



WEB COPY



W.P.No.22229 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

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THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.No.22229 of 2023

Gana Chinnamal

.. Petitioner

Vs.

The State represented by its

1. The Secretary to the Government of Tamil Nadu
Department of Home
Fort St.George
Chennai – 600 009

2. The Deputy Inspector of General of Prison
Madurai Zone
Madurai – 625 001

3. The Superintendent
Palayankottai Central Prison
Palayankottai

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order bearing No.3916/Tha.Ku2/2023 dated 19.07.2023 passed by the third respondent and quash the same and consecutively direct the third respondent to grant 6 days of emergency leave



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and direct 1st and 2nd respondents to grant 21 days of ordinary leave without escort to the detenu Thangaraj, son of Peniyovan, aged about 38 years bearing Convict No.3634 at Central Prison, Palayankottai.

For Petitioner : Ms.K.Akshaya
For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This order will now dispose of the captioned Writ Petition.

2. Captioned writ petition has been filed with a certiorarified mandamus prayer assailing an order signed on 19.07.2023 bearing reference No.3916/தகு.2/2023 made by the third respondent rejecting 'petitioner's representation dated 08.07.2023' [hereinafter 'said representation' for the sake of convenience] seeking leave for her spouse Thangaraj, son of Peniyovan, who is a convict prisoner (Convict Prisoner No.3634) lodged in Palayankottai Central Prison now.

3. Learned counsel submitted that the impugned order has been made negating the request though the convict prisoner is entitled to leave.

4. Issue notice.



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5. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor accepted notice for all the three respondents and submitted on instructions that vide Rule 22(1)(b) of 'the Tamil Nadu Suspension of Sentence Rules, 1982' [hereinafter 'said Suspension Rules' for the sake of convenience and clarity] a convict prisoner, to be entitled to leave ought to have completed two years of imprisonment when the sentence is for a period exceeding five years but not more than fourteen years. However, this Bench is informed that the convict prisoner has now completed two years of sentence and that two years of sentence was completed on 22.07.2023. Learned Prosecutor submits as on the date of said representation (08.07.2023) and more particularly the date on which the impugned order was signed i.e., 19.07.2023, the convict prisoner had not completed two years of sentence.

6. In the light of the narrative thus far, learned counsel for petitioner shall now give a fresh representation with the same leave request and second respondent shall consider the same on its own merits and in accordance with law (now Rule 22(1)(b) of said Suspension Rule does not come in the way) and make an order as expeditiously as the business of the second respondent would permit but in any event within three weeks from the date of receipt of the fresh representation.



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7. Though obvious we make it clear that except our observation that Rule 22(1)(b) of said Suspension Rules now does not come in the way, in all other aspects the fresh representation shall be considered on its own merits and in accordance with law. The order disposing of the fresh representation shall be communicated under due acknowledgment to the writ petitioner within seven working days from the date of disposal.

Captioned writ petition disposed of in the aforesaid manner with the aforesaid directives and observations.

(M.S.,J.) (R.S.V.,J.)
27.07.2023

Index : Yes / No
Speaking / Non-speaking order
Neutral Citation : Yes / No
gpa



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To

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Fort St.George
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