

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1615 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District-

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1. Sikendra Mahto @ Sikandar Mahto (Male), aged about 45 years, Son of Manik Mahto Resident of Village- Maliniya, P.S. - Kursela, District - Katihar.
 2. Awadhesh Mandal, (Male), aged about 39 years, Son of Bichu Mandal Resident of Village- Maliniya, P.S. - Kursela, District - Katihar.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The State Sentence Remission Board through the Principal Secretary, Home Deptt. Govt. of Bihar, Patna.
3. The Joint Secretary - cum- Director (Administration), Home Department (Prison), Bihar, Patna.
4. The Secretary, Law Department, Government of Bihar, Patna
5. The Additional Director General of Police, Criminal Investigation Department, Bihar, Patna.
6. The Inspector General, Jail and Reforms Services, Bihar, Patna.
7. The Assistant Inspector General, Jail and Reforms Services, Bihar, Patna
8. The Jail Superintendent, Divisional Jail, Katihar. Bihar

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Singh, Advocate
For the Respondent/s : Mr.Md. Irshad, AC to S.C.1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-02-2021 Petitioner in the present case is aggrieved by and dissatisfied with the decision of the State Remission Board taken on 03.05.2018 as contained in Annexure '5' to the present writ application. By the impugned order the State Remission Board has rejected the case of the petitioners for their release on completion of 20 years of custody with remission and 14 years of actual custody.



Learned counsel for the petitioners submits that the respondent authorities are neither following the judgments of this Court nor had taken note of the judgment of the Hon'ble Division Bench of this Court in Cr.W.J.C. No. 748 of 2017. Had the 'Board' gone through the judgment, they would have been able to appreciate that the policy as contained in Notification No. 3106 dated 10.12.2002 came to be implemented only after 02.07.2007. In this connection, learned counsel has referred the letter bearing no. 2939 dated 29.06.2007 (Annexure P-9 to the writ application).

Learned counsel has submitted that in similar circumstance vide Annexure - P-11 & Annexure - P-12, the Hon'ble Division Bench of this Court had issued directions to the State Remission Board to consider the cases of those petitioners, those cases were considered and they have been granted premature release.

Learned counsel submits that the Hon'ble Division Bench of this Court has taken note of the fact that the State Remission Board had considered several cases of the premature release prior to 02.07.2007.

Learned counsel submits that the impugned order may be set-aside and the matter be remitted to the State Remission



Board for fresh consideration.

Learned counsel for the State has though opposed the prayer made by and on behalf of the petitioners but at the same time submits that in view of the judgment of the Hon'ble Division Bench of this Court as referred hereinabove, the State Remission Board may be directed to take appropriate step.

Having heard learned counsel for the petitioners and learned counsel for the State, this Court is prima-facie in agreement with the submissions of learned counsel for the petitioners that the case of these petitioners would be covered under the judgment of the Hon'ble Division Bench of this Court in Cr.W.J.C. No. 748/2017. In the said case the conviction had taken place on 21.07.2003/04.08.2003. The Hon'ble Division Bench found that though the ordinance Notification dated 10.12.2002 was issued but the same came to be implemented after 02.07.2007 and during this period all categories of life imprisonment convicts were eligible for premature release by the jail superintendent himself after completion of 14 years of actual imprisonment and 20 years with remission, in jail as provided in the letter dated 25.05.1985.

This Court, therefore, sets-aside the impugned order as regards the petitioners contained in Anneuxure '5' to the writ



application.

The Writ Application is allowed with a direction to the State Remission Board (respondent no. 3) to consider the case of these two petitioners afresh in the light of various judgments of this Court referred hereinabove and take an appropriate view of the matter within a period of six weeks from the date of receipt/production of a copy of this order.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

