 1955 he addressed a certain meeting where a large number of people were present and there he exhorted and instigated the audience to join the Morcha to the Council Hall on November 18, 1955. The fourth is that on November 15, 1955 he addressed another meeting at Shivaji Park where about 50,000 persons were present and at that meeting he exhorted and instigated the audience to join the Morcha. The fifth is that on November 16, 1955 he addressed a meeting at Mogul House Compound, Delisle Road, and there also he exhorted and instigated the audience to participate in the Morcha. The sixth refers to a meeting on November 16, 1955 where also Mr. Atre is alleged to have exhorted the audience to join the Morcha. The seventh refers to another meeting of November 16, 1955 where the same exhortation and instigation was made by Mr. Atre. The eighth refers to a meeting of November 17, 1955 held opposite Brahmin Seva Sangh Hall, Pipe Road, Kurla, where about 2,500 people attended and the same instigation is alleged to have been made. The ninth refers to a meeting of November 17, 1955 where the meeting was addressed at Shivaji Park attended by 2,000 persons and at that meeting Mr. Atre is alleged to have said that he and his associates were not afraid of any repression and that a time would come when they would render it impossible for the Government to function, in case the demand of Samyukta Maharashtra with Bombay was not conceded to. Then the order goes on to say that as a result of this exhortation and instigation a large number of persons wilfully defied the order of the Commissioner of Police on November 18, 1955 and the result was that there was hartal and partial stoppage of work and business in Greater Bombay, and the exhortation and incitment resulted in numerous incidents of violence and acts of prejudice to the maintenance of public order, and a few examples of these acts are given, viz. throwing stones on buses of B. E. S. & T. Undertaking, injury to numerous passengers examples of these acts are given, viz. throwing stones on buses the attacking and stoning of men and officers of the Police and the burning down of a Police Chowky. Then the order goes on to say that Mr. Atre again started his activities prejudicial to the maintenance of public order, and the particulars of these fresh activities are that on December 11, 1955 he addressed a meeting at Shivaji Park which was attended by 30,000 persons and at this meeting he is alleged to have said:

"The present day rulers do not come round by straight means. How was the partition of Bengal cancelled? Out of the partition that took

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place in Bengal in 1905, the 'Bhasmasur' of Revolution was born and murders of officers were committed. Then the British Government was frightened and the partition was cancelled. History No. 2—How was linguistic Andhra created? Poti Sri Ramulu died by observing a fast. Nehru had stated: "I am not frightened by anybody going on fast". Then there were acts of violence in Andhra; damage amounting to crores and crores of rupees occurred. Then Nehru thought 'Let us give it'."

The second set of particulars is that on January 15, 1956 he addressed a meeting at Mazgaon where he is alleged to have said that the peaceful Morcha was taken out in Bombay on November 18, 1955 to place their demand before the Assembly but lathi-charge and tear-gas were used against them by the Police, and further Mr. Atre added that the Maharashtrians would not get anything by peaceful methods. The order goes on to say further that the said propaganda and exhortation and instigation resulted in strikes and hartals in Greater Bombay on January 18, 19, 20, 1956, and this exhortation and instigation resulted in numerous incidents of violence and acts prejudicial to the maintenance of public order which are set out and which are similar to those which resulted on November 18, 1956. The order concludes by stating:

"That in all probability you will continue to exhort and instigate the members of the public to commit acts prejudicial to the maintenance of public order as aforesaid and to instigate your followers to commit and instigate others to commit acts prejudicial to the maintenance of public order as aforesaid and in all probability in consequence of your said propaganda, exhortation and instigation, the members of the public in Greater Bombay will act as aforesaid to the prejudice to the maintenance of public order in Greater Bombay."

