



WEB COPY



W.P.No.29254 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.P.No.29254 of 2023

Suthendraraja T @ Santhan

... Petitioner

-Vs-

- 1.The Secretary
Ministry of Home Affairs
Government of India
New Delhi 110 001.
- 2.The Foreigners Regional Registration Officer/Chennai
Bureau of Immigration (MHA), Government of India
Shastri Bhavan Annexe, Chennai 600 006.
- 3.The Secretary to Government
Public (Foreigners) Department
Government of Tamil Nadu
Secretariat, Chennai 600 009.
- 4.The Ministry of External Affairs
Rep.by the Secretary to the Government
Government of India, New Delhi 110 001

(R4 Suo Motu impleaded as per order dated
10.01.2024 in W.P.No.29254 of 2023 by
RSKJ & KBJ)

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to take immediate steps to deport the petitioner to Sri Lanka.



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For Petitioner : Mr.M.Radhakrishnan
For Respondents : Mr.AR.L.Sundaresan,
Additional Solicitor General
assisted by Mr.K.Subburanga Bharathi
- for RR 1, 2 and 4

Mr.Hasan Mohammed Jinnah
Public Prosecutor
assisted by R.Muniyapparaj
Additional Public Prosecutor
and Mr.Sylvester John - for R3

ORDER

(Order of the Court was made by **R.SURESH KUMAR, J.**)

The prayer sought for herein is for a writ of Mandamus directing the respondents to take immediate steps to deport the petitioner to Sri Lanka.

2. When this matter came up for hearing on 29.02.2024, after taking note of the developments we passed the following order:

Pursuant to our last order dated 13.02.2024, when the case is taken up for hearing today, Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for the Central Government/Foreigners Regional Registration Officer (in short 'FRRO') has stated that, pursuant to the order passed by this Court on 13.02.2024, the request made by the State Government having been considered, necessary order has been passed on 22.02.2024 by the Bureau of Immigration (Ministry of Home Affairs), Government of India, Shastri Bhavan Annexe, Chennai – 600 006 and in the said order dated 22.02.2024, inter alia, the said authority has passed the following order:



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“2. Therefore, in exercise of the powers conferred by clause ‘c’ of sub-section 2 of Section 3 of Foreigners Act, 1946 (Central Act XXXI of 1946) r/w Govt. of India / MHA’s Gazette Notification No.25022/09/2019-IMM dated: 11.09.2019, I, Dr.P.Ve.Arunshakthikumar, Foreigners Regional Registration Officer / Civil Authority, Chennai in pursuance of MHA’s / Govt of India’s notification No.381 issued from File No.25022/96/99F-1, dated : 13.07.2000 r/w Joint Director / Immigration, New Delhi order No.1/Imm/99(32)-3388/IB/MHA dated: 18.07.2000, order that, Mr.SUTHENTHIRARAJAH THILLAIAMPALAM, a) shall not remain in India, and b) shall depart from India as soon as possible. 3. The District Collector, Trichy is requested to make necessary arrangements for the travel of Mr.Suthenthirarajah Thillaiampalam with immediate effect. The Commissioner of Police, Trichy City is requested to provide police escort to him from Foreigners Detention Camp, Trichy to Immigration Check Post (ICP) Airport and to handover him to the Airport Immigration for his travel out of India.”

2. However, it has been informed by the learned counsel appearing for the Central Government as well as the State that, in the meanwhile, yesterday i.e. on 28.02.2024 the petitioner since suffered with massive cardiac arrest expired at 7.50 a.m. at Government Rajiv Gandhi Hospital, at Chennai.

3. On the side of the petitioner, though no one has appeared, when the case was heard in the morning, we directed the State authorities to give the details as to why the petitioner could not be deported, despite the order having been passed by the Central authorities on 22.02.2024.



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4. In response to our query, in the afternoon when the case is again taken up for hearing, Mr.Hasan Mohammed Jinnah, learned State Public Prosecutor has filed the following details by way of dates and events.

