



Home (Cts. VIA) Department  
Secretariat, Chennai - 9

**Letter No. 58720/Cts-VIA/2008, dated 02.03.2016**

From

Thiru K. Gnanadesikan, IAS.,  
Chief Secretary,  
Government of Tamil Nadu  
Chennai - 600 009

To

Thiru Rajiv Mehrishi,  
Secretary to Government of India,  
Ministry of Home Affairs,  
North Block, Central Secretariat,  
New Delhi - 110 001

Sir,

Pursuant to the orders of the Supreme Court of India in W.P. (Crl). No. 48 of 2014 dated 18/02/2014 in which the Supreme Court of India has commuted the death sentence imposed on 3 persons convicted in the Rajiv Gandhi assassination case namely V. Sriharan @ Murugan, T. Suthendraraja @ Santhan and A.G. Perarivalan @ Arivu, this Government had proposed to remit the sentence of life imprisonment imposed on them as well as other four persons convicted in the same Rajiv Gandhi assassination case viz Jayakumar, Robert Payas, Ravichandran and Nalini who are undergoing life imprisonment. Since the crime was investigated by the CBI which was constituted under the Delhi Police Establishment Act, 1946, as per

Sec. 435 of Cr.P.C, the State Government while exercising its power under Sec. 432 of Cr.P.C has to consult the Central Government.

2. Accordingly, in this Government letter No. 58720/Cts.VIA/2008, dated 19.02.2014, you were requested to indicate the views of the Government of India, if any, within three days on the proposal to the remit the sentence of life imprisonment and to release the seven persons convicted in the Rajiv Gandhi assassination case.

3. The then Government instead of expressing their views on the remission of life imprisonment hastened to file W.P. (CrI) No. 48 of 2014 before the Supreme Court of India against the decision of the Tamil Nadu Government. Considering the importance of the legal questions involved, the three Judges bench of the Supreme Court of India in its order dated 25.04.2014 had framed seven constitutional / legal questions for the consideration of a five Judges Bench. The questions framed in the referral order of the Supreme Court of India were answered in its order dated 02/12/2015. W.P.No. 48/2014 was directed to be posted before a three Judges Bench of the Supreme Court of India for hearing. The said Writ Petition is yet to be listed before the three Judges Bench for hearing.

4. Meanwhile, the Government of Tamil Nadu have now received petitions from the convicts namely, V. Sriharan @ Murugan, T.Suthendraraja @ Santhan, A.G. Perarivalan @ Arivu, Jayakumar, Robert Payas, Ravichandran and Nalini with requests to release them since they have spent more than 20 years in prison. One of the accused by name Nalini has also filed W.P. No. 39328 of 2015 in Madras High Court requesting the Government of Tamil Nadu to release her.

5. The Government of Tamil Nadu after taking into consideration the petitions of the seven convicts has decided to remit the sentences of life imprisonment and to release the seven persons mentioned above, since all the seven persons mentioned in para 4 above have already served imprisonment for 24 years. It may also be mentioned that out of these seven persons, four persons, namely, V. Sriharan @ Murugan, T.Suthendraraja @ Santhan, Jayakumar and Robert Payas are foreigners i.e., Sri Lankan nationals.

6. In view of the circumstances stated above, it has become necessary for us to request you to communicate your views under section 435 Cr.P.C on the decision of the Government of Tamil Nadu.

7. We would like to clarify that this communication is being sent to you without prejudice to our right to move the Supreme Court to review its judgment dated 02.12.2015 wherein the Constitution Bench had taken the view that the word "consultation" used in Sec. 435 of Cr.P.C means "concurrence" and without prejudice to our rights and contentions in W.P. 48/2014.

Yours faithfully,



Chief Secretary to Government