

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.11.2017

Coram

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

H.C.P.No.845 of 2017

A.Ganesan

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By the Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2.The Additional Director General of Police &
Inspector General of Prisons
Gandhi Irwin Road
Egmore, Chennai - 600 008.

3.The Superintendent of Prison,
Central Prison
Coimbatore.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner namely A.Ganesan, S/o.Antipadayachi, Life Convict, Ct.No.72915, aged about 58 years, now confined in the Central Prison, Coimbatore before the Court and directing the respondents to consider the petitioner immediately under G.O.Ms.No.1155 Home (Prison-IV) Department DT, 11.09.2008, for preamture release and set him at liberty.

For Petitioner : Mr.Radhakrishnan for
Mr.P.Pugalenth

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

O R D E R

(Order of the Court was made by RAJIV SHAKDHER, J)

1. This is a petition filed under Article 226 of the Constitution. The petitioner / detenu seeks issuance of directions to the respondents, to consider his premature release, in consonance with the provisions of G.O.Ms.No.1155 Home (Prison-IV) Department, dated 11.09.2008.

2. Notice in this petition was issued on 24.05.2017, pursuant to which, the State has filed its counter affidavit.

3. A perusal of the counter affidavit shows that the petitioner / detenu, who is a life convict prisoner, was sentenced to life imprisonment, vide judgment dated 27.02.1997, passed in Sessions Case No.23 of 1996. Upon an appeal, being preferred by the petitioner / detenu, the conviction was confirmed by this Court, vide judgment dated, 15.03.2005, passed in Crl.A.No.292 of 1997.

4. The petitioner's/detenu's, basic grievance is that he was not given the benefit of the aforementioned G.O.Ms.No.1155, dated 11.09.2008.

4.1. It is submitted by the petitioner/detenu that as on 15.09.2008, he had completed more than seven (7) years of actual imprisonment, and therefore, he ought to have been considered for premature release on 15.09.2008, as was done by the State in respect of 1405 life convicts, in pursuance of exercise of power under Article 161 of the Constitution.

4.2. It is, however, conceded by the petitioner/detenu that the representation, with regard to this aspect of the matter, was made for the first time on 09.05.2017.

5. The State, on the other hand, in its counter affidavit avers that, as on 15.09.2008, the petitioner/detenu had only completed five (5) years, nine (9) months and twenty six (26) days of actual incarceration. The State, further, avers that as on 21.07.2017, the petitioner/detenu had completed fourteen (14) years, one (1) month and twelve (12) days of actual imprisonment.

6. We may note that the State further submits that since the petitioner/detenu has completed more than fourteen (14) years of actual imprisonment, his case would be considered by the Advisory Board.

7. Quite clearly, the petitioner/detenu has approached the Court, rather late to seek benefit of G.O.Ms.No.1155, dated 11.09.2008. However, having regard to the fact that the petitioner/detenu has completed, even according to the State, an actual period of imprisonment, which exceeds 14 years, we direct

the Advisory Board to consider the petitioner's / detenu's case, in accordance with law, for premature release. Recommendation of the Advisory Board will be placed before the State, i.e., the Government of Tamil Nadu (Government) for appropriate orders, in accordance with law.

8. Needless to say, the case of the petitioner / detenu will be placed before the Advisory Board, as early as possible, though, not later than three (3) weeks from today. The Advisory Board, in turn, will consider the same, and give its recommendation, as expeditiously as possible, though, not later than two (2) weeks from the date it receives the case papers, concerning the petitioner / detenu. The Government, as is required in law, will consider the recommendation of the Advisory Board and pass a suitable order, though, not later than two (2) weeks from the date of receipt of recommendation of the Advisory Board.

9. This petition is, accordingly, disposed of in the aforesaid terms.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The State of Tamil Nadu
Rep. By the Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai - 600 009.

2.The Additional Director General of Police &
Inspector General of Prisons
Gandhi Irwin Road
Egmore, Chennai - 600 008.

3.The Superintendent of Prison,
Central Prison
Coimbatore.

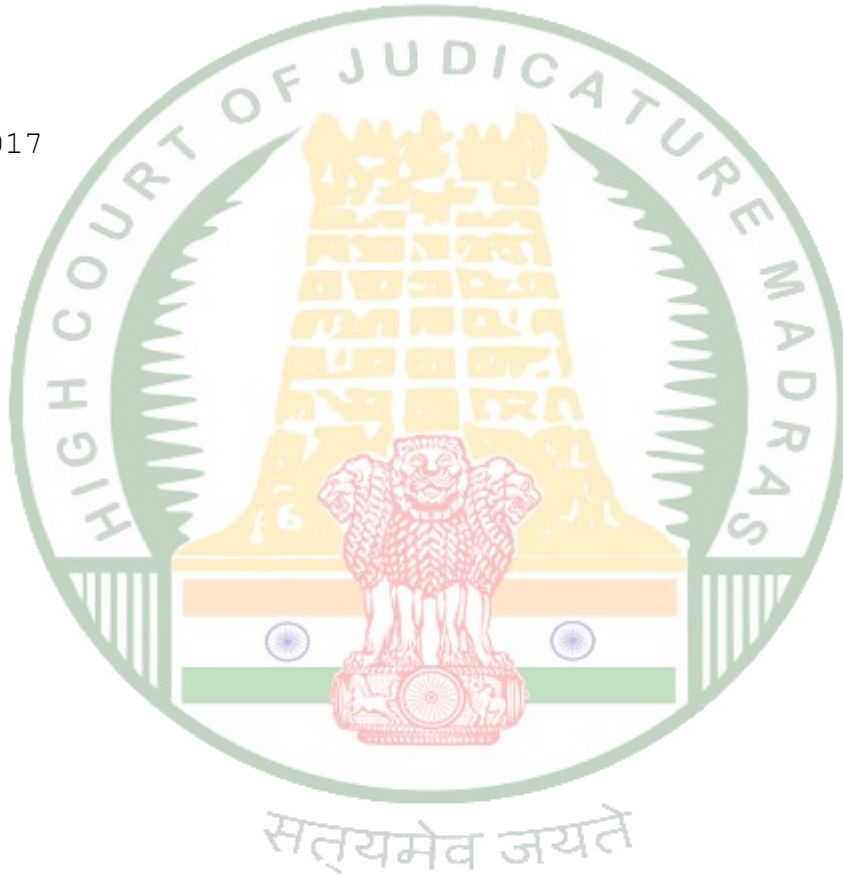
4.The Joint Secretary to Govt Public (Law & Order)
Fort St.George Chennai-9

5.The Public Prosecutor,
Madras High Court,
Chennai.

+1 cc to Mr.P.Pugalenthii Advocate sr 81303

H.C.P.No.845 of 2017

vgI(co)
aa06/12/2017



WEB COPY