Now, what has been urged before us is that two of the three grounds mentioned in this order do not pertain to the exercise of power by the Commissioner of Police as envisaged by the Preventive Detention Act. In order to understand this argument we must look at the provisions of the Act itself. Section 3, which is the material section, deals with the power to make order detaining certain persons, and the power is conferred upon the Central Government or the State Government—

(*a*) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(*i*) the defence of India, the relations of India with foreign powers, or the security of India, or

(*ii*) the security of the State or the maintenance of public order, or

(*iii*) the maintenance of supplies and services essential to to the community, or

(*b*) .....(we are not concerned with this),

if it is necessary so to do, to make an order directing that such person be detained. What is urged is that in this particular

case the Commissioner of Police was exercising his power under the 2nd part of s. 3 (*1*) (*a*) (*ii*) and it was only if he was satisfied that the detenu was acting in a manner prejudicial to the security of the State or the maintenance of public order that he could make a valid order. It is therefore urged that every ground which is communicated to the detenu must fall within the ambit of the exercise of this particular power. It is said that even if the ground may be germane to any other clause of s. 3 (*1*) (*a*), if it is not germane to the particular power which is attempted to be exercised, then the order must be held to be invalid. That contention appears to us to be perfectly sound. The power to detain is conferred upon the State in order to meet various emergencies and the detaining authority must be satisfied that there is a prejudicial activity on the part of the person sought to be detained which has a bearing on that particular emergency. If the detaining authority seeks to detain a person in the interest of the maintenance of public order, then the grounds on which the order is made and which are communicated to the detenu must be germane to the question of maintenance of public order. Even though the grounds may be germane to the other emergencies contemplated by s. 3 (*1*) (*a*), inasmuch as the power is not exercised for the purpose of meeting that particular emergency, the order would be bad if every one of the grounds does not fall within the ambit of the exercise of the particular power under s. 3 (*1*).

It is said and said with some force that taking the first ground a mere instigation to observe hartal in order to bring about the complete stoppage of work and business and transport services in Greater Bombay cannot possibly be germane to the question of the maintenance of public order. It is therefore urged that as far as this particular ground is concerned, it is an irrelevant ground and it is a ground which is extraneous to the particular provision of s. 3 (*1*) (*a*) under which the Commissioner of Police is seeking to exercise the power conferred upon him. What is pointed out is that a hartal and even a complete hartal might be perfectly peaceful, that work, business and transport services may be completely suspended in the city of Bombay, and yet public order might not be affected. It is pointed out that it is not a case of the detaining authority that Mr. Atre instigated the public to prevent people from attending to their business or the members of the transport service from plying their services, nor is it suggested that there was any element of lawlessness or violence in the instigation that Mr. Atre made with regard to the observing of hartal, and it is contended that in the absence of any element of lawlessness or violence in this particular activity, this activity could not be a prejudicial activity on which the detaining autho-

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rity could base its order. It is said that this particular activity might well fall under s. 3 (*1*) (*a*) (*iii*) which deals with a case of the maintenance of supplies and services essential to the community, but inasmuch as the order is not made in order to meet that particular emergency contemplated by that clause, the detaining authority cannot rely on that ground falling under that clause. It may be said that the Advocate General has not relied on this particular ground as falling within the ambit of cl. (*iii*). His case is, as indeed it must be, that this particular ground does fall within the ambit of cl. (*ii*), and what we have to consider is whether in fact it does fall within the ambit of that clause or not.

