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HCP.No.225 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.225 of 2024

Sathish Priya

... Petitioner

Vs.

1.The Additional Secretary to Government of India
Ministry of Consumer Affairs
Food and Public Distribution (Department of Consumer Affairs)
Room No.270, "Krishi Bhavan"
New Delhi – 110 001

2.The Principal Secretary to the Government
Department of Co-operation
Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maligai
Secretariat, Chennai – 600 009

3.The District Collector and District Magistrate
Krishnagiri
Krishnagiri District

4.The Superintendent of Police
Krishnagiri District
Krishnagiri



HCP.No.225 of 2024

5.The Superintendent of Prison
Central Prison
Salem
Salem District

6.The Inspector of Police
Civil Supplies Crime Investigation Department
Krishnagiri
Krishnagiri District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the third respondent on in his office ref.S.C.No.02/2024 (CS) dated 19.01.2024 against the petitioner's husband Ravishankar @ Shankar, S/o.Munisamy, aged about 38 years at Central Prison, Salem, Salem District and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
Assisted by Mr.C. Aravind

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the wife of the detenu namely
Ravishankar @ Shankar, aged about 38 years, S/o.Munisamy, has come



HCP.No.225 of 2024

forward with this petition challenging the detention order passed by the third respondent dated 19.01.2024 slapped on her husband, branding him as "Black Marketeer" under the Prevention of Black marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980).

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 02.02.2024. According to the learned counsel for the petitioner, though the representation is dated 02.02.2024, the same has been received by the Government only on 12.02.2024; the file has been dealt with by the Secretary Law on 16.04.2024 and the Minister concerned dealt with the file only on 17.04.2024 and the Rejection Letter was prepared on 17.04.2024 and sent to the detenu on 17.04.2024. It is the further submission of the learned counsel that the delay of 44 days in



HCP.No.225 of 2024

WEB COPY

considering the representation remains unexplained and the same vitiates the detention order. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in ***Rajammal Vs. State of Tamil Nadu, reported in (1999) 1 SCC 417.***

4. As per the submission of the learned counsel for the petitioner and on perusal of the records, we find that the representation of the petitioner is dated 02.02.2024, which was received by the Government on 12.02.2024 and further, the Minister concerned had dealt with the file of the detenu only on 17.04.2024 and the Rejection Letter was sent to the detenu on 17.03.2024. Thus, we find there is a considerable delay of 44 days in considering the representation of the petitioner. This delay of 44 days in considering the petitioner's representation remains unexplained.

5. It is trite law that the representation should be very expeditiously considered and disposed of with a sense of urgency and without avoidable delay. Any unexplained delay in the disposal of the representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. From



HCP.No.225 of 2024

the records produced, we find that no acceptable explanation has been offered for the delay of 44 days. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

6. In the judgment of the Hon'ble Supreme Court in ***Rajammal's case (cited supra)***, it has been held as follows:

"It is a constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be " in clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest."

As per the dictum laid down by the Supreme Court in above cited ***Rajammal's case***, number of days of delay is immaterial and what is to be considered is whether the delay caused has been properly explained by the authorities concerned. But, here the inordinate delay of 44 days has not been properly explained at all.



HCP.No.225 of 2024

WEB COPY

liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R., J]

[S.M., J]

22.04.2024

Index : Yes /No

Neutral Citation

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To

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WEB COPY



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7.The Public Prosecutor
High Court of Madras
Chennai 600 104

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