



W.P(MD)No.29569 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 14.12.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

W.P(MD)No.29569 of 2023
and
W.M.P(MD)No.25529 of 2023
in
W.P(MD)No.29569 of 2023

R.Indhira

.. Petitioner

vs

1.The Principal Secretary to Government,
Home, Prohibition and Excise (Prison – IV),
Fort St. George, Chennai – 600 009.

2.The Director General of Prisons,
O/o.Prison Department Headquarters,
Whannels Road,
Egmore,
Chennai – 600 008.

3.The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy – 620 023.

4.The Superintendent of Prisons,
Central Prison,
Trichy – 620 020.

.. Respondents



W.P(MD)No.29569 of 2023

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents to consider her representation dated 02.12.2023 and prematurely release her husband Rajendran, S/o.Swaminathan (Convict Prisoner No.98911) lodged at Central Prison, Tiruchirappalli under G.O.(Ms)No.488 Home (Prison – IV) dated 15.11.2021.

For Petitioner	: Mr.C.Karthikeyan
For Respondents	: Mr.A.Thiruvadi Kumar Additional Public Prosecutor

ORDER

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

Captioned main 'Writ Petition' [hereinafter 'WP' for the sake of brevity] has been filed in this Court on 11.12.2023. Captioned 'Writ Miscellaneous Petition' shall hereinafter be referred to as 'WMP' for the sake of brevity.

2.Short facts are that WP petitioner's spouse, one Thiru.Rajendran, S/o.Thiru.Swaminathan, is a convict prisoner (convict prisoner No.98911) now lodged in Central Prison, Tiruchirappalli; that



W.P(MD)No.29569 of 2023

convict prisoner has sought pre-mature release vide G.O(Ms)No.488, dated 15.11.2021; that captioned WP has been filed saying that G.O(Ms)No.488 was made more than two years ago; that WP petitioner's spouse [to be noted, WP petitioner's spouse will be hereinafter referred to as '*said prison inmate*' for the sake of convenience and with the intention of using better / refined glossary] continues to languish in prison.

3.In the Admission Board hearing today, Mr.C.Karthikeyan, learned counsel on record for WP petitioner, reiterated the aforementioned facts and submitted that though G.O(Ms)No.488 was made more than two years ago (15.11.2021), the case of the said prison inmate has not been taken up for consideration.

4.Issue notice.

5.Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor accepts notice for all four respondents and submits, on instructions, that the case of the said prison inmate has been taken up



W.P(MD)No.29569 of 2023

for consideration vide G.O(Ms)No.488, dated 15.11.2021. Learned Prosecutor pointed out that there is another G.O namely G.O(Ms)No.430, dated 11.08.2023 but said prison inmate is ineligible for being considered for pre-mature release under G.O(Ms)No.430 as according to G.O(Ms)No.430, reckoning date is 15.09.2023 and a prisoner should have completed 14 years of sentence as on 15.09.2023. In the case on hand, said prison inmate completed 14 years only on 13.12.2023 and therefore he is ineligible vide G.O(Ms)No.430 is learned Prosecutor's say. However, learned Prosecutor submits on the basis of written instructions dated 13.12.2023 bearing reference No.98911/Tha.Ku.1/2023 from fourth respondent that the case of the said prison inmate (Thiru.Rajendran, S/o.Thiru.Swaminathan, convict prisoner No.98911 in Central Prison, Tiruchirappalli) has been taken up for consideration of pre-mature release under the Advisory Board Scheme, the same is under consideration and as part of the consideration, reports from Probation Officer and the District Collector have been sought.



W.P(MD)No.29569 of 2023

6.Learned Prosecutor also submits that eight weeks from today ie., on or before 08.02.2024 will be a realistic time frame for continuing the consideration and concluding the same by carrying it to its logical end one way or other.

7.In the light of the stand taken by the respondents as articulated by learned State Additional Public Prosecutor, this Court is of the considered view that it will suffice to give a directive to the respondents to continue the aforementioned consideration of said prison inmate for pre-mature release and conclude the same as expeditiously as the business of the respondents would permit but in any event within eight weeks from today ie., by 08.02.2024.

8.In the event of aforementioned timeline not being adhered to besides other remedies that may be available to the petitioner and / or anyone concerned for said prison inmate, it will be open to said prison inmate to move for interim bail or leave or any other relief for being enlarged qua incarceration.



W.P(MD)No.29569 of 2023

WEB COPY

9. In the light of the trajectory the main WP has taken, Mr.C.Karthikeyan, learned counsel on record for petitioner requested leave of this Court to withdraw captioned WMP, learned counsel has made an endorsement in the case file and a scanned reproduction of the same is as follows:

Submitted

I may be permitted to
withdraw w.m.p. no. 25529 of 2023
and thus render justice.

(Signature)
12/12/23



W.P(MD)No.29569 of 2023

WEB COPY

10.In the light of the narrative and endorsement, captioned WMP is disposed of as closed/withdrawn making it clear that (a) we have not expressed any opinion or view on the merits of the matter and (b) all the rights and contentions of WP petitioner and / or anyone concerned for the prison inmate are preserved as regards prayer in WMP.

11.Captioned WP is disposed of in the aforementioned manner with the aforesaid observation, directive and preservation of rights in the aforesaid manner. There shall be no order as to costs.

[M.S.,J.] [R.S.V.,J.]
14.12.2023

Index : Yes/No
Neutral Citation : Yes/No
ps



W.P(MD)No.29569 of 2023

WEB COPY

- To
- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (Prison – IV),
Fort St. George, Chennai – 600 009.
 - 2.The Director General of Prisons,
O/o.Prison Department Headquarters,
Whannels Road,
Egmore,
Chennai – 600 008.
 - 3.The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road,
Trichy – 620 023.
 - 4.The Superintendent of Prisons,
Central Prison,
Trichy – 620 020.



WEB COPY



W.P(MD)No.29569 of 2023

M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

ps

W.P(MD)No.29569 of 2023
and
W.M.P(MD)No.25529 of 2023
in
W.P(MD)No.29569 of 2023

14.12.2023