



WEB COPY

W.P.(MD)No.10131 of 2019 and

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.10131 of 2019 and

W.M.P. (MD)No.7870 of 2019

Aseervatham

... Petitioner

vs.

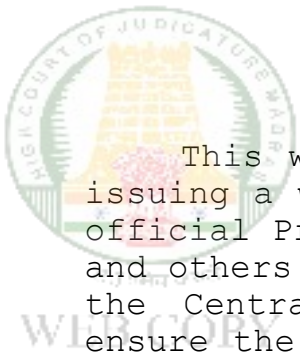
- 1.The Home Secretary,
Home Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
- 2.The Director General of Police,
D.G.P.Office, Mylapore,
Dr.Radhakrishnan Salai,
Chennai - 600 005.
- 3.The Additional Director General of Prison,
Whannel Road, Egmore, Chennai - 600 008.
- 4.The Deputy Inspector General of Prisons,
Madurai Range, Madurai - 625 016.
- 5.The Superintendent of Prison,
Central Prison, Madurai.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to ensure official prison visitors, namely, Chief Judicial Magistrate, Madurai, and others to be called for immediately to oversee the happenings in the prison tonight itself without any delay and ensure the atmosphere, where those injured are provided hospitalization by immediately moving to the Madurai Government Rajaji Hospital and further entering into a dialogue with the prisoners in the presence of the officials and Non-Official Prison Visitors and grant appropriate compensations to the victims.

For petitioner
For Respondents

:Mr.Henri Tiphagne
:Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.A.K.Basraka Pandian
Special Government Pleader



ORDER

This writ petition is filed as Public Interest Litigation, for issuing a writ of mandamus, to direct the respondents to ensure the official Prison visitors, namely, Chief Judicial Magistrate, Madurai and others to be called for immediately to oversee the happenings in the Central Prison, Madurai, immediately without any delay and ensure the atmosphere by providing medical treatment to the injured and further entering into a dialogue with the prisoners in the presence of the officials and non-official prison visitors and to grant appropriate compensation to the victims.

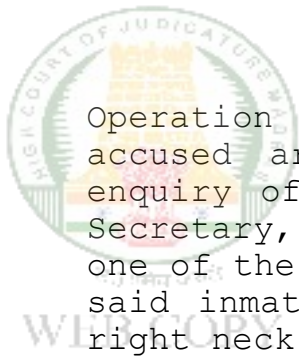
2.The petitioner states that he has been working as State Co-Ordinator in People Watch Organisation for the past 10 years and that the Organisation, in which the petitioner has associated himself, has been actively engaged for the protection and promotion of human rights in Tamil Nadu. It is stated that the petitioner's attention was drawn about the situation of violence inside the Madurai Central Prison, resulting in few remand prisoners, who had been allegedly beaten up inside, climbing upon the prison walls to draw public attention and showing their blood injuries on their cloths and throwing stones on the road. The petitioner further states that he was not allowed to see what was going on, as the police blocked all the traffic on the New Jail Road, Madurai, around 04.00 pm. The petitioner has also stated that the inmates of Madurai Central Jail have raised slogans by standing at the top of the jail wall and were showing continuous protest.

3.It is stated that the object and intention of the petitioner in filing this public interest litigation is to ensure no further violence or extensive use of force on the prisoners in any form of physical and mental torture to the inmates on account of protest and agitation.

4.Hearing about of the crux of the demands raised by the prisoners as from news papers, the petitioner states that some of the prisoners slogans for not serving food and other domestic issues and that it is right time to check the availability of basic needs at Madurai Central Prison, as the prisoners, like all human beings, deserve to be treated with dignity. Before filing the writ petition, the petitioner sent a representation, dated 23.04.2019, in this regard.

5.The Secretary, District Legal Services Authority addresses a report to the Registrar of this Bench about the preliminary enquiry conducted by him, as to the reason for agitation by inmates in the Madurai Central Prison and the damages noticed by him, as a result of the agitation and the injury caused to the inmates, as a result of the agitation on 23.04.2019.

6.From the report, it appears that non-supply of sufficient water for drinking, cleaning and toilet purposes and ill-treatment of



Operation Cellphone Team for searching Ganja and Cellphone to the accused are the reasons for agitation. As per the preliminary enquiry of the District Legal Services Authority conducted by its Secretary, no one got any serious injury in the agitation. Though one of the prisoners was admitted in hospital, it was found that the said inmate, by name, Dhivagar, has sustained lacerated injury on right neck by using Razor Blade and that it is only a simple injury. In the said report, the following suggestions were also given:

1)The Central Prison, Madurai is tiny and located in a most congested area in Madurai with total extent of 3 to 4 acres. Hence, shifting of central prison from Arapalayam to some other places in Melur Road for a better administration and for providing water and sanitary facility to the prisoners.

