

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-06-2017

CORAM

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

HCP No.382 of 2017

Mrs.Saraswathy ... Petitioner

vs.

1. The District Collector and District Magistrate,
Coimbatore District,
Coimbatore.

2.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.

... Respondents

This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, calling for the records in Cr.M.P.No.02/G/2017/E1 on the file of the first respondent, quash the detention order dated 10.2.2017 and direct the production of the detainee Ganesh Babu son of Marisamy presently detailed at the Central Prison, Coimbatore under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner : Mr.H.Rajasekar

For Respondents : Mr.V.M.R.Rajentran,
Additional Public Prosecutor.

O R D E R

(ORDER OF THE COURT WAS MADE BY NOOTY.RAMAMOHANA RAO, J.)

This Habeas Corpus Petition is directed against the order of preventive detention passed by the District Collector and District Magistrate, Coimbatore in terms and in accordance with sub-section (2) of Section 3 of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video

Pirates Act, 1982 (Tamil Nadu Act 14/1982) (in short referred to as the 'Act' henceforth).

2. The order of detention dated 10.2.2017 has been served on the detenu and he was accordingly detained. The grounds of detention have also been drawn by the Detaining Authority on 10th February, 2017 itself and they have also been served on the detenu. Thus far there is no difficulty.

3. For purpose of securing effective relief, the grounds of detention are required to be served on the detenu as expeditiously as possible and that alone can afford him the earliest opportunity of making a representation against the order. When once a representation is made, the same is also required to be dealt with as soon as it can be dealt with. There is no denying the fact that the detenu submitted a representation on 24th February, 2017 against his detention order. That was received by the Sponsoring Authority on 3rd March 2017 and it was placed before the Detaining Authority on 6th March 2017 and the remarks on the said representation were received on 13th March 2017 and the Detaining Authority, in the counter affidavit filed by him on 30th March 2017, in paragraph 3(b), would submit that he has forwarded the said representation to the Secretary to the Government on 8th March 2017 and it was still under consideration. In paragraph 3(g), it was set out that no orders have been passed so far on the representation made by the detenu.

4. We gather from the record that the Undersecretary to the Government dealt with the representation on 27th April, 2017 and the Deputy Secretary dealt with it on 27th April, 2017 and the Hon'ble Minister concerned has dealt with it on 6th May, 2017 and it was rejected on 6th May, 2017.

5. Though it could be true that 4th March, 2017 and 5th March 2017 are Government Holidays and so is the case on 11th March 2017 and 12th March 2017, but, however, a representation made on 24th February, 2017 has not been responded to even after expiry of two months of time therefrom. It was rejected only on 06/05/2017.

6. We are, therefore, satisfied that it is a case where the representation of the detenu has not been disposed of as soon as possible and with necessary expedition and there was unexplained and inordinate delay in dealing with it. Consistently, it is held that any explained and undue delay in dealing with the representation of a detenu amounts to denying effective opportunity to represent itself against his detention. Any such infraction of the right of a detenu becomes a fatal one to the sustainability of the order of detention.

7. We are, therefore, satisfied that the delay which occasioned in dealing with the representation said to have been submitted by the detenu on 24th February, 2017, is fatal and accordingly, we quash the detention order dated 10th February, 2017. The detenu shall be set at liberty forthwith. Registry to communicate a copy of this order forthwith. Accordingly, the Habeas Corpus Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The District Collector and District Magistrate,
Coimbatore District,
Coimbatore.
2. The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
5. The Public Prosecutor,
High Court, Madras-104.

HCP No.382 of 2017

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srg 28/06/2017