



WEB COPY



W.P.No.13059 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P.No.13059 of 2024
and
W.M.P.Nos.14220 & 14222 of 2024

S.Kavitha

... Petitioner

Vs.

1. The Principal Secretary To Government,
Government of Tamil Nadu,
Home (Prison-IVA) Department,
Secretariat, Chennai-600 009.

2. The Director General Of Police
And Director General Of Prisons
And Correctional Service,
Gandhi Irwin Road,
Egmore, Chennai-600 008.

3. The Superintendent Of Prisons,
Central Prison,
Coimbatore.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus, calling for the



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records in the order bearing No. in with order in No. G.O.(D) No. 460 Home (Prison-IVA) Department dated 10.04.2024 passed by respondent No.1 and quash the same and directing the respondents to release the petitioner's husband namely M.Samidurai, S/o Muthappaudaiyar, Life Convict, CT.No. 11385, confined in the Central Prison, Coimbatore, immediately under G.O. (Ms) No. 430 Home (Prison-IV) Department dated 11.8.2023.

For Petitioner : Mr.P.Pugalenth

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor.

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The lis on hand has been instituted to assail the Government Order under G.O.(D) No. 460 Home (Prison-IVA) Department dated 10.04.2024, passed by the first respondent.

2. The petitioner is the wife of the convict prisoner M.Samidurai, S/o Muthappaudaiyar. The petitioner submitted an application for premature release of convict prisoner under G.O. (Ms) No. 430 Home (Prison-IV) Department dated 11.8.2023. The Government followed the procedures as contemplated under the G.O.(D) No. 460 Home (Prison-IVA) Department



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dated 10.04.2024 and finally passed the impugned order of rejection rejecting the application mainly on the ground that the life convict prisoner has killed both his parents for property and thus, the remission at this stage would be premature.

3. The learned counsel for the petitioner, Mr.P.Pugalenth, would strenuously contend that the case of the prisoner is squarely falling within the ambit of the conditions stipulated in the G.O. (Ms) No. 430 Home (Prison-IV) Department dated 11.8.2023, and further it was recommended by the State Committee. When the Committee recommended the case of the prisoner for premature release, the first respondent ought to have granted the relief and therefore, the impugned order is to be set aside.

4. The Additional Public Prosecutor would oppose by stating that the authorities found that the premature release would be prejudicial to the society and therefore, the petition was rejected.

5. We have considered the rival submissions made on behalf of the parties to the lis. The scope of premature release of the convict prisoners have to be considered. The Government passes several orders for grant of



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premature release on certain conditions. In the present case, the application was submitted under G.O. (Ms) No. 430 Home (Prison-IV) Department dated 11.8.2023. Admittedly, the convict prisoner in the present case fulfilled the requirements as contemplated under the G.O. (Ms) No. 430. However the Government Order imposes certain guidelines pertaining to the eligibility of the life convicts for consideration of the Government, as on 15.09.2023, and mere fulfillment of the conditions prescribed in the guidelines does not confer any right for the premature release of the life convicts and in the sole discretion and prerogative of the Government to take into account other factors like the nature of offence and its effect on society, fitness for rehabilitation into society, law and order, implications and public interest.

6. Premature release of a prisoner cannot be claimed as an absolute right. However, consideration of an application is a right granted to the prisoner. Thus, an application submitted must be processed in accordance with the guidelines issued in the order. Mere satisfaction of the eligibility also would not confer any right to claim premature release by instituting a writ for premature release. The subjective satisfaction is the prerogative of the Government and the exercise of powers of judicial review by the High Court



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under Article 226 of the Constitution of India is limited. Courts are expected to exercise restraint in such matters since the Government vest with the prerogative powers and the competent authorities would be the best persons to take certain decisions with reference to the consequences of premature release of a convict prisoner.

7. The scope of judicial review of the High Court, under Article 226 of the Constitution of India, is to ensure that the processes through which a decision has been taken by the competent authorities, in consonance with the statutes and rules in force, but not the decision itself. Therefore, the High Court has to examine whether the due process contemplated has been followed while taking a decision. Interference with the subjective satisfaction arrived, can be made only in exceptional circumstances where such subjective satisfaction is found to be not in consonance with the established legal principles or resulted in gross injustice but not otherwise.

8. In the present case, the process has been admittedly followed in accordance with the Government Order. Mere recommendation of the committee would not provide any right for the convict prisoner to seek premature release. The Government form an opinion that the premature



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release of the convict prisoner would be prejudicial to public interest. The reasoning given in the order impugned is that the life convict prisoner has killed both his parents for property and thus, the remission at this stage would be premature. Since the reasons are convincing, we are not inclined to interfere with the order impugned.

9. In view of the facts and circumstances, the petitioner has not made out any acceptable ground for the purpose of interfering with the order impugned. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(V.S.G.,J.)

02.09.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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and

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