

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1387 OF 2019

Yovel Vijaykumar GoraiPetitioner.

vs.

The State of MaharashtraRespondent.

Mr. S.A. Inamdar for the Petitioner.

Mr. Arfan Sait, APP. for the State.

**CORAM : B.P.DHARMADHIKARI &
SMT. SWAPNA S. JOSHI, JJ.**

DATE : 18th June, 2019

PC :

1. Benefit of remission on account of 125th Birth Anniversary of Dr. Babasaheb Ambekdar permitted by State Govt. as per its policy decision dated 3.6.2017 has been denied to petitioner by respondent State on the ground that there is negative recommendation from the punishing court.

2. After hearing learned counsel (appointed) and learned APP it is not in dispute that here negative recommendation given on 12.7.2017 by District Judge-1 and Additional Sessions Judge, Sangli is only after perusal of sessions court record.

3. Our attention has been drawn to Division Bench Judgment reported in 2019 ALL MR (Cri) 1125 where identical recommendation and very

same GR dated 3.6.2017 has been considered. The Division Bench there has found that, while making such recommendation the concerned court cannot rely only upon the record of sessions case. The Division Bench found that said judicial appraisal was unsustainable and hence, direction to obtain a fresh appraisal and then to take decision was issued by the Division Bench.

4. In the light of arguments advanced before us, we find that similar course can be adopted here. Accordingly, we quash and set aside the recommendation dated 12.7.2017 sent by District Judge-1 and Additional Sessions Judge, Sangli and the subsequent decision, if any, by the appropriate Government.

5. We direct the respondent to proceed further in the matter in accordance with law and take suitable decision afresh within next 12 weeks. Petition thus partly allowed and disposed off.

(SMT. SWAPNA S. JOSHI, J.)

(B.P.DHARMADHIKARI, J.)