



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1677 OF 2024

Bapu s/o Santosh Patil

.. Petitioner

Versus

1. The State of Maharashtra
Through Under Secretary Home
Department, Mantralaya,
Mumbai.
2. The Deputy Inspector General,
Central Prison, Chh. Sambhajinagar.
3. The Superintendent of Central
Prison, Nashik.

.. Respondents

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Mrs. Bharati B. Gunjal, Advocate for the petitioner.
Mr. G. A. Kulkarni, APP for the respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 07 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present writ petition has been filed by a convict for following
reliefs :-

“A] The Criminal Writ Petition may kindly be allowed.

B] By issuing appropriate writ or direction in like
nature the Respondent No.3 i.e. The Superintendent of
Central Prison, Nashik may kindly be directed to correct

the entries about remission days as per the order passed by the Respondent No.2 on 16.10.2007.

C] By issuing appropriate writ or direction in like nature the Respondent No.3 i.e. The Superintendent of Central Prison, Nashik, may kindly be directed to decide his application dated 12.07.2024 within stipulated time.”

2. Important point which is not in dispute is that petitioner was released on parole on 03.03.2005, but he surrendered late by 527 days and, therefore, show cause notice was issued to him and thereafter, respondent No.3 had passed an order imposing punishment as per ratio of 1:3 per day which comes to 1581 days. It was then sent for approval to respondent No.2. Respondent No.2 by his communication held that the ratio of 1:2 which comes to 1054 should be applied. In spite of this order, the nomenclature chart in respect of the petitioner made on 30.06.2022 shows that still the punishment that was imposed upon the petitioner is 1:3 and it needs to be corrected to 1:2.

3. As aforesaid, in fact, it is not in dispute that such order is passed by respondent No.2, still why the respondent No.3 is not implementing it is a question. When the order was passed by higher authority, then it is the bounden duty of the subordinate

to obey the same. Now, interestingly, the learned APP is placing communication dated 20.11.2024 on record stating that the matter has been sent for judicial appraisal and as the judicial appraisal has not been received, the said correction is not made. It is then stated that after the judicial appraisal is received the correction would be made. Here, the crux of the matter is that the petitioner has not challenged the order passed by respondent No.3 or respondent No.2. He only wants the implementation of the order passed by respondent No.2. The order which was passed by respondent No.2 was dated 16.10.2007 to whom the order dated 27.11.2006 passed by respondent No.3 was forwarded. It is the lethargy on the part of respondent No.3 for not sending the matter for judicial appraisal till 20.11.2024 i.e. 17 years and 26 days. In the said communication dated 20.11.2024, intentionally it has not been stated as to when the order was forwarded for judicial appraisal by District and Sessions Judge, Nashik. The matter cannot be kept lingering for indefinite period, especially in respect of the punishment in the form of taking away the remission for so many days. Hence, the writ petition stands allowed with directions to respondent No.3 to correct the entries about remission days as per the order passed

by respondent No.2 on 16.10.2007.

4. In view of grant of prayer clause 'B', prayer clause 'C' will not survive.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm