



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 WRIT PETITION NO. 3444 OF 2020

Arun Achyutrao Upadhye,
Age : 68 years, Occu; Member Nagar Parishad,
R/o. Ambad, Taluka Ambad,
District Jalna.

...Petitioner

VERSUS

1. The State Of Maharashtra,
Through Principal Secretary,
General Administration Department,
Mantralaya, Mumbai.
2. The Collector, Jalna,
Collector Office, Jalna.
3. Resident Deputy Collector, Jalna,
Collector Office, Jalna.
4. The Superintendent,
Nasik Road Central Prison,
Jail Road, Nashik.

...Respondents

...
Mr. Shreyas S. Deshpande a/w Ms Snehal A. Bhatmule - Advocate for
the Petitioner
Mr. A.A.A. Khan - AGP for State

...

CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.

DATED : 16TH JULY, 2025

ORAL ORDER [*Per* Neeraj P. Dhote, J.] : -

1. By consent of both the sides, the Petition is heard finally at
the stage of admission.

2. The Petitioner claims to have been imprisoned during the
Emergency, which was in force from 1975 to 1977. The State

Government, *vide* Government Resolution dated 3rd July, 2018, decided to honour and felicitate such persons who were imprisoned during the aforesaid Emergency period, and further to pay monthly honorarium to those who have undergone the imprisonment for more than one (1) month. The said Government Resolution prescribes submission of an affidavit in the prescribed format. Respondent No. 3 – Resident Deputy Collector rejected the Petitioner's claim by impugned order dated 28.11.2019, on the ground that there was no proof to show that the Petitioner was imprisoned during the aforesaid period of Emergency for a period of more than one [1] month. Hence, the Petitioner has approached this Court by way of present Writ Petition under Article 226 of the Constitution of India.

3. It is submitted by the learned Advocate for the Petitioner that, the aforesaid Government Resolution does not prescribe submission of any proof along with the affidavit in prescribed format. He submits that, by way of Government Resolution dated 26.02.2019, the Government took a decision not to ask for proof in support of such claim except an affidavit on a Stamp Paper of Rs. 100/-. He submits that, Respondent No. 3 – Resident Deputy Collector has passed the impugned order ignoring the said Government Resolution. He submits that, the Petitioner had applied to the Nashik Road Central Jail for supply of the necessary documents showing that, he was lodged in the

Central Prison at Nashik and, in reply to the same, the Appellate Authority-cum-Superintendent of Nashik Road Central Jail, Nashik, has informed that there was an entry of Mulakhat in the Mulakhat Register dated 29.11.1976. He submits that the information submitted to Respondents along with the evidence affidavit, shows that initially, for 15 days, the Petitioner was lodged in the Harsul Jail, Dist. Aurangabad, and from there the Petitioner was transferred to Central Jail at Nashik and his total period of imprisonment was around 13 months and hence, the Petitioner was entitled to the benefit of the said Government Resolution.

4. The Petition is opposed by the learned AGP appearing for Respondent Nos. 1 to 4. He submits that the papers on record only shows that the Petitioner was lodged in the prison at Harsul for a period of 15 days and there is no proof to show that the Petitioner was imprisoned for a period of more than one (1) month. He submits that, the Petitioner was lodged in Harsul Prison on 27.11.1975 and there is one year gap between the imprisonment of the Petitioner at Ambad and imprisonment at Central Jail at Nashik. He submits that the impugned order does not call for any interference.

5. We have gone through the papers on record. There is no dispute in respect of the above referred two Government Resolutions in respect of Government Policy to honour such persons who suffered

imprisonment for a period of more than one (1) month during the Emergency period from 1975 to 1977. The said Government Resolutions show that, except the affidavit, no proof was required to be submitted by the person claiming the said benefit. In a memo of Writ Petition, it is the specific case of the Petitioner that the Petitioner was fighting for democracy and under Maintenance of Internal Security Act, 1971, he was arrested from 27.11.1975 to 12.12.1975, and was lodged in Harsul Central Jail at Aurangabad, and thereafter on 13.01.1976, he was transferred to Nashik Road Central Prison at Nashik. The papers submitted by Respondent – State along with an affidavit-in-reply clearly shows that, for a period of 15 days i.e. from 27.11.1975 to 12.12.1975, the Petitioner was imprisoned. The communication dated 12.07.2017 addressed to the Petitioner by the Appellate Authority under the Right to Information, Nashik Central Prison, shows that the requested document was approximately 30-35 years old and has become worn out (deteriorated) over the time, hence, the information could not be supplied. However, the said communication clearly speaks that, there was an entry of Mulakhat in the Mulakhat Register dated 29.11.1976. The faint copies enclosed with the said communication, which are from the said Register, show the name of Petitioner at Sr. No. 13. This record supports the above referred contention made in the memo of the Writ Petition.

6. Be that as it may, the impugned order shows that Respondent No. 3 – Resident Deputy Collector did not consider the Government Resolution dated 26.02.2019, which directed that, no proof should be asked for in support of such claims, except an affidavit on the Stamp Paper of Rs. 100/-. The impugned order shows that the Claim of the Petitioner came to be rejected for want of sufficient documents/proof to show that, he was imprisoned for a period of more than one [1] month. The impugned order is contrary to the policy decision of the Government *vide* the aforesaid two GRs. Therefore, we are of the considered view that, the impugned order is not sustainable and the matter should be remanded back to Respondent No. 3 – Resident Deputy Collector for fresh consideration and decision in the light of the above referred two GRs dated 03.07.2018 and 26.02.2019. Hence, we proceed to pass the following order :

ORDER

- [i] The Writ Petition is partly allowed.
- [ii] The impugned order dated 28.11.2019 passed by Respondent No. 3 - Resident Deputy Collector, is quashed and set aside.
- [iii] The matter is restored on the file of Respondent No. 3 – Resident Deputy Collector, who shall re-consider the claim of the Petitioner in the light of the above referred two GRs and take a decision within a period of two (2) months from the date of receipt of this order.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE