



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 CRIMINAL WRIT PETITION NO. 717 OF 2024

ARUNKUMAR KALLU RAJENDRAPARASD PANDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for petitioner : Ms. Sharada P. Chate
APP for the respondent – State : Mr. S.S. Dande
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 06 MAY 2024

PC :

Heard both the sides.

2. The petitioner who is suffering life imprisonment, has been deprived of state remission under the government resolution dated 03-06-2017 on account of 125th Birth Anniversary of Dr. Babasaheb Ambedkar.

3. After hearing both the sides, it transpires that when an opinion was solicited from the convicting Court in the light of section 432(2) of the Code of Criminal Procedure before granting state remission to the petitioner, the learned Judge of the convicting Court by his communication dated 04-05-2023, apparently refused to give any opinion on the ground that already an opinion under section 432(2) of the Code of Criminal Procedure was furnished by it.

4. We had called upon the authorities to place on record the earlier communication received by the prison authorities from the convicting Court. The learned APP places before us a communication received from the prison authorities dated 23-04-2024. It is accompanied by a report submitted by the convicting Court dated 05-07-2018 giving opinion as to the category in which the petitioner would fall.

5. It is to be borne in mind that it is a state remission recognised under Rule 18 the Maharashtra Prisons (Remission System) Rules, 1962. The opinion that was forwarded by the convicting Court dated 05-07-2018 would have no role as to grant of the state remission as per the decision of the state government dated 03-06-2017. This state remission under rule 18 would be independent of the ordinary remission contemplated under rule no. 6.

6. Pertinently, even this government decision dated 03-06-2017 expressly contemplates a report to be solicited from the convicting Court under section 432(2) of the Code of Criminal Procedure. In the circumstances, even if convicting Court had already submitted a report under section 432(2) of the Code of Criminal Procedure, that was for the purpose of grant of ordinary remission. It could not have refused to furnish a fresh opinion under the same

provision when the matter of the petitioner was being considered for grant of state remission as per the government decision dated 03-06-2017.

7. Writ petition is allowed partly.

8. The respondents shall immediately solicit a fresh report under section 432(2) from the convicting Court expressly mentioning that it would be required for considering the petitioner's case for grant of state remission under rule 18 and the convicting Court shall be bound to furnish the respondents the opinion as expeditiously as possible and in any case within two weeks of receipt of the correspondence from the prison authorities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/