S.No	Date	Description
1.	25.01.2024	The petitioner was admitted in the Annal Gandhi General Hospital, Trichy
2.	27.01.2024	The petitioner was taken to Rajiv Gandhi Government Hospital, Chennai for further treatment.
3.	22.02.2024	FRRO/Bureau of Immigration passed on order
4.	23.02.2024	Trichy Camp Officer / Deputy Collector request for Airticket as well as communicated to the petitioner.
5.	21.02.2024 to 27.02.2024	On 21.02.2024 the patient developed droziness and had dyselectrolytemia Patient was detoriated clinically and neurologically and neurology opinion was obtained and MRI brain was taken. 27.02.2024 they have submitted the deportation letter (copy enclosed) and requested to shift by air ambulance (copy enclosed). On that day requirement of oxygen was 6 litres.
6.	27.02.2024	Petitioner side assured that the patient will be shifted by air ambulance with facilities for ventilator support with anesthetist for intubation if required.
7.	28.02.2024	He had a massive cardiac arrest on 28.02.2024 at 7 am, CPR was started, inspite of all resuscitative measures patient could not be revived and was declared expired on 7.50 am on 28.02.2024.

Dated at Chennai, on this the 29th day of February, 2024.

PUBLIC PROSECUTOR

5. Based on the aforesaid details, the learned Public Prosecutor would contend that, the order since had been issued by the Central authorities on 22.02.2024 and though it had been informed to the petitioner side, by the time from 21.02.2024 onwards the petitioner developed drowziness and dyselectrolytemia. He was in that health status till 27.02.2024 and his health condition was clinically deteriorated, therefore Neurology opinion was obtained and MRI brain was taken,



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persistent dyselectrolytemia occurred despite corrective measures. On 27.02.2024 they claimed to have submitted a deportation letter and requested to shift by air ambulance and on that day it was required 6 litres of oxygen and it was assured on the side of the petitioner that, the petitioner/patient will be shifted by air ambulance with facilities for ventilator support with anesthetist for intubation if required. The learned Public Prosecutor further submitted that, unfortunately at 7.00 a.m. on 28.02.2024 the petitioner/patient had developed a massive cardiac arrest. Thereafter, the CPR procedure was started, however inspite of all resuscitative measures the patient (petitioner) could not be revived and he was declared expired at 7.50 a.m. on 28.02.2024 i.e. yesterday.

6. Since the petitioner died on 28.02.2024 at 7.50 a.m., the effort to deport him even by air ambulance could not be materialised, the learned Public Prosecutor has submitted.

7. In this context, when we asked about the current status, the learned Public Prosecutor has submitted that, under Section 176 of Cr.P.C. Magistrate enquiry was completed as the petitioner had been in Trichy camp before he was hospitalised. The other clinical procedure like postmortem and embalming of the body also has been completed, therefore at any time subject to the necessary permission to be granted by the High Commission as well as the Central authorities, the body remains of the petitioner can be flown to Sri Lanka.

8. In this context, Mr.AR.L.Sundaresan, learned Additional Solicitor General appearing for the Central authorities has submitted that, in order to give such a final nod for taking the mortal remains of the petitioner to Sri Lanka, the following four documents are required. One is that the travel documents which have already been issued by the concerned authority on 22.02.2024. The other documents are : (i) Death Certificate to be issued by the Hospital; (ii) Embalming Certificate issued by the Hospital; and (iii) the permission from the Sri Lanka High



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Commission/Embassy at Chennai for permitting the mortal remains of the petitioner to be flown to Sri Lanka.

10. The said submissions made by the the learned Public Prosecutor on behalf of the State and the learned Additional Solicitor General appearing on behalf of the Central authorities are taken on record.

