

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.31526 of 2024

Sujatha

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Director General of Police and
Director General of Prisons and Correctional Services,
Whannels Road,
Egmore, Chennai – 600 008.

3.The Superintendent of Prison,
Central Prison-2,
Puzhal, Chennai – 600 066.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing respondents consider and decide the representation of the petitioner dated 29.09.2024 on merits and in accordance with law.

For Petitioner : Mr.M.Radha Krishnan
For Mr.P.Pugalenthi

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The petitioner has raised a complaint mainly about the unhygienic situation prevailing inside the Central Prison-II, Puzhal, Chennai and the inadequacy of minimum facilities provided to the prisoners. It is brought to the notice of this Court that as per norms, 20 prisoners are to be lodged in one cell. But at present, 60 prisoners are lodged in one cell and in each cell, one toilet alone has been provided. Even though the counter affidavit filed by the third respondent reveals that common toilet facilities are available, the said statement is not convincing, in view of the fact that even during night hours, 60 prisoners are lodged in one cell and all the 60 have to use one toilet inside the cell, which would increase the risk of infections amongst the prisoners and there is likelihood of causing other problems amongst the prisoners.

2. Yet another complaint raised is that as per the Model Prison Manual (4.02), there should be one guard for every six prisoners. In Central Prison-II at Puzhal, Chennai, 203 Prison Warder posts are sanctioned and these Warders are to be allotted duty in three shifts with 60 Warders per shift. The petitioner states that only 15 Warders are available per shift, which is posing not only threat to the prisoners, but also would pave way for other issues amongst the prisoners. Conflict between the prisoners and the Warders are frequently happening inside the prison on account of frustration of the Jail Warders, as they are made to work for long hours beyond the shift hours. Ironically, it is stated by the petitioner that except 15 Warders per shift posted inside the prison, the remaining guards/uniformed personnel are deployed to work at the residences of the prison authorities including the DGP, IG, DIG, SP, Addl.SP and three Jailors.

3. Organised or structural misconducts or offences leading to unconstitutionality result not only in violation of individual rights, but to be construed as structural violations. When there are common allegations against the prison authorities of this nature or abuse of power and utilise the

uniformed personnel for their residential works, undoubtedly, it would affect the public service to be provided to the citizens in general.

4. In the case of *U.Manickavel v. State represented by the Secretary, Home, Prohibition and Excise Department (W.P.No.2627 of 2014 dated 23.08.2022)*, a learned single Judge of this Court dealt with similar issues, wherein the Director General of Police filed an affidavit endorsing the issues relating to engagement of uniformed personnel in the residences of the police officials and made an assurance that all such police personnel would be withdrawn from the residences of the respective police officials and their services would be utilised for the benefit of the public as per law. An undertaking was obtained from the police officials that they would not deploy any uniformed personnel in their residences and such an undertaking is kept on record. Pertinently, the deployment of uniformed personnel in the residences of the police officials were withdrawn during the relevant point of time. The Director General of Police mainly contended that this issue would be monitored constantly so as to ensure that the uniformed personnel are not deployed to the residences of the police officials for their residential works.

5. It is the duty of this Court to remind that the police authorities/prison authorities are public servants and they have been paid decent salary from the tax payers' money. Other facilities are also provided by the Government for effective performance of their public duties. Thus they are expected to avail the benefits whatever admissible under the relevant rules and in the event of abuse of official position, they are liable for prosecution and for initiation of disciplinary proceedings for misconducts.

6. The orderly system in Police Department was abolished in G.O.Ms.No.2231 dated 05.09.1979. In this context, the Additional Chief Secretary to Government, Home (Police-X) Department in Letter No.37131/Police X/2022-2 dated 16.06.2022 issued instructions to the Director General of Police, which reads as under:-

“Home (Police X) Department
Secretariat
Chennai 600 009

Letter No.37131/Police X/2022-2 dated 16.06.2022

From

Thiru K.Phanindra Reddy, I.A.S.,
Additional Chief Secretary to Government

To

The Director General of Police
Tamil Nadu, Chennai-4 (w.e.)

Sir,

Sub: Writs – Writ Petition No.2627 of 2014 – Filed by Thiru.U.Manickavel, Deputy Superintendent of Police (under suspension and not allowed to retire), before High Court of Madras, for restraining the authorities from evicting him from the quarters – Certain instruction issued.

Ref: Interim orders of High Court of Madas dated 14.06.2022 in W.P.No.2627 of 2014.

I am directed to enclose a copy of the interim order cited and to state that, in the above orders, the Hon'ble Court has mentioned the following allegations against the police officials:

- a) Usage of black film in the official vehicles by the higher officials of the police department.
- b) Misuse of department's name in the private vehicles.
- c) Abuse of police force in the name of orderly in their residences or otherwise.

In this connection, I am to request you to issue suitable instructions to all the officers under your control to strictly follow the instructions issued in this regard, under intimation to Government and also to report the progress in implementing the instruction within 4 weeks.

Yours faithfully,
for Additional Chief Secretary to Government”

7. The Additional Chief Secretary to Government, Home, Prohibition and Excise Department is the first respondent in the present writ petition. When such a letter has been addressed to the Director General of Police,

similar instructions could have been issued to the Director General of Prisons also to ensure that the orderly system being followed by the prison authorities must be abolished forthwith.

8. Deployment of uniformed personnel in the residences of the prison authorities are resulting in dereliction of duty and/or lapses in prison administration. When 203 sanctioned post of Warders are available in the Central Prison-II, Puzhal at Chennai alone, only 15 Warders per shift are deployed for public duties, instead of 60 Warders per shift. Large number of Warders are deployed to perform household works in the residences of the jail authorities. The colonial practice of abuse of public servants at no circumstances be tolerated by the Constitutional Courts.

9. The prison authorities are public servants and they are expected to serve for the benefit of the public. They are not expected to follow any colonial practice of deploying the uniformed personnel for their residential works. They are not only committing unconstitutionality, but committing an offence against the public, for which they are liable to be prosecuted under the relevant service rules and the laws in force.

10. Even after several instructions and/or orders from this Court, the practice of deploying the uniformed personnel in the residences of higher police authorities and prison authorities are not completely washed away. Therefore, stringent actions are required to be taken by the Government so as to ensure that the public servants are utilised only for the welfare of the public and not to perform household works in the residences of the authorities.

11. In view of the above situation, we direct the Additional Chief Secretary/Principal Secretary to Government, Home, Prohibition and Excise Department, the first respondent to conduct an elaborate enquiry either with the assistance of CBCID police or by getting necessary inputs from the Intelligence Wing and initiate all appropriate actions against the prison authorities, who have engaged the uniformed personnel/public servants for their residential works or personal works, in all the prisons across the State. On such identification, suitable orders are to be passed by the first respondent withdrawing all those uniformed personnel and deploy them for prison duties as per the prison rules and the Government Orders in force. The

said exercise is to be done by the first respondent within a period of three weeks from today.

12. List the matter on 29.11.2024 for filing of status report before this Court.

[S.M.S., J.] [M.J.R., J.]
06.11.2024

Index : Yes
Neutral Citation : Yes
Speaking order / Non-speaking order

ss

Note:Registry is directed to issue the order copy on 08.11.2024.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Director General of Police and
Director General of Prisons and Correctional Services,
Whannels Road,
Egmore, Chennai – 600 008.
- 3.The Superintendent of Prison,
Central Prison-2,
Puzhal, Chennai – 600 066.

4.The Additional Public Prosecutor,
Madras High Court.

W.P.No.31526 of 2024

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

SS

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