



HCP.No.2956 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2956 of 2024

1 Palaniyammal ... PETITIONER

Vs

1 The Secretary To The Government,
Home Prohibition And Excise Department
Secretariat, Chennai - 600 009.

2 District Magistrate And
District Collector Of Kallakurichi District
Kallakurichi.

3 The Superintendent Of Police
Kallakurichi District Kallakurichi.

4 The Superintendent Of Prison
Central Prison, Cuddalore.

5 The Inspector Of Police
Sankarapuram Police Station,
Kallakurichi District.

... RESPONDENTS



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PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the Second respondent dated 24.10.2024 in D.O.No.C2/66/2024 against the petitioner Husband Rajenthiran male aged 41 yrs S/o. Nallathambi who is confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenu before the Honble court and set him at Liberty.

For Petitioner : Mr. P.Raman
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The order of detention passed by second respondent/the District Magistrate and District Collector, Kallakurichi District, in D.O.No.C2/66/2024 dated 24.10.2024 is sought to be quashed in the present Habeas Corpus Petition.

2. Admittedly, the known language to the detenu in the present case is 'Tamil'. The Government Order conferring the power of the detaining authority to issue detention order was issued without translating the same in Tamil language. In other words, the Government Order furnished to the detenu is in unknown language to the detenu, which would vitiate the entire proceedings.



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3.The non supply of translated version of the Government Order in Tamil caused prejudice to the detenu for submitting effective representation, which is a valuable right provided to the detenu under the Act.

4.The issue regarding serving of translated version of the documents in the preventive detention order has been dealt with by the Three Judges Bench of the Hon'ble Supreme Court of India in the case of ***Powanammal Vs. The State of Tamil Nadu and others reported in 1999 2 SCC 413***. The Apex Court held that non supply of the copy of the documents relied on 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 non- supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order. The Court further reiterated that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu, should the document be in a different language. The Apex Court had not made any distinction between non serving of a document and the translated copy of the document in the known language of the detenu.



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5. In view of the said judgment of the Apex Court, the present Habeas Corpus Petition has to be considered. Consequently, the impugned order of detention passed by the second respondent in D.O.No.C2/66/2024 dated 24.10.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Rajenthiran, male, aged 41 yrs, S/o. Nallathambi, now confined at Central Prison, Cuddalore, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
mrp

[S.M.S., J.] [M.J.R., J.]
10.12.2024

To

- 1 The Secretary To The Government,
Home Prohibition And Excise Department
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- 2 District Magistrate And
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3 The Superintendent Of Police
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Sankarapuram Police Station,
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6. The Public Prosecutor,
High Court, Madras.



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