

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No. 365 of 2017**

Arising Out of PS.Case No. -null Year- null Thana -null District- GOPALGANJ

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Umesh Yadav, S/o Bhola Yadav @ Bhola Chaudhary, Resident of Village - Songarhwa, P.S. - Phulwaria, District - Gopalganj.

.... .... Petitioner

Versus

1. The State of Bihar.
2. Home Commission cum Secretary, Home (Special) Department, Government at Bihar, Patna.
3. Inspector General (Prison), Bihar.
4. Jail Superintendent Special Central Jail, Bhagalpur.
5. Medical Officer, Special Central Jail, Bhagalpur.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Rajiv Kumar Singh, Advocate

For the Respondents : Md. N. H. Khan, SC-1

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 09-10-2017**

Heard learned counsels for the parties.

2. The petitioner has preferred this criminal writ application for issuance of a mandamus to the respondents for premature release of the petitioner from custody which the petitioner is undergoing on conviction in Sessions Trial No. 55 of 2006. The prayer is on the ground that as per medical opinion, the petitioner is suffering from leprosy and in view of notification of the State Government dated 10<sup>th</sup> December, 2002 vide Annexure-3 to the writ application, the petitioner is entitled to premature release.

3. The State-respondents have filed counter affidavit stating therein that the provisions of aforesaid notification is not applicable in the case of the petitioner and the Bihar State Sentence Remission Board



has already decided the matter of the petitioner along with others in its meeting dated 05.10.2017 vide Annexure-B to the supplementary counter affidavit. He further submits that the petitioner is not suffering from any contagious disease as per report of the Medical Board at Annexure-C.

4. The notification dated 10<sup>th</sup> December, 2002, at Annexure-3 of the writ petition as well as Annexure-D to the supplementary counter affidavit, issued by the State Government in exercise of power under Section 59 of the Prisons Act whereby the Bihar Jail Manual was amended. Rule 529(iii)(e) whereof has been relied upon by the petitioner is being reproduced below:-

*“Prisoners of the following categories shall be eligible for consideration for premature release by the State Sentence Remission Board, (e) the convicted prisoners undergoing the sentence or imprisonment for life and who are suffering from terminal diseases like cancer, aids, irreversible kidney failure, cardio respiratory disease, deadly and any other infectious disease as certified by a Board of Doctors, on completion of 5 years of actual sentence or 7 years of sentence including remissions.”*

5. In this case, petitioner is undergoing life imprisonment. The claim of the petitioner is that since he is suffering from leprosy, the same is infectious disease whereas according to opinion of the Board of Doctors vide Annexure-C the disease of the petitioner is not contagious.



6.               Considering the aforesaid provision and the opinion of the  
  
Doctor, the Sentence Remission Board has taken decision at Annexure-  
  
B. I do not find that the decision of the Sentence Remission Board suffer  
  
from any infirmity or is based on no-material on the record. Therefore,  
  
this writ Court is not inclined to interfere in this matter further.
7.               Accordingly, this writ application stands dismissed.

**(Birendra Kumar, J)**

Kundan/-

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