

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

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*CWP No.4326 of 2018*  
*Date of Decision: 22.02.2018*

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Bharat . . . . Petitioner

*Vs.*

State of Haryana and others . . . Respondents

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***CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN***

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Present: Mr.V.K. Jindal, Advocate, for the petitioner.

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***RAKESH KUMAR JAIN, J. (ORAL)***

This petition is filed by a life convict, who has prayed for the issuance of a writ in the nature of mandamus for quashing the order of detention in view of the decision of this Court dated 1.11.2017 passed in CRWP No.558 of 2017 and order dated 14.11.2017 passed in CRM-W-264-2017 in CRWP No.558 of 2017.

In brief, the petitioner had approached this Court by way of CRWP No.558 of 2017 seeking premature release. The said petition was disposed of by this Court on 1.11.2017 with a direction to the respondents therein to reconsider his case for premature release in terms of the Policy of 2002 within a period of six weeks from the date of receipt of certified copy of the order. Since, there was some typographical error, therefore, the petitioner had to file CRM-W-364-2017 and the said application was allowed.

Learned counsel for the petitioner has submitted that the order dated 1.11.2017 has not been complied with within the period prescribed, therefore, the petitioner had to file COCP No.468 of 2018, which is now fixed for 8.10.2018. He has prayed that the petitioner may be released forthwith and has relied upon a decision of the Supreme Court in the case of

***“Shri Niwas and others Vs. Delhi Administration and others” 1982 AIR (SC) 1391.***

I have heard learned counsel for the petitioner and after taking into consideration the facts and circumstances, am of the considered opinion that the present petition is not maintainable because an order has already been passed in favour of the petitioner on 1.11.2017 for reconsideration of his case for premature release in terms of the Policy of 2002 and a period was also fixed within which the matter was to be reconsidered. It is altogether a different matter that the respondents have not complied with the order but for that matter the only remedy available to the petitioner was of filing contempt petition which actually has been filed by him in which next date of hearing is 08.10.2018. No doubt that the date in the contempt petition is a long date as the petitioner is praying for premature release after having completed 14 years sentence with remissions or in other words had suffered 15 years 5 months and 5 days till today but since, the petitioner has already availed the remedy under the law by filing contempt petition, therefore, I am of the considered opinion that the judgment relied upon by him in case of ***Shri Ram Niwas and others (Supra)*** would not be applicable but the petitioner may, if so advised, file an application for preponment of the date of hearing in the contempt petition so that the respondents in that case can be taken to task for not complying with the order passed by this Court in time.

With these observations, the present petition is hereby disposed of.

**22.02.2018**

*Vivek*

**(RAKESH KUMAR JAIN)  
JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*