

*THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

+Writ Petition No.25526 of 2017

%Date: 02/08/2017

#Between:

P.Liyakhat Ali Khan.

... Petitioners

AND

The State of A.P. rep. by its Principal Secretary, Home Department,
Secretariat Buildings, Velagapudi, Thullur Mandal, Amaravathi,
Guntur District and another.

.....Respondents

! Counsel for Petitioner : Sri Shaik Karimulla

^Counsel for Respondents 1 and 2 : G.P. for Home (AP)

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? Cases referred

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HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25526 of 2016

ORDER:

The writ petition is filed seeking a writ of mandamus declaring the inaction of respondents, in considering petitioner's representation dated 24.07.2017 for extension of parole period from 31.07.2017 till 30.01.2018, as being illegal and arbitrary.

Petitioner is a convict No.3266 and serving life sentence at Central Prison, Cherlapally, Ranga Reddy District. He alleges to have filed a representation dated 24.07.2017 for extension of parole period from 31.07.2017 till 30.01.2018 stating that his mother is aged and is suffering from serious health problems. Petitioner's representation dated 24.07.2017 seeking extension of parole has since not been disposed of, he has come up with the present writ petition.

Learned Counsel for the petitioner submits that, in similar circumstances, this Court, in W.P.Nos.19080 and 17349 of 2014; and 19762 of 2015, extended parole period; and the petitioner be granted extension of parole period. He would place on record various medical reports of petitioner's mother, who is suffering from illness, to support his case for exercise of discretion by this Court.

Learned Government Pleader for Home (AP) submits that, considering the medical reports of the petitioner's mother, he was initially granted parole for a period of 30 days, vide G.O.Ms.No.449, dated 02.06.2017; petitioner was again granted parole extension from 16.07.2017 till 30.07.2017 vide G.O.Rt.No.582 dated 12.07.2017; and petitioner made representation dated 24.07.2017 stating that his mother is aged 76 years, and suffering from serious health problems, and sought six months time for extension of parole. She submits that, as per Sub-rules 12 and 16 of Rule 974 of the Andhra Pradesh Prison Rules, parole cannot be extended.

Sub-rules 12 and 16, of Rule 974 of the Andhra Pradesh Prison Rules, read as under:

12. The period of release on parole/emergency leave shall not ordinarily exceed two weeks, except in special circumstances and the Government shall decide the period of such release on the merits of each case.

16. The continued illness of a relative of a prisoner shall not be considered a reasonable ground to justify grant of extension of the period of release on parole/emergency leave already sanctioned.

Sub-rule 16 of Rule 974 of the Andhra Pradesh Prison Rules specifically makes ineligible for grant of parole on the ground of continued illness of a relative of a prisoner. Sub-rule 12 mandates that the period of release on parole/emergency leave shall not ordinarily exceed two weeks except in special circumstances. Petitioner was initially granted parole for a period of 30 days, and his

parole was extended by a further period of 15 days. The reason stated by the petitioner for extension of parole is his mother's illness which does not fall under any of the rules for which parole can be extended; and, on the contrary, sub-rule 16 prohibits illness of a relative of a prisoner for extension of parole. Therefore, non-passing of orders on the petitioner's representation dated 24.07.2017 cannot be found fault with.

In so far as the judgments in W.P.Nos.19080 and 17349 of 2014; and 19762 of 2015, relied on by the learned counsel for the petitioner, are concerned, while the parole applications were pending, and as the decision was not taken, learned Single Judges had exercised their discretion and had granted relief on appreciation of material before them. Those judgments, by themselves, do not constitute as a precedent to enable the petitioner to seek extension of parole as a matter of right. In **Mohd, Irfan Ali v. State of Telangana**¹ this Court had found fault with the government for not passing a reasoned order accepting or rejecting the request of the petitioner for grant of parole.

In the case on hand, there is no dispute that the petitioner was granted parole for 30 days in terms of Rule 12 and, thereafter, parole was extended for a period of 15 days. In **Mohd Irfan Ali**, this Court had found fault with the government for not passing a reasoned order for

¹ 2015 (1) ALT 1

extension of parole, whereas, in the instant case, petitioner was initially granted parole for 30 days and, thereafter, extended parole by a further period of 15 days; and the petitioner's representation seeking extension of parole is under consideration. The case-law cited supra has no application.

It is submitted by the learned counsel for the petitioner that, on completion of parole and extension of parole period, petitioner had surrendered before the Central Prison, Cherlapally, Ranga Reddy District. Though learned counsel for the petitioner fervently appeals to this Court to grant parole, I am afraid. Such request cannot be acceded to. Primarily, grant of parole is within the exclusive prerogative of the government.

The Writ Petition fails and is, accordingly, dismissed.

Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

CHALLA KODANDA RAM,J

Date: 02.08.2017

LR copy to be marked (Yes/No)

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