

26.09.2025
Sl. No.5
AMR
Ct.No.655

WPA 22864 of 2025

**Netai Sardar
Vs.
The State of West Bengal & Ors.**

Ms. Sutapa Sanyal
Mr. Sandipan Das

...for the petitioner

Mr. Amitabrata Ray, Ld. GP
Mr. Sudipta Panda

...for the State/Respondents

1. The learned advocate for the petitioner has submitted that the petitioner had earlier moved a representation before the competent authority seeking remission of his sentence. However, the said representation was rejected by the authority without proper application of mind and without due consideration of the grounds so urged therein. It is further argued that the mere rejection of the earlier representation cannot and ought not to be treated as a bar to the consideration of the present representation for remission of sentence. According to the learned advocate, the power of remission is a continuing obligation of the State, and every fresh representation placed before the authority is required to be examined on its own merits in the light of prevailing circumstances, subsequent conduct of the convict, and other relevant factors.

2. Therefore, notwithstanding the rejection of the previous representation, the present prayer for remission deserves to be duly considered by the authority in accordance with law.

3. Having considered the rival submissions and perused the records, this Court finds that the petitioner, being a convict undergoing sentence, has a statutory right of consideration of his case for remission under Section 432 Cr.P.C (Section 473 of Bharatiya Nagarik Suraksha Sanhita, 2023) and relevant Rules of the West Bengal Jail Code relating to remission. Though the power of remission is primarily an executive function, the authority cannot keep the matter pending indefinitely. Delay in such consideration would amount to denial of the valuable right of the convict guaranteed under the law.

4. Accordingly, this writ petition succeeds.

5. It is hereby directed as follows:

(i) The competent authority/ respondent authorities shall consider the petitioner's application for remission in accordance with law, rules, and Government policy treating the writ petition as a representation.

(ii) Such consideration shall be made objectively, taking into account the petitioner's conduct in custody, reports of the prison authorities, local police verification, and all other relevant materials.

(iii) A reasoned order shall be passed within a period of **ten weeks** from the date of communication of this order.

(iv) The decision taken shall be duly communicated to the petitioner forthwith.

6. It is made clear that this Court has not expressed any opinion on the merits of the claim of remission. The authority shall act independently in accordance with law.

7. The writ petition is accordingly disposed of.

(Prasenjit Biswas, J.)