



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.09.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.NO.18997 OF 2021

S.Arumugam

... Petitioner

.Vs.

1. The State Rep. by its
The Director General of Prison and
Inspector General of Prison,
Whannels Road, Egmore,
Chennai - 8.
2. The Deputy Inspector General of Prison,
O/o. The D.I.G. at Coimbatore Range,
Gandhipuram, Coimbatore.
3. The Superintendent of Prison,
Salem Central Prison,
Salem District.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 1st respondent to retain the convict namely Ramalingam, S/o.Arumugam in Central Prison at Salem to undergo remaining his punishment period based on the petitioner's representation dated 10.08.2021.

For Petitioner : Mr.K.Mohamed Saifulla

For Respondents : Mr.R.Muniyapparaj
Government Advocate (Crl. Side)

O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner's son Ramalingam is a convict prisoner (CT.No.22628) and was undergoing the sentence imposed by the



Court in the Central Prison, Coimbatore. It appears that the convict prisoner hails from Salem District and therefore, a request was made on his behalf, for transferring him from Coimbatore to Salem, to facilitate his family members to visit him in the prison. This request was accepted by the 1st respondent and by order dated 03.03.2021, the convict prisoner was directed to be transferred temporarily from the Central Prison, Coimbatore to the Central Prison, Salem. Accordingly, the convict prisoner is now lodged in the Central Prison, Salem.

2. While that being so, a fresh representation dated 10.08.2021 has been given to the prison authorities, requesting them to retain the convict prisoner in Salem, permanently and finding no response for the same, the present writ petition has been filed for a mandamus directing the 1st respondent to retain the convict prisoner in the Central Prison at Salem to undergo his remaining sentence, based on the petitioner's representation dated 10.08.2021.

3. Heard Mr.K.Mohamed Saifulla, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Government Advocate (Crl. Side) appearing for the respondent.

4. We are of the view that a mandamus for disposing of a representation can be issued, only if there is a statutory duty cast upon the public authorities and not otherwise. Transfer of a prisoner from one prison to another is purely an administrative act and is governed by the Tamil Nadu Prison Rules, 1983. In a given situation, it is open to the prison authorities to transfer a prisoner from one prison to another, which power cannot be scuttled by the Courts. Therefore, the mandamus as prayed for, cannot be issued. However, it is open to the prison authorities to either retain the convict prisoner in Salem or otherwise, in accordance with the prison rules and also bearing in mind, the conduct of the convict prisoner and the impact of the COVID-19 pandemic.

With the above observation, this petition is closed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Prison and
Inspector General of Prison,
Whannels Road, Egmore,
Chennai - 8.
2. The Deputy Inspector General of Prison,
O/o. The D.I.G. at Coimbatore Range,
Gandhipuram, Coimbatore.
3. The Superintendent of Prison,
Salem Central Prison,
Salem District.
4. The Superintendent,
Central Prison,
Coimbatore.
5. The Public Prosecutor,
High Court, Madras.

W.P.NO.18997 OF 2021

RSV(CO)
PBS/12/10/2021