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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 299/2017

KAPIL RAVI DASS

..... Petitioner

Through Mr.Vikas Padora, Adv.

versus

STATE

..... Respondent

Through Mr.Rahul Mehra, Standing Counsel  
(Crl.) with Mr.Avi Singh, ASC,  
Mr.A.K. Gupta, Deputy Secretary  
(Home) and SI Naveen, PS Subzi  
Mandi.

**CORAM:**

**HON'BLE MR. JUSTICE P.S.TEJI**

**ORDER**

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**01.02.2017**

The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for the issuance of writ of mandamus against the order dated 17.11.2016.

Perusal of order dated 17.11.2016 shows that an application for the grant of parole was moved by the petitioner which was rejected. The original order was called and noting on the same was perused.

Perusal of noting shows that an undated application was moved by the convict and parole was sought for a period of three months and the same was forwarded by the Superintendent (Jail) along with nominal roll and crime details. On the basis of the same, the Deputy

Secretary concerned proceeded with the file on the format. First is the grounds taken by the convict, then there are guidelines, then there are details of the nominal roll, then there is case detail and then there are police reports. Then there is mention of para 16.10 of Parole/Furlough Guidelines, 2010 in which it is mentioned that if no report is received by the Superintendent of Jail, it shall be presumed that the concerned police authorities have no objection to parole being granted. Thereafter it was forwarded by the Deputy Secretary (Home) to the Special Secretary (Home). The Special Secretary (Home) gave the noting "*Rape convict. He was on regular bail till 25.07.2016. May like to consider for rejection*".

Next column is meant for Principal Secretary (Home) and the next column is meant for the Minister concerned who just put their signatures and ultimately as per the noting of the Special Secretary (Home), the parole was rejected.

The challenge of the petitioner is that the present rejection order vide order dated 17.11.2016 is without any due consideration and application of mind. On the other hand, Mr. Rahul Mehra, Standing Counsel (Crl.) submitted that the guidelines already issued are under review and whatever the lapse, the same is subject matter of review and shall be taken into consideration while framing fresh guidelines.

From the totality of the material placed before the Court by both the sides, it appears that the matter has been dealt in a casual manner.

As discussed above in detail that after the noting by the Deputy Secretary (Home), the remarks were given by the Special Secretary

(Home). For the purpose of clarification the same are being repeated:

*“Rape convict. He was on regular bail till 25.07.2016. May like to consider for rejection”.*

The noting made by the Special Secretary (Home) does not find any basis. The noting of Special Secretary (Home) recommending rejection of parole of the convict has been approved by the Principal Secretary (Home) and ultimately the file went to the Minister concerned who agreed with the same.

Perusal of record shows that in para 6 of the notings, it is mentioned that :

*“The requisite police verification report regarding verification of address and grounds taken by the convict has not yet been received from the concerned police authority i.e. SSP Distt- Jamui, Bihar and DCP Distt- North, Delhi, SHO PS- Subzi Mandi, Delhi, SHO PS- Laxmi Purr, Distt- Jamui, Bihar inspite of letter dated 31.08.2016 and 09.09.2016 issued by Jail Department. Therefore the taken grounds and address could not be confirmed.”*

As per the nominal roll of the convict, his performance and jail conduct was satisfactory.

After the perusal of file, this Court is of the considered opinion that the consideration process needs to be streamlined. The recommendation has been made in a casual manner without application of mind.

***This Court is of the considered opinion that it is the duty of the authorities concerned to get the verification done. Non-receipt***

*of the report cannot be treated as adverse to the contents of the application and if the competent authority wishes to consider the aspect of the confirmation, then the non-receipt of police verification report shall be presumed about the verification/confirmation as per the averment made in the application for the grant of parole.*

In the light of the facts and circumstances, this Court is of the considered opinion that non grant of parole order is not sustainable in the present case. The competent authority is directed to pass fresh order as per the observations made above within two weeks after due application of mind.

The present petition is accordingly disposed of.

Copy of the order be sent to the Jail Superintendent.

Copy of the order be given to both the sides.

**P.S.TEJI, J**

**FEBRUARY 01, 2017**  
**dd**