



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2016

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**

H.C.P. (MD) No.1296 of 2016

Murugan @ Pottu Murugan

: Petitioner

Vs.

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of
Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi-110 001.

2.The Secretary,
Government of Tamil Nadu,
Co-operation, Food and Consumer
Protection Department,
Secretariat,
Fort St. George,
Chennai-600 009.

3.The District Collector and District Magistrate,
Theni District,
Theni.

4.The Inspector of Police,
CSCID, Uthamapalayam,
Theni District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the third respondent in his proceedings Detention Order No.05/2016 (CS), dated 09.09.2016 and quash the same as illegal and produce the detenu, namely Prabhakaran, son of Murugan @ Pottumurugan, aged about 27 years, now his confined in Central Prison, Madurai, before this Court and set him at liberty.

**ORDER**

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

The petitioner is the father of one Mr. Prabakaran, S/o. Murugan @ Pottumurugan, who has been detained under Section 3(2)(a) r/w 3 (1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act of 1980, as per the order of the District Collector and District Magistrate, Theni District, by Detention Order No.05/2016(CS), dated 09.09.2016. The petitioner challenges the same by way of this Habeas Corpus Petition.

2. This Habeas Corpus Petition was admitted on 27.09.2016. The learned Additional Public Prosecutor took time to get instructions from the respondents. Today, when the Habeas Corpus Petition was taken up for hearing, the learned Additional Public Prosecutor submitted to this Court that the Detention Order has been revoked by the Government under G.O.(Rt).No.399, Co-operation, Food and Consumer Protection (E3) Department, dated 24.10.2016. Thus, of course, this Habeas Corpus Petition has become infructuous.

3. But, at the same time, we need to highlight that the Detention Order was revoked not on any valid grounds, but, on the only ground that there was no advice from the Advisory Board constituted under the Act. This is not a only case that such order of revocation has been made by the Government, but, we have come across number of cases of this nature, where similar orders were revoked, because there is no Advisory Board. Though, before this Court, it was reported by the learned Additional Advocate General that the process for putting in place the Advisory Board had started long before at the end of the Government, so far, the Advisory Board has not been constituted. In one such case, a Division Bench, presided over by the Hon'ble the Chief Justice, had even gone to the extent of making a remark that it appears to be the desire of the Government to set all the detenus free by not appointing the Board. Despite such adverse remarks made, there appears to have been shown any improvement. Even today, it is not reported to this Court that the Advisory Board has been constituted. This is only regrettable. As a result, in no case, the Detention Order could be confirmed by the Government and all such orders are bound to be revoked for want of advice from the Advisory Board. We again express our hope that the Government would act swiftly and appoint the Advisory Board as early as possible.

4. The Habeas Corpus Petition is dismissed as it has become infructuous.



To

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2.The Secretary,
Government of Tamil Nadu,
Co-operation, Food and Consumer
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Secretariat, Fort St. George, Chennai-600 009.

3.The District Collector and District Magistrate,
Theni District, Theni.

4.The Inspector of Police,
CSCID, Uthamapalayam, Theni District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
H.C.P. (MD) No.1296 of 2016

Dated: 15.11.2016

SML

SH/SKS-RR:30.11.2016:3P/6C