



WEB COPY



W.P.No.23527 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.No.23527 of 2023

Mr.K.Murugaiyan

... Petitioner

Vs.

1. The Home Secretary
Home Department, Secretariat
Fort St.George, Chennai – 600 009
2. The Additional Director General of Police and
Inspector General of Prisons
Whannels Road, Egmore
Chennai – 600 008
3. The Superintendent of Prison
Cuddalore Central Prison
Cuddalore District
4. The Inspector of Police
All Women Police Station, Viruthachalam
Cuddalore District
5. The Deputy Inspector General of Prisons
Vellore

..Respondents

[fifth respondent suo motu impleaded vide this order]

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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records in proceedings vide 12216/Tha.Ku.2/2023 dated 24.07.2023 by the third respondent and quash the same and further direct the respondents 1 to 3 to grant ordinary leave without escort to the Convict Mr.Manikandan, son of Murugaiyan (CT.No.16892) now confined in third respondent prison for the purpose of making arrangements for higher treatment and heart surgery of his mother in pursuant to the petitioner's representation dated 17.07.2023.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

Captioned writ petition has been filed with a certiorarified mandamus prayer qua an 'order dated 24.07.2023 bearing reference No.12216/த.கு.2/2023 made by the third respondent' [hereinafter 'impugned order' for the sake brevity and convenience].



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2. Mr.P.Muthamizh Selvakumar, learned counsel for writ petitioner is before us.

3. Short facts are petitioner's son Thiru. Manikandan is a convict prisoner [Convict No.16892] lodged in Central Prison, Cuddalore; that petitioner sought 15 days ordinary leave for the convict prisoner vide representation dated 17.07.2023; that this request for 15 days emergency leave was rejected vide the impugned order; that assailing the impugned order and seeking leave for petitioner's son, captioned writ petition has been filed in this Court on 04.08.2023.

4. Issue notice.

5. Mr.E.Raj Thilak, learned State Additional Public Prosecutor accepts notice for all four respondents.

6. Considering the narrow scope of the captioned writ petition, the same was taken up and heard out with the consent of both sides.

7. From the submissions made at the Bar, it comes to light that the third respondent has authority to grant emergency leave only under Rule 10 of 'Tamil Nadu Suspension of Sentence Rules, 1982' [hereinafter 'said Rules' for the sake of convenience and clarity] but when ordinary leave is



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sought, the power is vested with the Deputy Inspector General of Prisons vide Rule 19 of said Rules. This means that the ordinary leave sought for qua the convict prisoner ought to have been forwarded to the Deputy Inspector General of Prisons.

8. Be that as it may, learned Prosecutor submits that while the earlier leave was sought by convict prisoner's father, convict prisoner himself has now sought 21 days leave and third respondent has sought for reports from the jurisdictional Probation Officer and jurisdictional Station House Officer. Learned Prosecutor submits that on obtaining these reports, the same will be forwarded to the jurisdictional Deputy Inspector General of Prisons for taking a call on the convict prisoner's plea for ordinary leave.

9. In the light of the narrative thus far, we deem it appropriate to set aside the impugned order saying that ordinary leave plea ought to have been forwarded by the third respondent to the jurisdictional Deputy Inspector General of Prisons in the light of Rule 19 of said Rules.

10. Be that as it may, now that 21 days ordinary leave plea of the convict prisoner is under active consideration, we implead the Deputy Inspector General of Prisons, Vellore as fifth respondent and direct the fifth



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respondent to take a decision on the plea of the petitioner as expeditiously as the official business of the fifth respondent would permit but in any event within a fortnight from today i.e., by 15.09.2023. The decision taken by the fifth respondent shall be communicated to the convict prisoner as well as the writ petitioner (convict prisoner's father) within five working days from the date of the decision under due acknowledgment.

Captioned writ petition disposed of in the aforesaid manner.

(M.S.,J.)

(R.S.V.,J.)

01.09.2023

gpa



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M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

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