

29.11.2022
Ct. 5
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WPA 23255 of 2019

Md. Khalid & Anr.

-Vs-

Chief Secretary, State of West Bengal & Ors.

Mr. Tapas Kumar Bhanja

... for the petitioners

Mr. Saikat Banerjee,
Ms. Juin Dutta Chakraborty

... for the respondent no. 3

Mr. Samrat Sen, Ld. AAAG,
Mr. Nilotpal Chatterjee

... for the State

The petitioner no. 1 seeks premature release from incarceration and has come to the Writ Court against an order passed by the State Sentence Review Board dated 14th September, 2018. By the said order, the prayer for premature release of the petitioner no. 1 was not recommended by the Board on the ground that the petitioner no. 1 was part of a group which organized a heinous crime with a chance of future recurrence. The reason also includes an objection taken by the local people to the premature release of the petitioner.

Learned AAAG appearing for the State, who was requested to assist in the matter by the order passed by the Court yesterday, submits that the rejection is based on specific findings of the Board. Counsel further

submits that the rejection is also based on Reports duly considered by the Board.

The petitioner no. 1 has been in custody for 29 years. The Proceeding of the Meeting held by the State Sentence Review Board on 14th September, 2018 indicates that the Report and the Findings are of 2018, more than four years old. Besides, Memorandum of the Judicial Department of the State dated 13th September, 1999 constituting guidelines for considering the premature release of life convicts recommends that after review of the considerations in the first part of the Memorandum, the Department recommended that for life convicts, the Board should consider whether the life convicts can be released on parole in the light of certain guidelines in the latter part of the Memorandum. The petitioner no. 1 would fall within (iv) of the Guidelines having been in custody for more than 18 years.

The considerations are part of the Memorandum and include satisfactory Reports of the concerned Authorities in respect of the time spent by the petitioner no. 1 in parole. The records before the Court show that there has been no complaint against the conduct of the petitioner no. 1 while the petitioner no. 1 was in parole for more than 20 months during the pandemic pursuant to an order of the Supreme Court. There is also nothing on record to show that the recommendations of the Judicial Department have been followed by the Board in the case of the petitioner no. 1.

More significantly, the rejection is of 2018 and the petitioner no. 1 has filed the writ petition in 2019 and the matter is being considered in 2022. It is, therefore, of utmost importance that the State Sentence Review Board considers the case of the petitioner no. 1 for premature release or parole, as the case may be, under the points mentioned in the meeting held on 14th September, 2018. It is evident that the deliberations relied on in the Meeting of 14th September, 2018, point to certain objections by the local people. The rejection does not clarify the particulars of the objections received by the Board. Hence, the Board is directed to take into account the conduct of the petitioner no. 1 during his time in parole as well as recent decisions of the High Courts and the Supreme Court with regard to premature release of life convicts for offences which are equally heinous (if not more) than that in the present case.

The Board is directed to take decision on the petitioner no.1 in its next meeting or within six weeks from date whichever is earlier but not later than 31st January, 2023.

WPA 23255 of 2019 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)