



**H.C.P.(MD) No.396 of 2024**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 27.06.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA  
and  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

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Patturajan  
(Now the petitioner is confined at  
Central Prison, Palayamkottai)

... Petitioner

**-VS-**

- 1.The Secretary to Government,  
Food, Co-operation and Consumer Protection Department,  
Nammakkal Kavignar Maaligai 2nd floor,  
Secretariat,  
Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Tenkasi District,  
Tenkasi-11.
- 3.The Additional Secretary to Government of India,  
Department of consumer Affairs,  
Food and consumers Affairs department,  
Foom No.270, Food, Krishi Bhavan,  
New Delhi-110 001.



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4. The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl. No.14/2024, dated 01.03.2024 and quash the same and direct the respondents to produce the detenu by name Patturajan, son of Kalaiselvam, aged about 35 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.A.Thiruvadi Kumar  
Additional Public Prosecutor

### **ORDER**

**[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]**

The petitioner is the detenu viz., Patturajan, son of Kalaiselvam, aged about 35 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.14/2024, dated 01.03.2024, holding him to be a "Black Marketer", as contemplated under the Provisions of Prevention of Black



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WEB COPY Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act No.7 of 1980). The said order is under challenge in this habeas corpus petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the habeas corpus petition, learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 20.03.2024. According to the learned counsel for the petitioner, though the representation is dated 20.03.2024, the same was received by the Government on 25.03.2024 and the rejection letter was sent to the detenu on 23.04.2024. There is a delay of 24 days in considering the petitioner's representation. The said delay of 24 days in considering the representation remains unexplained and the same vitiates the impugned detention order. In support of his contention, learned counsel for the petitioner relied on the Judgment of the Honourable Supreme Court in *Rajammal vs. State of Tamil Nadu*, reported in (1999) 1 SCC 417.



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4. Learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the impugned detention order and there is no illegality or infirmity in the detention order. It is also stated that even if there is any delay in disposal of the representation, it has not caused any prejudice to the rights of the detenu and hence, prayed for dismissal of the habeas corpus petition

5. As per the submission of the learned counsel for the petitioner and on perusal of the records, we find that the representation of the petitioner is dated 20.03.2024, which was received by the Government on 25.03.2024 and the rejection letter was sent to the detenu on 23.04.2024. As per the proforma submitted the by the learned Additional Public Prosecutor, there is a delay of 24 days in considering the representation of the petitioner and we find that the said delay remains unexplained.

6. It is trite law that the representation should be very expeditiously considered and disposed of with a sense of urgency and without avoidable delay.



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Any unexplained delay in the disposal of the representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. From the records produced, we find that no acceptable explanation has been offered for the delay of 24 days. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

7. In the above cited decision of the Honourable Supreme Court in **Rajammal's** case, it has been held as follows:

*"It is a constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be " in clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest."*

8. As per the dictum laid down by the Supreme Court in above cited **Rajammal's** case, number of days of delay is immaterial and what is to be considered is whether the delay caused has been properly explained by the





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son of Kalaiselvam, is directed to be released forthwith unless his detention is required in connection with any other case.

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
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**[A.D.J.C., J.] [K.R.S., J.]**  
**27.06.2024**

To:

- 1.The Secretary to Government,  
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- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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