



W.P.(MD).No.25601 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

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

W.P.(MD).No.25601 of 2022

M.Bhanmathi

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by The Principal Secretary to Government,
Home (Prison - IV) Department,
State of Tamil Nadu,
Secretariat,
St.George Fort,
Chennai-9.
- 2.The Additional Director General of Police /
Inspector General of Prisons,
C.M.D.A.Towers II,
No.1, Gandhi Irvin Road,
Egmore,
Chennai-8.
- 3.The Deputy Inspector General of Prison,
Office of the Deputy Inspector General of Prison,
Madurai Division,
Madurai Central Prison Campus,
Madurai-16.



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4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents to release the petitioner's husband by name Mahendran (C.P.No.4004) son of Vellaichamy, aged about 50 years now lodged and confined at Central Prison, Madurai have completed the more than 20 years of actual sentence on the basis of the humanitarian ground in Government Letter M.S.No.1358, Home dated 10.11.1994 and the advisory board scheme Rule 341(2) Tamil Nadu Prison Rules 1983 by considering the petitioner's representation dated 24.05.2022 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Prakash

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The prayer in the Writ Petition is for issuance of writ of Mandamus for premature release of the petitioner's husband, namely, Mahendran (C.P.No.4004), S/o.Vellaichamy, who is confined in Central Prison, Madurai.



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2. According to the petitioner, her husband has completed more than 20 years of sentence and therefore, he is entitled for premature release under the Advisory Board Scheme Rule 341(2) of the Tamil Nadu Prison Rules, 1983. The petitioner has also given a representation on 24.05.2022 seeking for such premature release, which is now pending before the Government.

3. In the counter affidavit filed by the respondents, it is stated that the case of the petitioner's husband for premature release will be considered in the light of Government Letter Ms.No.1358, Home Department, dated 10.11.1994 and that the petitioner's representation was received by them on 26.05.2022.

4. More than a year has passed since the representation was given and the Government is yet to take a call on the same. It is needless to point out that whenever a representation of this nature is made, there is a statutory obligation on the part of the Government to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. Such inaction will also amount to dereliction



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of duty and hence, this Court will be justified in invoking its powers under Article 226 of the Constitution of India for issuance of writ of Mandamus.

5. In this background, we are of the view that if the Government is directed to consider the representation within a stipulated time, the ends of justice could be secured.

6. Taking into consideration that the petitioner representation is pending from 26.05.2022 onwards by the Government, there shall be a direction to the first respondent to consider the petitioner's representation dated 24.05.2022 and pass appropriate orders on merits and in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order.

7. 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.)
14.07.2023

NCC : Yes / No
Index : Yes / No
Lm



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Chennai-9.
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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