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W.P.No.32474 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.32474 of 2023
and W.M.P.No.32083 of 2023

Mehar Nisha

...Petitioner

VS.

1. The Union of India,
Rep. by its Secretary to the Government,
Ministry of External Affairs,
Government of India, North Block,
New Delhi 110 001.
2. The Union of India,
Rep. by its Secretary to the Government,
Ministry of Law and Justice, North Block,
New Delhi.
3. The Principal Secretary to Government,
O/o. the Principal Secretary to Government,
Home (Prison IV) Department, Secretariat,
St. George Fort, Chennai.
4. The Additional Director General of Prison,
O/o. the Additional Director General of Prison,



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Whannels Road, Egmore, Chennai.

5. The Superintendent of Central Prison,
Puzhal Central Prison, Chennai.

6. The Union of India,
Rep. by its Secretary to Government,
Ministry of Home Affairs, Government
of India, New Delhi.
(R-6 suo motu impleaded as per order
dated 23.01.2024 in WP.)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents to release the petitioner's husband prematurely who is languishing in Puzhal Jail, Chennai for the past 11 years, by considering the petitioner's representation dated 18.07.2023.

For Petitioner : No appearance

For Respondents : Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India
for R.1, R.2 and R.6
: Mr.E.Raj Thilak
Additional Public Prosecutor
for R.3 to R.5

ORDER

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

The petitioner has given representations on 25.04.2023 and 18.07.2023 seeking to release her husband viz., Rifayudheen, who is languishing in Puzhal



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Jail, Chennai for the past 11 years, prematurely under the Repatriation of Prisoners Act, 2003. Since the said representations were not considered, the present Writ Petition has been filed.

2. There is no representation for the petitioner.

3. It is needless to point out that whenever representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

3. Since the representations given by the petitioner date back to the year 2013, it would be appropriate that the petitioner be granted liberty to give a fresh representation, with a consequential direction to the respondents herein, to



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consider the same.

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4. In the light of the above observations, the petitioner is granted liberty to give a fresh representation to the respondents herein. On receipt of the same, the respondents shall consider it on its own merits and pass appropriate orders in accordance with law within a period of three months from the date of receipt of the representation. It is made clear that this Court has not expressed any of its views with regard to the merits of the claim made by the petitioner and that it is open to the concerned respondents to consider the same on its own merits.

5. With the above direction, this Writ Petition stands disposed of. No costs.
Connected miscellaneous petition is closed.

(M.S.R.,J.) (S.M.,J.)
01.02.2024

sr
Index:yes/no
Internet:yes/no

To

1. The Secretary to the Government,
Ministry of External Affairs,
Government of India, North Block,
New Delhi 110 001.



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2. The Secretary to the Government,
Ministry of Law and Justice, North Block,
New Delhi.
3. The Principal Secretary to Government,
O/o. the Principal Secretary to Government,
Home (Prison IV) Department, Secretariat,
St. George Fort, Chennai.
4. The Additional Director General of Prison,
O/o. the Additional Director General of Prison,
Whannels Road, Egmore, Chennai.
5. The Superintendent of Central Prison,
Puzhal Central Prison, Chennai.
6. The Secretary to Government,
Government of India,
Ministry of Home Affairs, Government
of India, New Delhi.
7. The Public Prosecutor,
High Court, Madras



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and

SUNDER MOHAN, J

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