

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.89 of 2017

JUDGMENT: (Per Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under clause 15 of the Letters Parent, is filed against the order passed by the learned single Judge in W.P.No.39845 of 2016 dated 01.12.2016.

2. The appellant herein is the petitioner in W.P.No.39845 of 2016 which was filed to declare the action of the respondents, in not considering the representation dated 06.10.2016 for extension of parole for a further period of 6 months from 21.10.2016, as arbitrary, illegal and in violation of principles of natural justice. In the order under appeal, the learned Single Judge noted that the petitioner was initially released on parole on 04.09.2015 vide G.O.Rt.No.711 dated 27.08.2015 for a period of one month upto 05.10.2015; he filed W.P.No.34194 of 2015 before this Court seeking extension of the parole by 6 more months; the said Writ Petition was closed by order dated 03.11.2015, leaving it open to the petitioner to take recourse to appropriate remedies in accordance with law, if he was aggrieved by the memo dated 28.10.2015; the petitioner again approached this Court, and filed W.P.No.13419 of 2016 seeking extension of the parole period, which was again disposed of directing the 1st respondent to consider the petitioner's application dated 02.04.2016, and pass appropriate orders on or before 18.11.2016, and till then not to send the petitioner to prison; and the petitioner's grievance was that, till date, no order has been passed on his representation dated 06.10.2016. The Learned Single Judge directed the petitioner to surrender before the Superintendent of Jails on or before 15.12.2016, since the time was extended only upto 18.11.2016; after surrender, if the petitioner intended to seek parole, he was at liberty to file a fresh application to the concerned authorities; and, on such an application being made, the concerned authority was directed to consider the

same in accordance with law. The Learned Single Judge further held that, if the petitioner failed to surrender before the 3rd respondent on or before 15.12.2016, the 3rd respondent was at liberty to take appropriate action to secure the petitioner, and detain him in prison to serve the remaining sentence.

3. As is evident, from the order under appeal, the petitioner has been on parole from 04.09.2015 onwards, and has still not surrendered himself to the 3rd respondent even as on date. While the parole granted to him was only for a period of one month, he has stayed outside prison for the past 16 months (1 year and 4 months). The petitioner's request for extension of parole was earlier rejected by the Government vide proceedings dated 21.04.2016 relying on para 17 and para 21 of the Prison Rules notified in G.O.Ms.No.647 dated 23.10.1981. Para 17 stipulates that the period of release on parole shall not, ordinarily, exceed one month, and no further extension shall be granted. However, the Government is given power to decide the period of such release, on the merits of each case, in exceptional circumstances. Para 21 stipulates that the continued illness of a **relative** of a prisoner shall not be considered as a reasonable ground to justify the grant of extension of the period of release on parole already sanctioned. It is only after taking into consideration these Rules, was the petitioner's request for extension of parole rejected by the Government. While para 17 stipulates that parole shall, ordinarily, be for a period of one month and it is only, in exceptional circumstances, can the Government decide the period of such release on the merits of each case, para 21 makes it clear that the continued illness of a relative is not a ground for extension of parole. The only ground on which the petitioner seeks extension of parole is his wife's illness and as she is said to be suffering from cancer. As noted hereinabove, para 21 of the Prison Rules disables prisoners from being granted extension of parole on this ground.

4. Reliance placed by the appellant, on the earlier orders of this Court is wholly misplaced as this Court, had merely directed the respondents to consider the

petitioner's representation for extension of parole, and had directed that the petitioner shall not be detained till then. Neither were the Prison Rules brought to the notice of this Court earlier, nor did this Court consider the memo dated 21.04.2016 whereby the petitioner's request for extension of parole was rejected by the Government. The order under appeal enables the petitioner to make an application to the concerned authorities after his surrender, and for the concerned authority to consider the same in accordance with law. We find no infirmity in the order of the learned Single Judge, much less a patent illegality, necessitating interference in an intra-court appeal under clause 15 of the letters patent.

5. The appeal fails and is, accordingly, dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the writ appeal stand closed.



RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

January 18, 2017

MRR