

Former DIG of Assam gets parole

HT Legal Correspondent

NEW DELHI, Oct. 14 — The Supreme Court today ordered the Assam Government to immediately release on parole the former DIG of Police, Mr Hiranya Kumar Bhattacharya, who had been detained under the National Security Act by the District Magistrate, Kamrup.

Mr Bhattacharyya had been dismissed as DIG and put under detention in Silchar jail in Assam. He has been charged with making efforts to help the Assam agitation and to cause disaffection among the personnel of the Assam police.

A major issue has arisen in this case which puts into question all the Supreme Court decisions since 1956 concerning the detention law. So far, the accepted rule in detention matters has been that a detention order would be struck down even if "one" of the several grounds of detention mentioned in it was vague or irrelevant. However, Mr Justices A. D. Koshal, V. B. Eradi and R. B. Misra have pointed out that the 1956 Supreme Court decision in the Dwarka Dass Bhatia Vs State of Jammu and Kashmir case declared that the court must be satisfied that the vague or irrelevant ground was one which "if excluded would reasonably have affected the subjective satisfaction" of the authority passing the detention order.

Their lordships emphasised that the decision laid down that the court must examine whether the vague or irrelevant ground was of such an unessential nature that the detention order could not be said to be invalid. The judges pointed out that this principle has been reaffirmed in the 1968 Supreme Court decision of Motilal Jain Vs Bihar delivered by six judges. Mr V. M. Tarkunde, arguing on behalf of Mr Bhattacharyya, however, has said the court could not decide as to which of the several grounds, mentioned in a detention order carrying one illegal ground, had entered into the mind of the authority passing the order.

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