



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1969 of 2021

Veerasamy

... Petitioner

Vs.

- 1.The Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 3.The Additional Secretary to the Government of India,
Department of Consumer Affairs,
Ministry of Consumer Affairs Food and Public Distribution
Department,
Government of India,
Room No.270, Krishibhavan,
New Delhi - 110 001.
- 4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order of the second respondent in C.No.01/B.M./ Detention/C.P.O./TC/2021 dated 06.11.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name Suresh, S/o.Veerachamy, aged about 32 years, now confining at Trichy Central Prison, before this Court and set him at liberty by producing him before this Court.

For Petitioner : Mr.R.Alagumani

For Respondents 1, 2 & 4: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor.

For 3rd Respondent : Mrs.L.Victoria Gowri,
Assistant Solicitor General



O R D E R

R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.

The petitioner is the father of the detenu, namely, Suresh, S/o.Veerachamy, aged about 32 years. The detenu has been detained by the third respondent by his proceedings in C.No.01/B.M./Detention/C.P.O./TC/2021 dated 06.11.2021 holding him to be a "Black Marketer", as contemplated under the provision of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980). The said order is under challenge in this Habeas Corpus Petition.

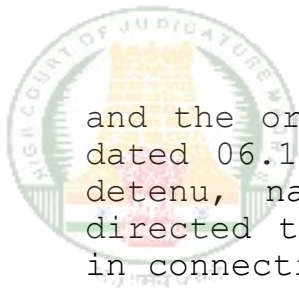
2. We have heard the learned counsel for the petitioner, the learned Assistant Solicitor General appearing for the third respondent and the learned Additional Public Prosecutor appearing for respondents 1, 2 and 4. We have also perused the records produced by the Detaining Authority.

3. The sole ground on which the order of detention is challenged before us, is that the right available to the detenu to make a representation to the Central Government has not been explicitly stated in the order of detention. In paragraph 6 of the detention order, the detaining authority, while stating that the detenu has got a right to make a representation to the detaining authority within twelve (12) days from the date of the detention order and thereafter, to the Central Government, added that if the detenu wishes to make a representation to the Central Government, it can be made to a particular named Officer.

4. This, according to Mr.R.Alagumani, learned counsel for the petitioner, is not in compliance with the requirements of the Statute. He would rely upon the judgment of the Division Bench of this Court in **H.C.P.(MD) No.1372 of 2019, dated 07.12.2020, in Kishan Paul Singh Vs. The Chief Secretary to Government of Tamil Nadu and others**. The Division Bench of this Court has taken note of the Judgment of the Larger Bench of the Hon'ble Supreme Court in **Kamleshkumar Ishwardas Patel Vs. Union of India** reported in **1995 (4) SCC 51**, to conclude that the availability of the right to make a representation must be explicitly stated in the detention order. The very same language has been used in the detention order. In this case, it was tested by the Division Bench of this Court and it was held that it is not a sufficient exposition of the right of the detenu.

5. In view of the said pronouncement of the Division Bench of this Court, the detention order renders itself liable to be quashed and the same is, accordingly, quashed.

<https://hcservices.ecourts.gov.in/hcservices> 6. In the result, this Habeas Corpus Petition is allowed



and the order of detention in C.No.01/B.M./Detention/C.P.O./TC/2021 dated 06.11.2021 passed by the second respondent is set aside. The detenu, namely, Suresh, S/o.Veerachamy, aged about 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Tiruchirappalli City, Tiruchirappalli.
- 3.The Additional Secretary to the Government of India,
Department of Consumer Affairs,
Ministry of Consumer Affairs Food and Public Distribution
Department,
Government of India,
Room No.270, Krishibhavan,
New Delhi - 110 001.
- 4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 5.The Joint Secretary to Government,
Public (Law & Order), Fort saint George,
Chennai-600 009.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.1969 of 2021

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