



W.P.No.29008 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

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

W.P.No.29008 of 2024

Saravanan

...
Vs.

Petitioner

1.The State represented by its,
The Additional Chief Secretary to Government,
Home (Prison-IV) Department, Secretariat,
Fort St.George, Chennai – 600 009.

2.The Director General of Prisons,
Gandhi Irwin Road, CMDA Building,
2nd Tower, Egmore, Chennai – 600 008.

3.The Superintendent of Prison,
Central Prison at Salem,
Hasthampatty, Salem – 7.

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Respondents

PRAYER: Writ petition has been filed under Article 226 of Constitution of India for issuing a Writ of Certiorified Mandamus to call for the records in impugned order in No.20194/ த.கு.1 /2024 dated 05.09.2024 passed by the



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3rd respondent and quash the same and directing the respondents to reconsider the proposal of premature release of Petitioner/convict namely Mr.Saravanan S/o. Sundaram (CT No.7584) in the light of the observation made in the decision of this Hon'ble Court in N.Perumalammal Vs.State (W.P.No.26313 of 2022 dated 25.08.2023) within time limitation as prescribed by this Hon'ble Court.

For Petitioner : Mr.M.Mohamed Saifulla

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

ORDER

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

The writ on hand has been instituted to assail the order of rejection passed by the Superintendent of Prison, Central Prison at Salem in proceeding No.20194/த.சூ.1/2024, dated 05.09.2024.

2.The writ petitioner is a convict prisoner lodged in the Central Prison at Salem. The application was submitted seeking premature release under the Scheme constituted in G.O.(Ms) No.64 Home (Prison-IV) Department, dated 01.02.2018.



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3.The Superintendent of Prison examined the application and rejected the same on the ground that the petitioner is not eligible to avail the benefit of premature release under the scheme constituted in G.O.(Ms) No.64 Home (Prison-IV) Department, dated 01.02.2018, thus, the present writ petition came to be instituted.

4.The learned counsel for the petitioner would submit that the Superintendent of Prison is not a competent authority to take a decision regarding premature release of convict prisoner. Moreso, the reasons stated is running counter to the scheme and thus, the order impugned is to be set aside.

5.The learned Additional Public Prosecutor Mr.E.Raj Thilak would submit that the Government has to examine the application seeking premature release with reference to the scheme constituted. However, the Superintendent of Prison *prima facie* found that the convict prisoner is not eligible and accordingly, passed the impugned order and therefore, the writ



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petition is to be rejected.

6.We have considered the rival submissions made by the parties.

7.The Superintendent of Prison admittedly is an incompetent authority to take a decision regarding premature release of convict prisoner. Whether a convict prisoner is eligible for premature release or not is to be determined with reference to the terms and conditions stipulated under the scheme by the Government. Therefore, the order of rejection is untenable merely on the ground that the Superintendent of Prison is an incompetent authority to take a final decision regarding premature release. That apart, the application submitted for seeking premature release was decided by the Superintendent of Prison and therefore, the opportunity of consideration by the Government became lost and thus, we are inclined to interfere with the order impugned.

8.The learned counsel for the petitioner would submit that the



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legal position has already been settled by Division Bench of Madras High Court. It is for the petitioner to furnish the copy of the judgment to the Government along with the application for consideration.

9.Consequently, the impugned order dated 05.09.2024 passed by the Superintendent of Prison is hereby set aside and the third respondent is directed to forward the application submitted seeking premature release to the Government for consideration and to take appropriate decision by following the procedures as contemplated under law.

10.With the above direction, the writ petition stands allowed. No costs.

[S.M.S., J.] [V.S.G., J.]
15.10.2024

Index : Yes
Speaking order : Yes
Neutral Citation : Yes
sms

To



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