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WP.No.1506 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

W.P.No.1506 of 2023

Chandra

... Petitioner

-VS-

The State rep. by its

1.The Secretary to Government of Tamil Nadu,
Department of Home, Chennai – 600 009.

2.The Director Inspector General of Prison,
Coimbatore Range,
Coimbatore – 641 018.

3.The Superintendent,
Central Prison, Coimbatore – 641 018.

4.The Superintendent,
Central Prison, Coimbatore – 641 018.

5.The Director General of Police,
Director General of Prison,
Whannels Road, Egmore,
Chennai – 600 008.

... Respondents

[R5 suo motu impleaded vide order dated 24.01.2023]



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Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to transfer the detenue Ramalingam S/o.Arumugam aged about 40 years, Convict No.22628 detained at Open Prison, Coimbatore, to Open Prison, Salem.

For Petitioner : Dr.S.Manoharan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SUNDAR, J.]

This order will now dispose of the captioned writ petition. This order has to be read in conjunction with and in continuation of our earlier proceedings made in the listings on 24.01.2023 and 03.02.2023 which read as follows:

Proceedings dated 24.01.2023:

'Captioned writ petition has been filed seeking mandamus qua transfer of writ petitioner's son, Convict No.22628 (now detained at Central Prison, Coimbatore) from Central Prison, Coimbatore to Salem Prison.

2.Dr.S.Manoharan, learned counsel on record for writ petitioner submits that the detenu was convicted for the offences under Sections 341, 304(i) read with 34 (2 counts) of 'the Indian Penal Code' [hereinafter 'IPC' for the sake of



convenience and clarity]. It is submitted that the trial Court had sentenced the detenu to undergo simple imprisonment for one month and rigorous imprisonment for 10 years on each of the counts vide S.C.No.341 of 2010 on the file the Additional District and Sessions Court, (Fast Tract Court I) Salem.

3.The transfer of convict prisoner from Coimbatore to Salem is sought essentially on the ground that both the parents (including the writ petitioner) are seriously indisposed and visiting rights are hampered. Be that as it may, the writ petitioner has sent a representation dated 19.12.2022 to all the respondents. Medical records of the parents have also been enclosed.

4.Mr.R.Muniyapparaj, learned Additional Public Prosecutor who accepted notice on behalf of all the four respondents submits, on instructions, that the aforementioned representation dated 19.12.2022 is being considered on its own merits and in accordance with law. Be that as it may, learned Additional Public Prosecutor submits that the authority who is to take a call on the representation is the Director General of Police / Director General of Prison. To be noted, this officer has not been arrayed as one of the respondents in the writ petition. Therefore, we *suo-motu* implead the Director General of



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Police / Director General of Prison, Whannels Road, Egmore, Chennai-600 008 as fifth respondent.

5.Registry to make necessary and consequential amendments in the case file before uploading / before issuing of certified copy of order.

6.Let the fifth respondent continue with the process of considering the writ petitioner's representation dated 19.12.2022 and decide on the same as expeditiously as the official business of his office would permit but in any event before the next listing. It was also noticed that the period of sentence appears to have elapsed. Learned Additional Public Prosecutor to get instructions on this aspect of the matter also.

7.List on 03.02.2023.'

Proceedings dated 03.02.2023:

'Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 24.01.2023.

2.Today, Ms.S.Lakshmi, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for all the five respondents are before us.

