



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1292 of 2019

Abitha Begum

: Petitioner

Vs.

1.The State of Tamilnadu

rep. by the Secretary to Government
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The DGP & Inspector General of Prison,
Gandhi Irvin Road,
Egmore, Chennai

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to direct the respondents to provide "A Class" facility to the petitioner's husband namely, Rahamathullakhan, S/o.Jallaludeen, aged 46 years, life convict Convict No.7369 now confined in Central Prison, Palayamkottai, based on his educational qualification.

For Petitioner

: Mr.T.Palanisamy
for Mr.P.Pugalendhi

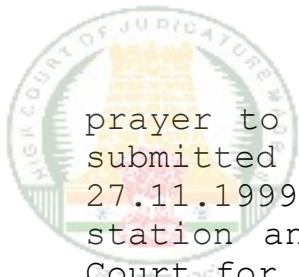
For Respondents

: Mr.K.Dinesh Babu
Additional Public Prosecutor

ORDER

(Order of the Court was made by T.RAJA., J)

This petition has been filed to direct the respondents to provide A Class facility to the petitioner's husband, namely, Rahamathullahkhan, who is a life convict, considering his educational qualifications.

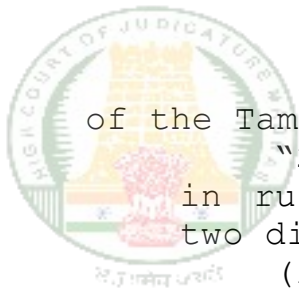


prayer to provide 'A Class' facility to the petitioner's husband, submitted that earlier, the petitioner's husband was arrested on 27.11.1999 in Crime No.1163/1999 by Coimbatore B-1 Bazaar Police station and suffered conviction in the said case by the Special Court for Exclusive Bomb Blast Cases at Ponnammallee. It is further submitted that presently, the petitioner's husband has been sentenced to life imprisonment pursuant to the conviction in S.C.No.140/2000 under Section 302 IPC and he has been undergoing incarceration for the past 20 years. Since the life convict has completed his degree course in B.A., Sociology, based on his educational qualification, he is eligible for "A Class" facility as per Rule 225 of the Tamil Nadu Prison Rules 1983 (hereinafter referred to as 'the Rules'), wherein, Rule 225 clearly shows that prisoners shall be eligible for Class A, if they by social status, education or habit of life have been accustomed to a superior mode of living. Therefore, a representation has been given on 22.10.2019 seeking A Class facility to the life convict. However, the said representation has not been considered so far and hence, the petitioner is before this Court with this petition.

3. The Learned counsel concluding his argument by submitted that in similar line, this Court, by order dated 24.07.2019 has granted the relief in HCP No.245/2019 on the ground that the convict prisoner has undergone seven months of sentence out of one year awarded to him, as per the said Rules. The petitioner has also filed HCP No.690/2017 for premature release and the said petition is pending before the Principal Bench of this Court. Therefore, it is contended that the same benefit may kindly be extended to the petitioner's husband.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent opposing the above prayer and taking us to the Rule 225 of the Rules sought to dismiss the petition, submitted that Rule 225 of the Rules cannot be made applicable to the case of the life convict in the present case for the reason that habitual prisoners cannot seek benefit of Rule 225 of the Rules on par with ordinary prisoner. Inviting our notice to Paragraph No.2 of the affidavit filed by the petitioner, the learned Additional Public Prosecutor submitted that it is the petitioner's own case that the petitioner's husband has suffered conviction in S.C.No.8/2003 and has undergone a sentence of seven years rigorous imprisonment and in yet another case, he has suffered conviction in S.C.No.140/2000 under Section 302 IPC and he is undergoing life sentence in the said case from 07.10.2003. Therefore, it is pleaded that it is not a fit case to consider the grant of "A Class" facility to the life convict.

5. In view of the above submission made by the learned Additional Public Prosecutor, it is pertinent to refer to Rule 225



of the Tamil Nadu Prison Rules:

"225.Classes of Prisoners, - (1) As mentioned in rule 217, convicted prisoners are divided into two divisions or classes, "A" and "B".

(i) Prisoners shall be eligible for Class "A", if they by social status, education or habit of life have been accustomed to a superior mode of living. Habitual prisoners may, at the discretion of the classifying authority, be included under this class on grounds of character and antecedents.

(ii) Class "B" shall consist of prisoners who are not classified in Class "A".

(iii) Notwithstanding anything contained in sub-rule (i), any person convicted of an offence involving gross indecency or exhibiting grave depravity of character may not be placed in Class "A".

6. A perusal of Rule 225 of the Rules shows clearly that the prisoners shall be eligible for Class A, if they by social status, education or habit of life have been accustomed to a superior mode of living. Rule 225 does not end there itself, it reads further that, habitual prisoners may, at the discretion of the classifying authority, be included under this class on grounds of character and antecedents.

7. In the present case, the petitioner has repeatedly suffered conviction in two cases consecutively, as we mentioned above and moreover, the reliance made by the learned counsel for the petitioner on the order of this Court dated 24.07.2019 passed in HCP No.245/2019 cannot be applicable to the facts of the present case, since that case pertains to the convict prisoner, who is a Government Servant and suffered conviction under Prevention of Corruption Act and hence, considering the antecedents of the life convict, we are not inclined to accede to the prayer made by the petitioner. Accordingly, the prayer is refused and the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (CRL.SIDE)

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Sub Assistant Registrar (CS)

RR



To

1.The Secretary to Government
State of Tamilnadu
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

2.The DGP & Inspector General of Prison,
Gandhi Irvin Road,
Egmore, Chennai

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.P.Pugalendhi , Advocate SR.No.104819

Order made in
H.C.P. (MD)No.1292 of 2019
Dated: 12.12.2019

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