

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2810 of 2017

Arising out of P.S. Case No.-444 Year-1986 Thana- CHAPRA
MUFFASIL District- Saran

- =====
1. Parma Rai, Son of Late Ujagir Rai,
 2. Hari Badan Rai, Son of Late Lok Nath Rai Both resident of Village- Maharajganj, P.S. Chapra Muffasil, District- Saran at Chapra. Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary, Government of Bihar, Patna.
 2. The State Sentence Remission Board through the Principal Secretary, Home Department, Government of Bihar, Patna.
 3. The Joint Secretary-cum- Director (Administration), Home Department, (Prison), Bihar, Patna.
 4. The Secretary, Law Department, Government of Bihar, Patna.
 5. The Additional Director General of Police, Criminal Investigation Department, Bihar, Patna.
 6. The Inspector General, Jail and Reforms Services, Bihar, Patna.
 7. The Assistant Inspector General, Jail and Reforms Services, Bihar, Patna. null null
 8. The Jail Superintendent, Divisional Jail, Chapra. ... Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate.

For the Respondent/s: Mr. S.K. Sharma, AC to AAG-3

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE JUSTICE SMT. ANJANA
MISHRA

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 03-01-2018

Heard learned counsel for the petitioners and the

State.

Through this writ application, the petitioners seek

quashing of the decision of the State Remission Board dated



27.07.2017, as contained in Annexure-6, so far it concerns to the petitioners. The petitioners further seek direction for their premature release on the ground that they have already completed more than 22 years of sentence with remission and more than 16 years of actual incarceration.

From perusal of the order of the Sentence Remission Board it appears that the decision against the petitioners has been taken only on the ground that the opinion of the Presiding Officer is adverse. The opinion of the Presiding Officer has been quoted in column no. 8 which is extracted as under:-

“82

07.03.2007

It seems that they have committed heinous offence and they are convicted for life imprisonment. Considering the same as well as facts and circumstances of the case, I am of the opinion that they are not entitled for remission of sentence and their petitions for the same are fit to be refused. This is my clear cut opinion.”

In our view, both the authorities have not acted in accordance with law. The Presiding Officer should have understood that life sentence or death sentence extra is



ordered with respect to a heinous crime committed by the accused persons that does not mean that their case would not qualify to be considered under the Short Sentencing Policy even after completion of substantial part of his sentence.

This issue is no longer res integra having been considered and decided by a Division Bench of this Court reported in **2017(2) PLJR 201 [Ravi Pratap Mishra Vs. The State of Bihar & Ors.]**.

The Division Bench has held that the desirability of guideline was merely indicated by the Apex Court and its decision reported in **(1975) 4 SCC 298 [Shri Mandir Sita Ramji vs Lt. Governor of Delhi & Others]** but it does not mean that in absence of guideline laid by the High Court, the Additional Sessions Judge is precluded from applying his mind. He is a judicial officer trained for such eventuality and it was expected of him to apply himself to the law and the legal requirements. Such blanket stand in case of heinous crime in which the accused has been awarded sentence, cannot be accepted as ground for giving an opinion that for the said reason such accused



would not be entitled for privilege under the Short Sentencing Policy.

That apart, even if he was done, as such, the Sentence Remission Board was always at its discretion, whether there is a favourable report or not, without being bound by the reports for justifiable grounds to take a different view of the matter notwithstanding favourable or unfavourable recommendations by the authorities.

In our considered opinion, the opinion of the Presiding Officer in the present facts and circumstances of the case could not be treated as a factor for denying premature release of the present petitioners.

In the result, this writ application succeeds. The decision of the Sentence Remission Board dated 27.07.2017, as contained in Annexure-6, so far it concerns to the petitioners, is quashed and set aside. The matter is remitted back to the Sentence Remission Board to take fresh decision in accordance with law in its next meeting considering the law laid down by the Division Bench of this Court reported in **2017(2) PLJR 201 [Ravi Pratap Mishra Vs. The State of Bihar & Ors.]** and the decision of this



Court dated 01.12.2017 rendered in **Cr.W.J.C. No. 2224 of 2017 [Ram Babu Singh vs. The State of Bihar & Ors.]**

(Dr. Ravi Ranjan, J)

(Anjana Mishra, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.01.2018
Transmission Date	NA

