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HCP.No.674 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.674 of 2025

Saraswathi

... Petitioner/ wife of the detenue

Vs.

1. The Additional Secretary,
Government of India,
Ministry of Consumer of Affairs,
Food and Public Distribution (Dept.
of Consumer Affairs), Room No.270,
Krishi Bhawan, New Delhi-110 001.

2.The Secretary to Government,
Co-operation, Food and Consumer
Protection Department, 2nd Floor,
Namakkal Kavignar Maaligai,
Secretariat, Chennai-09.

3.The District Collector and District
Magistrate,
Coimbatore.

4.The Superintendent of Police,
Coimbatore.

5.The Superintendent of Prison,
Central Prison, Coimbatore.

6.The Sub-Inspector of Police,



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CSCID, Pollachi Unit.

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... Respondents

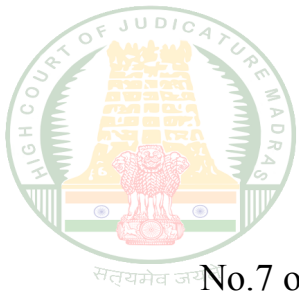
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, call for the records in Connection with the order of Detention passed by the second respondent dated 12.03.2025 in Cr.M.P.No.09/BM/2025 against petitioner's Husband namely Raja @ Rajan, aged 53 years, S/o.Joseph, confined at Central Prison, Coimbatore and set and set aside the same and direct the respondents to produce the detenue before the Court and set him at Liberty.

For Petitioner	: Mr.S.Senthilvel
For Respondents	: Mr.E.Raj Thilak
	Additional Public prosecutor
	for R4 to R6
	Notice Served For R1 And R3

ORDER

M.S.RAMESH, J.
AND
V. LAKSHMINARAYANAN, J.

The petitioner, who is the wife of the detenu Raja @ Rajan, aged 53 years, S/o.Joseph, confined at Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the third respondent dated 12.03.2025 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



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No.7 of 1980].

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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 06.05.2025. According to the learned counsel for the petitioner, though the representation is dated 06.05.2025, the same has been received by the Government only on 09.05.2025; the file has been dealt with by the Joint Secretary on 23.05.2025 and the Minister concerned dealt with the file only on 27.05.2025 and the Rejection Letter was prepared on 27.05.2025 and sent to the detenu on 27.05.2025. It is the further submission of the learned counsel that the delay of 13 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



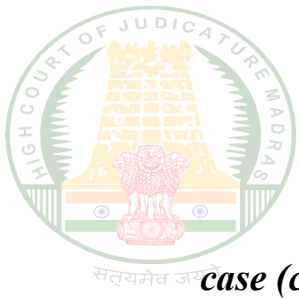
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on perusal of the records, we find that the representation of the petitioner is dated 06.05.2025, which was received by the Government on 09.05.2025 and further, the Minister concerned had dealt with the file of the detenu only on 27.05.2025 and the Rejection Letter was sent to the detenu on 27.05.2025. Thus, we find there is a considerable delay of 13 days in considering the representation of the petitioner. This delay of 13 days in considering the petitioner's representation remains unexplained.

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 13 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*



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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."

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 13 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



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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.

9. Accordingly, the detention order passed by the third respondent, in Cr.M.P.No.09/BM/2025 , dated 12.03.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Raja @ Rajan, aged 53 years, S/o.Joseph, confined at Central Prison, Coimbatore, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R., J] [V.L.N., J]

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
Anu

To

1. The Additional Secretary,
Government of India,



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6.The Sub-Inspector of Police,
CSCID, Pollachi Unit.

7.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

8.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH, J.
AND
V. LAKSHMINARAYANAN, J.



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