11. Therefore, we pass the following orders:

(i) That there shall be a direction to the State authorities to ensure that the necessary documents to be provided by the Hospital authorities shall be provided immediately to the FRRO i.e. the 2nd respondent;

(ii) The State shall also make an endeavour to get the clearance from the High Commission of Sri Lanka at Chennai by taking note of the emergent situation and accordingly such a certification or clearance from the High Commission be obtained and produced before the FRRO. On receipt of these documents, the FRRO is hereby directed to issue necessary orders/clearance immediately enabling the body of the petitioner to be flown to Sri Lanka.

12. In this context, we are further inclined to give a direction to the Government of Tamil Nadu to take all necessary steps to ensure that the aforesaid process is completed as quickly as possible and also to lend their helping hands for the smooth flowing of the body of the petitioner by air, for which whatever the logistical assistance and other security arrangements to be provided shall also be extended by the State Government. In this regard, a senior I.A.S. Officer and a senior I.P.S. Officer of the State Government shall be appointed as Nodal officers, who shall undertake the aforesaid task on behalf of the State Government. On completion of this task, a compliance report to that effect shall be filed both by the State and Central authorities before this Court on 04.03.2024.

13. Post the matter on 04.03.2024."



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3. Pursuant to which the matter has come up for hearing today. On behalf of the State Authorities, a compliance report has been filed by Mr.A.Sivagnanam I.A.S., Additional Secretary to the Government dated 03.03.2024, wherein inter-alia the following has been stated.

- *When the case in W.P.No.29254 of 2023 came up for hearing on 29.02.2024, the Hon'ble High Court of Madras ordered "to ensure that the process for the smooth flowing of the body of the petitioner by air is completed as quickly as possible and also to lend helping hands for the logistical assistance and other security arrangements to be provided and a senior I.A.S., Officer and senior I.P.S., Officer of the State Government shall be appointed as Nodal Officers, who shall undertake the aforesaid task on behalf of the State Government. The Hon'ble High Court of Madras has directed that a compliance report shall be filed both by the State and Central authorities before this Court on 04.03.2024.*
- *The District Collector, Chennai and the Deputy Commissioner of Police, Flower Bazaar District were nominated for making arrangements to transport the corpse to motherland and their report follows:*
- *On 25.10.2024, as he developed severe illness he was admitted at Mahatma Gandhi Memorial Government Hospital, Tiruchirapalli. Based on the recommendation of Dean of Thiruchirapalli he was referred for higher treatment at Rajiv Gandhi Government General Hospital, Chennai-3 under proper escorts on 27.01.2024, for Chronic Liver Disease, Hypertension and Panchytopaenia and Macrocytosis and Haemolysis and for further management of the disorders.*
- *He was undergoing treatment as inpatient at the Rajiv Gandhi Government General Hospital, Chennai, since then. Meanwhile on 27.02.2024, he developed severe respiratory issues and died on*



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28.02.2024 at 7.50 A.M., as per the death report issued by the Resident Doctor, Department of Hepatology, Madras Medical College, Chennai.

- Based on the letter of the Special Deputy Collector, Special Camp at Kottapattu, Tiruchirapalli, the Inspector of Police, C4 Rajiv Gandhi Government General Hospital, Law and Order, Chennai registered a case in Crime No.12/2024 under Section 176(1-A) Cr.P.C., and had given a requisition to the Chief Metropolitan magistrate, Egmore, Chennai-8 for inquest inquiry and to ascertain the cause of death.
- The Chief Metropolitan Magistrate, Egmore, Chennai-8 in turn has nominated the Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai-01 to conduct the inquest inquiry in to the death of the Sri Lankan National Suthenthirarajah @ Santhan S/o Thilaimpalam.
- Accordingly, the Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai-01 conducted inquest inquiry on 28.02.2024 and postmortem was conducted in the presence of Metropolitan Magistrate on 29.02.2024. Postmortem was conducted by Dr.S.Ramalingam and Dr.A.Nagendra Kumar, Assistant Professors, Institute of Forensic Medicine, Madras Medical College, Chennai-3 vide PM No.270/2024 dated 29.02.2024.
- Subsequently, for handing over the human remains the following clearance / NOC was obtained:

(1) The Special Deputy Collector, Special Camp, Kottapattu, Tiruchirapalli has issued necessary NOC for transporting the body to Sri Lanka;

(2) Embalming of the body was also made and necessary certificate had been issued by the Director & Professor, Institute of Anatomy, Madras Medical College & GH Chennai-3.

