

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

CRIMINAL WRIT PETITION NO.608/2020

Satish S/o Ramchandra Ninapure,
C-554 detained in Open Prison Morshi,
Dist. Amravati, presently transferred to
Central Prison, Kolhapur.

..Petitioner.

..Vs..

1. State of Maharashtra,
through Additional Director General
of Police Prisons & Inspector Maharashtra
State Pune - 01 (Selection Committee).
2. Superintendent of Open Prison Morshi,
Dist. Amravati.
3. Jailor of Open Prison Morshi,
Dist. Amravati.
4. Superintendent of Central Prison
Kolhapur.

..Respondents.

Ms R.M. Mishra, Advocate for the petitioner.
Shri S.M. Ghodeswar, A.P.P for the respondents.

CORAM :- SUNIL B. SHUKRE AND
AVINASH G. GHAROTE , JJ.
DATED :- 4.2.2021

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

1. Heard Ms R.M. Mishra, Advocate for the petitioner and
Shri S.M. Ghodeswar, A.P.P for the respondents. **Rule.** Rule made

returnable forthwith. Heard finally by consent.

2. The petitioner is aggrieved by decision of the Open Prison Committee taken on 11.9.2020 to transfer the petitioner from Open Prison, Morshi, Dist. Amravati to Kolhapur Central Prison. This decision has been taken by taking recourse to the provisions made in rule 6 of the Statutory Rules framed vide Government Notification dated 4.6.1971 called, the Maharashtra Open Prison Rules, 1971.

3. We have seen the case papers relating to an enquiry conducted by respondent No.2 into the alleged misconduct and an act of indiscipline on the part of the petitioner. These case papers indicate that the enquiry conducted into the misconduct and indiscipline of the petitioner resulted into finding that on 26.6.2020 the petitioner was found to be carrying in his bag a bottle of country liquor and that on 2.7.2020 the petitioner had injured himself and pretended to be assaulted by the fellow prisoners. The enquiry papers show that there are witnesses to both these incidents and, therefore, the conclusion reached in the enquiry that the petitioner had indulged in indisciplined behaviour and had also misconducted himself while an inmate of open prison cannot be faulted with. Of course, what has been stated by the witnesses against the petitioner has been denied by

the petitioner and the petitioner has also produced statements of some other inmates who are supporting his stand. But, an enquiry into such a matter not being a judicial enquiry, the finding of facts recorded by the Prison Authorities, if they are based upon some material discovered through the enquiry, cannot be gone into just because another view is possible. This is a case wherein it cannot be said that the finding of fact recorded by the Prison Authority is not supported by any material and, therefore, it is not permissible for this Court to substitute that finding of fact by the own finding of fact of this Court and, therefore, the argument that the enquiry do not yield any adverse material against the petitioner cannot be accepted. We find that there is no merit in the petition. In the result, the petition stands dismissed. Rule is discharged.

JUDGE

JUDGE