What the Advocate General has relied on is that the ground is not merely that the detenu instigated the public to observe hartals in order to bring about the complete stoppage of work and business and transport services in Greater Bombay, but that he did this with a view to promote lawlessness and disorder in Greater Bombay and to cause a breach of public order in Greater Bombay and thereby compel Government to grant Samyukta Maharashtra with Bombay. Therefore, what led the detaining authority to pass the detention order, to the extent that that order was based on this ground, was not merely the instigation to a hartal, but instigation to a hartal with a particular view and object. This argument has been countered by Mr. Chari by strongly urging upon us not to extend the principle of subjective satisfaction of the detaining authority. We agree with Mr. Chari that the Court should be vigilant to see that at least certain questions arising under the Preventive Detention Act still remain justiciable and it should be equally vigilant to see that the doctrine of subjective satisfaction is not so extended as to leave with the detaining authority complete and arbitrary power. Says Mr. Chari that a ground on which the detention order is based must relate to an activity with regard to which it is possible for the detaining authority to arrive at an objective appraisal. It is true that the Court cannot question the ultimate appraisal arrived at by the detaining authority, nor can the Court question the sufficiency of the ground on which the order is based. But the activity must be such as it would be possible for the detaining authority from that activity to infer that the activity was of a prejudicial character. Mr. Chari says that when the Commissioner of Police speaks of the object that Mr. Atre had in mind, he is dealing with a province with regard to which he could have no knowledge and no information. The mind of man, even under the Preventive Detention Act, is sacred and even the Commissioner of Police cannot know what passes in the minds of men, and therefore according to Mr. Chari the Commissoner of Police has relied on a ground which for its validity must depend upon

the mental processes of the detenu and the ground cannot be considered as a valid ground. To summarise the argument of Mr. Chari in a nut-shell, his contention is that if the activity itself is innocent on the face of it, you cannot convert it into an illegal activity or a prejudicial activity by attributing to the detenu a certain mental process or a certain mental outlook about which the Commissioner of Police can have no knowledge or information.

Now, the true position in law seems to us to be—and we shall presently refer to the authorities—that the activity relied upon by the detaining authority must be such as being reasonably capable of being considered as a prejudicial activity, or, to put it in a different language, it must be possible to infer from the specific activity referred to in the ground that what the detenu was doing was something which is prejudicial to the interest or the maintenance of public order. Again, to put it in a different language, as put by Mr. Sule in his argument, the ground relied upon must have a rational probative value and the probative value must be from the point of view of the prejudicial activity alone which can come within the ambit of the Act. In our opinion, reading this particular ground with the prefatory remarks to which we have just referred, it is clear that the Commissioner of Police has not attempted to read the mind of the detenu or to draw any inferences from the mental processes that might be going on in his mind, but he has sought to draw an inference from a specific activity to which he refers in the first ground. The specific activity is that Mr. Atre instigated and incited the members of the public to observe hartals in order to bring about the complete stoppage of work and business and transport services in Greater Bombay, and from this activity he has inferred that this was done in order to promote lawlessness and disorder in Greater Bombay and to cause breach of public order, and really the only question that we have to consider and decide is whether it was legitimate for the Commissioner of Police to draw this inference from this particular activity which prima facie is an innocent and non-violent activity.

Now, the grounds supplied to the detenu must be read along with the particulars which are also furnished to him. They together constitute the composite picture which was responsible ultimately for the satisfaction which the detaining authority must arrive at under the statute before he could legally exercise his power, and the question is whether reading the order as a whole, reading the grounds with the particulars furnished to the detenu, could it be said that there was no justification for the detaining authority to infer from this particular activity with regard to his instigation to observe hartals that these hartals with this instigation was made with

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a view to promote lawlessness and disorder and cause breach of public order? In our opinion, it is impossible to read this particular ground *in vacuo* or in complete isolation from the other grounds or the particulars furnished in respect of these grounds. If the only activity on which the detaining authority was relying was an instigation to observe hartals, it would be difficult to uphold the order of the detaining authority and the Court would probably come to the conclusion that an appeal by a publicist to the people of Bombay to observe a complete hartal cannot necessarily or reasonably or legitimately lead to the inference that he was appealing to the public of Bombay to resort to violence or to cause breach of public order or to promote lawlessness. But unfortunately, as far as the detenu is concerned, this activity does not stand in isolation. This is not the only activity which had led the detaining authority to come to the conclusion that he has. The satisfaction of the detaining authority has to be arrived at on the date on which the order is made and he must base his satisfaction upon grounds which are within the ambit of the Act or within the ambit of the exercise of a particular power which he is exercising. The law shorn of its technicalities is that to that satisfaction of the mind which the Act requires no extraneous, no foreign, no irrelevant factor must contribute, and the question is, can it be said that on January 26, 1956 when this order was made, this particular activity of the detenu was an activity which was extraneous or foreign or irrelevant for the purpose of the exercise of the power by the Commissioner of Police? In our opinion, one has only to look at the recital of the various activities of the detenu in order to come to the conclusion that the detaining authority was perfectly justified in drawing the inference that this particular instigation, which constitutes the subject matter of the first ground, was not an instigation to a peaceful, law-respecting strike of suspension or stoppage of work, but it was an incitement with a view to promote lawlessness and disorder and to cause breach of public order.

