

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.11.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1542 of 2017

K.Chanthira

... Petitioner

Vs.

- 1.The Secretary to Government,
Government of Tamil Nadu
Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maligai
Secretariate, Chennai - 9.
- 2.The District Revenue Officer,
District Magistrate and District Collector
(Full Additional Charge)
Tiruvallur District,
Tiruvallur.
- 3.The Secretary to the Government
Government of India
Ministry of Consumer Affairs
Food and Public Distribution
(Dept. of Consumer Affairs)
Room No.270, Krishi Bhawan,
New Delhi - 110 001.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the order of the 2nd respondent herein PBMMSECA No.02/2017, dated 25.07.2017 passed against the detenu namely Kuppan, Son of Dharman, aged about 46 years, who is confined at Central Prison-II, Puzhal, Chennai - 66 and set aside the same, consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Murugavel
For Respondents : Mr.V.M.R.Rajentran,
1 & 2 Addl. Public Prosecutor.
for 3rd Respondent:Mr.S.Arockiam CGSC

O R D E R

(Order of the Court was made by N.SATHISH KUMAR, J)

The petitioner is the wife of the detenu, namely, Kuppan, S/o.Dharman, male, aged about 46 years. The detenu has been detained by the second respondent by his order in PBMMSECA No.02/2017, dated 25.07.2017, holding him to be a "Black Marketeer", as contemplated under the Central Act No.7 of 1980 of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representations made by the petitioner was not considered on time and there was an inordinate and unexplained delay with regard to the same.

4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. It is the contention of the petitioner that though, the petitioner has made his representation on 18.08.2017, till date, the respondents have not considered the same and passed the order.

6. In *Rekha vs. State of Tamil Nadu*, reported in 2011 (5) SCC 244, the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

7. In *Sumaiya vs. The Secretary to Government*, reported in 2007 (2) MWN (Cr.) 145, a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

8. In *Tara Chand vs. State of Rajasthan and others*, reported in 1980 (2) SCC 321, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

9. In the subject case, admittedly, the petitioner has made his representation on 23.08.2017, and till date, the same was not considered by the respondents. The impugned detention order is, therefore, liable to be quashed.

10. In the result, the Habeas Corpus Petition is allowed and the order of detention in PBMMSECA No.02/2017, dated 25.07.2017, passed by the second respondent is set aside. The detenu, namely, Kuppan, S/o.Dharman, male, aged about 46 years, is directed to be released forthwith unless his detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm/ggs

To

- 1.The Secretary to Government,
Government of Tamil Nadu
Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maligai
Secretariate, Chennai - 9.
- 2.The District Revenue Officer,
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(Full Additional Charge)
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(Dept. of Consumer Affairs)
Room No.270, Krishi Bhawan,
New Delhi - 110 001. y,
Chennai - 600 007.
- 4.The Superintendent,
Central Prison II,
Puzhal, Chennai
- 5.The Public Prosecutor,
Madras High Court,
Chennai.
6. The Joint Secretary to Government
Public Law and order Department
Secretariat Chennai-9

+1 cc to Mr.S.Arockiam Advocate sr 77283

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