

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.2780 of 2022

Date of Decision: 28.03.2022

Ashok Kumar

..... Petitioner

V/s.

State of Haryana and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Varinder Singh Rana, Advocate for the petitioner.

The petitioner has become convicted by the Court of Additional Sessions Judge, Faridabad for charges drawn against him, under Sections 302, 201, 120-B of IPC. In pursuance to the verdict of conviction becoming made upon the convict, he became sentenced to undergo life imprisonment.

Notice of motion.

Mr. Pradeep Prakash Chahar, DAG, Haryana accepts notice on behalf of the respondent-State.

It is stated at the bar by the learned State counsel that the verdict of conviction imposed by the learned Trial Judge concerned has acquired finality.

The trial of the convict arose from FIR No.77 dated 29.04.2004, registered at Police Station Hasanpur, District Palwal, comprising therein offences under Sections 302, 201, 120-B of IPC. The petitioner moved an application for his being released on parole. His claim became rested upon a policy dated 13.08.2008 drawn by the State of Haryana, policy whereof becomes appended as Annexure P-1. However, the competent authority declined the espoused relief, and, rather proceeded to defer his claim after a period of three years elapsing since the making of the impugned order, to which Annexure P-3 is assigned.

A reading of the impugned order reveals, that though the competent authority came to the conclusion, that the relevant parameter contained in the apposite

policy inasmuch as the necessity of his undergoing the sentence for a period of 20 years including remissions rather became satisfied. Nonetheless, the authority pronouncing the impugned order made a disqualifying inference appertaining to the brutal nature of commission of crime. Though the afore was a relevant parameter besides the further parameter qua the convict during the period of his suffering judicial custody, indulging in derelict conduct was also relevant. However, a reading of Annexure P-2 does not reflect, that during the period of the life convict suffering incarceration, his indulging in derelict conduct, and also a reading of Annexure P-2, does not reveal that he had committed any prison crime. Therefore, the above good prison conduct of the petitioner, overrides the factum of brutality of commission of crime.

Be that as it may, if the authority which made Annexure P-2, concluded qua the applicability of the relevant clause qua the petitioner, and yet for afore infirm reasons, declined relief to the petitioner, thereupon it was impermissible for it to defer consideration upon the petitioner's claim, after three years elapsing since the making of Annexure P-2.

Therefore, the impugned order insofar as it defers the consideration of the claim of the petitioner upto a period of three years, since, its making, is quashed and set aside.

Consequently, the State of Haryana is directed to reconsider the petitioner's claim for giving him the benefit of parole, rather within the domain of the relevant clause, carried in the apposite policy, but, without bearing in mind the brutal manner of commission of the apposite crime, but bearing in mind the good prison conduct of the petitioner besides bearing in mind the factum that, during the parole period, there is no likelihood of his re-committing or re-indulging in any post release crime. In respect of the above, the competent authority may call

for a report from the Local Panchayat concerned.

The reconsideration order shall be made through a speaking decision,
and shall be made within one month thereafter.

Disposed of, accordingly.

28th March, 2022

Sonia Puri

(SURESHWAR THAKUR)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No