

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2067 of 2017
Arising out of P.S. Case No.-236 Year-1994 Thana- CHAPRA
TOWN District- Saran

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Surendra Sharma, S/o Madho Sharma, Resident of Village-
Raoughadha, P.S. Awatar Nagar, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar, Patna.
2. The Law Secretary, Govt. of Bihar, Patna.
3. The Inspector General of Jail and Reforms Services, Govt. of Bihar, Patna.
4. The Addl. Inspector General of Police, Crime Investigation Department, Govt. of Bihar, Patna.
5. The Director, Probation Service, Govt. of Bihar, Patna.
6. The Superintendent, Divisional Jail, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.N. P. Sinha, Sr. Advocate.

: Mr. Pramod Kumar, Advocate.

: Mr. Mukesh Kumar Singh, Advocate.

For the Respondent/s: Mr. Anil Kumar, AC to SC-8

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 01-12-2017

Heard learned counsel for the petitioner and
the State.

The petitioner seeks quashing of the order
dated 20.09.2017, as contained in Annexure-4, by which



the State Remission Board has rejected the case of the petitioner for his premature release, who has been convicted vide judgment of conviction and sentence dated 17.04.2002 passed in S.Tr. No. 475 of 1996, so far it concerns to the petitioner.

This is again a case in which the Sentence Remission Board has rejected the claim of the petitioner on the ground of adverse opinion of the Presiding Officer. The opinion of the Presiding Officer is as follows:-

“193

31.05.2017

Having considered the above mentioned facts and circumstances of the case, Criminal antecedent of the convicts as well as heinous nature of the offence committed by convicts, I am of the opinion that he is not entitled for remission of sentence, and his petition for the same, is fit to be refused. This is my clear cut opinion.”

Yet another case in which the Presiding Officer has given an opinion on the basis of past conduct of the convict prisoner for which he has already served a



substantial part of sentence as per the Remission Policy of State. What is amusing is that at column no. 22, while considering the case of petitioner for murder of one prisoner, the same has been rejected but at serial no. 87 with respect to convict prisoner, Shambhu Pandit, recommendation for his release has been given by the Remission Board despite the fact that sixteen persons were killed in the occurrence only for the reasons that in that case the Presiding Officer has stated that Remission Board would be at liberty to act in accordance with law and also in terms of the decision rendered by High Court or Hon'ble Supreme Court.

In our view, the Board is coming to such contradictory conclusion which may even amount to discrimination only for the reason that it considers that the opinion of the Presiding Officer would be binding upon it. Both the forums have committed error. The Presiding Officer has also not given its opinion in accordance with law as he has opined on the basis of the past conduct of the convict without considering as to whether his release would be detrimental for the peace and tranquility of the society or not and, at the same time, the Remission Board



has also not considered the opinion in accordance with law.

The issue is no longer *res integra* having been considered and decided by a Division Bench of this Court reported in **2017(2) PLJR 201 [Ravi Pratap Mishra Vs. The State of Bihar & Ors.]**.

This Court in **Cr.W.J.C. No. 2355 of 2017 [Tahir Mian vs. The State of Bihar & Ors.]** has held that such opinion would not be binding and, for the reasons to be recorded, the Board would be at liberty to accept it or even come to a different conclusion.

Having considered the facts and circumstances of the case and the decision of the Division Bench discussed as above, we are of the view that the opinion of the Presiding Officer as available in this case could not have been taken to be adverse to the petitioner sufficient to deny him the statutory relief under Section 432 of the Code of Criminal Procedure and the Board could have taken the different view in the matter accordingly.



As a result, this writ application succeeds.

The decision of the Board as contained in Annexure-4, so far it concerns the petitioner, is quashed and set aside.

Accordingly, the matter is remitted back to the Board to take a decision in accordance with law and also considering the observations and findings recorded in the present writ application.

It is expected that such decision would be taken by the Board in its next meeting after receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2017
Transmission Date	NA

