

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP No. 793 of 2014

Date of Decision: 09.01.2015

Jaivir Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

Coram:- HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. V.S. Rana, Advocate
for the petitioner.

Mr. M.S. Sidhu, Addl. AG, Haryana.

M.M.S. Bedi, J. (Oral)

The petitioner has been getting the benefit of parole even after the notification dated 01.10.2012 and 03.10.2013 Annexures P-3 and P-4. He has been denied agricultural parole on the ground that he was found in possession of cell phone in jail premises. It is an admitted fact that he has already been punished under Section 42 of the Prisoners Act. He was also found in possession of a sim card prior to the year 2010 when he returned from parole. Prison punishment was awarded to him for that offence also.

The short question which requires adjudication in the present petition would be whether the petitioner can be denied benefit of agricultural parole on the ground that he now falls under the category of "Hardcore Prisoner" under notification dated 01.10.2012 under Haryana Good Conduct Prisoners (Temporary Release) Amendment Act 2012.

After taking into consideration all the facts and circumstances of the case, I am of the considered opinion that the parole

cannot be denied to the petitioner on account of the fact that he has availed parole three times prior to the jail offences of 2010 and three times even after commission of jail offences. CRWP No. 1785 of 2013 Harjinder @ Bittu Vs. State of Haryana and others stands admitted to test the constitutional validity of the unguided powers granted to the competent authority to deny temporary release under the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act 2012. The applicability of the notification inserting Section 5 (a) prima facie appears to be prospective as per the provisions of General Clauses Act.

In the light of observations made hereinabove, this petition is disposed of with a direction that the respondents will reconsider the case of the petitioner for grant of agricultural parole in accordance with law within a period of one month after the receipt of copy of this order.

(M.M.S. BEDI)
JUDGE

January 09, 2015
Naveen