

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2208 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- BEGUSARAI

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1. Bhagwan Singh @ Bhagwan Das, Son of Rampadarath Singh, resident of Village at Khamhar, Police Station- Mufassil, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Ministry of Home, Government of Bihar, Patna.
3. The State Sentence Remission Board through its Chairman, Government of Bihar, Patna.
4. The Law Secretary-cum-Legal Remembrance, Department of Law, Govt. of Bihar, Patna.
5. The Director General of Police, Government of Bihar, Patna.
6. The Director, Probation Services, Government of Bihar, Patna.
7. The Inspector General (Prison) and Jail Reforms, Government of Bihar, Patna.
8. The Jail Superintendent, Shahid Jubba Sahani, Central Jail, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Manish Kumar , No.-2, Advocate
Mr. Avinash Kumar Singh, Advocate
For the Respondent/s : Dr. Anand Kumar, Advocate
Mr. P.K. Verma, A.A.G.-3

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 05-02-2018

Through this writ petition, the petitioner seeks his premature remission in terms of the decision of the State Government taken vide Memo No. 11 contained in Annexure-3, dated 18th May, 2017 under which the petitioner in view of the recommendation of the Bihar State Remission



Board dated 07.04.2017, has been directed to be released prematurely under the short sentences policy of the State.

The petitioner further seeks quashing /setting aside the order dated 11.07.2017 passed by the learned Additional Sessions Judge –II, Begusarai, as contained in Annexure-6, by which he has clarified that in view of the judgment of conviction and sentence dated 28.06.2000, passed by the 2nd Additional Sessions Judge, Begusarai in Sessions Trial No. 534 of 1995 and after its affirmation in Appeal vide Annexure-2 by the High Court, the sentence to undergo for life imprisonment under Sections 302/34 of the Indian Penal Code and to under go for imprisonment for six years under Section 27 of Arms Act would run consecutively and not concurrently.

It appears that on 07.04.2017, the Bihar State Remission Board had took decision with respect to several prisoners on the issue of premature release and in view of the fact that the petitioner had already completed actual imprisonment of more than 20 years along with remission



and he was also recommended for pre-mature release which was eventually done by the State, as would be appeared from Sl. No. 75 of Annexure-3.

However, in view of the fact that in the notification it was stated that the jail Superintendent would satisfy himself regarding the qualification of the prisoner and then only such prisoner would be released, it appears that the Jail superintendent found that in the order of sentence it is not written that both the sentences, i.e., under Sections 302 of the Indian Penal Code and 27 of Arms Act would run concurrently, therefore, he sought a clarification by writing a letter No. 1730 dated 03.06.2017. The writ petitioner also sought a declaration from the Presiding Judge. However, the Presiding Judge, in his order dated 11.07.2017 (Annexure-6) came to the conclusion that both the sentences would run one after the other as there is a presumption of consecutiveness.

The Records were called for on the earlier occasion. This Court on perusal of the records has noticed that, while recommending the case of the petitioner, the Bihar State



Sentence Remission Board had noticed that the petitioner has been sentenced to undergo life imprisonment for the offences punishable under Sections 302/34 of the Indian Penal Code and six years imprisonment for the offence punishable under Section 27 of the Arms Act and, only after noticing that, such recommendation was made. Thus, since the recommending authority had already considered the concerned issue, there was no requirement of the Jail Superintendent to make a fishing inquiry in such matter. However, even if he had found some discrepancy then only two courses were open to him. First was to act upon the notification of the State Government which is based on the recommendation of the Board or second was either to write to the Board or the State Government in that regard as was done on several earlier occasions by writing rectification letters to the Board on which eventually corrections were made. However, in the present case, he did not chose to write to the Board to the State Government but has directly started making inquiry as to whether the sentence would be run concurrently or has to



be undergone consecutively. In a manner, he was scrutinized the decision which was taken by the Sentence Remission Board for which there is no authorization.

Notification of the State Government merely entitles the Jail Superintendent to verify but not to make enquiry because the matter had already attained finality at the level of the State Government. Thus, during the course of verification, if any anomaly or discrepancy crops up then either the Bihar State remission Board or the State Government would be required to do the needful or a direction could be taken from the competent authority as to what steps are required to be taken in this regard. Thus, the submission made to contrary to the aforesaid by the learned counsel for the State is noted only to be rejected.

Be that as it may, since the Jail Superintendent has appeared in person upon the direction of the Court and has tendered apology on which, this Court has already decided not to proceed further in the concerned matter, this Court is refraining itself in proceeding further with respect to the



same.

However, the main issue, which is to be decided, is as to whether in the facts and circumstances, the sentences as mentioned above would run concurrently or consecutively?

The concerned issue is no longer *res integra* as the matter already stands considered and decided by the Hon'ble Apex Court in **Duryodhan Rout Vs. State of Orissa [(2015) 2 Supreme Court Cases 783]**.

It has been held in clear terms by the Hon'ble Apex Court that, if the accused is convicted and sentenced for several offences and one of the sentences is life imprisonment, then all sentences would run concurrently and not consecutively because the sentence for life does not mean the imprisonment for 14 years or 20 years rather it means till the end of life subject to any remission granted by the appropriate Government under Section 432 of the Cr.P.C. Thus, it would be impossible to anyone to undergo further imprisonment after life sentence.



Since in the present case, one of the sentence is life imprisonment, it has to be held that sentence for life imprisonment under Sections 302/34 of Indian Penal Code and for six years imprisonment under Section 27 of the Arms Act would run concurrently and not consecutively. Accordingly, the decision of the Presiding Officer to that extent contained in Annexure-6 is quashed and set aside.

Since, there is already a direction for release of the petitioner by the State Government, the competent authority is directed to complete the formalities and release him.

In the result, this petition stands allowed.

(Dr. Ravi Ranjan, J)

(Prakash Chandra Jaiswal, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2018
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