



WEB COPY



W.P.No.34240 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.01.2023**

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

W.P.No.34240 of 2022

D.Nausad Attar

.. Petitioner

Vs

1.The State rep. By its
The Director General of Prison,
No.2, Gandhi Irwin Road,
CMDA Building, Egmore, Chennai – 8.

2.The Superintendent of Prison,
Puzhal I, Central Prison,
Thiruvallur – 66.

3.The Union Territory of Delhi
rep. By its Superintendent of Prison,
Central Prison, Mandoli Prison Complex,
Mangal Pandey Marg,
Mandoli Harsh Vihar,
Delhi – 110 092.

4. The Director General of Prisons,
Prisons Head Quarters,
Near Lajwanti Garden Chowk,
Janak Puri, New Delhi – 110 064.

.. Respondents

(R4 impleaded suo motu by order
dated 19.01.2023 in W.P.No.34240 of 2022)



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Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to transfer the petitioner/convict from second respondent Central Prison to third respondent Central Prison in pursuance of the petitioner's representation dated 27.12.2021.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.R.Muniyapparaj,
Addl. Public Prosecutor
for R1 & R2
Mr.R.Rajesh Vivekananthan,
Deputy Solicitor General
for R3 & R4

ORDER

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

Captioned writ petition has been filed by a detenu who is serving sentence in the Central Prison, Puzhal, Chennai - 600 066, having been convicted for alleged offences under 'NDPS Act' (Narcotic Drugs and Psychotropic Substances Act, 1985) vide C.C. No.44 of 2013 on the file of Special Court for EC and NDPS Act Cases, Pudukottai. We are informed that 'EC' stands for 'Essential Commodities'. To be noted, the sentence is rigorous imprisonment for 20 years and a fine of Rs.1,00,000/- with a default provision of ten years rigorous imprisonment in the event of failure to pay the



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fine. Considering the scope of the captioned writ petition, it is not necessary to dilate further on these facts. It will suffice to say that the writ petitioner has been serving sentence from 09.04.2013 and captioned writ petition has been filed seeking a mandamus *qua* transferring the petitioner from 'Central Prison, Puzhal-I, Chennai - 600 066' (hereinafter referred to as 'Chennai Prison' for the sake of convenience) to 'Central Prison, Mandoli Prison Complex, Mangal Pandey Marg, New Delhi - 110 092' (hereinafter referred to as 'Delhi Prison' for the sake of convenience).

2. Mr.M.Mohamed Saifulla, learned counsel for writ petitioner, who is before this Court submits that the writ petitioner hails from Delhi; that the relatives more particularly the immediate relatives of the writ petitioner are in Delhi; that the writ petitioner's father is a senior citizen aged about 77 years (bedridden); that the family members have not been able to have any interview with the writ petitioner from 2013; that the writ petitioner has two school going children who are based in Delhi.

3. The writ petitioner has sent two representations seeking transfer from Chennai Prison to Delhi Prison being the representations dated 15.03.2019 and 27.12.2021. Learned



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counsel for writ petitioner submits that these representations have not evoked any response and such inaction has necessitated the presentation/filing of captioned writ petition in this Court.

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor (State of Tamil Nadu) accepted notice on behalf of respondents 1 and 2. Learned State counsel, on instructions, submitted that the aforementioned representations of the writ petitioner have been acted upon; that the Director General of Prisons, Chennai has written to his counterpart in New Delhi vide communication dated 20.12.2022 bearing Ref. No.35039/PW2/2022 inter-alia explaining the circumstances under which transfer has been sought by writ petitioner and a reply is awaited.

5. To be noted, third respondent is 'The Union Territory of Delhi rep. by its Superintendent of Prison, Central Prison, Mandoli Prison Complex, Mangal Pandey Marg, Mandoli Harsh Vihar, Delhi – 110 092'. This Court is informed that the third respondent (in the Executive hierarchy) is under Director General of Prisons, Prisons Head Quarters, Near Lajwanti Garden Chowk, Janak Puri, New Delhi – 110 064 to whom the Director General of Prison in Chennai has written the aforementioned 20.12.2022 communication.



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6. Owing to the narrative thus far, we deem it appropriate to suo motu implead 'Director General of Prisons, Prisons Head Quarters, Near Lajwanti Garden Chowk, Janak Puri, New Delhi – 110 064' as the fourth respondent. Registry to carry out necessary and consequential amendments in the case file before uploading/issuing certified copy.

7. Mr.R.Rajesh Vivekananthan, learned Deputy Solicitor General of India accepts notice on behalf of respondents 3 and 4.

8. Let the aforementioned action that has been kick-started (*qua* aforementioned representations of the writ petitioner) be carried to its logical end and let a decision be taken as expeditiously as the official business of the respondents would permit and in any event within four weeks from today i.e., by 16.02.2023. The decision shall be taken by considering the representations of the writ petitioner on its own merits and in accordance with law. The decision/outcome shall be communicated to the writ petitioner under due acknowledgement forthwith and in any event within three working days from the date of decision.



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9. Though obvious we make it clear that we have not expressed any views or opinion on the merits of the matter i.e., writ petitioner's request for transfer from Chennai Prison to Delhi Prison and in the event of the decision being adverse to the writ petitioner, all the rights and contentions of the writ petitioner (including the contentions raised in the captioned writ petition) are preserved if the writ petitioner chooses to assail the same.

10. Captioned writ petition is disposed of with the above directive. There shall be no order as to costs.

(M.S.J.) (M.N.K.J.)
19.01.2023

Index : Yes/No
Neutral Citation : Yes/No
mmi

To

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4. The Director General of Prisons,
Prisons Head Quarters,
Near Lajwanti Garden Chowk,
Janak Puri, New Delhi – 110 064.



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**M.SUNDAR,J.,
AND
M.NIRMAL KUMAR, J.,
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