

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1090 of 2018

Arising out of P.S. Case No.- Year- Thana- District- Rohtas

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Paramhans Singh S/o Late Ramsharan Singh, R/o Vill.- Jalalpur,
P.S.- Kargahar, District- Rohtas at Sasaram. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar at Patna.
 2. The Secretary, Home Department Cum Chairman State Sentence Remission Board, Bihar, Patna.
 3. The Commissioner, Home Special Government of Bihar, Patna.
 4. The Inspector General (Prison) Government of Bihar, Patna.
 5. The Jail Superintendent, Kendriya Kara Buxar.... .. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Umesh Prasad, Advocate

: Mr. Pramod Kumar Singh, Advocate

For the Respondent/s: Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 25-06-2018

Heard learned counsel for the petitioner and the State.

Through, this writ petition, the petitioner, who is serving the life sentence vide judgment of conviction dated 25.01.2001 and order of sentence dated 02.02.2001 passed by 1st Additional Sessions Judge, Rohtas at Sasaram in Sessions Trial No. 567 of 1992/292 of 1998, seeks his premature release as he claims that he has already completed the qualifying period of incarceration entitling him of such benefit.



The Superintendent of Police, Rohtas at Sasaram is present in person. After interaction with him and perusing the report which was shown to us during the course of hearing on the last occasion, it appears that proper inquiry has not been made in this matter whoever rather merely opinion of the victim's family has been obtained whereas earlier to this a report was received which was in favour of the petitioner.

It is also to be noted here that the petitioner as well as his brother, Bindhyachal Singh were convicted in the same case, however, his brother's case was considered by the Remission Board favourably and he has already been released after completion of 14 years of actual incarceration and 20 years with remission. However, the petitioner's case has been kept pending for the reason that the opinion of Presiding Officer was not obtained. Then again a fresh report was asked from the concerned Superintendent of Police which is of course against the petitioner but, in our view, for the reasons which has also been detailed in the order dated 16.05.2018, it does not appear that proper inquiry was made by the concerned In-charge of the police station which has formed basis of the report of the Superintendent of Police. For example, this aspect has not been examined as to whether during the period of incarceration the petitioner or his brother or his



family members ever had threatened in any manner the victim or victim's family members. Secondly, what has been the conduct of the petitioner during the period of incarceration as also whether, after his release, the petitioner's brother, who was also involved in the same case and was serving life sentence, had threatened the victim's family in any manner or what were the materials which show that the petitioner's release would be detrimental for the peace and tranquility of the society.

Coming to the issue as to whether in the facts and circumstances of the case fresh report at all was required to be sought from the Superintendent of Police? The answer has to be searched from the Prison Manual for the purpose. The concerned Rule is 479 of the Prison Manual, 2012 which was amended by the Notification dated 26th May, 2016 and reads as under:-

*2. Amendment of Rule 479:-
Rule 479 of the Bihar Prison Manual, 2012 shall be substituted by the following, namely:-*

"479. Rejection of the case of prisoner for premature release on one or more occasions by the Board shall not be a bar for its reconsideration. However, the reconsideration of the case of a convict, rejected once, shall be undertaken only after a period of one year or as specified by the Board, but within three years from the date of its last consideration. Fresh report from the Superintendent shall be necessary for such reconsideration. However, fresh



reports from the District Magistrate, Superintendent of Police and Probation Officer and opinion of Presiding Judge of the Court (before or by which the conviction was had or confirmed) may be obtained, if the matter is taken up for reconsideration after 3 years.”

From perusal of the aforesaid Rule, it appears that the prisoner has a right to move before the Remission Board for his premature release even if such matter has already been decided by Remission Board. Rejection on earlier occasion would not be a bar in making a fresh application for that purpose. However, reconsideration of the convict after rejection shall be made only after a period of one year from the date of rejection or as specified by the Board but within three years from the date of its last consideration. Fresh report from the Superintendent shall be necessary for such consideration. However, fresh report from the District Magistrate, Superintendent of Police and Probation Officer and opinion of Presiding Judge may be obtained only if the matter is taken for reconsideration after three years.

Hence, prima facie, it appears that the fresh report of Superintendent of Police was required but on deeper scrutiny it appears that it was not at all required for the reason that the petitioner's case was never rejected. It was merely kept in



abeyance for the reason that the report of the Presiding Officer could not be obtained.

In such a case, in any manner fresh report was not required at all because petitioner's case was never rejected by the Remission Board.

The opinion of the Presiding Officer as stated in column no. 8 of the decision of the Remission Board kept at Annexure-2 is extracted as under:-

“26

नियमानुसार कार्रवाई करें।”

In the last counter affidavit filed on behalf of the respondent nos. 2, 3, 4 and 5 it appears that after receiving all the reports, proposal of petitioner for consideration of premature release has been sent to the Remission Board and it is every likelihood that petitioner's case would be considered in its next meeting.

Thus, we are disposing of this writ petition with a direction to the Remission Board to consider the case of the petitioner in its next meeting.

However, it is made clear that we have already held that fresh report of Superintendent of Police was also obtained in the petitioner's case and since it is not a case in which after rejection



of the Remission Board the petitioner's case is to be again considered obtaining fresh report by the Superintendent of Police, the fresh report is simply to be ignored and the decision should be taken on the report of the Superintendent of Police which was already on record. It is further made clear that we have stated on so many occasions that the various reports which are sent for the purpose are only to assist the Board in coming to a conclusion. The reports are not binding upon the Board. The Board, after recording reasons, may take another view of the matter also.

The personal appearance of the Superintendent of Police, Rohtas at Sasaram is dispensed with.

(Dr. Ravi Ranjan, J)

Vikash/-

(S. Kumar, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

