

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

CRIMINAL WRIT PETITION NO.305/2020

Dhirendera Vijay Yadav,
Aged about 40 Years,
Occu.: Nil C-5356,
At present Central Prison,
Amravati, Distt. Amravati.

..... PETITIONER

// VERSUS //

1. State of Maharashtra through
its Secretary, Home Department,
Mumbai – 32.
2. Superintendent of Jail,
Central Prison, Amravati,
District Amravati.

.... RESPONDENTS

Shri S. D. Chande, Advocate for petitioner.
Shri N. R. Patil, APP for the respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 26/02/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

1] Heard.

2] **Rule.** Rule made returnable forthwith.

3] Heard finally by consent of the learned counsel appearing
for the parties.

4] There is a confusion as regards the facts of the case as the petitioner contends that his proposal seeking remission in sentence in terms of the Government Resolution dated 03.06.2017 is still pending and has not been sent for opinion to the District and Sessions Judge, Thane, the reply is silent as to whether or not the proposal is still pending or has been sent for opinion to the concerned Court and the opinion of the concerned Court has been received. The reply of the States straight away refers to some order which is order No.71 of 2020 dated 03.01.2020 passed by Principal District and Sessions Judge, Thane to the effect that as prisoner No. C-5356 is convicted for Protection of Children From Sexual Offences, and the Protection of Children From Sexual offence is being serious in nature, this prisoner is not entitled to receive the benefit of the Government Resolution dated 03.06.2017. In support of this contention, to the reply is annexed a copy of the opinion dated 30.12.2019. This opinion is of the date 30.12.2019 and does not bear the date of 03.01.2020 as stated in the paragraph 4 of the reply then, this opinion is not recorded by Principal District and Sessions Judge, Thane but it is given by District Judge – 7 and Additional Sessions Judge, Thane. It appears to us that there is an utter confusion in understanding the facts of the case and therefore, it will not be possible for this Court to adjudicate upon the issue involved in this petition.

5] In these peculiar circumstances, we permit the petitioner to file a fresh application seeking grant of remission in terms of Government Resolution dated 03.06.2017, which the petitioner may do so within two weeks from the date of the order. If the petitioner files such an application within two weeks from the date of the order, same shall be decided within four weeks from the date of receipt of the application in accordance with law, keeping in view the law laid down by this Court in the case of *Ramu Rangrut Madkam Vs. The Deputy Inspector General of prisons (East Zone) Nagpur*, **Criminal Writ Petition No.32 of 2021, decided on 15.02.2021** and also the corrigendum dated 19.11.2018 substituting the clause (iii) of paragraph 5 of the GR dated 03.06.2017.

6] The petition is disposed of accordingly.

Rule accordingly.

(AVINASH G. GHAROTE, J)

(SUNIL B. SHUKRE J.)