

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION ST. NO.18408 OF 2016

Ashok Parshuram Yadav ... Petitioner

Vs.

The State of Maharashtra ... Respondent

Mr.H.P. Shah for the Petitioner

Mr.H.J. Dedia, APP, for Respondent - State

**CORAM: SMT. V.K. TAHILRAMANI, ACG. C.J. &
MRS.MRIDULA BHATKAR, J.**

DATE: AUGUST 19, 2016

ORAL ORDER (Per Smt.V.K. Tahilramani, Acg.CJ.):

1. Heard both sides.
2. The petitioner has preferred an application for furlough on 26.1.2015. The said application came to be rejected by order dated 24.4.2015. Appeal preferred against the order of rejection was dismissed on 7.8.2015. Hence, the petitioner preferred Criminal Writ Petition No.3990 of 2015. The said petition was disposed of by order dated 22.1.2016. While disposing of the Criminal Writ Petition No.3990 of 2015, the Court declined to interfere, however, this Court observed that it would be appropriate that the petitioner prefers a fresh application for furlough and in case the petitioner prefers a fresh application for furlough to the

DIG (Prisons), who is the concerned authority, he shall decide the same expeditiously.

3. It is the case of the petitioner that in view of the order of this Court dated 22.1.2016, he preferred a fresh application for furlough on 1.2.2016. However the DIG (Prisons) observed that when the application was preferred, the petitioner was not eligible to be released on furlough, hence, the application of the petitioner was filed. It was further observed in the order that when the petitioner becomes eligible for furlough, he should prefer fresh application for furlough. According to the petitioner, by this order dated 25.4.2016, the DIG (Prisons) was in contempt of the direction given by this Court in order dated 22.1.2016 in Criminal Writ Petition No.3990 of 2015.

4. It is seen that after the earlier furlough application dated 26.1.2015 was rejected, the petitioner preferred a second application for furlough on 24.9.2016. The said application for furlough came to be rejected by the Deputy Inspector General of Prisons (Aurangabad) on 3.12.2015. No appeal was filed against the said order. However, it is seen that the application of the petitioner for furlough dated 24.9.2015 came to be rejected on 3.12.2015. Rule 9 of the Prisons (Bombay Furlough and Parole) Rules, 1959 sets out when fresh application for furlough can be preferred. Rule 9 states that a prisoner may, if he so desires make a fresh

application for furlough six months after the rejection of his previous application. As the application dated 24.9.2015 of the petitioner for furlough was rejected on 3.12.2015, on 1.2.2016, when the petitioner preferred a fresh application for furlough, he was not eligible to make a fresh application. In this view of the matter, we do not find any error with the order passed by the DIG (Prisons) nor can it be said that by passing this direction, there was disobedience on his part of the direction given by this Court in order dated 22.1.2016 in Writ Petition No.3990 of 2015. Now that the six-months period from 3.12.2015 has elapsed, it would be open to the petitioner to prefer a fresh application for furlough. If such an application is preferred, the same will be disposed of expeditiously by the concerned authority and in any event, within six weeks of the DIG (Prisons) receiving the fresh application of furlough.

5. In view of the above, it is clear that no contempt was committed by the DIG (Prisons), hence, the petition is dismissed.

(MRIDULA BHATKAR, J.)

(ACTING CHIEF JUSTICE)