

A-15
Ct No.09
08.01.2024
TN

WPA No. 15709 of 2023

Sk. Tanveer
Vs.
The State of West Bengal and others

Mr. Jayanta Narayan Chatterjee,
Mr. Debashis Banerjee,
Mr. Supreem Naskar,
Ms. Sreeparna Ghosh,
Mr. Bhaskar Mondal

.... for the petitioner

Mr. Sk. Md. Galib, Sr. Govt. Adv.,
Mr. Safik Dewan

.... for the State

- 1.** Affidavit-of-service filed today be kept on record.
- 2.** Learned counsel for the concerned convict argues that the State Sentence Review Board (SSRB) which took the impugned decision of rejecting the concerned convict's request for early release from prison was constituted improperly and not in consonance with law.
- 3.** The petitioner claims to be the uncle's son of the concerned convict who is in incarceration for more than 23 years. It is argued that the report filed by the Kolkata Police authorities raising strong objection was apparently the main consideration for refusing such premature release. It was recorded in the grounds of

rejection furnished by the SSRB that the economic condition of the family of the convict is poor, despite which the convict was not granted premature release. As such, the impugned refusal is challenged in the present writ petition.

4. Learned counsel for the State raises question as to the *locus standi* of the petitioner to maintain the present writ petition.
5. However, it is fairly submitted by learned counsel for the State that as per the guidelines of the National Human Rights Commission, the request of a convict for premature release can be reconsidered after the expiry of one year of the prior refusal.
6. Although there is some doubt as to the *locus standi* of the convict, since it has been brought to the notice of the writ court that the constitution of the SSRB which rejected the request for premature release of the convict Rashid Alam alias Gabbar was patently illegal, it is the incumbent duty of the court not to shirk its duty and to deal with such *ex facie* irregularity, particularly since the personal liberty of an individual is concerned.
7. The SSRB's rejection of the concerned convict's plea for premature release has to be set aside on

the ground of faulty composition of the SSRB itself.

- 8.** That apart, it transpires that the current conduct of the convict and his conduct throughout the period of incarceration has not been factored in at all.
- 9.** I do not find that any report of the Superintendent of the concerned Correctional Home/Homes where the convict has been housed during his custody is reflected anywhere in the SSRB's grounds of rejection.
- 10.** Hence, a properly-constituted SSRB is required to re-decide the concerned convict's plea of premature release by testing it on the anvil of all relevant yardsticks to be considered while deciding a plea for premature release, as settled judicially, including the conduct of the convict during incarceration, his age, capacity to repeat the offence for which he was convicted after long 23 years of incarceration and the actual family condition of the convict and the chances of his reintegration into society upon premature release.
- 11.** In such view of the matter, WPA No. 15709 of 2023 is disposed of by setting aside the rejection of the concerned convict's request for premature

release by the SSRB and directing the respondents to reconsider the concerned convict's request for premature release afresh, in the light of the observations made above, by ensuring that the freshly constituted SSRB has been so constituted in due deference to the law and exiting procedure. Such exercise shall be completed by the newly-formed SSRB at the earliest, positively within one month from this date.

12. There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)