

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.735 of 2018**

Arising Out of PS. Case No.-102 Year-1992 Thana- BENIPATTI District- Madhubani

Rajdev Yadav, Son of Yugeshwar Yadav, Resident of Village- Baturi, Police  
Station- Pandaul, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Ministry of Home, Government of Bihar, Patna.
2. Inspector General (Prison), Home Department, Government of Bihar, Patna.
3. The State Sentence Remission Board through its Chairman, Department of Home, Patna.
4. The Jail Superintendent, Special Central Jail Bhagalpur.
5. Union of India, through the Home Secretary, Government of India, New Delhi.

... .. Respondent/s

**Appearance :**

|                        |   |                               |
|------------------------|---|-------------------------------|
| For the Petitioner/s   | : | Mr. Manish Kumar No-2         |
| For the State          | : | Mr. P.N.Sharma, AC to AG      |
| For the Union of India | : | Mr. Anjani Kr. Sharan, A.S.G. |

**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**  
**and**  
**HONOURABLE MR. JUSTICE PRAKASH CHANDRA**  
**JAISWAL**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)**

**Date : 07-03-2018**

Heard learned counsel for the petitioner and the respondents.

Through this writ application, the petitioner seeks quashing of the decision taken by the Bihar State Sentence Remission Board (hereinafter referred to as “the Board”) as contained in Annexure 4 by which the petitioner’s plea for premature release in view of the Short Sentencing Policy of the State of Bihar has been rejected on the ground that opinion of Presiding Officer of the concerned



Court which has passed the judgment of conviction dated 1.10.1999 and order of sentence dated 4.10.1999 in Sessions Trial No. 202/1993 is adverse.

Claim of the petitioner is that he has already completed 19 years of actual incarceration and 25 years along with remission.

The petitioner previously approached this Court by filing Cr.W.J.C. No. 1206 of 2017 which was disposed of vide judgment dated 2.8.2017, as contained in Annexure 3, directing the respondent authorities to take up the case of the petitioner and consider it in accordance with law and put up before the Board after completion of the formalities so that the same should be considered by the Board within a period of three months from the date of receipt/ production of a copy of this order. Then, vide Annexure 4, the Board, after considering the various opinions and reports, had rejected his case on the specific ground that the opinion of the Presiding Officer of the concerned court is adverse. The opinion has been quoted at column 8 which is extracted and reproduced for better appreciation of the matter:

“281

02.08.2017

.... Since the convict has been sentenced for the offence punishable u/s 396 of IPC and offence committed by the convict is very heinous and come under the purview of rule 481(2) of Bihar Jail



manual 2012 according to which a convict who has been sentenced for the offence of dacoity with murder sentence with life imprisonment can not be privileged. According, this convict Rajdav Yadav is not fit to be given the privilege of remittance and accordingly this report is submitted.”

From bare perusal of the aforesaid, it appears that the opinion is that, since he has been convicted for the offence of dacoity with murder and sentenced to undergo life imprisonment, he has not been found fit for privilege of remittance in view of the provision contained in Rule 481(2) of the Bihar Prison Manual, 2012.

In our view, both the authorities have not acted in accordance with law. The Presiding Officer should have understood that life sentence is always ordered with respect to a heinous crime committed by the accused persons that does not mean that his 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 rendered in **2017(2) PLJR 201 [Ravi Pratap Mishra Vs. The State of Bihar & Ors.]** holding that it would not be proper for the Presiding Officer to take such view of the matter as in such cases the conduct during



imprisonment and whether his release would be detrimental for the peace and tranquility of the society are some of the factors for such consideration.

This Court has further held in **Cr.W.J.C. No. 2224 of 2017 [Ram Babu Singh vs. The State of Bihar & Ors]** that even if such adverse opinion is given by the Presiding Officer that would not be binding upon the Board as the Board would have power to take a different view of the matter on justifiable grounds notwithstanding favourable or unfavourable recommendations by the authorities.

Therefore, in our considered view, it was not proper on part of the Presiding Officer to give such opinion in view of the Rule 481(2) of the Bihar Prison Manual 2012 as the date of judgment of conviction is on 1.10.1999 and order of sentence is on 4.10.1999 respectively.

In the result, this writ application succeeds. The decision of the Sentence Remission Board, as contained in Annexure-4, so far it concerns to the petitioner, 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 also considering the various decisions of the Division Bench of this Court for example 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.]** and others.

**(Dr. Ravi Ranjan, J)**

**( Prakash Chandra Jaiswal, J)**

Spd/-

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