

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.37123 of 2016

ORDER:

This writ petition is filed seeking to declare the action of the respondents in not granting special remission to petitioner's father by name Sri Akthar Khan @ Akthar, S/o. Sardar Khan, convict prisoner No.2991 and A-5 in S.C.No.112 of 1997, on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad as per G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, as illegal and arbitrary and consequently direct the respondents to forthwith give the benefit of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, and pass appropriate orders releasing petitioner's father from Central Prison, Chanchalguda, Hyderabad.

Heard and perused the material available on record.

The case of the petitioner is that the petitioner's father, a senior citizen by name Sri Akthar Khan @ Akthar, S/o. Sardar Khan, is Convict Prisoner No.2991 and A-5 in S.C.No.112 of 1997, on the file of the IV Additional Metropolitan Sessions Judge, Hyderabad. The petitioner's father was convicted in the said case and sentenced to undergo imprisonment for life. The allegation in the said case was that one Sri M.A. Qhadeer, S/o. Mohd. Ameer, the then Deputy Secretary of A.P. State Wakf Board was murdered at about 9.30 p.m. by A-1 to A-6 in Crime No.622 of 1992, dated 10.11.1992, on the file of Saifabad Police Station, Hyderabad. The appeal preferred by the petitioner's father along with others vide Crl.A.No.149 of 2003 was dismissed vide order, dated 17.10.2003, by this Court and since then, the petitioner's father had been

undergoing sentence of life imprisonment in prison, Central Jail, Chanchalguda, Hyderabad and that the petitioner's father had undergone nearly 19 years of imprisonment including remissions and actual sentence of nearly 14 years. The Government of Telangana issued G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, and granted special remissions to various categories of prisoners, as per which life convicts who have undergone actual sentence of 7 years including remand period and total sentence of 10 years including remission as on 26.01.2016 are entitled to be released, but the petitioner's father was not considered for premature release in terms of Para 5(iii)(a) of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, since it was interpreted that the petitioner's father was involved in murder of a public servant while on duty. Aggrieved by the action of the respondents in not granting special remission to the petitioner's father as per G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, the present writ petition is filed.

Learned counsel for the petitioner mainly based reliance on G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, more particularly, para 5(iii)(a) of the said G.O., which reads as follows:

“Life Convicts (male) convicted in murder of Public servant while performing duty on completion of 18 years of actual sentence including remand period and 24 years of total sentence including remission.”

Learned counsel for the petitioner submitted that though the Government of Telangana had even made relaxation for the life convicts (Male) convicted in murder of public servant while performing duty on completion of 18 years of actual sentence including remand period and 24 years of total sentence including

remission as entitled and eligible for premature release and the petitioner's father, as per the Imprisonment Certificate, dated 25.10.2016, issued by the 3rd respondent, has completed 18 years 8 months and 21 days as on 25.10.2016 including remission, but the petitioner's father was deprived of the said benefit of premature release in terms of para 5(iii)(a) of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, on the ground that the petitioner's father was involved in murder of public servant while on duty.

On perusal of the entire record, it is evident that the learned counsel for the petitioner could not be able to substantiate the rejection and refusal of benefit of premature release of the petitioner's father even after the issuance of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016.

Considering the grievance of the petitioner and the submissions of the learned counsel for the petitioner, the Writ Petition is disposed of with the following direction:

The petitioner is directed to submit a representation to the 1st respondent by placing reliance on G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, informing that the petitioner's father is entitled for the benefit of premature release in terms of para 5(iii)(a) of G.O.Ms.No.16, Home (Legal) Department, dated 17.02.2016, since the petitioner's father, as per the Imprisonment Certificate, dated 25.10.2016, issued by the 3rd respondent, has completed 18 years 8 months and 21 days as on 25.10.2016 including remission. On such representation, the 1st respondent is directed to dispose of the same, as expeditiously as possible, in accordance with law, within a period of one (1) month from the date of receipt of a copy of this order. If the petitioner is aggrieved

by the order of the 1st respondent, he is at liberty to approach this Court.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

Date: 14th December, 2016

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