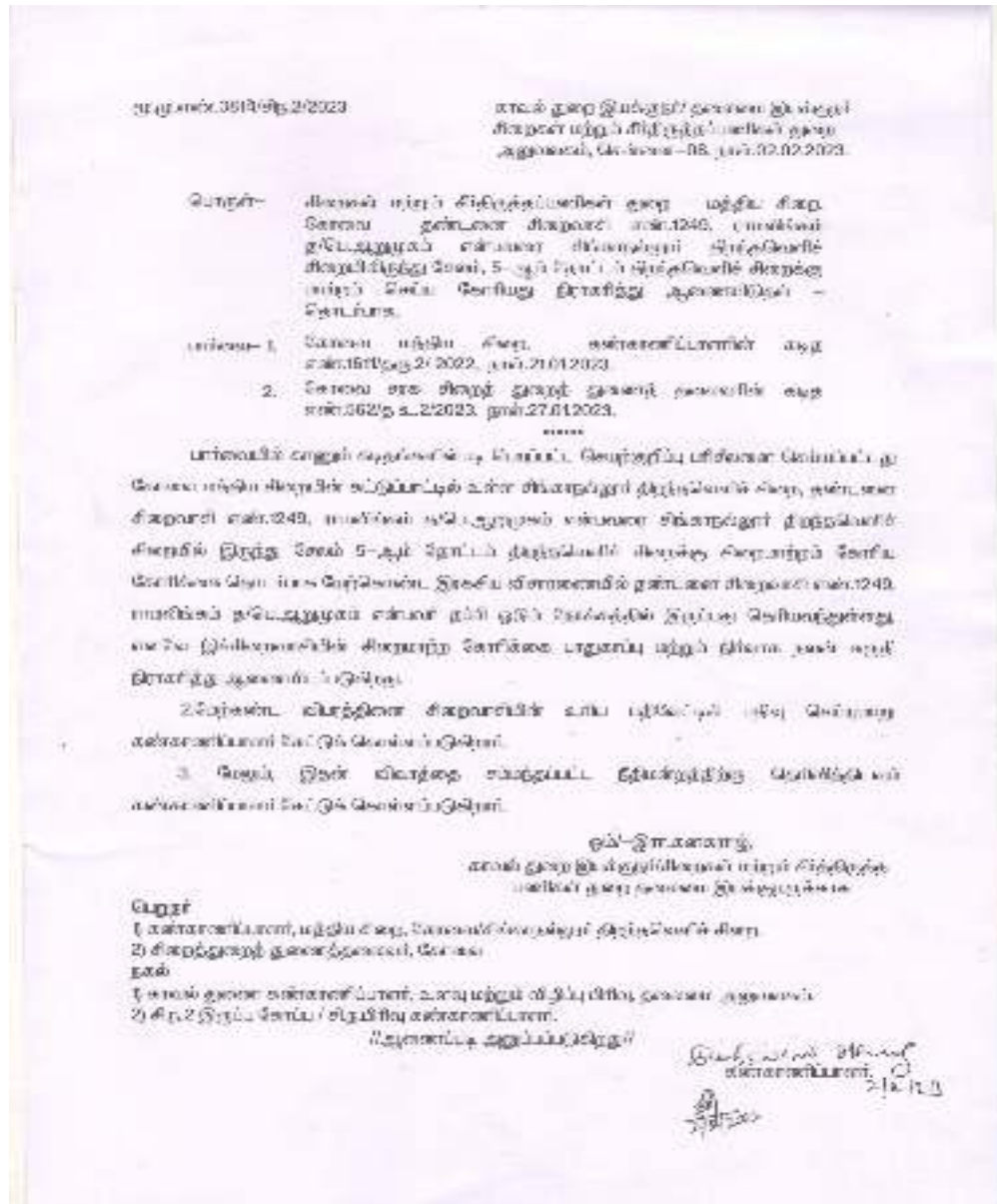


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3. Adverting to earlier proceedings, learned State counsel has placed before us proceedings of the 5th respondent dated 30.10.2023 bearing reference No.1611/தகு2/2023, a scanned reproduction of which is as follows:





4. On a perusal of the above, we are of the view that it is necessary to peruse the records which have led to 5th respondent making the aforementioned order.

5. Let the records be produced before this Court in the next listing, which shall be on Tuesday.

List on 07.02.2023.'

2.The aforesaid proceedings capture the facts and circumstances of the captioned matter besides being telltale qua the trajectory the matter has taken before us.

3.Today when the matter was taken up, learned Additional Public Prosecutor placed before us the report of the jurisdictional Probationary Officer and we find that there is nothing adverse in the same. However, it may not be necessary to delve into it or dilate more on this aspect of the matter as learned counsel for petitioner submitted that transfer to the regular prison in Salem at Yercaud Main Road, Hasthampatty, Salem-636007 may be considered as that would serve the purpose of parents who are in Salem visiting the convict prisoner.

4.We carefully considered the facts of the case. The only



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apprehension of the State turns on the convict being lodged in Open Air Prison at 5th Thottam, Salem. Therefore, the objection or resistance to the prayer by the respondents is not so much on the transfer to Salem but it is on transfer to the Open Air Prison in Salem. We notice that this would serve the purpose of transfer as the transfer is sought primarily on the ground that the parents are unable to visit the Convict Prisoner. In this view of the matter without expressing any view or opinion on the apprehension, we deem it appropriate to dispose of the captioned writ petition by ordering transfer of Convict prisoner Thiru.Ramalingam, Son of Thiru.Arumugam [Convict No.22628] from Open Air Prison, Singanallur, Coimbtore to Central Prison at Hasthampatty in Yercaud Main Road, Salem-636007 forthwith.

5.Captioned writ petition is disposed of in the aforesaid manner with the above directive. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
22.02.2023

Index:Yes/No
Neutral Citation : Yes/No
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To

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