



W.P.(MD)No.4053 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

W.P.(MD)No.4053 of 2023

Veerasamy

.. Petitioner/Convict

Vs.

1.The State of Tamilnadu, rep. by,
The Principal Secretary,
Home (Prison) Department,
Fort St.George, Secretariat,
Chennai-600009.

2.The Director General of Police (Prisons) and Correctional Services,
CMDA Tower-II,
No.1, Gandhi Irwin Road,
Egmore, Chennai- 600 008.

3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus, directing the respondents to transfer the petitioner from the B class to A class in Respondent No.3 Central Prison within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
K.K.RAMAKRISHNAN, J.

The petitioner Veerasamy, aged 60 years was found guilty for the offence under Section 302 r/w 114 and 120B IPC and sentenced to undergo Life Imprisonment by the learned Sessions Judge, Ramanathapuram, in S.C.No.5/2019 vide judgment dated 22.09.2021. Presently, the petitioner is confined at Central Prison, Madurai. It appears on 24.12.2022, he has given



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a request to the Superintendent of Prison, Madurai to treat him as 'A' class prisoner and provide the privileges for which 'A' class prisoner is entitled. He has applied his social status, education, financial capacity etc., to indicate that he is accustomed to a superior mode of living and therefore he may be treated as 'A' class prisoner. Since his request been not considered till date, he has approached this Court seeking mandamus to issue direction to the third respondent to transfer him from 'B' class prisoner into 'A' class prisoner.

2. The learned Additional Public Prosecutor today placed the communication of the Superintendent of Prison, Madurai, dated 24.02.2023 to the Director General of Prisons and Correctional Services, Chennai wherein he has considered Rule 225 and 226 of the Tamilnadu Prison Rules, 1983 and having found that at the time of pronouncement of judgment of conviction the learned District and Sessions Judge has not made any recommendation for privilege treatment and therefore, he addressed a letter to the Principal District Judge to express his opinion about the request of the convict for transfer of prisoner classification. It is further seen from the



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communication that the learned District and Sessions Judge has pointed out that on the date of judgment the accused has not requested to consider the classification of the prisoner and therefore, he has not passed any specific order to that effect. Hence, it is now to the prison authority to take decision as per the Prison Manual since the stage of recommending has crossed and the convict is in prison for more than a year. Section 2 and 7 of the Tamilnadu Prison Manual divides convicts into two category. One is habitual and the other is non-habitual. The convicted prisoners further divided into 'A' class and 'B' class convict. The definition and the criteria to treat the prisoner as 'A' class prisoner is spelt out in Rule 225 of the Tamilnadu Prison Manual, which reads as below:

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



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(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'."

3. Rule 226 gives power to the Court which tried the case to make initial recommendation for classification of prisoners. It is only a recommendation to the Government and it is the prerogative of the Government either to accept, confirm or review it. The initial recommendation by the Court is tentative exercise of discretion which is subject to the decision of the Government. The provision of Rule 226 which reads as below makes the legal position clear:

“226. Classification by Courts.-(1) The High Court, Sessions Judges, Additional Sessions Judges, Assistant Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates, Metropolitan Magistrates, Sub-Divisional Judicial Magistrates. Judicial First-Class Magistrates (the last two through



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the Chief Judicial Magistrate) in cases tried by them originally, or in any other case the District Magistrate shall make the initial recommendation for classification of prisoners in Class 'A' to the Government by whom these recommendations shall be confirmed or reviewed.

Prisoners recommended by Courts for classification in Class 'A' shall be tentatively treated as belonging to the class recommended till the orders of Government confirming or reviewing the recommendations are received.

(2) Notwithstanding anything contained in sub-rule (1), the Chief Judicial Magistrate may, before making their recommendations to the Government for classification of prisoners, refer the cases for report to the appropriate Police or Revenue Officers direct and shall consult the Collector of the District. The Metropolitan Magistrates or the Chief Metropolitan Magistrates in the City of Madras shall consult the Commissioner of Police on the Madras City or the Collector of the District to which the prisoner belongs before making their recommendations to the Government for classification of prisoners.

(3) On the admission into the prison of any ex-



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military prisoner convicted by a Court-Martial or a Naval Court, the Superintendent of the Prison shall bring the case to the notice of the District Magistrate. The District Magistrate, after making such enquiries as may be necessary including, if necessary, a reference to the local Brigade Area Commander, shall make the initial recommendation for classification in Class 'A' to the Government by whom the recommendations shall be confirmed or reviewed.

(4) It is open for the Court to recommend and the Government to classify such of those prisoners who have taken part in violent agitation against the State as 'A' or 'B' class, prisoners on their conviction or place such under-trial prisoners in special or ordinary class, as the case may be. In any case, they shall be segregated and shall not be permitted to mix with ordinary criminal prisoners.”

4. This legal position is further mulctified by Rule 227 which reads as below:

“227. Petition to Government for Classification:-
The Government may also act on a reference from the



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Superintendent of the Prison on a petition from the prison. The Superintendent shall forward the petition through the Inspector-General to the Government. The Government may also act *suo-motu* or on a representation by the prisoner's relatives and friends. Except as provided under the Rule 226, the Superintendents shall place every convicted prisoner in Class B.”

5. For the Government, initial recommendation by the Court is not prerequisite and it is also to be pointed out that even if the Court recommends, it is for the Government to take a conscious decision whether to confirm the recommendation or review it. Therefore, this Court directs the prison authority to independently consider the request made by the prisoner in the light of Rule 225 and take a decision and the same may be communicated to the petitioner.

6. Thus for classifying a prisoner as 'A' class prisoner, the Government can either act on the initial recommendation of the Court or also on a reference of the Superintendent of Prisons on a petition from the



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prisoner.

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7. Here is a case where a petition has been received by the Superintendent of Prison for considering the prisoner as a class 'A' prisoner. Hence, the Superintendent of Prison shall refer the request to the Government with necessary particulars for its consideration.

8. With these observation, this writ petition is disposed of. No Costs.

[G.J.,J.] & [K.K.R.K.,J.]
28.02.2023

Internet :Yes
Index :Yes/No
NCC :Yes/No
PJL

To
1.The Principal Secretary,
Home (Prison) Department,
Fort St.George, Secretariat,
Chennai-600009.

2.The Director General of Police (Prisons)



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and Correctional Services,
CMDA Tower-II,
No.1, Gandhi Irwin Road,
Egmore, Chennai- 600 008.

3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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