

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3138 OF 2018**

Anil Kallappa Parshetty And Ors.

...Petitioners

Versus

The State Of Maharashtra

...Respondent

None for Petitioner.

Mr. Ajay Patil, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 13th FEBRUARY, 2023.****P.C.:-**

1. Present Petition is received through jail. It is the grievance of the Petitioners that, the clause directing the jail authority to take opinion from the concerned Court convicting and sentencing a convict before granting said remission in the Government Resolution dated 3rd June 2017, by the Home Department, Government of Maharashtra, issued on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar is a onerous condition and should be deleted from the said resolution. According to the Petitioners, the said clause seeking opinion from the Trial Court is putting an embargo upon the powers and discretion of the jail authority and therefore they have challenged the same by way of present Petition.

2. By the said G.R. dated 3rd June 2017, the Home Department of Government of Maharashtra while extending benefit of remission for a particular period to the convicts which have undergone a particular period of imprisonment has been given to them. In the said resolution, a specified class of convicts have been excluded from getting benefit of the said resolution. There is a caveat in the said resolution by which the jail authority has been directed that, the Superintendence of all the prisons shall take opinion of the concerned Court, who has convicted and sentenced the said prisoners before extending the benefit of the said resolution.

3. A bare perusal of the G.R. dated 3rd June 2017 clearly indicates that, it is benevolent in nature to the convicts which have undergone a particular period of sentence and has been issued with avowed object of granting remission to the prisoners who have undergone / completed specified period of sentence.

4. According to us, the G.R. dated 3rd June 2017 prescribing the condition of seeking opinion from the Trial Court does not put any embargo upon the jail authority or is not an onerous condition for extending the benefit of grant of remission to prisoners. It only seeks opinion from the concerned Court. The learned Judge of the concerned Court is therefore required to consider the gravity and seriousness of the offence committed by the convict before extending the benefit of the said Resolution to him/her.

5. According to us, the contention of the Petitioners has no substance in it. In view thereof we are of the opinion that, it is not necessary to relax or modify the said condition/caveat from the G.R. dated 3rd June 2017.
6. Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)