

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1264 OF 2015

ABDUL SHAKIR BASHID QAZI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Adv. Nima R. Suryawanshi
APP for Respondents: Mr M M Nerlikar

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: December 15, 2015

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PER COURT :-

1. A letter is received through Jail from the present petitioner challenging the order passed against him thereby striking his from the remission register.

2. Miss Suryawanshi, the learned counsel is appointed through legal aid. Learned counsel has filed proper petition along with annexures.

3. Learned counsel submits that the order passed by the authority striking name of the petitioner from the remission register permanently is passed in a mechanical manner without application of mind and just by filling in the blanks in printed proforma. The same has been deprecated by this Court time and again. Learned counsel relies on the order of the Division Bench of this Court dated 24.12.2013 in Criminal Writ Petition No.216/2013. According to the learned counsel, this Court has laid down guide lines wherein the authorities are supposed to

consider the case/reply put forth by the applicant before passing any order or punishment.

4. Mr Nerlikar, learned APP submits that the applicant was released on parole for a period of 30 days. Thereafter, he did not move an application for extension of parole nor surrendered. He was required to be arrested and brought in prison. He over stayed for 498 days. Said aspect is considered while passing the order. Even learned Sessions Judge has sent appraisal report approving said punishment.

5. We have considered the submissions.

6. This Court had in Writ Petition No.283/2006 (Shaikh Jakir Shaikh Babu Vs. State of Maharashtra) laid down guide lines while imposing punishment. In the present case, no doubt, show cause notice has been issued and thereafter even the present applicant has filed reply to the said show cause notice. However, it would appear that the authorities had passed the order in printed format just by filling in the blanks. The cause shown has not at all been discussed as to whether the authority had considered the cause shown and negated it. Same ought to have been done in view of the judgment referred to supra.

7. In the result, order striking the name of the petitioner permanently from the remission register is quashed and set aside.

The authority shall re-consider the case of the petitioner on its own merits. Show cause notice is already given. Even reply is given by the petitioner. The authority shall consider the said reply while passing the order afresh.

8. Writ Petition is disposed of. We quantify fees of the learned counsel appointed through legal aid as Rs.2,500/- (Rs. Two Thousand Five Hundred only).

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-