
(2003) 11 MAD CK 0041

In the Madras High Court

Case No : Habeas Corpus Petition No. 916 of 2003

M. Venda

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 19-11-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 11 MAD CK 0041

Hon'ble Judges : T.V. Masilamani, J; P.K. Misra, J

Bench : Division Bench

Advocate : R. Subadra Devi, for the Appellant; M.K. Subramanian, G.A. (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—Heard the learned counsel appearing for the parties.

2. The order of preventive detention passed under the Tamil Nadu Act 14 of 1982 is being challenged. Though several contentions had been

forcibly argued by the learned counsel appearing for the petitioner, as in our opinion, the contentions relating to non-consideration of the pre

detention representation by the Advisory Board or by the State Government has vitiated the order of detention. It is not disputed that before the

order of detention was passed on 7.10.2003, the representation had been made on 28.4.2003. In fact, the said representation had been rejected

by the Detaining Authority. The contention of the petitioner is to the effect that such representation should have also been placed before the

Advisory Board and also should have been considered by the State Government.

3. In support of such contention, the learned counsel for the petitioner has placed reliance on the judgment reported in T.M. Syed Ali and another

Vs. State of Tamil Nadu and five others, . On going through the aforesaid judgment, we find that this is applicable to the present case. It is

apparent in the present case, the representation made on behalf of the detenu prior to the order of detention though considered by the Detaining

Authority himself was not placed either before the Advisory Board or before the State Government. Such non consideration by the Advisory

Board or the State Government has the effect of vitiating the order of pre detention.

4. Accordingly, the detention order is set aside. The habeas corpus petition is allowed. The detenu is directed to be set at liberty unless his

presence is required in connection with some other case.