

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

CRIMINAL WRIT PETITION NO.70 OF 2020

Virendrasingh Ramprakarsingh
Khairnar, Aged about Major,
Presently detained at Central
Prison, Nagpur, District
Nagpur, Convict No.C-9048...

..... PETITIONER

// VERSUS //

1.The State of Maharashtra,
Through its Secretary,
Home Department,
Mumbai.

2.The Superintendent of Prison,
Central Prison, Nagpur,
District Nagpur,
Maharashtra.

..... RESPONDENTS

Mr.A.A.Pannase, Advocate (appointed) for the petitioner.
Ms H.N.Jaipurkar, A.P.P. for Respondent Nos. 1 and 2.

CORAM : SUNIL B. SHUKRE &
AVINASH G. GHAROTE, JJ.

DATE : 18.2.2021.

ORAL JUDGMENT (Per Sunil B. Shukre, J) :

1. Heard Mr.A.A.Pannase, learned Counsel for the petitioner.

2. **Rule.**

3. Ms H.N.Jaipurkar, Additional Public Prosecutor waives service for Respondent Nos. 1 and 2.

4. Mr.A.A.Pannase, learned Counsel for the petitioner, on instructions, submits that the petitioner would confine himself only to prayer clause (1a) of the petition and would give up the prayer made in clause (2) thereof. Accordingly, we have heard this matter finally after issuing Rule.

5. The grievance of petitioner is about mechanical opinion submitted by the concerned Additional Sessions Judge at Nagpur.

Learned Counsel for the petitioner submits that the petitioner was desirous to claim benefits regarding remission of his sentence in terms of Government Resolution dt.3.6.2017 and according to the petitioner, the petitioner is eligible as per the conditions of eligibility prescribed in the said Government Resolution. Learned Counsel for the petitioner submits that the concerned Additional Sessions Judge, however, travelled beyond the conditions of eligibility prescribed in the Government Resolution dt.3.6.2017 while recording his negative opinion in the matter and such exercise is not permissible in law, which is also the opinion given by this Court in it's recent Judgment delivered in Criminal Writ Petition No.32 of 2021, dated 15.2.2021.

6. Ms H.N.Jaipurkar, learned Additional Public Prosecutor graciously submits that the issue involved in this petition is squarely covered by the view already taken by this Court and we would also agree with her. In the result, the petition is allowed. The impugned opinion is hereby quashed and set aside.

The matter is remanded back to the learned Additional Sessions Judge, Nagpur of the concerned Court for recording his opinion keeping in view the directions issued by this Court in the Judgment delivered in Criminal Writ Petition No.32 of 2021, dated

15.2.2021.

7. We request the Registrar (Judicial) of this Court to circulate a copy of the Judgment delivered in Criminal Writ Petition No.32 of 2021 decided on 15.2.2021 amongst the Officers of District Judiciary and also send a copy thereof to the Maharashtra Judicial Academy, Uttan, District Thane for bringing the directions of this Court issued therein to the notice of the trainees.

Rule accordingly.

Fees of the learned Counsel (appointed) for the petitioner are quantified at **Rs.2,500/-**.

JUDGE

JUDGE

jaiswal

Suraj
Jaiswal

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signed by
Suraj Jaiswal
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