



WP(MD)No.29195 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.29195 of 2023

Bala

: Petitioner

Vs.

1.The Deputy Inspector General of Prison,
O/o.The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range, Madurai Central Prison Campus,
New Jail Road, Madurai.

2.The Superintendent of Prison,
Central Jail,
Palayamkottai,
Tirunelveli District.



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3. The Superintendent of Prison,
Central Jail,
New Jail Road, Madurai.

: Respondents

(R3 has been suo-motu impleaded vide
order of this Court dated 12.12.2023)

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Mandamus, directing the respondent Nos.1 and 2 to provide
toilet facility of Western Toilet instead of Indian toilet to the petitioner's
husband by considering petitioner's representation dated 02.11.2023

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor.

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned 'Writ Petition' ('WP' for the sake of brevity) has been filed
in this Court on 06.12.2023.



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2. Factual matrix in a nutshell is that WP petitioner's spouse one Thiru.Komban @ Kombaiya is a life convict now lodged in Madurai Central Prison, Madurai; that WP petitioner's spouse shall be referred to as 'said prison inmate' for the sake of convenience and with the intention of using better / refined glossary; that said prison inmate had met with a road accident in the year 2018 resulting an injury to his limbs and surgery owing to which said prison inmate requires western toilet facilities; that while said prison inmate was earlier lodged in Vellore Central Prison, such facility was provided; that such facility has not been provided in Central Prison, Madurai now and that has necessitated the filing of captioned WP.

3. Before we proceed further, we notice that the Superintendent of Prison, Central Jail, Palayamkottai has been arrayed as second respondent but the said prison inmate is now lodged in Central Jail, Madurai and therefore, we *suo motu* implead the Superintendent of Prison, Central Jail, New Jail Road, Madurai as third respondent.



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4. Registry is directed to carry out necessary and consequential amendments in the case file and also in the order before uploading / before issuing of certified copies.

5. Mr.S.M.A.Jinnah, learned counsel on record for WP petitioner, who is before us in the Admission Board reiterates the aforementioned factual matrix and submits that western toilet facilities for said prison inmate is becoming medically imperative.

6. Issue notice.

7. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor accepts notice for all three respondents and submits on instructions that said prison inmate has now been provided with western toilet facilities. Learned Additional Public Prosecutor has placed before us a proforma signed by the third respondent (now impleaded) and a scanned reproduction of the same is as follows:



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PROFORMA FOR HIGH COURT SEEKING FOR WESTERN TOILET FACILITY			
1. ICP/WP No.	29195 of 2023		
2. Filed by	Tmt. Beta wife of Life Convict Prisoner No. 6350, Komban @ Komban son of Isakkil Thevar.		
3. Prayer	Prayer to provide Western toilet to the prisoner on the medical grounds.		
4. Convict No., Name & Father's Name (Age as on 2023)	Life Convict Prisoner No. 6350, Komban @ Komban son of Isakkil Thevar, 51/2023		
5. Conviction Details:			
(i) Police Station	Tirunelveli Police Station		
(ii) Crime No	148/1997		
(iii) Section & Sentence (Section Wise)	U/s - 302 IPC - Imprisonment for life and fine ₹.10,00/- i/d R.1 for 3 months. U/s - 341 IPC - SI for one month.		
(iv) Court, SC No. & Date	1 st Additional Sessions Judge Tirunelveli in Sessions Case No. 376 of 1998 dated 25.04.20008		
(v) Details of Appeal before the High Court	On appeal, the conviction and sentences were confirmed by the Hon'ble Madurai Bench of Madras High Court in CA. (MD)No 295/2008 dated 09.04.2013.		
(vi) Details of Appeal before the Supreme Court of India.	Nil		
6. Details of Additional sentence if any	Nil		
7. Pending Cases, if any	(i) Tirunelveli Patta PS Cr. No. 14/2020	U/s B (i) 20 (b) (ii) (b) NDPS Act	2 nd Addl. Spl. Court for NDPS Act Cases, Madurai CC No. 293/2020.
	(ii) Palayankottai PS Cr. No. 148/1997	U/s 294 (b), 302, 506(ii) IPC	JM, Cheralmahadevi CC No. 49/2021
8. Remarks	This convict has been transferred to the cellular accommodation of A&B Cell, A-13 in which the western toilet facility is available.		

Superintendent
Central Prison, Madurai

8. Column 8 of the proforma makes it clear that the said prison inmate has now been provided with western toilet facilities having been lodged in A-13 Block in Madurai Prison, Madurai. This by itself gives a quietus to the captioned WP. However, learned counsel for WP petitioner drew our attention to Lab Report of the said prison inmate being Lab Report dated 08.11.2023 and submits that some calcium nourishment is required for the said prison inmate and therefore, milk or any other substitute may



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please be provided to the said prison inmate. Considering the nature of request and the basis on which the request is made, we refrain from expressing any opinion on the same but we make it clear that the said prison inmate shall now be produced before the Prison Doctor along with aforementioned report and given food in accordance with the directions of the Prison Doctor.

9. Captioned WP is disposed of in the aforesaid manner recording the aforesaid stated position of the respondents and the aforementioned directives. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]
12.12.2023

Neutral Citation : Yes/No
Index : Yes/No

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To

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O/o.The Deputy Inspector General of Prison
and Correctional Services,
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New Jail Road, Madurai.

2.The Superintendent of Prison,
Central Jail,
Palayamkottai,
Tirunelveli District.

3.The Superintendent of Prison,
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New Jail Road, Madurai.

M.SUNDAR, J.



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and
R.SAKTHIVEL, J.

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