

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1495 OF 2016

Vikas Subhash Vaise
Age : Major, convict Prisoner No- C-82
Present lodged at open District Prison
Visapur Dist. Ahmednagar.

VERSUS

1. State of Maharashtra
2. Deputy Inspector General
(Prison),
Western Region
Yerwada, Pune.
3. Superintendent of Police
Beed.
4. Superintendent of Jail,
Open District Prison Visapur,
5. The Police Inspector,
Police Station, Ambhor,
Tq. Aashti, Dist. Beed.

**CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.
DATE : 16TH DECEMBER, 2016.**

Mr. A.P. Gaikwad, Advocate for petitioner,
Mr. A.A. Jagatkar, APP for respondents.

ORAL JUDGMENT : [PER S.S. SHINDE,J] :-

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2] This petition takes exception to the order dated 4.5.2016 passed by the respondent No.2, thereby rejecting the prayer of the petitioner for extension of 14 days of furlough leave for the period, from 6th November, 2014 to 19th November, 2014.

3] Learned counsel for the petitioner submits that though the petitioner applied within time for extension of furlough leave, the authority decided the said application belatedly after one and half year. He submits that grounds mentioned in the impugned order for refusing extension of furlough leave are contrary to the record, inasmuch as, the petitioner is suffering from serious ailments and also he is advised to take rest and medical treatment by the Medical Officer. He further submits that the police report submitted by the concerned police station is, with recommendation, thereby giving no objection to the extension of furlough leave. All these aspects have not been properly considered by the respondent No.2

4] On the other hand, learned APP, submits that though there is inordinate delay in passing the impugned order, however, fact remains that the petitioner was not entitled for extension of furlough leave for the reasons stated in the impugned order.

5] Upon hearing learned counsel for the petitioner and learned APP for the State and upon perusal of the grounds taken in the petition, annexures thereto, we are of the opinion that the inordinate delay in passing the impugned order by the concerned authority, prima facie shows dereliction in duty in deciding the application filed by the petitioner for extension of furlough leave. Such belated decisions would only frustrate legislative intent for which the provisions are made. Therefore, we deprecate the practice followed by the respondents in passing the impugned orders belatedly. Be that as it may, since the petitioner's prayer for extension of furlough leave for the period 6.11.2014 to 19.11.2014, same cannot be considered in the year 2016. Therefore, in the peculiar facts of this case, ends of justice would be met by granting liberty to the petitioner to file fresh application for furlough leave/parole leave, as the case may be and by directing the respondents authority to decide said application within a stipulated period.

6] Hence, the following order :-

[a] The petitioner will be at liberty to file application for parole/furlough leave within a period of two weeks. In case such application is filed by the petitioner, we direct the authorities to complete the procedural formalities and take final decision thereon, as expeditiously as possible, however, within a period of 4 weeks from the date of filing of such application by the petitioner.

[b] The concerned authorities to consider the petitioner's prayer for refund of deposit and restoration of remission, in accordance with law, keeping in view the record of the petitioner. The authorities shall also make endeavour to review its earlier decision of forfeiting the security amount and also deduction of remission, if any, for the over-stay of the petitioner, after 6th November, 2014.

[c] It is made clear that we have not expressed any opinion in that respect and it is for the authorities to reconsider the said aspects, keeping in view the record of the petitioner, and to pass appropriate orders, in accordance with law.

[b] With the above observations, writ petition is disposed of.

[K.K.SONAWANE]
JUDGE

[S.S. SHINDE]
JUDGE

grt/-