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H.C.P.No.1271 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.1271 of 2022

Anitha

.. Petitioner

Vs

- 1.The Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution
(Department of Consumer Affairs),
Room No.270, "Krishi Bhavan",
New Delhi – 110 001.
- 2.The Additional Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution
(Department of Consumer Affairs),
Room No.27, "Krishi Bhavan",
New Delhi – 110 001.
- 3.The Principal Secretary to Government,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavignar Maaligai,
Secretariat,
Chennai – 9.



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4.The District Collector and District Magistrate,
Vellore District,
Vellore – 9.

5.The Superintendent of Police,
Vellore District,
Vellore.

6.The Superintendent,
Central Prison,
Vellore,
Vellore District.

7.The Inspector of Police,
Civil Supplies CID,
Vellore Unit, Vellore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the impugned order C3/D.O.No.75/2022 dated 09.06.2022 on the file of the third respondent herein and set aside the same as illegal and direct the respondents to produce *viz.* Manikandan, S/o.Kuppan, aged about 36 years, now confined at the Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.G.Vinodhkumar

For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor



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ORDER
(Made by *P.N.PRAKASH, J.*)

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The petitioner is the wife of the detenu Manikandan, S/o.Kuppan, aged about 36 years. The detenu has been detained by the second respondent by his order in C3/D.O.No.75/2022 dated 09.06.2022, holding him to be a "Black Marketeer", as contemplated under the Central Act No.7 of 1980 of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the



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representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The Detention Order in question was passed on 09.06.2022. The petitioner made a representation on 06.07.2022. Thereafter, remarks were called for by the Government from the Detaining Authority on 08.07.2022. The remarks were duly received on 01.08.2022. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 08.08.2022.

6. It is the contention of the petitioner that there was a delay of 24 days in submitting the remarks by the Detaining Authority, of which



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8 days were Government Holidays and hence there was an inordinate delay of 16 days in submitting the remarks. It is the further contention of the petitioner that the remarks were received on 01.08.2022 and there was a delay of 7 days in considering the representation by the Hon'ble Minister of Food and Civil Supplies after the Law Secretary dealt with it, of which 2 days were Government Holidays, hence, there was inordinate delay of 5 days in considering the representation.

7. In **Rekha vs. State of Tamil Nadu (2011 (5) SCC 244)**, the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

8. In **Sumaiya vs. The Secretary to Government (2007 (2) MWN (Cr.) 145)**, a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.



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9. In **Tara Chand vs. State of Rajasthan and others**, reported in **1980 (2) SCC 321**, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 16 days in submitting the remarks by the Detaining Authority and unexplained delay of 5 days in considering the representation by the Hon'ble Minister of Food and Civil Supplies. The impugned detention order is, therefore, liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O.No.75/2022 dated 09.06.2022, passed by the second respondent is set aside. The detenu, viz. Manikandan, S/o.Kuppan, aged about 36 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P., J.) (TKRJ)
26.10.2022

Index: Yes/No
nsd



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Central Prison, Vellore District.
- 7.The Inspector of Police,
Civil Supplies CID,
Vellore Unit, Vellore District.
- 8.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 9.The Public Prosecutor,
High Court, Madras.



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