



HCP.No.273 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.273 of 2025

T.Anushya

... Petitioner/ wife of the detenue

Vs.

1. The Principal Secretary To Government Department Of
Co-operation Food And Consumer Protection,
Secretariat, Chennai-600 009.

2.The Commissioner
Civil Supplies And Consumer Protection Department,
Chepauk, Chennai-5.

3.The Additional Secretary Of
Government
Government Of India, Department
Of Consumer Affairs, Room
No.270, Krishi Bhavan, New Delhi.

4.The District Collector And District
Magistrate
Tiruppur District, Tiruppur.

5.The Deputy Superintendent Of
Police



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CSCID-Erode Range, Erode District.

6.The Superintendent
Central Prison, Coimbatore.

7.The Inspector Of Police
CSCID-Chennai, Tiruppur Police
Station.

... 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 relating to the detention of the petitioner's Husband namely Thamaraikannan alias Kannan, son of (Late) Solai Shanmugam who was branded as BLACKMARKETER under the prevention of Black marketing and maintenance of Supplies of Essential Commodities Act 7 of 1980 by the order of detention passed by the 4th respondent order memo Cr.MP.No.04/BLACK MARKETER/2025 dated 25.01.2025 who is confined at central prison, Coimbatore and set aside the same and consequently direct the respondents to produce the detenue before the court and set him at liberty.

For Petitioner : Mr.K.Rajendra Prasad

For Respondents : Mr.R.Muniyapparaj
Additional Public prosecutor
assisted by Mr.M.Sylvester John



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ORDER

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M.S.RAMESH, J.

AND

N.SENTHILKUMAR, J.

The petitioner, who is the wife of the detenu Thamaraikannan alias Kannan, son of (Late) Solai Shanmugam, has come forward with this petition challenging the detention order passed by the fourth respondent dated 25.01.2025 issued against her husband, branding him as "Black Marketeer" under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 [Central Act No.7 of 1980].

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 03.02.2025. According to the learned counsel for the petitioner, though the representation is dated 03.02.2025, the same has been received by the Government only on 06.02.2025; the file has been dealt with by the Joint

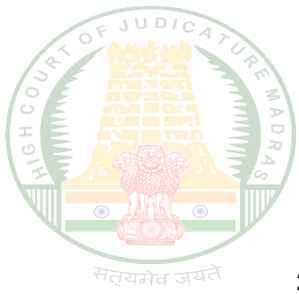


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Secretary on 18.02.2025 and the Minister concerned dealt with the file only on 21.02.2025 and the Rejection Letter was prepared on 24.02.2025 and sent to the detenu on 24.02.2025. It is the further submission of the learned counsel that the delay of 12 days in considering the representation remains unexplained and the same vitiates the detention order. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in ***Rajammal Vs. State of Tamil Nadu, reported in (1999) 1 SCC 417.***

4. 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 03.02.2025, which was received by the Government on 06.02.2025 and further, the Minister concerned had dealt with the file of the detenu only on 21.02.2025 and the Rejection Letter was sent to the detenu on 24.02.2025. Thus, we find there is a considerable delay of 12 days in considering the representation of the petitioner. This delay of 12 days in considering the petitioner's representation remains unexplained.



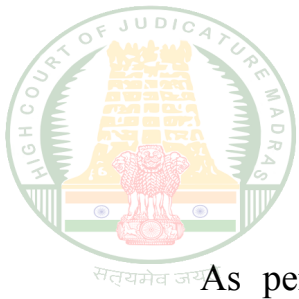
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5. It is trite law that the representation should be very expeditiously considered and disposed of with a sense of urgency and without avoidable delay. Any unexplained delay in the disposal of the representation would be a breach of the constitutional 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 12 days. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

6. In the judgment of the Hon'ble Supreme Court in ***Rajammal's case (cited supra)***, 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."



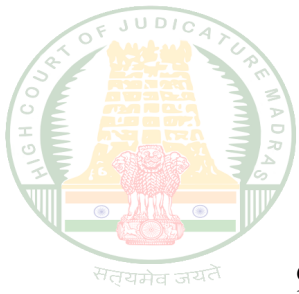
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As per the dictum laid down by the Supreme Court in above cited **Rajammal's case**, number of days of delay is immaterial and what is to be considered is whether the delay caused has been properly explained by the authorities concerned. But, here the inordinate delay of 6 days has not been properly explained at all.

7. Further, in a recent decision in **Ummu Sabeena vs. State of Kerala-2011 STPL (Web) 999 SC**, the Hon'ble Supreme Court has held that the history of personal liberty, as is well known, is a history of insistence on procedural safeguards. The expression 'as soon as may be', in Article 22(5) of the Constitution of India clearly shows the concern of the makers of the Constitution that the representation, made on behalf of the detenu, should be considered and disposed of with a sense of urgency and without any avoidable delay.

8. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of delay on the part of the Government in disposing of the representation of the petitioner.



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9. Accordingly, the detention order passed by the third respondent, in Cr.MP.No.04/BLACK MARKETER/2025, dated 25.01.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Thamaraikannan alias Kannan, son of (Late) Solai Shanmugam, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R., J]

[N.S., J]

21.04.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

1. The Principal Secretary To Government Department Of Co-operation Food And Consumer Protection, Secretariat, Chennai-600 009.

2. The Commissioner Civil Supplies And Consumer Protection Department, Chepauk, Chennai-5.

3. The Additional Secretary Of Government Government Of India, Department Of Consumer Affairs, Room No.270, Krishi Bhavan, New Delhi.



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8.The Joint Secretary,
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Secretariat, Chennai.

9.The Public Prosecutor,
High Court, Madras.

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