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W.P.No.28905 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.28905 of 2023

Viniba Janet

... Petitioner

Vs.

1. Director General of Police/Director General of
Prisons and Correctional Services,
Egmore,
Chennai – 600 008.

2. Superintendent,
Central Prison, Vellore,
Vellore.

3. District Collector,
Kanyakumari,
Nagercoil.

4. State represented by
Inspector of Police,
E4 Abiramapuram Police Station,
Chennai.
Crime No.1352 of 2013

... Respondents



W.P.No.28905 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 2nd respondent to classify P.M.Basil, S/o.P.Ponnusamy, Death Convict Prisoner No.4196 as an “A” Class prisoner.

For Petitioner : Mr.G.Sriram
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.Aravind C.

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed by the wife of P.M.Basil, S/o.P.Ponnusamy, the 3rd accused in S.C.No.348 of 2015 on the file of the I Additional Sessions Judge, City Civil Court, Chennai, who has been convicted and sentenced to death.

2.It is admitted that confirmation proceedings are pending before this Court in R.T.No.2 of 2021. This writ petition is filed to classify the prisoner as “A” Class prisoner.



W.P.No.28905 of 2023

3.The petitioner states that the prisoner is an Income Tax assessee and that he had been classified earlier as “A” Class prisoner pursuant to the orders of the trial Court in Crl.M.P.No.24848 of 2019 in S.C.No.348 of 2015, dated 22.11.2009. Thereafter, the prisoner was denied “A” Class facilities since he was involved in an offence in the prison under Section 42 of Prisons Act and Sections 8(c) and 20(b)(ii)(A) of the NDPS Act and a case has been registered against him in Crime No.1035 of 2020.

4.It is seen from the FIR in Crime No.1035 of 2020 that the case against the prisoner is that, during a search operation by a Special Team, a cell phone SIM card, battery, charger and ganja weighing 20 grams were confiscated from the prisoner. Section 225 of the Tamil Nadu Prison Rules, 1983, reads as follows :

“225.Classes of prisoners. - (1) As mentioned in rule 217, convicted prisoners are divided into two divisions or Classes, “A” and “B”.

(i) Prisoners shall be eligible for Class “A”, if they by social status, education or habit of life have been accustomed to a superior mode of living. Habitual prisoners may, at the



W.P.No.28905 of 2023

discretion of the classifying authority, be included under this class on grounds of character and antecedents.

(ii) Class “B” shall consist of prisoners who are not classified in Class “A”.

(iii) Notwithstanding anything contained in sub-rule (i), any person convicted of an offence involving gross indecency or exhibiting grave depravity of character may not be placed in Class “A”.”

Having regard to the allegations in the FIR against the prisoner and the conduct of the prisoner, this Court is of the view that the petitioner cannot be now said that he has been accustomed to a superior mode of living. His character and antecedents as a prisoner in this case as indicated above has to be considered. Therefore, we are unable to exercise our discretion to accede to the request of the petitioner to grant “A” class facilities to the prisoner.

5.However, at this juncture, the learned counsel for the petitioner states that the prisoner is a death row convict and therefore, prays that the diet provided to the death row convicts may be provided to the prisoner. The learned Additional Public Prosecutor, on instructions, submitted that such diet can be provided to the prisoner.



WEB COPY



W.P.No.28905 of 2023

6. Recording the above submission of the learned Additional Public Prosecutor, while dismissing the prayer of the petitioner to provide “A” class facilities to the prisoner, this Court directs the prison authorities to provide the diet prescribed for death row convicts to the petitioner, in compliance of Rules 907 to 910 of the Tamil Nadu Prison Rules, 1983.

7. With the above direction, this writ petition is disposed of. No costs.

(S.S.S.R., J.) (S.M., J.)
01.11.2023

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1. The Director General of Police/Director General of Prisons and Correctional Services,
Egmore,
Chennai – 600 008.

Page 5 of 7



W.P.No.28905 of 2023

WEB COPY

2. The Superintendent,
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Vellore.
3. The District Collector,
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Nagercoil.
4. The Inspector of Police,
E4 Abiramapuram Police Station,
Chennai.
5. The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P.No.28905 of 2023

S.S. SUNDAR, J.
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mkn

W.P.No.28905 of 2023

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