

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 500 OF 2024**

Kamlakar Devidas Patil .. Petitioner

Versus

State Of Maharashtra And Ors. .. Respondents

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Ms. NSK Ayubi, for the Petitioner.

Mr. D. J. Haldankar, A.P.P. for the State/Respondent.

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**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED : 16th JULY, 2024

P.C:-

1. By a communication dated 07.10.2019 issued by the Additional Director General of Police, Inspector General of Prisons and Correctional Services, Maharashtra State, Mumbai, policy guidelines have been formulated for consideration of cases of the prisoners, whose name have been removed from the remission register, for the purpose of its inclusion once again.

For bringing transparency and consistency in this regard, a committee has been constituted and a chart has been included therein as to after expiry of what period of time the case of such a convict shall be placed before the committee.

2. As per the said directions, the case of a convict/prisoners, who have unauthorizedly remained absent from the prison and who have been imposed with a penalty of deduction of remission with permanent effect, and if he had absconded for two years, in case if he surrendered himself, his case is to be placed before the committee after five years or if he is required to be arrested through police, then after six years.

The factors which are required to be taken into consideration in arriving at a decision, whether the name of such a convict is required to be taken up on the remission register are also set out and it includes various circumstances as to his period of abscondence, his behaviour in the prison, the reasons for his abscondance as well as his conduct in timely reporting on being released on furlough, parole etc.

There can be no dispute about the fact, that the decision taken by the State Government, shall bind one and all, including the prison authorities.

3. The present Petition is filed by the Petitioner who is undergoing sentence of life imprisonment upon being convicted for committing an offence punishable under Section 302, 147, 148, 149 of the Indian Penal Code ("IPC"), by the Judgment and Order dated 29.10.2005, passed by the learned Additional Sessions Judge, Thane. He preferred an Appeal against the said Judgment before the High Court, which was rejected on 11.02.2014.

4. On 29.05.2009 parole leave was sanctioned to the Petitioner for 30 days by the Divisional Commissioner, Pune, which period was extended by further period of 30 days. He

was released from prison on 16.06.2009 and he was supposed to surrendered on 14.08.2009. However, he was required to be arrested by the police, since he did not report on expiry of his parole leave and he was re-admitted in prison on 03.11.2010 i.e. by the delay of 228 days.

He was served with a show cause notice and since the authorities were not satisfied about the cause shown, he was subject to a penalty of removal of his name from the remission system, by order passed on 03.03.2011.

5. The grievance of the Petitioner is, in terms of the Guidelines issued by the State Government, his case ought to have been considered for inclusion of his name in remission register by the committee after six years, however he has been held entitled for inclusion of his name by the committee, in its meeting dated 12.11.2021, by declaring that their names shall be included in the remission register from the date of the decision i.e. 12.11.2021.

6. The learned counsel for the Petitioner is justified in submitting that there is no adherence to the policy decision of the State Government, as after expiry of period of six years from 03.11.2010 his name was required to be placed before the committee, which is constituted for this purpose. However, after a gap of six years, his name came up for consideration before the committee and it is decided that he should be re-admitted in the remission register.

The committee has not recorded any reason, as to why his name should not be considered by the committee after expiry of six years and definitely this has caused to him a loss

of five years of remission, and for this we find no justification.

7. We have also perused the affidavit filed by the Deputy Inspector General of Prison on 18.06.2024, where a statement is made that in a meeting held under the chairmanship of Special Inspector General (Prison) South Zone, Mumbai, proposal of the Petitioner was put forth for the consideration and since he was found to be qualified, he was re-admitted in the remission system.

We find no explanation, as to why his name was not added immediately on expiry of period of six years, when was rearrested and detained in the prison.

It is from 12.11.2021, the name of the Petitioner was taken on the remission register but we find that his name ought to have been taken on remission register with effect from 03.11.2016.

Since no explanation has been provided in the affidavit as to why his case was not taken into consideration immediately on expiry of period of six years from the date of his re-arrest and he being confined in prison for undergoing the remaining sentence.

Hence, we deem it appropriate to allow the Writ Petition by giving effect to the decision taken in the meeting dated 12.11.2021, from 03.11.2016.

The necessary effect of remission shall thus be extended to the Petitioner from the aforesaid date.

The Writ Petition is made absolute in above terms.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)