

25.09.2025
Sl. 32
subadip
Ct.No.-655

WPA 23095 of 2025

**Ainal @ Ainul Haque
Vs.
The State of West Bengal & Ors.**

Mr. Kaushik Gupta, Ld. Sr. Adv.
Ms. Soma Chowdhury(Bandhu),

...for the petitioner

1. As State Authorities are not represented, Mr. Ashim Kr. Ganguly, learned A.G.P., who usually appears on behalf of the State, is requested to represent the State-Authorities in this case. His appointment may be regularized by the concerned department.
2. Petitioner is directed to hand over the copy of writ petition to the learned Advocate for the State, who is appointed by this Court.
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.)