

October 30, 2024
Sl. No.07
Court No.7
Vacation Bench
s.biswas

WPA 25963 of 2024

Johurul Haque @Dafadar @Baro Mia and another
vs.
The State of West Bengal and others

Mr. Surojit Basu
Mr. Rudraksha Chattopadhyay
Ms. Jasika Alam

... for the petitioners

Mr. Vimal Kumar Sahi, AGP
Mr. Sougata Mitra
Ms. Mohuya Dutta Biswas

... for the State

1. The petitioner being a life convict has been granted leave by the Hon'ble Apex Court for seeking remission of his sentence, before the appropriate authority. He has done accordingly.
2. The resultant order of the concerned respondent authority is of 30th May, 2022. The authorities have declined petitioner's prayer for remission of sentence on two grounds, inter alia, that a writ petition being W.P. No.16563 (W) of 2021 is pending and secondly, that a case under Section 107 of the Cr.P.C. is also pending against the petitioner.
3. So far as the grounds as above for declining the petitioner's prayer for remission of further sentence are concerned, learned advocate for the petitioner submits on the basis of the documents annexed with the writ petition, that the writ

petition being W.P. No.16563 (W) of 2021 has already been dismissed for default by this court.

4. So far as the case under Section 107 of the Cr.P.C. pending against the petitioner is concerned, on the basis of the reply to the application of the petitioner under the Right to Information Act, 2005, the learned advocate has submitted that no record thereof could be found.
5. In such view of the fact on behalf of the petitioner, it is prayed for that necessary order be passed in this writ petition.
6. The State is represented. A report of the Officer-in-Charge, Law Cell, Directorate of Correctional Services, West Bengal dated 29th October, 2024 is submitted in court today. The report is taken on record. According to the same, the petitioner has already undergone 14 years of imprisonment, in terms of the sentence granted by the court. The report says further that the petitioner is eligible to be considered for premature release in terms of Sections 473 and 475 of the BNSS.
7. However, the report has further mentioned that the crime committed by the petitioner/life convict was heinous in nature and that the opinion of the convicting court has been sought for, regarding remission of sentence of the petitioner in terms of Section 473(2) of the BNSS.

8. After considering the entire facts and circumstances as above, the grounds relied on by the concerned respondent authority in its order dated 30th May, 2022, appear to be not sustainable. Neither a writ petition nor a case against the petitioner under Section 107 of the Cr.P.C. are now pending. Therefore, for the reasons as above, the court finds it proper to set aside the said order of the respondent authority dated 30th May, 2022.
9. The respondent no.3 is directed to consider the prayer of the petitioner for remission of sentence afresh, on the basis of the declaration made by it in the report dated 29th October, 2024, as submitted in court today and also on the basis of the opinion of the convicting court and other materials as would be found proper to consider in disposing of the petitioner's prayer for remission of sentence. The respondent no.3 is directed to dispose of the petitioner's prayer for remission of sentence as above within a period of 15 days after receipt of the opinion of the convicting court.
10. The writ petition is accordingly disposed of.
11. All parties are directed to act on the basis of the server copy of the order.

(Rai Chattopadhyay, J.)