

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 316 of 2017

Ramprasad, S/o. Shri Nanduram, Aged About 28 Years, R/o. Village Gaangpur, P.O. -Darrabhata, P.S. -Katghora, District- Korba Chhattisgarh. Through : Rajmohan Lal, S/o. Shri Buddhram, Aged About 35 Years, R/o Village Surakachar Basti, P. O. Bairaibataal, P. S. Bakimongra, District -Korba Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Its Principal Secretary, Department of Home (Jail), Mahanadi Bhawan, Mantrayala, Naya Raipur, District -Raipur (Chhattisgarh)
2. The Jail and Correctional Services Chhattisgarh, The Director General Prisons, Jail Road, Raipur, District Raipur Chhattisgarh
3. The Jail Superintendent, Central Jail Bilaspur, District Bilaspur (Chhattisgarh)
4. The District Magistrate, Korba, District -Korba, Chhattisgarh.
5. The Superintendent Of Police, Korba, District Korba, Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Sunil Pillai, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

31/08/2017

Heard.

1. This petition under Article 226 of the Constitution of India has been brought seeking relief for issuance of directions to release the petitioner on leave in accordance with the provisions of C.G. Prisoner Leave Rules, 1989.
2. Learned counsel for the petitioner submits that in earlier W.P.(Cr.) No.205/2017, brought by the petitioner, order dated 27.07.2017 was passed directing the respondent No.4 that if there are no ground to specifically withhold the release of the prisoner on leave under C.G. Prisoner Leave Rules, 1989, then order was to be passed by the

respondent No.4 for grant of leave to the petitioner for the period of leave applied for preferably within a period of 15 days from the date of receipt of that order. It is submitted that consequent to that, respondent No.4 has again passed the impugned order dated 23.08.2017 in a cursory and in mechanical manner, which shows the arbitrariness of respondent No.4. It is submitted that no finding has been recorded by the respondent No.4 in compliance to the directions given by this Court in W.P.(Cr.) No.205/2017, hence prayer has been made for issuance of directions.

3. Counsel for the State has opposed the submissions made and it is submitted that a fresh directions are issued to the respondents then the State has nothing to oppose.
4. I have heard the learned counsel for the parties and perused all the documents placed on record.
5. The impugned order dated 23.08.2017 vide Annexure P/3 mentions the order passed by this Court and the reason for rejecting the application for leave of the petitioner is mentioned that petitioner is offender of heinous offence, hence it can not be denied that on being released on leave, he may commit any other serious offence, which was the opinion given by the Superintendent of Police, which was agreed in the order of rejection passed. The earlier order dated 03.05.2017 that was passed by the respondent No.4 rejecting the application for leave of the petitioner mentions the same reason for rejecting the application of the petitioner and that reason has been mechanically repeated in passing the order dated 23.08.2017 subsequent to the order passed by this Court in W.P.(Cr.) No.205/2017, it again reflects that respondent No.4 has not made any

application of mind. This appears to be a total disregard and disrespect of the order passed by this Court by not having followed the directions and instructions given in the previous order, which also amounts to contempt of Court.

6. In case of ***Baradakanta Mishra, Ex-Commissioner of Endowments Vs. Bhimsen Dixit***, reported in ***(1973) 2 S.C.R. 495***, it was held that contempt of Court is disobedience to the Court, by acting in opposition to the authority, justice and dignity thereof. It signifies a willful disregard or disobedience of the court's order; it also signifies such conduct as tends to bring the authority of the court and the administration of law into disrepute. It has further been held that it is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law and engender harassing uncertainty and confusion in the administration of law.
7. Passing of order in such mechanical and arbitrary manner by the respondent No.4 has to be seriously deprecated, as this attitude can also be considered as disregard to the rules framed by the State Government under C.G. Prisoner Leave Rules, 1989 and render it meaningless. Hence for these reasons, it appears that respondent No.4 is sitting with mindset to pass order in mechanical manner rejecting the application for grant of leave under C.G. Prisoner Leave Rules, 1989. Hence taking a serious note, this petition is allowed for issuance of direction. The order passed by the respondent No.4 dated 23.08.2017 (Annexure P/3) is hereby set-aside. Respondent No.4 is directed to consider the application of the petitioner for grant of leave in his favour for the period of leave applied for in accordance with law and the order shall be passed within a period of 10 days after the

communication of this order positively, taking into consideration the provisions under Rule 6 of C.G. Prisoner Leave Rules, 1989 strictly in letter and spirit.

8. Copy of this order may also be sent to Principal Secretary, General Administration Department, Secretary, Department of Law and Legislative Department, Home and Jail Department, Raipur (C.G.).
9. Accordingly, the petition stands disposed of.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram