

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 329 OF 2024

Paras Kamlesh Pandya .. Petitioner
Versus
The State of Maharashtra and anr .. Respondents

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Mr. Kartik K. Garg with Aashka Shell, Appointed Advocate for the petitioner.
Mr. J.P. Yagnik, APP for the State.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE,JJ.
DATED : 20th JUNE, 2024

P.C:-

1 The petitioner, convict no.8682 presently housed in Nashik Central Prison, Nashik, has come up with three fold grievance. He seek quashment of the judicial appraisal order dated 16/5/2015 passed by the District and Sessions Court, Nashik and the further order passed by the DIG Prison, thereby directing removal of his name from the Remission Register.

The ancillary relief prayed in the petition is to include name in the Remission Register and he may be conferred with the

remission benefits from 16/5/2015, or in the alternative, he has prayed for taking his name on the Remission Register from 17/5/2020 i.e. on completion of five years.

The second relief which he seek is, his transfer to Open Prison, by extending the benefits of Open Prison System with due benefits of remission. The third relief sought is for quashing of the FIR bearing No.00/2024 dated 10/1/2014 registered with Nashik Road Police Station under Section 224 of the IPC.

3 Learned counsel for the petitioner fairly concede that during the pendency of the petition, his name has been now taken on the Remission Register with effect from 2/1/2024.

His grievance therefore, now revolves around the policy decision of the State Government as contained in the circular issued by the Addl. Director General of Police and Inspector General of Prisons, which pertain to the subject of restoring the name of a prisoner on Remission Register after deduction of the penalty imposed upon him permanently.

4 According to the circular, a Committee is constituted for taking a decision to that effect and the circular also specify the period on expiry of which such cases shall be placed before the Committee and as far as the present petitioner is concerned, since he had absconded for 842 days, his case would fall within category-2 i.e. "Absconding for two years to three years", and as he

was required to be arrested by the police, and his case deserved to be placed before the Committee on expiry of 7 years.

In light of this circular, it is the submission of the learned counsel that his name ought to have been taken up for consideration, to be included in the remission system immediately on expiry of 7 years i.e. in the year 2022 itself, and to be precise after 4/6/2022. However, the decision is taken in his case and his name has been restored in the remission system on 2/1/2024 and this is adversely impacting his benefits under the remission system as his name is restored after lapse of almost two years.

5 When we have perused the affidavit filed on record by Superintendent, Nashik Central Prison, we find no explanation offered on this count and it appear that the Superintendent is completely unaware of such a policy decision in form of circular, to which we have made reference above.

Apart from this, there is no explanation offered as to why he should not be sent to open prison, except in paragraph no.14, where it is stated that the name of the petitioner is added in the list of Open Selection and the Committee will take appropriate decision.

However, we expect the Deputy Inspector General of Prisons to appraise us about the decision, as according to the petitioner, he has spent more than 17 years of incarceration and is

entitled to be placed in Open Prison. Another relief as regards quashing of the FIR which is filed, a decade back, also deserve consideration and let the necessary instructions be obtained whether the FIR still continue or it has been closed.

We, therefore, expect the DIG Prisons to file an affidavit within a period of two weeks from today.

Re-notify to 11/7/2024.

(MANJUSHA DESHPANDE, J)

(BHARATI DANGRE, J.)