Reliance was placed on a decision of the Supreme Court in *Shiban Lal Saksena* v. *The State of Uttar Pradesh*,[4]. The facts of that case are rather striking. A detention order was made by the State of Uttar Pradesh against Saksena on two grounds, one falling under sub-cl. (*ii*) of s. 3 (*1*) (*a*) and the other falling under sub-cl. (*iii*), and the advisory board to whom the detenu made a representation came to the conclusion that the ground under sub-cl. (*iii*) was not justified, and on that the Uttar Pradesh Government confirmed the detention order against Saksena under sub-cl. (*ii*) of s. 3 (*1*) (*a*) of the Act

4. (1954) S. C. R. 418.

This order was challenged before the Supreme Court under Art. 32 of the Constitution and the Supreme Court held that the order was invalid, and the passage in the judgment of Mr. Justice Mukherjea which is relied upon is at p. 422:

"The question is, whether in such circumstances the original order made under s. 3 (*1*) (*a*) of the Act can be allowed to stand. The answer in our opinion, can only be in the negative. The detaining authority gave here two grounds for detaining the petitioner. We can neither decide whether these grounds are good or bad, nor can we attempt to assess in what manner and to what extent each of these grounds operated on the mind of the appropriate authority and contributed to the creation of the satisfaction on the basis of which the detention order was made. To say that the other ground, which still remains, is quite sufficient to sustain the order, would be to substitute an objective judicial test for the subjective decision of the executive authority which is against the legislative policy underlying the statute. In such cases, we think, the position would be the same as if one of these two grounds was irrelevant for the purpose of the Act or was wholly illusory and this would vitiate the detention order as a whole."

It is said by Mr. Chari that the principle of this case directly applies to the facts before us and we should on the same ground that the Supreme Court held the detention order against Saksena invalid, hold this particular detention order against Atre invalid. Now, the distingushing features of the case decided by the Supreme Court will be immediately apparent. Two grounds were given in the original order, one pertained to the maintenance of public order and the other pertained to the maintenance of services essential for the community, and the latter ground was held to be invalid. It was nobody's case that the ground which was held invalid was relevant for the purpose of the exercise of the power under s. 3 (*1*) (*a*) (*ii*). It is in the light of these facts that the Supreme Court came to the conclusion—and with respect the only conclusion—that it was impossible to say which of the two grounds operated upon the mind of the detaining authority, and when one of the grounds was a bad ground and an irrelevant ground, then the whole order must be held to be bad. The same position would arise in the case before us, if it was the case of the Government that the first ground fell under sub-cl. (*iii*) and subsequently the Government conceded that the ground could not possibly be relevant to the exercise of the power under that sub-clause. But, as is obvious, that is not the case here. It is strenuously urged by Government that all the grounds are relevant only to the exercise of power under sub-cl. (*ii*). It is not decided by the Supreme Court that a ground which may be relevant for the purpose of the exercise of power under sub-cl. (*iii*) cannot be relevant for the purpose of the exercise of power under sub-cl. (*ii*). Mr. Chari may be right that this particular ground may fall under sub-cl. (*iii*), but under certain circumstances it may also fall under sub-cl. (*ii*), and if the case

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of the Government is that the case falls under sub-cl. (*ii*), what we have to consider is whether it is relevant and germane for the purpose of the exercise of the power under sub-cl. (*ii*), and for that purpose, with respect, the decision of the Supreme Court is not of much assistance. Whether a particular ground is or is not relevant must be decided on the facts of each case and the facts of any other case cannot possibly help us to determine what were the materials and what were the grounds upon which the order of detention was based.

