

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

CRIMINAL WRIT PETITION NO.3310 of 2019

Sagar Babu Parmar

...Petitioner.

vs.

The State of Maharashtra and ors.

...Respondents.

Adv. Tahera Qureshi for the petitioner.

Smt. Aruna S. Pai, APP. for the State.

Shri. Amey Potdar, Jailor from Ratnagiri Special Prison present.

**CORAM : B.P. DHARMADHIKARI &
SMT. SADHANA S. JADHAV, JJ.
DATE : 13th November, 2019**

PC :

1. Heard for some time. The order dated 12.5.2017 denying furlough leave and order dated 13.6.2017 removing prisoner's name from the remission register for five years are questioned on the ground of violation of principle of natural justice as also over looking the defence.

2. Learned APP submits that show cause notice was served upon the prisoner on 16.2.2017 but he did not give any reply and second show cause notice dated 20.4.2017 was served. His reply dated 24.4.2017 was then received. It has been looked into along with statements of other accused persons who pointed out the correct position.

3. It appears that the petitioner was asked to clean the walls of the barrack with Nirma powder. According to respondents in the process he deliberately threw the water towards the CCTV camera and damaged it thereby causing loss of Rs.68,015/- to Government. Learned APP submits that co-prisoners have given statements and pointed out that though the petitioner was warned about camera and not to throw water deliberately, on four to five occasions he threw the water with intention to damage it.

4. Counsel for petitioner states that such statement if any was never pointed out to the prisoner. The prisoner was cleaning the wall and in the process water accidentally may have entered into camera. We do not wish to delve more into controversy at this stage. The order dated 12.5.2017 cancelling furlough leave has exhausted itself.

5. At this stage the learned APP submits that order of cancellation of furlough leave is passed by State Government on 20.8.2017. Such order if any is not part of record of this court. By latter order dated 13.6.2017 because of causing loss to Government and for jeopardizing safety, the name of prisoner has been removed from remission register for five years.

6. If order is passed in violation of principle of natural justice this

order cannot be sustained. Learned APP has shown to us the statement of one of the prisoner which supported the case of the Government. She also submits that three more statements on same line are recorded. In this situation, we direct the respondents to furnish copies of those statements to the petitioner herein and after hearing it pass appropriate order on the question of removal of his name from remission register.

7. Such fresh order shall be passed within three months. This order be communicated to the Superintendent of Ratnagiri Special Prison where the prisoner is now housed.

8. If grievance of petitioner is accepted or otherwise he is eligible under law, the concerned authority to pass appropriate order independently on its own merits.

9. With these directions we partly allow this writ petition and dispose it of .

(SMT. SADHANA S. JADHAV, J.)

(B.P. DHARMADHIKARI, J.)