



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.6390 of 2017

K.K.Raja

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Home Secretary, [Prison],
Secretariat, Fort.St.George, Chennai 600 009.

2.The Additional Director General of Police [Prison],
The Inspector General of Prisons,
CMDA Tower - II, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to constitute Advisory Boards to place all life convict prisoners confining at all Central Prisons and Special Prisons for Women in the State of Tamil Nadu, who completed 65 years [male] and 55 years [female] and already undergone two years and six months imprisonment for considering their premature release under Rule 341(7) of the Tamil Nadu Prison Rules, 1983 and in accordance with law.

For petitioner

: Mr.R.Alagumani

For respondents

: Mr.T.S.Mohammed Mohideen

Additional Government Pleader

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

The petitioner filed this Writ Petition in *pro bono publico* to direct the respondents to constitute Advisory Boards in accordance with the Tamil Nadu Prison Rules, 1983 and place the life convicts, who have completed 65 years in the case of male and 55 years in the case of female for premature release under Rule 341(7) of the Tamil Nadu Prison Rules, 1983.



2. According to the petitioner, on account of the failure on the part of the State to constitute Advisory Boards, the case of the life convict prisoners, who have completed 65 years in the case of male and 55 years in the case of female were not placed before the Advisory Board for premature release.

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3. The principal issue that arises for consideration is as to whether the prisoners, who have completed 65 years in the case of male and 55 years in the case of female, are eligible for premature release under Rule 341(7) of the Tamil Nadu Prison Rules, 1983.

4. The issue with regard to the premature release of the prisoners came up for consideration before the Hon'ble Supreme Court in Government of Tamil Nadu, represented by its Secretary to Government, Home [Prison IV] Department, and others, Vs. *Mariammal*, (Judgment dated 08th September, 2016 in CrI.A.No.865 of 2016. The Hon'ble Supreme Court directed the State of Tamil Nadu to consider the question of release of prisoners, taking into account the statutory provisions as contained in Section 433-A of the Code of Criminal Procedure and the Judgments rendered in *Epuru Sudhakar and another v. Govt. of A.P.* And others, [2006 (8) SCC 161] *Maru Ram and others V. Union of India* [1981 (1) SCC 107 and *Union of India Vs. Sriharan @ Murugan and others* [2016 (7) SCC 1]. The operative portion of the Judgment reads as follows:-

"9. We may state at this juncture that the High Court had directed to release the respondent as he had spent 17 years in custody. We have already expressed that we are not inclined to interfere with the same as he has been set at liberty. However, we would direct the State of T.N. to bring fresh circulars keeping in view the provisions contained in 433-A Cr.P.C., and the judgments rendered in *Epuru Sudhakar and another v. Govt. of A.P.* And others, *Maru Ram and others V. Union of India* and *Union of India Vs. Sriharan @ Murugan and others*."

5. Since the State was expected to issue a circular, taking into account the Judgment dated 8th September 2016, in CrI.A.No.865 of 2016, we directed the Principal Secretary to Government, Home Department, to file a statement before this Court with respect to the action taken by the Government to comply with the direction given by the Hon'ble Supreme Court.

6. When the Writ Petition came up for hearing today, the ~~Chennai Bench~~ Additional Government Pleader submitted a status report filed by the Additional Chief Secretary to Government, Home Prohibition and Excise Department, Secretariat, Chennai. According



to the Home Department, the Government is in the process of examining the issue, pursuant to the representation submitted by the petitioner and the direction given by the Hon'ble Supreme Court and appropriate guidelines would be issued within a period of four months.

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7. The status report filed by the Additional Chief Secretary to Government, Home Prohibition and Excise Department, indicates that the Government have initiated proposal for formulating the guidelines. The guidelines have to be routed through the Police and the Jail Departments and it has to be placed before the Cabinet. We, therefore, deem it fit and proper to grant four months time, as per the request made by the Government.

8. We hope and trust that the Government would issue appropriate guidelines, in the light of the directions issued by the Hon'ble Supreme Court dated 8th September 2016, in CrI.A.No.865 of 2016, as expeditiously as possible and in any case, within a period of four months from the date of receipt of a copy of this order.

9. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To:

1.The Home Secretary to Government, [Prison],
Secretariat, Fort.St.George, Chennai 600 009.

2.The Additional Director General of Police [Prison],
The Inspector General of Prisons,
CMDA Tower - II, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

+One cc to M/r.R.Alagumani, Advocate, SR.No.71589
+One cc to The Special Government Pleader, SR.No.72318

NB

RL/5C/3P/MR/KKR/SAR1/29/8/2017

ORDER MADE IN