



WEB COPY

W.P.(MD) No.4397 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No.4397 of 2019

T.Thenmozhi

... Petitioner

-vs-

1.The State of Tamilnadu
rep.by its Principal Secretary
Home (Prisons) Department
Fort.St.George
Chennai-600 009

2.The Additional Director General of Police /
Inspector General of Prisons
Chennai

3.The Superintendent of Police
Central Prison
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents herein to treat petitioner's husband Thangaraj, C.P.No.2008 having become eligible for premature release as per Rule 341(2) of Tamilnadu prison Rules 1983 by considering petitioner representation dated 17.11.2018 and considering the G.O.Ms.No.64, Home Prison (IV) Department/2018, dated 01.02.2018 within the time stipulated by this Court.

For Petitioner : Mr.S.Ram Sundar Vijayaraj
for M/s.Veera Associates

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

O R D E R

S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

The writ petitioner is the wife of the life convict Thangaraj and she seeks for his premature release.



2. According to the petitioner, her husband is entitled to premature release as per Rule 341(2) of the Tamil Nadu Prison Rules, 1983 and that she made a representation to the respondents as early as on 17.11.2018. The petitioner would further state that her husband is in incarceration for more than 22 years as a life convict and in the light of G.O.(Ms) No.64, Home (Prison-IV) Department, dated 01.02.2018 as modified by G.O.(Ms) No.302, Home (Prison-IV) Department, dated 03.05.2018, the Government has to consider the petitioner's request for premature release of her husband. Since no action was taken on the petitioner's representation, the petitioner has filed this writ petition seeking for a direction to the respondents to consider her representation.

3. The case of the petitioner is that based on her representation no action, even to place the matter before the Advisory Board, has been taken by the respondents. Further, in view of the birth centenary celebration of the former Chief Minister Dr.M.G.Ramachandran, the Government, by the aforementioned Government Orders, has framed guidelines for grant of remission to the life convicts, who have completed 10 / 20 years of actual imprisonment under Article 161 of the Constitution of India. The petitioner would further submit that her husband does not come under any of the restrictions imposed in the aforementioned Government Orders and since her husband has been languishing in jail for more than 22 years, he shall be released from the prison.

4. The respondents have filed a counter affidavit, wherein it is stated that the husband of the petitioner was convicted by the learned Principal Sessions Judge, Madurai, by Judgment dated 10.12.1987 in S.C.No.155 of 1987 as follows:

Sl.No.	Section of Law	Sentence
1.	302 r/w 34 I.P.C.	Life Imprisonment
2.	148 I.P.C.	R.I. for one year
3.	201 I.P.C.	R.I. for six months
4.	3 r/w 25(1) (a) and 27 of Arms Act	R.I. for six months

The above sentences were ordered to run concurrently and the said conviction and sentence were confirmed by this Court by Judgment dated 16.07.1997 in Cr.A.No.23 of 1988 and the appeal before the Honourable Supreme Court was also dismissed by Judgment dated 17.02.1998 in CrI.A.No.3951 of 1997.

5. Further, it is stated in the counter affidavit that



since the petitioner's husband was convicted under Section 3 r/w 25(1)(a) and Section 27 of Arms Act, as per the aforementioned Government Orders, he is not eligible for the premature release. Once the accused was convicted and sentenced to undergo life imprisonment, he has to serve the life term in prison till his last breath. Hence, the Government has not considered the request of the petitioner and placed the same before the Advisory Board. Unless until the life convict satisfies the criteria prescribed under the relevant Rules for the premature release, the request of the writ petitioner for premature release cannot be acceded to.

6. Heard both sides and perused the materials available on record.

7. The factum that the petitioner's husband is a life convict and has been convicted for various offences as mentioned above and he is in incarceration for more than 22 years is not in dispute. The issue as to whether the life convict herein satisfies the conditions stipulated in G.O.(Ms) No.64, Home (Prison-IV) Department, dated 01.02.2018 as amended by G.O.(Ms) No.302, Home (Prison-IV) Department, dated 03.05.2018 or not has to be decided by the appropriate Authority. This Court cannot go into the said issue now. Hence, we are of the view that it would be suffice to direct the respondents to place the matter before the Advisory Board and decision be taken at the earliest point of time in the manner known to law as the life convict herein is in prison for more than 22 years.

8. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

krk

To:

1.The Principal Secretary,
Home (Prisons) Department,
State of Tamilnadu,
Fort.St.George,
Chennai-600 009.



2.The Additional Director General of Police /
Inspector General of Prisons,
Chennai.

3.The Superintendent of Police,
Central Prison,
Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-34498[F] dated
15/11/2021)

W.P. (MD) No.4397 of 2019
15.11.2021

AM(CO)
SB(01.12.2021) 4P 5C