



WEB COPY

H.C.P.No.2143 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2143 of 2024

Komaiya

... Petitioner

Vs.

1.State of Tamil Nadu

Rep. by its Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai, Chennai.

3.The Inspector of Police,
J-7 Velachery Police Station,
Chennai.

4.The Superintendent,
Central Prison,
Puzhal, Chennai.

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus, to call for the entire records, relating to Petitioner's detention under Tamil Nadu Act 14 of 1982



H.C.P.No.2143 of 2024

vide detention order, dated 19.06.2024 on the file of the second respondent herein made in proceedings No.676/BCDFGISSSV/2024 and quash the same as illegal and consequently direct the respondents herein to produce the Petitioner namely Kombaiya aged 36 years, S/o.Murugan before this High Court and set him at liberty, now Petitioner detained at Central Prison, Puzhal, Chennai - 600 066.

For Petitioner	: Mr.C.C.Chellappan
For Respondents	: Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

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

The present habeas corpus petition filed challenging the detention order passed by the 2nd respondent in No.676/BCDFGISSSV/2024 dated 19.06.2024.

2. The learned counsel for the petitioner would submit that the some of the documents furnished to the detenu were not translated. The detenu has no knowledge in reading English and non translation of the Government Order caused prejudice to the detenu from submitting effective representation,



which is a valuable right under the Act.

WEB COPY

3. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court of India in the case of ***Powanammal vs. State of Tamil Nadu***¹. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} as follows:

“9. However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the

1. (1999) 2 SCC 413



H.C.P.No.2143 of 2024

is quashed and the Habeas Corpus Petition is allowed. The detenue viz.,
Kombaiya, S/o.Murugan aged about 36 years, who is confined at Central
Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is
required in connection with any other case.

[S.M.S., J.] [V.S.G., J.]
03.10.2024

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order / Non-speaking order

To

- 1.The Secretary to Government,
State of Tamil Nadu
Home Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai, Chennai.
- 3.The Inspector of Police,
J-7 Velachery Police Station,
Chennai.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 5.The Public Prosecutor,
Madras High Court.



WEB COPY



H.C.P.No.2143 of 2024

S.M.SUBRAMANIAM, J.
and
V.SIVAGNANAM, J.

Jeni

H.C.P.No.2143 of 2024

03.10.2024