

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.436/2020

Satish s/o Ramchandra Ninapure

...Versus...

State of Maharashtra through Chief Secretary of Home Department,
Mantralaya, Mumbai and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Ms R.M. Mishra, Advocate for petitioner
Mrs. Geeta Tiwari, Addl. P.P. for respondents

CORAM : Z. A. HAQ AND
AVINASH G. GHAROTE, JJ.

DATE : 04/08/2020

1. Heard Ms Mishra, learned Advocate for the petitioner and Ms Tiwari, learned Additional Public Prosecutor for the respondents.

2. By the notification dated 08/05/2020, Rule 19 of the Prisons (Bombay Furlough and Parole) Rules, 1959 came to be amended and Rule 19 (2) (C) came to be incorporated. The proviso below Sub Clause (ii) of Clause (C) of Sub Rule 2 of Rule 19 of the Rules of 1959 lays down that emergency parole will not be granted to the prisoners who are foreign nationals or who are residents of States other

than the State of Maharashtra. The petitioner is admittedly resident of Multai (Madhya Pradesh). As per the proviso below Sub Clause (ii) of Clause (C) of Sub Rule 2 of Rule 19 of the Rules of 1959, the petitioner is not eligible for extraordinary parole for 45 days. In this background, the petitioner has challenged the notification dated 08/05/2020 and has prayed that the Government Resolution dated 08/05/2020 be quashed and the respondents be directed to release the petitioner on emergency parole for 45 days.

3. The challenge, as made by the petitioner, cannot be considered, inasmuch as if the entire notification dated 08/05/2020 is quashed, there would not be any entitlement for emergency parole to any prisoner.

4. The learned Advocate for the petitioner submitted that part of the proviso below Sub Clause (ii) of Clause (C) of Sub Rule 2 of Rule 19 of the Rules of 1959, which discriminates the prisoners who are residents of other States, is required to be struck down and the prisoners of other States are required to be treated at par with the prisoners, who are residents of the State of Maharashtra. This submission cannot be accepted as the petitioner has not formulated the challenge properly in the petition and because of it, the respondents are not in a position to meet the challenges.

5. In view of above, we are not inclined to entertain this petition. The writ petition is dismissed.

6. The petitioner will be at liberty to file fresh petition raising proper challenges, if so advised.

JUDGE

JUDGE

Wadkar

Shailendra
Wadkar

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