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W.P.(MD)No.28008 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

W.P.(MD)No.28008 of 2022

Mary Irin

.. Petitioner / Wife of
the detenu

Vs.

The State represented by,
1.The Deputy Inspector General of Prison,
Madurai Range,
Madurai- 625 001.

2.The Superintendent,
Central Prison,
Palayamkottai- 627 007.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Mandamus, directing the respondents to grant and to
extend the ordinary leave from 24.12.2022 for 30 days without escort to
the detenue, Jenosh Edwin, son of Christin, aged about 40 years, Convict



W.P.(MD)No.28008 of 2022

WEB COPY

No.1443, confined at Central Prison, Palayamkottai.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

The husband of the petitioner herein is the Life Convict was granted 28 days leave to attend his fractured clavicle left side with Brachial Plexus Palsy. The leave period expires on 24.12.2022. The doctor, who has treated the convict has opined as follows and given a certificate:

“This is to certify that Mr.Jenosh Edwin Christin, 40 years/male, sustained injury to his left upper limb following RTA in October 2017. He had a fracture clavicle left side with brachial plexus palsy (C5, C6 nerve roots). Patient underwent ORIF



W.P.(MD)No.28008 of 2022

WEB COPY

with Plate Osteosynthesis for clavicle fracture. Patient has been disabled for the past 5 years with Brachial Plexus Palsy. He needs muscle transfer for the Shoulder abduction followed by muscle transfer for the elbow flexion for the Brachial Plexus Palsy to make his left upper limb for useful function. He is advised to take steps to undergo the proposed surgery as early as possible for optimal results.”

2. The petitioner seeks further extension of the leave period. The learned Additional Public Prosecutor would submit that as per the Jail Manual, the prison authority, considering the health condition of the Life Convict has granted 28 days leave for the purpose of medical treatment. As per the Jail manual, if they do not have any power of extension of leave, the petitioner/convict has to approach the Government for any further leave.



W.P.(MD)No.28008 of 2022

WEB COPY

3. The learned counsel for the petitioner would submit that the doctor had advised to take steps to undergo the proposed surgery as early as possible for optimal results, hence prayed for extension of leave.

4. This Court is not inclined to usurp the power of executives without affording the authority concerned an opportunity to exercise their power vested on them under the Statute. In case of any failure, it is open to the petitioner herein to approach this Court.

5. Accordingly, this Writ Petition is dismissed with liberty to the petitioner herein to approach the Government for necessary relief.

[G.J.,J.] & [S.M.,J.]
13.12.2022

Index: Yes/No
Internet: Yes/No
PJJ

To

Page No.4 of 6



W.P.(MD)No.28008 of 2022

WEB COPY

1.The Deputy Inspector General of Prison,
Madurai Range,
Madurai- 625 001.

2.The Superintendent,
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Palayamkottai- 627 007.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P.(MD)No.28008 of 2022

**DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.**

PJL

W.P.(MD)No.28008 of 2022

13.12.2022