

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2018

CORAM :

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

W.A.No.1543 of 2018

N.Parvathi

... Appellant

Vs

1. The Government of Tamil Nadu,
Rep. By its Secretary,
Home (Prison VI) Department,
Fort St. George,
Chennai.
 2. Inspector General of Police,
Prisons Department,
Whannels Road,
Egmore,
Chennai - 600 008.
 3. The Superintendent of Prisons,
Cuddalore Prison,
Cuddalore.
- ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent 1865, seeking to set aside the order dated 13.06.2018 passed in W.P.No.6798 of 2018.

W.P.No.6798/2018:

Writ Petition filed under Article 226 of the constitution of India praying to issue a Writ of mandamus to direct the respondents to consider the petitioner's representation dated 13.02.2018, within such time.

For Appellant :Mr.Sharath Chandran

For Respondents :Mrs.Thangavadhana Balakrishnan

Additional Govt. Pleader for R1 to R3

JUDGMENT

(Judgment of the Court was made by DR.S.VIMALA,J.,)

"Lend me your ears", is what was pleaded by the petitioner herein.

The phrase was first used in Shakespeare's Julius Caesar, where Mark Anthony says "Friends, Romans, countrymen, lend me your ears".

The petitioner seeks the attention and understanding of the prison authority with reference to the context in which the petitioner and her family is placed. We have understood the prayer in this appeal only in this way.

2. The writ petition in W.P.No.6798 of 2018 was filed by one N.Parvathi, mother of the prisoner, seeking a direction to the respondents to consider her representation dated 13.02.2018 for premature release/remission of sentence of the prisoner/accused.

3. The learned single Judge, by order dated 13.06.2018, has held as follows:

"There is no statutory duty cast upon the respondents to dispose of such representations. Remission is granted to the prisoner in the usual course subject to his eligibility under the Rules. If any specific case of discrimination is meted out to the petitioner, it is always open to the petitioner to approach this Court citing the same. In the absence of any such discrimination, a general request for remission cannot be entertained without anything more."

This order is under challenge in this writ appeal.

4. The learned counsel appearing for the appellant submits that the petitioner did not seek an order of remission from the Court but a direction to the respondents to consider her representation. It is also submitted that as expected by law, some functionaries are not discharging their duties and unless there is an order from the Court, the authorities are not looking into the grievance of the Common Man, especially, the grievances of those persons who have no access to justice resulting in their voices going unheard; unless personal circumstances of the prisoner is brought to the notice of the authorities concerned, it is not feasible for the respondents to consider the circumstances and pass appropriate orders for premature release. It is fervently submitted that the petitioner would have the satisfaction at the least that she was able to put forth her grievance and whether it is going to be considered or not is immaterial. The duty to consider the representation is what was emphasized by the learned counsel for the petitioner.

5. The learned Additional Government Pleader appearing for the respondents submitted that there is a confusion with regard to the name of the prisoner as to whether the prisoner is Venkatesan or Sarvanan. This issue has not been raised before the learned single Judge. However, this confusion can be clarified by comparing the name of the prisoner with the

prisoner number and identification mark as entered in the prison register.

6. The learned Additional Government Pleader fairly conceded that if any representation is submitted by the petitioner, the respondents will consider the same and pass orders in accordance with law and on merits.

7. Though it is claimed that a representation has already been submitted, still it is open to the petitioner to submit a fresh representation. In the event of petitioner submitting a fresh representation, the respondents shall consider the same in the light of the circumstances stated therein and to pass orders on merits and in accordance with law.

8. The order of the learned single Judge is set aside and the writ appeal is partly allowed, directing the respondents to consider the representation of the petitioner and to pass orders in accordance with law and on merits within a period of six weeks from the date of receipt of a copy of this Judgment. No costs.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
Home (Prison VI) Department,
Fort St. George,
Chennai.

2. Inspector General of Police,
Prisons Department,
Whannels Road,
Egmore,
Chennai - 600 008.

3. The Superintendent of Prisons,
Cuddalore Prison,
Cuddalore.

+1 CC to Govt. Pleader sr 53969.

+4 CC to Mr.E. Aadith vijay, Advocate sr 53349.

W.A.No.1543 of 2018

KJI (CO)
SP(31/10/2018)