

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

Coram:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU  
and  
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

H.C.P.No.75 of 2016

R.Stephen

.. Petitioner

vs.

- 1.The State of Tamil Nadu rep. by its  
Secretary to Government,  
Co-operation, Food and Consumer Protection  
Department, Secretariat, Fort St. George,  
Chennai-600 009.
- 2.The District Collector and District Magistrate,  
O/o.Collectorate Office,  
Erode District, Erode.
3. The Additional Secretary,  
Government of India,  
Ministry of Consumer Affairs,  
Food and Public Distribution  
(Department of Consumer Affairs),  
Room No.270, Krishi Bhawan,"  
New Delhi-110 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus, calling for the records relating to the detention order passed in Cr.M.P.No.45/Black Marketer/2015-C1, dated 16.12.2015 on the file of the 2<sup>nd</sup> respondent and quash the same and direct the respondents herein to produce the body of the petitioner's father Rajesh, aged about 41 years, son of late Thomas, now confined in Central Prison, Coimbatore before this Court and set him at liberty.

For petitioner : Ms.R.Subhadra Devi

For Respondents : Mr.A.N.Thambi Durai,  
1 and 2 Addl. Public Prosecutor (Crl.side)

O R D E R

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner is the son of one Rajesh, aged about 41 years, son of Late Thomas, who has been detained under Section 3 (1) read with 3(2) (a) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980), branding her as a 'Black Marketer'. Challenging the said detention order, the petitioner has come up with this Habeas Corpus Petition.

2. Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 and 2. We have also perused the records carefully.

3. The date of detention order is on 16.12.2015. It is brought to the notice of this Court that a representation was made by the detenu to the Government on 07.01.2016.

4. According to the learned Additional Public Prosecutor, the representation was received by the Government on 11.01.2016 and though several reminders have been sent to the Detaining Authority as well as the Sponsoring Authority, to send the remarks, the Government has not sent any remarks and the said representation dated 07.01.2016 has not been considered so far.

5. In our considered view, the representation so made needs to be considered without any delay. Here, in this case, the representation sent was not even considered and disposed of. This, in our considered view, would amount to serious violation of fundamental rights of the detenu as well as violation of the statutory provision. In view of the same, the detention order is liable to be quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in Cr.M.P.No.45/Black Marketer/2015-C1, dated 16.12.2015, passed by the second respondent is quashed. The detenu, namely, Rajesh, son of late Thomas, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Secretary to Government,  
State of Tamil Nadu,  
Co-operation, Food and Consumer Protection  
Department, Secretariat, Fort St. George,  
Chennai-600 009.
  - 2.The District Collector and District Magistrate,  
O/o.Collectorate Office,  
Erode District, Erode.
  3. The Additional Secretary,  
Government of India,  
Ministry of Consumer Affairs,  
Food and Public Distribution  
(Department of Consumer Affairs),  
Room No.270, Krishi Bhawan,"  
New Delhi-110 001.
  4. The Public Prosecutor,  
High Court, Madras
  5. The Superintendent,  
Central Prison, Coimbatore
  6. The Joint Secretary to Government  
Public (Law & Order)  
Fort Saint George, Chennai 9.
- 1 cc to Mr.S.Arockiam, Advocate, sr.26747

H.C.P.No.75 of 2016

pvr co  
kra 01.06.2016

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