(3) The Commissioner of Police, Greater Chennai Police, Vepery, Chennai-7 issued necessary permission for transportation of the mortal



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remains from Chennai to Colombo by air, based on the No objection certificate of the Deputy High Commissioner, the Deputy High Commission for Democratic Socialist Republic of Sri Lanka in Southern India, Chennai and that one Thiru.Pugalenthii is making arrangements for transportation of the human remains of the deceased by air from Chennai to Colombo. The human remains will be collected by Thiru.Selvarathnam Kajanthan (NIC No.197809505465) at Bandaranayake International Airport, Katunayake at Sri Lanka;

(4) The Foreigners Regional Registration Officer, Ministry of Home Affairs, Government of India, Nungambakkam, Chennai-06 issued No Objection Certificate.

(5) The Deputy High Commission for the Democratic Socialist Republic of Sri Lanka in Southern India, had issued necessary clearance letter addressed to the Commissioner of Customs, Air Cargo Complex, Chennai for transporting the human remains from Chennai to Sri Lanka. It is also stated in the Deputy Commission letter that based on the authorization of the mother of the deceased namely Tmt.Mageswari the body be handed over to Thiru P.Pughazhendhi, who is making all necessary arrangements of the transportation of the human remains.

- *After adhering all these legal procedures, finally on the night of 29.02.2024, at around 9.30 P.M., the Assistant Resident Medical Officer, incharge of Mortuary, Rajiv Gandhi General Hospital, Chennai, had released the mortal remains of the deceased Sri Lankan National Suthenthirarajah @ Santhan, S/o Pandian, No.16/20, Parthasarathy Swamy Street, Triplicane, Chennai-5 in the presence of team of Revenue and Police Officials. Immediately, the body was taken to International Airport duly escorted by police and handed over to the Airport authorities.*
- *The human remains was safely air lifted to Sri Lanka around 10.00 A.M., on the morning of 01.03.2024.*
- *Copies of relevant documents are submitted."*



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4. Similar status report has been filed by the first respondent viz., Foreigners Regional Registration Office, Shastri Bhawan, Chennai, he has filed the following report:

" 3. I humbly submit that, after the demise of the petitioner on 29.02.2023 the Hon'ble High Court of Madras has directed FRRO to issue necessary orders/clearance immediately enabling the body of the petitioner to be flown to Sri Lanka.

4. I humbly submit that, in compliance to the order, NOC for the transportation of the mortal remains of Suthenthirajah to Srilanka was given by the O/o FRRO Chennai on 29.02.2024.

5. I humbly submit that, on 01.03.2024 at 1040 Hrs, after verification of all the documents/certificates, clearances was given by the Immigration. The mortal remains of Suthenthirajah was transported to Srilanka by UL-122, Srilankan airlines. Mr.Pugazhenthir Pandian, advocate has left to Srilanka to hand over the mortal remains of Suthenthirajah to the family members."

5. The aforesaid report have been taken on record. Since the mortal remains of the petitioner has been flown to Sri Lanka, as stated above no further adjudication is required in this writ petition. Therefore, recording the aforesaid developments, this writ petition can be closed. Accordingly, it is closed. No costs.

(R.S.K.,J.) (K.B.,J.)
04.03.2024

Index : Yes
Neutral Citation : Yes
KST

Note : Issue order copy today (04.03.2024)



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To

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Ministry of Home Affairs
Government of India
New Delhi 110 001.
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R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

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