Reliance was also placed by Mr. Chari on the case of *Dr. Ram Krishna Bhardwaij* v. *The State of Delhi & others.*[5] That decision deals with grounds which are vague and the learned Chief Justice lays down the law that even if one of the several grounds furnished to the detenu is vague, that in itself is sufficient to invalidate the order, and the principle on which this decision is based is that the detenu has the Constitutional right to make a representation with regard to each one of the grounds on which the order is based and by making the ground vague the detaining authority deprives the detenu of his Constitutional safeguard. Mr. Chari says that if this is the law with regard to grounds which are vague, *a fortiori* the same principle must apply where the grounds are irrelevant. But that again raises really the same question of fact rather than the question of law whether looking at this order it could be said that the first ground which is challenged is an irrelevant ground. If we came to the conclusion that the ground was irrelevant, that it should never have formed the basis of the statutory satisfaction to which the detaining authority must arrive, then undoubtedly we would have held the order invalid.

The Advocate General has drawn our attention to another judgment of the Supreme Court in *Shamrao V. Parulekar* v. *The District Magistrate, Thana, and others,*[6] where one of the grounds was being challenged as being irrelevant and Mr. Justice Bose at p. 605 says:

> "In our opinion, the grounds of detention must be regarded as a whole and when that is done the relevance of the first ground becomes plain."

Mr. Chari says that we must look at the subsequent judgments of the Supreme Court which clearly lay down, as already pointed out by him, that the irrelevance or the vagueness of any one ground is sufficient. But we see no conflict between the view expressed by Mr. Justice Bose and the view expressed by the Supreme Court in the later judgments. It is perfectly true that if any one ground is irrelevant or if any one ground is vague, the Court must come to the conclusion that the detenu has been deprived of his Constitutional safeguards

5. (1953) S. C. R. 708. 6. (1952) S. C. R. 683.

and must hold the detention order to be invalid. But what Mr. Justice Bose tells us is how to determine whether a particular ground is irrelevant or not and he tells us that in order to determine that we must not look at the ground in isolation but we must look at it along with the other grounds, and that is exactly what we have tried to do—to look at this ground along with the other grounds and also with the particulars furnished by the detaining authority.

The same considerations apply to the second ground which is challenged and that is instigation by the detenu to the members of the public to wilfully defy and disobey the lawful orders of the Commissioner of Police, Greater Bombay, prohibiting assemblies and processions therein. What is said by Mr. Chari is that s. 3 (*1*) (*a*) (*ii*) permits the detaining authority to detain a person whose activities are prejudicial to the maintenance of public order and from preventing him from acting in such a manner in future. But this section does not confer a power upon the Commissioner of Police to detain a person in order to maintain respect for his own order. Mr. Chari was very eloquent when he suggested that the result of our holding that this ground is a good ground would be to elevate the Commissioner of Police to the position of the highest authority and to permit him to decide for himself that his own order is valid and legal, and that if that order was challenged, instead of prosecuting the person disobeying the order where he could raise the question of the validity of that order, just to detain him and thereby obviate the necessity of his own order being decided in a Court of law. It is said that it is the necessary and essential element of the rule of law that a citizen should be entitled to assert his right and also to challenge the exercise of power by an executive officer which undermines his right. Now, we would be extremely reluctant to say anything or to decide anything which would deprive the citizen of this important right or in any way undermines the prevalence of the rule of law in this State and in this country. But there are obvious answers to what has been urged by Mr. Chari. In the first place, the Commissioner of Police has relied on this ground not because Mr. Atre wanted to defy this order in order to test its validity or legality in a Court of law. This activity of Mr. Atre is relied upon because the Commissioner of Police has come to the conclusion that this was done with a view to promote lawlessness and disorder and to cause breach of public order. Whether this inference was justified or not we have already dealt with when we considered the first ground. The second answer is that in every case we must look at the nature of the order passed by the Commissioner of Police

