

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL PUBLIC INTEREST LITIGATION (ST) NO. 51 OF 2015

Rajan P. Parkar ..Petitioner
versus
The State of Maharashtra & Ors. ..Respondents

WITH

CRIMINAL PUBLIC INTEREST LITIGATION (ST) NO. 6 OF 2016

Kishor M. Patil ..Petitioner
versus
The State of Maharashtra & anr.. ..Respondents

Mr. N.N. Gavankar a/w. Mr. Manas N. Gavankar for the Petitioner.
Mrs. P.P. Shinde, APP for the Respondent - State
Mr. Sandeep Kamble, Under Secretary, Home Department, Mantralay
present.

CORAM: S. C. DHARMADHIKARI &
SMT. BHARATI HARISH DANGRE, JJ.
DATE : 15TH FEBRUARY, 2018.

P. C. :

1] By our earlier order dated 30.1.2018, we had directed the Secretary in the Department of Home, Government of Maharashtra to file personal affidavit clarifying the position, particularly, as to whether period spent on parole would be counted as remission of sentence or otherwise.

2] In pursuance to our earlier order and directions therein, the Principal Secretary (Appeals and Security), Home Department, Mantralay, has filed an affidavit and in this affidavit the following statements are made :

"6. I say and submit that Government of Maharashtra in Home Department in exercise of powers conferred by clauses (5) and

(28) of section 59 of the Prisons Act, 1894 (IX of 1894) made further amendments in the Principal Rule. This amendment known as Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2016 has been notified vide notification No.MIS-1316/C.R.669/16/PRS-3, dated 26.8.2016. I say and submit that one of the amendments was carried out in Rule-20 of the Principal rule and the said rule was substituted with the following rule-

"Parole is not an incentive and thus shall not be counted towards the remission of the sentence."

Hereto annexed the copy of the Government notification dated 26.8.2016 as **EXHIBIT-II**.

7. I further say and submit that the abovementioned amendment made in the Parole - Furlough rules vide notification dated 26.8.2016 is in consonance with the Central Government's Model Prison Manual, 2016.

8. I say and submit that while treating the cases of premature release, the latest rule will prevail. Accordingly, the period of parole shall be treated in accordance with the provisions of rule-20 as amended by notification 26.8.2016 while considering premature release cases."

3] We accept each of these statements made on oath as undertakings given to this Court. We accept the further statements that all cases and which are pending requesting for premature release would be decided in accordance with the provisions of Rule 20 as amended by Notification dated 26.8.2016.

4] After this affidavit has been filed, we do not think that the controversy raised in these PILs survives further for consideration. In the light of this additional affidavit, the criminal public interest litigations are disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)