

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr.) No.160 of 2021

Sanjay Ekka, S/o Oscar Ekka, Aged about 30 years, Prisoner No.329/57, R/o Village Sirimkela, P.S. Duldula, Jashpur, District Jashpur (C.G.)

Through:

Set Kumar Ekka, S/o Oscar Ekka, Aged 23 years, R/o Village Sirimkela, P.S. Duldula, Jashpur, District Jashpur (C.G.)

(In Jail)

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Versus

1. State of Chhattisgarh, through the Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur (C.G.)
 2. Collector / District Magistrate, Jashpur, District Jashpur (C.G.)
 3. Jail Superintendent, Central Jail, Ambikapur, District Surguja (C.G.)
- Respondents

For Petitioner: Mr. Nishi Kant Sinha, Advocate.

For Respondents / State: -

Mr. Sunil Otwani, Additional Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/03/2021

1. This Court by order dated 9-3-2021 directed the Chief Secretary, Chhattisgarh to file his own affidavit with regard to the status of pending applications for parole as under: -

1. This case depicts a very sorry state of affairs on the part of the District Magistrate, Jashpur in not taking cognizance of the application for parole submitted by the petitioner herein forwarded to him by the Superintendent, Central Jail, Ambikapur, on 29-6-2018, 24-5-2019 and 30-10-2019.
2. The present writ petition was filed by the petitioner stating that he is in jail for more than five years and his parole application is not being considered by the District Magistrate, Jashpur, pursuant to which affidavit has

been called from the District Magistrate. The District Magistrate, Jashpur is present today in the Court and informed that the petitioner's parole application has been decided and the petitioner has been released on parole by order dated 6-3-2021, but that would not serve any purpose, as on query raised and upon instructions, Mr. Sunil Otwani, learned Additional Advocate General appearing on behalf of the State/respondents, would submit that 71 parole applications are still pending consideration before the District Magistrate, Jashpur.

3. In W.P.(Cr.)No.1127/2019 (Hemant @ Bhagdan Nishad v. State of Chhattisgarh and three others), decided on 6-12-2009, delay in disposing of the applications for grant of parole by the District Magistrate was noticed in which it has been brought on record that the Chief Secretary, Chhattisgarh has issued a circular dated 3-12-2019 bearing No.F 6-51/Three-Jail/Nya.Prak./2019 wherein it has been provided that first application for grant of leave will be as far as possible decided within 15 days and detailed guidelines have been given, and that is based on the affidavit of the Chief Secretary and affidavit was also filed by the Chief Secretary. Pursuant to that, order was passed in that writ petition and in paragraph 6, this Court has expressed the hope that application for grant of leave will be considered and decided within 15 days, by holding as under: -

“6. Since appropriate steps have been taken by the State to ensure that application for leave to prisoners will be considered expeditiously within 15 days from the date of making application and necessary guidelines have been issued in this regard allowing them to maintain their family and to reduce their inner tension consistent with aim and object of granting parole, I do not wish to say anything further in this aspect. Since now, the petitioner has already been released on parole, I hope and trust that all the District Magistrates who have been assigned with the task of considering the application for grant of leave under the said Rules, will consider the applications in accordance with law and the Rules as well as keeping in view the instructions, the time limit and the manner of exercising the jurisdiction that has been indicated by the State in the circular dated 3-12-2019.”

4. In the instant case, the Jail Superintendent has forwarded the application of the petitioner for grant of parole on 29-6-2018, 24-5-2019 and 30-10-2019, yet his application for release was not considered by the

District Magistrate and the same was kept pending till 7/8-3-2021.

5. It is stated at the Bar that as many as 71 parole applications are still pending consideration before the District Magistrate, Jashpur, despite the order by this Court in W.P.(Cr.) No.1127/2019, which is based on the circular of the Chief Secretary and affidavit by the Chief Secretary and which is an extremely serious matter.
6. Let an affidavit of the Chief Secretary, Chhattisgarh be called within seven days from today informing that why circular dated 3-12-2019 is not being complied with and he shall give a complete list of parole applications pending in all the districts of the State. The Chief Secretary will also inform as to what action has been taken against the erring officer who has not complied the circular dated 3-12-2019 which has been placed on record in the above-stated writ petition.
7. Affidavit shall be filed on or before 18-3-2021 and the matter be listed on 19-3-2021.
8. Presence of the District Magistrate, Jashpur before the Court on the next date of hearing is dispensed with.

2. Now, affidavit has been filed by the Chief Secretary, Chhattisgarh in which it has been stated as under: -

“4. That, in view of the order passed by the Hon’ble Court on 09.03.2021, a communication was made by the Office of the Deponent herein on 10.03.2021 to all the District Magistrates of the State of Chhattisgarh instructing that, all efforts should be made to decide the pending parole applications within a period of 5 days and the list of the pending parole applications should also be furnished to the Office of the Deponent without any delay. Copy of the memo dated 10.03.2021, is being annexed herewith as **ANNEXURE R/B** for kind perusal of this Hon’ble Court.

5. That, the Hon’ble Court has also observed that, the Deponent herein would also inform to the Hon’ble Court that, what action has been taken against the erring officer, who has not complied with the circular dated 03.12.2019. It is submitted by the Deponent herein that, after receiving the requisite information from all Districts, if it is found, there is inordinate delay in deciding the parole application, in such a condition, explanation would be called and necessary action would be initiated against the erring

officer. It is further reiterated by the Deponent herein that, it shall always be endeavour of District Magistrates to decide the applications for grant of parole at the earliest so that, the noble purpose of Chhattisgarh Prisoners Leave Rules, 1989 can prevail. The deponent herein is also contemplating to go through the procedure adopted by other states meant for disposal of parole application. The object is to issue further administrative instructions to supplement statutory rules, which can streamlined the procedure for deciding parole applications in the state of Chhattisgarh.”

3. Today, when the matter is taken-up, Mr. Sunil Otwani, learned State counsel, submits that out of 236 parole applications, most of them have been disposed of and as to day, only 9 applications are pending which will also be disposed of expeditiously.
4. The statement made by Mr. Otwani is placed on record.
5. Since most of the applications have already been disposed of, the present writ petition is being disposed of in light of the statement made by the Chief Secretary on oath, particularly that action will be taken against the erring officer and further necessary administrative instructions to supplement the statutory rules in order to streamline the procedure for deciding the parole applications will be taken care of.
6. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge