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W.P(Crl.)No. 98-101 OF 2001
ITEM No.201

Court No. 6

SECTION X
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Crl.) No. 98-101/2001

BISHARAT ALI RAJPUT & ORS.

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(For Final Disposal)
(With Office Report)
With

W.P(Crl.)No.161-164/2001,Crl.A.No.680/2001

Date : 31/10/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE P.VENKATARAMA REDDI

For Petitioner (s) Prof. Bhim Singh, Adv.
BS. Billowria, Adv.
Mr. Dinesh Kumar Garg,Adv.
Mr. Manzoor Ali Khan, Adv.

For Respondent (s) Mr. Soli J. Sorabjee, AG.

Mr. Mukul Rohtagi, ASG.
Mr. Raju Ramachandran, ASG.
Mr. A. Mariarputham, Adv.
Ms. Aruna Mathur, Adv.
Ms. Sushma Suri,Adv.

Mr. Altaf H. Nayak, Adv.
Mr. Anis Suhrawardy,Adv.

UPON hearing counsel the Court made the following
O R D E R

There are three kinds of detainees whose cases are now before us, namely (1) those who have served out their sentences in respect of various offences with which they were charged and who are Pakistani nationals; (2) those who have served out their sentences and are residents of Pakistan occupied Kashmir (PoK) and (3) those in respect of whom the trial is still pending or who have yet to serve out their sentences.

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As far as the 3rd group is concerned, their writ petitions/appeals are dismissed. As far as the first two groups are concerned, each of them are, at present, detained under order passed by the Government of Jammu & Kashmir under Section 8(i)(b) of the Public Safety Act, 1978. This Section permits the State Government to pass an order detaining a person who is "foreigner within the meaning of the Foreigners Act" and "a person residing in the area of the State under the occupation of Pakistan", inter alia, "with a view to making arrangements for his expulsion from the State". No provision of 1978 Act has been drawn to our notice which gives the State Government the power to effect expulsion itself. It would, prima facie, appear that the expulsion referred to in clause (b) of sub-section (i) of Section 8 is the deportation by the Union of India under the Foreigners Act. We accordingly adjourn the matter for a period of two weeks to enable the Union of India to pass appropriate orders.

(S. Thapar)
PS to Registrar

(Madhu Saxena)
Court Master