

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.756 of 2017

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1. Dukhi Singh, son of Sadhu Singh, resident of Village : Karwar, P.S. : Kargahar (O.P. Sidhi), District : Rohtas at Sasaram.
 2. Kimmat Singh, son of Medhwaran Singh resident of Village : Karwar, P.S. : Kargahar (O.P. Sidhi), District : Rohtas at Sasaram.

.... Petitioners

Versus

1. The State of Bihar through the Home Secretary, Govt. of Bihar, Patna.
2. The Inspector General of Police (Prisoner), Bihar, Patna.
3. The Deputy Inspector General of Police (Prisoner), Bihar, Patna.
4. The Superintendent of Central Jail, Buxar.
5. The Superintendent of Police, Rohtas at Sasaram.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh, Advocate

For the Respondent/s : AC to AG.

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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: 11-07-2017

Heard parties.

The petitioners, who are serving sentence in terms of judgment dated 24.02.1993 and sentence dated 25.02.1993 passed by Additional Sessions Judge-3, Rohtas at Sasaram in Sessions Trial No.81/48 of 1985/88 by which trial court has pleased to convict these petitioners along with others for offence under Section 396 of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for life, seek pre-mature release.

It is contended on behalf of the petitioners that they have



already completed the qualifying period of incarceration for their consideration for pre-mature release in terms of the State Sentence Remission Policy, however, no decision has been taken by the State authorities till date.

A supplementary counter affidavit has been filed on behalf of respondent nos. 1, 2, 3 & 4 stating that the cases of the petitioners for premature release were placed before the Bihar State Sentence Remission Board for its consideration. However, it would be apparent from Annexure-B appended with the supplementary counter affidavit that their cases could not be considered by the Remission Board in view of the fact that they are convicted in a case in which they were charged with offence of dacoity along with murder and second reason was that the convicting court has not given its clear opinion.

However, it is stated in paragraph 9 of the counter affidavit filed on behalf of the State that since there was no clear opinion of the convicting court, the cases of the petitioners were rejected but once again letters have been written to the Presiding Officer to send its clear opinion and no sooner that opinion is received, the cases of the petitioners would be again put up before the Remission Board for its consideration.

Earlier opinion sent by the Presiding Officer has been



appended as Annexure-C series to the supplementary counter affidavit. From perusal of that, we are of the view that there is no clear opinion on behalf of the Presiding Officer of the convicting court which was required in terms of decision of the Apex Court rendered in *Union of India Vs. V. Sriharan alias Murgan and others [2016] 7 Supreme Court Cases 1.*

Accordingly, this Court would direct the Presiding Officer to send its clear opinion within a period of four weeks from the date of receipt/production of a copy of this order and, after receipt of the opinion, as stated in the counter affidavit, the State authorities would be required to put up the case of the petitioners once again before the Remission Board which should consider their cases on their own merit and in accordance with law.

With the aforesaid observation and direction, this writ application stands disposed of.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	13.07.2017
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