

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1318 OF 2014

LAXMAN EKNATH MOHITE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Petitioner : Mr. S. N. Rodge (appointed0
APP for Respondent/State : Mrs. S.G. Chincholkar

...

CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: January 12, 2015

...

PER COURT :-

Rule. Rule made returnable forthwith and heard finally.

2. This Petition takes exception to the undated order passed by the Respondent no.3 and the order dated 13.09.2013 passed by the Respondent No.2.

3. The learned counsel appearing for the petitioner submits that, the Respondent No.3 without application of mind and without giving any proper reason and without considering the reason stated by the petitioner in his reply, gave the punishment of cancelling the remission of sentence of the petitioner of 224 days i.e. 1:4 for 56 days by passing undated order. It is further submitted that, the punishment is very harsh. There cannot be remission of sentence of the petitioner by applying 1:4 days ratio.

4. Reply is filed on behalf of Respondent Nos. 1 to 3 by one Vinod Vishnupanth Shekdar, working as Superintendent, Aurangabad Central Prison, Dist. Aurangabad. It is stated in para 4 of the reply that, as per the circular dated 21.03.2001, the parole granted cannot be extended beyond 90 days as per clause – 4 of the Circular. It is further stated that, the petitioner has admitted that, his parole leave was for the period of 30 days (order dated 15.09.2012 for 30 days i.e. from 28.09.2012 to 26.10.2012). Thereafter, it was extended by order dated 03.11.2012 for 30 days and again extended for 30 days vide order dated 03.12.2012. Thus, the petitioner was on parole by extension for 60 days. Hence the petitioner's parole cannot be extended beyond 90 days as per the circular dated 21.03.2001. It is further submitted that, the petitioner did not surrender within time i.e. on 28.12.2012 but the petitioner surrendered on 22.02.2013 and over stayed for 56 days.

5. The learned Additional Public Prosecutor during the course of arguments placed reliance on circular issued by the Home Department, Government of Maharashtra dated 2nd August, 2011 and in particular clause-4, and submits that, the Authorities have rightly deducted the remission 1:4 days since the petitioner has overstayed for 56 days.

6. We have heard the learned counsel for the

petitioner and the learned Additional Public Prosecutor for the State. Perused the affidavit in reply filed on behalf of Respondent Nos. 1 to 3 and also the circular dated 02.08.2011 issued by the Home Department, Government of Maharashtra. It is not in dispute that, the petitioner though enjoyed parole leave for 90 days did not surrender on completion of said period, but reported to Jail after 56 days thereafter. The Respondents are right in placing reliance on the circular dated 02.08.2011 in support of their contention that, maximum period of parole leave can be granted/availed for 90 days. We have also carefully perused the circular dated 02.08.2011 issued by the Home Department, Government of Maharashtra. The said circular provides for deduction of remission by applying ratio of 1:4 days for overstaying more than one month and less than two months.

7. In that view of the matter, no case is made out for interference in writ jurisdiction. The Petition sans merits, hence rejected.

8. Rule stands discharged.

(**A.M. BADAR, J.**)

(**S.S. SHINDE, J.**)

sga/-

...