



W.P(MD)No.20447 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.01.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.P(MD)No.20447 of 2024

S.Kumar @ Pushpakumar

... Petitioner

Vs.

1.State of Tamil Nadu,

The Principal Secretary to Government,
Home (Prison IV) Department,
Secretariat, St. George Fort,
Chennai.

2.The Additional Chief Secretary to the Government,

O/o.The Additional Chief Secretary to the Government,
Home (Prison IV) Department, Secretariat,
St. George Fort, Chennai.

3.The Additional Director General of Police /

Inspector General of Prison,
No.1 Gandhi Irwin Salai,
Egmore, Chennai - 600 008.

4.The Superintendent of Prison,

Trichirapalli Central Prison,
Trichirapalli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,

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calling for the records pertaining to the impugned Government order in G.O.(D) No.544 dated 30.04.2024 issued by the 1st respondent and quash the same and consequentially direct the respondents to release the petitioner who is a life convict (Convict Prisoner No.18646) confined at Central Prison, Trichy in pursuant to the Judgement passed in S.C.No.87 of 2010 on the file of the Additional District Judge Mahila Court, Pudukottai dated 19.11.2010.

For Petitioner : Mr.V.Selvakumar

For Respondents : Mr.T.Senthil Kumar,
Addl. Public Prosecutor.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.The petitioner was convicted and sentenced vide judgment dated 19.11.2010 in S.C.No.87 of 2010 on the file of the Additional District Judge, Mahila Court, Pudukkottai. Aggrieved by the same, the petitioner filed CrI.A.(MD)No.258 of 2013. It was dismissed on 13.09.2017. The petitioner applied for premature release by invoking G.O.(Ms)No.488 Home (Prison – IV) Department, dated 15.11.2021. The petitioner's case



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was recommended by the State Level Committee. The cabinet also endorsed the said recommendation. But the Head of the State took a dissenting view. As a result, the impugned G.O.(D)No.544 Home (Prison – IV) Department, dated 30.04.2024 came to be passed. Challenging the same this writ petition came to be filed.

3.The case on hand is covered by the decision of the Hon'ble Supreme Court reported in ***(2023) 8 SCC 257 (A.G.Perarivalan v. State through Superintendent of Police, CBI/SIT/MMDA, Chennai*** and decision of this Court rendered in ***W.P.No.14908 of 2024 dated 17.10.2024 (Veera Bharathi Vs. State).***

4.The petitioner had admittedly completed ten years of actual imprisonment as on 15.09.2021. He also fulfils all the other conditions set out in G.O.(Ms)No.488 dated 15.11.2021. Therefore, the Head of the State ought not to have taken a contra view. Recommendation of the Council of Ministers was clearly binding on him. In this view of the matter, the impugned G.O. is set aside. The first respondent / Government is directed to recirculate the files and thereafter take a fresh



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decision afresh and issue orders on merits and in accordance with law as expeditiously as possible.

5.This writ petition is allowed accordingly. No costs.

(G.R.S. J.) & (R.P. J.)
20.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The Principal Secretary to Government,
Home (Prison IV) Department,
Secretariat, St. George Fort,
Chennai.
- 2.The Additional Chief Secretary to the Government,
O/o.The Additional Chief Secretary to the Government,
Home (Prison IV) Department, Secretariat,
St. George Fort, Chennai.
- 3.The Additional Director General of Police /
Inspector General of Prison,
No.1 Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
- 4.The Superintendent of Prison,
Trichirapalli Central Prison,
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5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
R.POORNIMA, J.**

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