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which is sought to be defied. This is an order which prohibits assemblies and processions in the city of Bombay. It is not as if Mr. Atre himself wishes to test the legality or the validity of this order. He is inviting the whole public to join him in a mass objection, as it were, to the legality and validity of this order, and what the detaining authority had to consider was, what would be the object and what would be the consequence of such an instigation and such an incitement? It is not suggested that if Mr. Atre as a citizen, conscious of his rights and equally conscious of the want of power of the Commissioner of Police, wanted to test the validity of this order by going to a Court of law, his detention by the Commissioner of Police, in order to avoid such a decision or trial, could possibly be upheld by this Court or any Court. But the picture painted by Mr. Chari, though frightening for a moment, is really more fanciful than based upon the actual facts which we have to consider in this particular case.

There is one other minor matter which we might deal with before we come to certain constitutional objections which have been taken to the validity of the Act itself. It is said that in the preamble to the order the Commissioner of Police says that the object of the detenu was to compel Government to grant Samyukta Maharashtra with Bombay, and it is indignantly pointed out that this clearly shows a complete want of care and caution on the part of the detaining authority which further goes to show that there was not an honest satisfaction of the mind which the law requires. It is urged that it is impossible to expect that any intelligent man, much less Mr. Atre, would ever think that the Government of Bombay could grant Samyukta Maharashra to the Maharastrians, and therefore to suggest that any activity was indulged in by Mr. Atre to compel Government to do this is to suggest the impossible. Now, this is, what we said earlier in the judgment, an instance of dissecting the order with a view to finding out whether every word and every mark of punctuation was properly used. There is no reason whatever why the expression "Government" in this context must be understood as the Government of Bombay. "Government" is clearly used here to imply that authority which is in a position to grant united Maharashtra to the people of Maharashtra, and in the context "Government" means not only Parliament which is the ultimate arbiter, but also the Government of India which must initiate this proposal before Parliament, before Parliament can give its sanction to it.

There were one or two rather ingenious arguments advanced by Mr. Phadke which may be noticed. His first contention was

that s. 5 of the Act was *ultra vires* of the Constitution. That section provides:—

"No detention order shall be invalid or inoperative merely by reason—

(*a*) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(*b*) that the place of detention of such person is outside the said limits."

What was contended was that under the Constitution, Parliament could not confer power upon a State Government or officer to detain a person outside his jurisdiction. In support of this contention reliance was placed on art. 162 of the Constitution. That Article deals with the extent of the executive power of the State and makes that power co-extensive with the legislative power of the State. There is a proviso to that article and that proviso is to the effect that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited, by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof. The effect of this proviso is that in matters which fall in the concurrent list the Parliament has been given the power to limit the extent of the executive power of the State. It will be noticed that the proviso only deals with the limitation of the executive power of the State in matters which fall in the concurrent List. Section 5 extends the power of the State and as it were confers upon it an extra territorial jurisdiction inasmuch as it enables the State to detain a person outside the limits of its own jurisdiction. It is therefore argued that inasmuch as there is no proviso to art. 162 which confers upon Parliament the power to extend the jurisdiction of the State, the section is invalid. In advancing this argument what is overlooked is the opening words of art. 162 "subject to the provisions of this Constitution", and one of the provisions of the Constitution which is relevant is art. 245 (*1*):

"Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State."

