



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR  
and  
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P (MD) No.1232 of 2015

Pandithurai

: Petitioner

Vs.

1. The Secretary to Government,  
Home, Prohibition & Excise(XVI) Department,  
Secretariat,  
Chennai-600 009.
2. The Commissioner of Police,  
Office of the Commissioner of Police,  
Madurai City, Madurai.
3. The Superintendent of Police,  
Madurai Central Prison, Madurai District. : Respondents

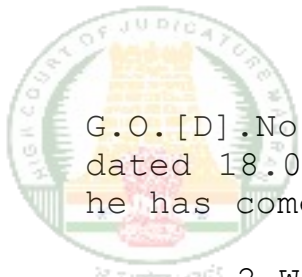
PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent in No.106/BCDFGISSSV/2015, dated 13.08.2015, and quash the same and direct the respondents to produce the detenu namely Pandithurai, S/o.Balu Servai, aged about 33 years, detained at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani  
For Respondents : Mr.A.Ramar,  
Additional Public Prosecutor.

ORDER

[Order of the Court was made by P.S.SHIVAKUMAR, J.]

The petitioner - Pandithurai, S/o.Balu Servai, aged about 33 years, has been detained, as per the order of the second respondent, dated 13.08.2015, under Section 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, ~~Forces to the Government~~, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982, (Tamil Nadu Act 14 of 1982), read with the order issued by the Government in



G.O.[D].No.139, Home Prohibition and Excise (XVI) Department, dated 18.07.2015, branding him as "Goonda". Challenging the same, he has come up with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. Though the order of detention has been assailed on various grounds, the learned counsel for the petitioner submits that the representation made by the detenu for revocation of the order of detention was though considered without causing remarkable delay, there was unexplained delay of 15 days in passing the order of rejection. In the counter affidavit, the following particulars have been furnished:-

"The representation dated 19.08.2015, [not 18.08.2015, as stated in affidavit] submitted by the petitioner to the State Government [Respondent No.1] was received by the detaining authority from the Government on 27.08.2015 and remarks for the same was sent to the Government on 29.08.2015, without any delay, as detailed below:-

Representation received from the Government  
: 27.08.2015

Remarks called for from the Sponsoring Authority  
: 28.08.2015

Remarks received from the Sponsoring Authority  
: 29.08.2015

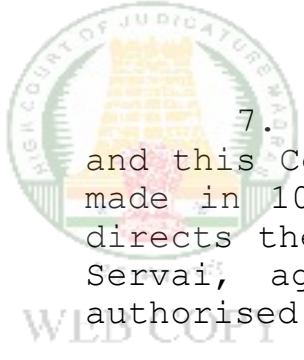
**Reply sent to the Government : 29.08.2015**

[Saturday and Sunday Holidays on 29.08.2015 and 30.08.2015], **based on which the State Government has also rejected the said representation vide its letter in No.18608/Home, P&E (9)/2015, dated 15.09.2015.** Hence the contention of the petitioner is not sustainable on merits".

4. It is quite obvious that from 29.08.2015 till 15.09.2015, there was an inordinate and unexplained delay of fifteen days.

5. Mr.A.Ramar, the learned Additional Public Prosecutor for the respondents, submits that three holidays intervened, namely 29.08.2015, 30.08.2015 and 14.09.2015.

6. Even if the holidays are omitted, the delay is enormous and unreasonable and the same will be viewed as a denial of reasonable opportunity to the detenu. On that ground alone, the impugned detention order is liable to be set aside.



7. In the result, this Habeas Corpus Petition is allowed and this Court sets aside the Order of Detention dated 13.08.2015, made in 106/BCDFGISSSV/2015, passed by the second respondent and directs the release of the detenu, by name B.Pandithurai, S/o.Balu Servai, aged about 33 years, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,  
Home, Prohibition & Excise(XVI) Department,  
Secretariat,  
Chennai-600 009.
2. The Commissioner of Police,  
Office of the Commissioner of Police,  
Madurai City, Madurai.
3. The Superintendent of Police,  
Madurai Central Prison, Madurai District.
4. The Joint Secretary to Government,  
Public (Law & Order)  
Fort St. George, Chennai-600 009.
5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

NB

TE/AAL-MPA/ 10/12/2015 : 3P/6C

Order Made in  
H.C.P (MD) No.1232 of 2015  
Dated:-  
30.11.2015