

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1365 of 2023

Arising Out of PS. Case No.-23 Year-2006 Thana- SIMRI District- Buxar

Sushil Chaudhary @ Sushil Kumar Chaudhary Son Of Sri Chandra Dev Chaudhary Resident Of Village And Post - Akauni, P.S. - Dumaraon, District - Buxar

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home, Govt. Of Bihar, Patna Patna
2. The Principal Secretary, Department Of Home, Govt. Of Bihar, Patna Patna
3. The Inspector General, Prison And Reform Service, Govt. Of Bihar, Patna Patna
4. The Additional Director General Of Police, Crime And Investigation Department, Bihar, Patna Patna
5. The Director, Parviksha Services, Bihar, Patna
6. The Superintendent Of Police, Dist.-BUXAR
7. The Jail Superintendent, Open Jail, Buxar
8. The Bihar State Sentence Remission Board Through The Principal Secretary, Dept. Of Home, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bijay Shankar Choubey, Advocate
		Mr. G.N. Ojha, Advocate
For the Respondent/s	:	Mr. P.K. Shahi (A.G.)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 23-11-2023

In the instant petition, the petitioner has prayed for
following reliefs:-

*(i) Whether or not the act of the respondents is
illegal, arbitrary, unconstitutional, erroneous and*



an example of colorable exercise of power.

(ii) Whether or not the act of the respondents is in violation of Articles 14, 16 and 21 of the Constitution of India.

(iii) Whether or not the respondent have acted against the provision of law.

(iv) Whether or not the sitting over the matter of the petitioner a long time will infringe his fundamental as well as legal right.

(v) Whether or not the respondents authorities have failed to appreciate that a large numbers of convicted persons have been released by the respondents authorities and keeping mom in the matter of the petitioner shall be against the settled provisions of law.

(vi) Whether or not the respondent authorities have failed to appreciate that the right to life and liberty of the petitioner can not be permitted to snatch or to disturb by not tendering the same line of action which is against Principal of equity and good conscious.

(vii) Whether or not the authorities have failed to appreciate that the command of the Constitution and its dictate is binding precedent to all including the respondents and no one at any level may be allowed to play a fraud and satisfy the whim or personnel greed.



Viii Whether or not the action of the respondents is in violation of remission / short sentencing policy dated 21.01.1994.

(ix) Whether or not the action of the respondents is against the catena of judgments of this Hon'ble Court as well as the Hon'ble Supreme Court.

(x) Whether the actions of the respondent authorities are otherwise bad in the eye of law and facts and as such it requires interference.

Question for consideration is whether the petitioner grievance could be redressed in the present lis or not.

2. Petitioner's grievance has been addressed on 09.03.2022 by the Bihar State Sentence Remission Board while rejecting the petitioner's claim in the light of the State policy decision dated 28.12.2002 produced at Annexure – C to the counter affidavit on behalf of the respondent Nos. 2, 3, 7 and 8. Annexure – B decision of the Board has specifically assigned the reason as to why the petitioner is not entitled for the relief sought by him.

3. Learned counsel for the State on instruction submitted that board decision dated 09.03.2022 has been communicated to the petitioner. Whereas the petitioner counsel disputed insofar as the communication. Be that as it may, the present petition is



filed in the year 2023 whereas the grievance of the petitioner has been redressed in rejecting his claim on 09.03.2022 itself. Therefore, the petitioner had a cause of action insofar as the questioning the validity of the board's decision dated 09.03.2022 and it has not been undertaken by the petitioner therefore, the present petition stands dismissed reserving liberty to the petitioner to assail the board decision dated 09.03.2022 in accordance with law.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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