And under the Constitution, Parliament has been given the power to make laws for the whole or any part of the territory of India. The subject of preventive detention falls in the concurrent List in entry 3, and it is now well settled canon of construction of the Constitution that Legislature must be deemed to be sovereign in respect of the power of legislation conferred upon it under any entry in the Lists annexed to the Seventh Schedule. Therefore, within the ambit of entry 3 Parliament is supreme and sovereign and it can legislate with regard to all aspects of this particular subject matter, and it is difficult

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to understand, if Parliament is supreme and sovereign, why it cannot legislate conferring upon the State a power to detain a person beyond its territorial jurisdiction. It was suggested by Mr. Sule that even so Parliament could confer power upon its own officers to detain persons outside the limits of the jurisdiction of a particular State, but it could not delegate that power to the State Government or to the Officers of the State. There is no warrant whatever under the Constitution for that contention. If Parliament is sovereign, it could empower its own officers or the officers of a State or the State Government to make such order as Parliament empowers them to make.

It was then urged that ss. 9 and 10 are *ultra vires* of the Constitution. This argument is a little difficult to understand. These sections deal with advisory boards, a very important safeguard that is provided for the liberty of the citizen, and while s. 9 provides that the appropriate Government shall, within thirty days from the date of detention under the order, place before the advisory board constituted by it under s. 8 the grounds on which the order has been made and the representation made by the person affected by the order, and in case where the order has been made by an officer, also the report by such officer under sub-s. (3) of s. 3, s. 10 deals with the procedure to be followed by these advisory boards, and the procedure laid down is:

"The advisory board shall, after considering the material placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date of detention."

Attention is drawn to the relevant provisions of the Constitution which deal with this matter. Article 22 (4) provides:

"No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(*a*) an advisory board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention....."

And art. 22 (7) (*c*) provides:

"(7) Parliament may by law prescribe—

(*c*) the procedure to be followed by an advisory board in an inquiry under sub-clause (*a*) of clause (4)."

And it is under this sub-clause that the procedure has been laid down under s. 10. The argument of Mr. Phadke, as we understand, is that the inquiry contemplated by the Constitution must be a judicial inquiry and if it is a judicial inquiry then the advisory board must be in possession of the materials which

the Government relied upon in passing the order of detention, and what is said is that the procedure laid down in s. 10 does not entitle the advisory board to be in possession of all these materials. Now, in the first place, there is no limitation placed by the Constitution upon Parliament in deciding what procedure should be laid down for the holding of the inquiry by the advisory board. Further, not only are the grounds of detention and the representation made by the detenu to be placed before the advisory board, but the advisory board has been given the power to call for such further information as it may deem necessary from the Government and we take it that if Government wants to get a favourable decision of the advisory board it would not keep back from the advisory board the relevant materials on which its order was founded. Further, the right has been given to the detenu to be heard by the advisory board. Even assuming that the Constitution contemplated a judicial or quasi judicial inquiry by the advisory board, it is difficult to understand why or how the procedure laid down in s. 10 offends against either the principles of natural justice or the test of a proper judicial inquiry.

One further contention that was urged by Mr. Phadke was that in this particular case Government has approved of the order made by the Commissioner of Police under s. 3 (3), but has not approved of the place where the detenu was to be detained. In our opinion, s. 3 (3) does not require the approval by Government of the place of detention. Section 3 (3) provides:

> "When any order is made under this section by an officer mentioned in sub-s. (2), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order made after the commencement of the preventive detention (Second Amendment) Act, 1952, shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government."

Now, it obviously refers to the order of detention, and all that sub-s. (3) requires is the approval by the State Government of the order of detention and not the order passed by the Commissioner of Police as to the place where the detenu is to be detained. It is s. 4 which deals with the power to regulate the place and conditions of detention. It is s. 3 that deals with orders of detention and what s. 3 requires is the approval by Government of the order of detention and not the order regulating the place or conditions of detention made by the proper authority under s. 4.

In our opinion, therefore, no valid challenge can be made to the order of detention passed on the grounds which have been urged by counsel and which we have considered in this judgment.

