



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2016

CORAM:

**THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI**

HABEAS CORPUS PETITION(MD)No.1812 of 2015

Jeya Prabha

.. Petitioner

Vs.

- 1.The Secretary to Government,
Department of Co-operation, Food and Consumer Protection,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs, Food and
Public Department,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
- 4.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records, connected with the detention order of the respondent No.2 in M.H.S.Confdl No.147/2015 dated 17.12.2015 and quash the same and direct the respondents to produce the body and person of the detenu namely Radhakrisnan, aged 30 years, son of Perumal, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For RR 1, 2 & 4 : Mr.C.Ramesh
Additional Public Prosecutor

For R - 3 : Mr.L.Victoria Gowri

**ORDER****(Order of the Court was made by A.SELVAM, J)**

WEB COPY This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to detention order passed in M.H.S.Confdl No.147/2015 dated 17.12.2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Radhakrisnan, Son of Perumal and quash the same.

2. The Inspector of Police, Civil Supplies Criminal Investigation Department, Tirunelveli Unit as sponsoring authority has submitted an affidavit to the detaining authority wherein it has been specifically stated that on 13.12.2015 at about 05.15 hours, the sponsoring authority and other police officials have intercepted a vehicle bearing Registration No.TN-72-AX-5095 and subsequently found seven iron barrels containing blue colour ration kerosene and therefore, a case has been registered in Crime No.210 of 2015 under Section 17 of Tamil Nadu Kerosene (Regulation of Trade) Order 1973 read with Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 against the present detenu and others and ultimately requested the detaining authority to invoke Act 7 of 1980 against the detenu.

3. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a Black Marketeer and ultimately passed the impugned detention order and in order to quash the same, the present petition has been filed by the wife of the detenu.

4. On the side of the respondents 1, 2 & 4 counter has been filed wherein it has been contended to the effect that all the averments made in the petition are false. On the basis of affidavit submitted by the sponsoring authority, the detaining authority has derived subjective satisfaction and ultimately passed the impugned detention order and therefore the same does not call for any interference.

5. The learned counsel appearing for the petitioner has contended that a representation has been submitted to the concerned authority and the same has not been disposed of without delay and therefore the detention order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondents 1, 2 & 4 has represented that on the basis of averments made in the affidavit and other connected documents, the detaining authority has derived subjective satisfaction to the effect that the detenu is a Black Marketeer and ultimately passed the impugned detention order and further, the representation given by the detenu has been duly disposed of without delay and therefore the present petition deserves to be dismissed.



7. On the side of the respondents 1, 2 & 4, a proforma has been submitted wherein, it has been clearly stated that the representation has been received on 04.01.2016. Remarks have been called for on 06.01.2016 and subsequently remarks received on 22.01.2016 and in between column Nos.7 to 9, ten clear working days are available and no explanation has been given on the side of the respondents 1, 2 & 4 and that itself would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and therefore the detention order in question is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the detention order passed in M.H.S.Confdl No.147/2015 dated 17.12.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Radhakrisnan, Son of Perumal at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(R)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Department of Co-operation, Food and Consumer Protection,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs, Food and Public Department,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan, New Delhi - 110 001.
- 4.The Superintendent of Prison,
Palayamkottai Central Prison, Tirunelveli District.
(In Duplicate to communicate the detenu)
5. The Joint Secretary to Government,
Public (Law and Order), Fort St.George, Chennai -9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Alagumani, Advocate Sr.No.14023

akm/15.03.2016/3p-9c/GSV/PM/SAR-I