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W.P.No.17710 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.17710 of 2024

Mr.Rajavel
S/o late Ramalingam

.. Petitioner

v.

1. The State rep by its
The Home Secretary
Prison Department (IV)
St.George Fort, Secretariat
Chennai 600 009

2. The Director General of Prison
No.01, Gandhi Irwin Road
CMDA Building
Chennai 600 008

3. The Superintendent of Prison
Central Prison at Vellore
Ramset Nagar, Thorapadi
Vellore-2

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying



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for issuance of a Writ of Certiorarified Mandamus, to call for the records in impugned order in G.O.(D) No.1222 dated 10.10.2024 passed by the 1st respondent and quash the same and directing the respondents to release the son of the petitioner/convict, namely, Mr.Saravanan, S/o Rajavel (CT No. 89), who is confining at 3rd respondent herein.

(Prayer amended vide order dated 05.12.2024 in WMP.34218/2024 in WP.17710/2024)

For Petitioner :: Mr.M.Mohamed Saifulla

For Respondents :: Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The writ on hand has been instituted challenging the impugned order passed by the first respondent, rejecting the request of the petitioner for premature release of the life convict prisoner, in G.O.(D)No.1222, Home (Prison-IVA) Department dated 10.10.2024.

2.The petitioner submitted an application seeking premature release of the life convict prisoner. Since he was found eligible as per the



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G.O.(Ms).No.488, Home (Prison-IV) Department dated 15.11.2021, the application was processed. The State Level Committee recommended the case of the prisoner for premature release. However, the Government declined to accept the recommendations of the State Level Committee.

3. The learned Additional Public Prosecutor furnished the original files relating to the impugned order. The Government rejected the application on the ground that it is a case of brutal murder in which the convict along with his mother murdered his brother's wife by strangulation for demand of dowry, hence remission would be premature and prejudicial to justice.

4. The learned counsel for petitioner would submit that such a reason is inadequate to issue the impugned order, since the prisoner is found eligible for premature release under the scheme formulated in G.O.(Ms.)No.488 dated 15.11.2021.

5. We are unable to accept the said argument in view of the specific



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clause in G.O.(Ms.)No.488, namely, para 2(G), which reads as follows:-

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“(G) The above guidelines framed deals with the eligibility of the life convict prisoners for consideration of the Government and mere fulfillment of the above condition prescribed in the guidelines does not confer any right for premature release for the life convict prisoners and it is the sole discretion and prerogative of the Government taking into account the other factors like the nature of offence and its effect on society, fitness for rehabilitation into society and public interest, etc.”

6. Premature release cannot be claimed as an absolute right by the prisoners. It is a concession extended by the Government by framing schemes. Various criteria are fixed including good conduct of the prisoner. Nature of offence committed by the prisoner also may be taken into consideration in public interest. At the outset, element of public interest is of paramount importance, while considering the application seeking



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premature release of the prisoner concerned. When certain nature of offence, in the opinion of the Government, is relatable to public interest, then the Government is empowered to reject the application by invoking para 2(G) of the Government Order issued in G.O.(Ms.)No.488 dated 15.11.2021. Since premature release is not an absolute right conferred on the prisoner and a concession, such concession would not provide any cause for filing a writ petition seeking a direction for premature release.

7. The power of judicial review of the High Court under Article 226 is to ensure the processes through which the decision has been taken by the competent authority in consonance with the statutes and rules in force and not the decision itself.

8. In the present case, the procedures as contemplated were scrupulously followed by the Government and the reason stated for rejection of application is candid and convincing and therefore, we are not inclined to interfere with the impugned order. Accordingly, the writ petition stands dismissed. Consequently, W.M.P.Nos.19464, 34221 & 34223 of 2024 are



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also dismissed. No costs.

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Index : yes

Neutral citation : yes

(S.M.S.,J.) (M.J.R.,J.)

19.12.2024

SS

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