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Mr. Chari has argued certain points individual to the petition of Mr. Atre. In the first place, he has drawn our attention to a corrigendum issued by the Commissioner of Police on February 24, 1956 by which he has corrected certain dates given in the grounds, and the corrections are that in para. II (2) the figure "November 21," is to be substituted for "November 18" and in paragraph III the date "November 21, 1955" is to be added after the date November 18, 1955. Mr. Chari says that this corrigendum shows a lack of application of the mind of the detaining authority. In these cases of corrigendum what we have to consider is whether the corrigendum is such as to materially alter the grounds on which the order was based and which led to the satisfaction of the detaining authority. If the detaining authority was satisfied by a particular version of the matter and it then turns out that the version was quite different, then undoubtedly the Court would say that the satisfaction was not a proper one and could not have been arrived at on the materials originally before the detaining authority. In our opinion, in this particular case this corrigendum is not an alteration or amendment of substance and the position remains the same as far as the mental state of the detaining authority is concerned both before and after the corrigendum.

Turning to the first correction, this deals with the activity of the detenu as a member of the Action Committee calling upon members of the public to observe complete hartal on November 18, 1955. Now, the substance of the date November 21, 1955 is in our opinion entirely immaterial. The materiality of the ground does not in any way depend upon whether the hartal was on November 18, or November 21. The materiality of the ground rests upon the detenu having called upon the members of the public to observe a complete hartal irrespective of the date on which the hartal was to be observed. Turning to the second amendment, what is urged by Mr. Chari is that this is material because if the date was November 18, then in the earlier part of the grounds no speech is relied upon by the detaining authority which incited people to violence and as paragraph III deals with violence that took place on November 18, the alteration of the date to November 21, may be material from that point of view. There is no substance in this contention either, because the detaining authority has relied on a speech made on November 17, 1955 by Mr. Atre which in our opinion clearly suggests a resort to violence, and if that speech was made on November 17, whether the serious incidents that followed upon it took place on November 18, or took place both on November 18 and 21, is immaterial.

The second contention urged by Mr. Chari is that the three important speeches on which reliance is placed by the detaining authority delivered by the detenu on November 17, 1955,

December 11, 1955 and January 15, 1956, are all speeches the correctness of which have been denied by the detenu in his petition. The petitioner's case is that these are completely distorted speeches torn out of their context, and Mr. Chari says that the Commissioner of Police in his affidavit in reply does not set out the exact words of the speeches, and in view of the clear and categoric denial of the petitioner we must hold that the detaining authority had failed to make out a case that the speeches were delivered by the detenu in the form set out in the grounds. This contention completely overlooks the function of this Court in cases arising under the Preventive Detention Act. It is not for the Court to decide or determine the truth of the grounds or the particulars furnished by the detaining authority to the detenu. The Court performs a very limited function and that function is to satisfy itself that the grounds fall within the ambit of the Act and the grounds furnished are such as to afford the detenu a reasonable opportunity to make the representation to the advisory board. We have already held that the grounds do fall within the ambit of the Act. With regard to the three speeches, the detenu denies the truth of the particulars with regard to these speeches given by the detaining authority. We fail to see how we can decide as between the contention of the Police Commissioner and the detenu as to whether the Commissioner of Police is speaking the truth or the detenu. It is really the function of the advisory board, and it is for this function that the advisory board was set up, to consider this representation of the detenu that he did not make this particular speech or that he did not use these words or that these words were distorted or torn out of their context. But what Mr. Chari wants us to do is to discharge the function which the advisory board would discharge when the detenu's representation is before it and when it will consider that along with all the materials placed before it by Government. We do not also appreciate the force of the contention that the Commissioner of Police should have annexed to his affidavit the actual words of the speech delivered by the detenu. If the grounds are furnished with sufficient particularity then we cannot insist upon the Commissioner of Police at this stage furnishing any further materials or particulars to satisfy the Court as to the truth of the allegations made by him.

Under the circumstances we do not think that there is much substance in the contentions put forward by Mr. Chari on the merits of the application made by Mr. Atre. The result is that the petition fails and the rule is discharged. No order as to costs.

Rule discharged.

G. N. V.