

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1656 OF 2022

MOHD. ATIK S/O. MOHD. MEHBOOB QURESHI (C-4849)
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioners : Mr. Rupesh Anil Jaiswal
APP for Respondents : Mr. M.M. Nerlikar

**CORAM : SMT. VIBHA KANKANWADI
AND RAJESH S. PATIL, JJ.**

DATE : NOVEMBER 25, 2022.

P.C.:-

1. The petitioner who is a convict is required to approach this court by invoking the constitutional powers as his application for furlough leave has not been decided within the stipulated period by the respondent No.1.

2. The petitioner has come with the following prayer :-

“[A] To direct the Respondent No. 1 to decide the Application dated 18.8.2022 for Furlough Leave preferred by petitioner within time frame.”

3. Taking into consideration the limited prayer that has been made, the learned APP was directed to take oral instructions. Upon oral instructions, learned APP submits that

the application presented by the petitioner would be decided by the respondent No.1 within a period of three weeks. This statement has been taken as an undertaking on behalf of the respondent No.1.

4. Learned advocate for the petitioner has once again made a grievance that the respondent No.1 is not deciding the application in view of the Government Circular dated 1.8.2007. He is harping upon the point that such applications are not being decided by the concerned authority within the stipulated period and, therefore, the convicts are required to approach this Court. He also submits that in some cases, even after approaching this Court and statement is made that they would decide the application within a particular period, yet, they are not decided and, therefore, Contempt Petitions are required to be filed. Unnecessarily, it is causing burden on this Court.

4. Definitely, when a right is created in favour of a person by way of a Government Resolution or Circular, or in other words, when the Government undertakes to itself or its authorities that a particular act would be done within stipulated period, then, the authorities on whom such duty has been cast, should discharge the said duty within that stipulated period.

5. Learned APP submits that there are practical difficulties now in view of the fact that after Covid pandemic situation is over, many applications have been filed. This Court need not enter into practical solution. That solution is with the

respondent No.1 itself and, therefore, when it is expected from respondent No.1 that such applications should be decided by that authority within a stipulated period; it should be so done.

6. We hope and trust that henceforth, the respondent No.1 would find out practical solution for his problem and would adhere to the requirement of the Government Circular.

7. In view of the aforesaid undertaking of the learned APP, the writ petition can be disposed of by giving directions that the application filed by the petitioner on 18.8.2022 for furlough leave be decided by the respondent No.1 within a period of three weeks from the receipt of authenticated copy of this order by the respondent No.1. Learned APP to transmit the authenticated copy of this order to the respondent No.1.

8. With these directions writ petition stands disposed of.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

grt/-