



W.P.(MD).No.16763 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

W.P.(MD).No.16763 of 2023

J.Edwin Durairaj

.. Petitioner

Vs.

- 1.The Home Secretary,
Government of Tamil Nadu,
Secretariat,
Chennai.
- 2.The Director General of Prison,
O/o.DGP,
Gandhi Irwin Road,
Egmore,
Chennai – 600 008.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
- 4.The District Collector,
Thoothukudi District,
Thoothukudi.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the 3rd respondent to provide A class facility to the petitioner's father S.Jeyapaul, S/o. Sudalaimani (CT No.504) in the Prison as per Rule 225 to 227 of the Tamil Nadu Prison Rules, 1983 by considering the petitioner's representation dated 20.04.2023 and the subsequent reminder dated 25.06.2023.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner herein had given a representation to the respondents 1 to 3 on 25.06.2023, seeking to provide “A” class facility to the petitioner's father, namely, S.Jeyapaul, S/o.Sudalaimani (CT No.504), in the prison. Since the said representation was not considered in a reasonable time, the present Writ Petition has been filed.



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2. Rule 225 of the Tamil Nadu Prison Rules, 1983, provides for classification of prisoners into two divisions, namely, Class “A” and “B”. The eligibility for the prisoners to be classified under Class “A” is in consideration of their social status, education or their acclimatization to a superior mode of living. In cases of habitual prisoners, who fall under such a high status, their inclusion under this class would be on grounds of character and antecedents, which would be at the discretion of the classifying authority.

3. The prisoners, who are not eligible for Class “A”, will be classified as Class “B”.

4. Rule 226 deals with the mode of classification. The initial recommendation to the Government for such classification of prisoners in Class “A” shall be made by the concerned Court that had originally tried their case or in any other cases, it is the District Magistrate, who shall make such initial recommendation to the Government.



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5. The Government may also act on a reference from the Superintendent of Prisons on a petition from the prisoner, in accordance with Rule 227. This apart, the Government may also act *suo motu* or on a representation by the prisoner's relatives and friends under this Rule.

6. Thus, the ultimate authority to classify a prisoner under Class “A” would be the Government. This procedure has also been earlier reiterated by a co-ordinate Bench of this Court in the case of ***John David @ John Marimuthu Vs. The Superintendent of Prisons, Central Prison-I, Puzhal, Chennai***, reported in ***2016 SCC OnLine Mad 13915***.

7. The petitioner has now given a representation dated 25.06.2023, to the Government as well as the prison authorities, seeking for providing “A” class facilities to his father. As stated above, such a representation requires to be considered only by the Government, which is the competent authority under the Rules for such classification.



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8. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

9. In the light of the above observations, there shall be a direction to the first respondent herein to consider the petitioner's representation, dated 25.06.2023, in accordance with Rule 227 of the Tamil Nadu Prison Rules, 1983, on its own merits and pass appropriate orders in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order.



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10. With the above direction, the Writ Petition stands disposed of.

There shall be no order as to costs.

(M.S.R.,J.) (M.N.K.,J.)
24.07.2023

NCC : Yes / No
Index : Yes / No
Lm

To

1.The Home Secretary,
Government of Tamil Nadu,
Secretariat,
Chennai.

2.The Director General of Prison,
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Thoothukudi.

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

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