2)Counselling of accused should be done in a professional way to bring self esteem of prisoners with high moral.

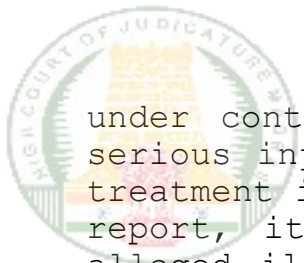
3)The Operation Cellphone Team should be dismantled at prison and the accused should be treated kindly as a human being and stress management training should be given to the jail personnel in order to treat the inmates with humanitarian approach.

4)Since out of 600 remand prisoners, 100 remand prisoners are Drug and Ganja addict, there should be proper counselling and retreat measures given for their rehabilitation.

7.A soft copy (pen drive) of the videograph taken by the respondents picturising the whole incident, is produced before this Court by the learned Additional Advocate General. A copy of photographs, which were taken at the time of incident is also produced. The damages caused to the buildings and other materials can be seen from the videographs. The learned Additional Advocate General has also produced before this Court the extract of In and Out Register of Central Prison, Madurai and Honourable Judge of this Court, who visited the jail on 23.08.2018, made an endorsement in that register to the effect that the facilities provided to the inmates are good. The Chief Judicial Magistrate, Madurai, who visited the jail on 27.02.2019 has made an endorsement that several petitions were given to him by the inmates for legal action and there is no complaint.

8.The learned Counsel appearing for the petitioner requested this Court to appoint a Commissioner to oversee the happenings immediately to ensure normalcy and to pass appropriate orders after considering the grievance of the inmates, so that the recurrence of mutiny, like incidents in Central Prison, Madurai can be avoided in future.

9.On the very date of incident, as per the instruction of Registrar (Judicial) of this Bench, the Secretary of District Legal Services Authority, Madurai, visited Central Prison, Madurai at 08.30 p.m., on 23.04.2019 and submitted a report with his recommendation and suggestions. We have no reason to doubt the report. It is now reported that the situation is



under control. Except some damages caused to the properties, no serious injury is caused to anyone. It is also stated that proper treatment is given to persons, who suffered simple injury. From the report, it is seen that the incident was on account of the alleged ill-treatment of the so called operation Cell Phone Team, while searching the accused. Ganja or drugs inside prison can not be permitted and hence strict vigilance cannot be dispensed with. If, for any reason, this is permitted, this will be enough for problems in future and the prison will never be a place expected to be by several judgments of Honourable Supreme Court and will not be conducive for reformation or rehabilitation which requires a favorable atmosphere. Since several directions have been issued by Honourable Supreme Court on prison reforms based on recommendation of several committees, we are not inclined to issue fresh direction. However, keeping in mind, the need to prevent such incident in future, this Writ Petition is disposed of with the following directions:

a)The respondents are directed to ensure that there should be multilevel checking to prevent any narcotic subsistence getting inside prison by providing modern facilities and by using trained dogs.

b)The individual inmate can be checked/searched for possession of drugs by trained staff anytime, when he comes from outside or staying inside as far as possible by calling him to a particular cell fitted with CCTV and such search operation shall be always videographed.

c)The drinking water and water facility for other usage should be adequately provided by respondents. The Chief Judicial Magistrate concerned or any Judicial Officers visiting prison should record the adequacy of water supply and management. Number of inmates and water supplied should be furnished to the visiting Judicial Officer in a prescribed format.

d)The shall not be any excess or Human Right violation. The visiting Judicial officers shall conduct random enquiry on every visit to make a remark on this. The respondents 3 and 4 are directed to give stress management training by qualified doctors and experts to treat the inmates with humanitarian approach.

No costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (CRL)

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/ /2021

Sub Assistant Registrar(CS)



To

- 1.The Home Secretary,
Home Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 625 009.
- 2.The Director General of Police,
D.G.P.Office, Mylapore,
Dr.Radhakrishnan Salai,
Chennai - 625 005.
- 3.The Additional Director General of Prison,
Whannel Road, Egmore, Chennai - 600 008.
- 4.The Deputy Inspector General of Prisons,
Madurai Range, Madurai - 625 016.
- 5.The Superintendent of Prison,
Central Prison, Madurai.

Copy to:

The Chief Judicial Magistrate,
Madurai.

W.P. (MD) No.10131 of 2019
30.07.2021

RS (16.08.2021) 5P 7C