



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1809 OF 2024

Nagorao Ramrao Tudme (C-5380),
Age 54 yrs., Occ. Convict,
R/o at present confined in Open Prison,
Paithan, Dist. Chhatrapati Sambhajinagar.

... Petitioner

... Versus ...

- 1 The State of Maharashtra
Through it's Secretary,
Home Department,
Mantralaya, Mumbai.
- 2 Inspector General of Prisons,
Pune.
- 3 Divisional Commissioner,
Chhatrapati Sambhajinagar.
- 4 Superintendent,
Open Prison, Paithan,
Dist. Chhatrapati Sambhajinagar.

... Respondents

...

Mr. R.A. Jaiswal, Advocate for petitioner

Mr. Birendra Saraf, Advocate General with Mr. A.B. Girase, PP for respondent

Nos.1 to 4

...

**CORAM : SMT. VIBHA KANKANWADI &
MANJUSHA DESHPANDE, JJ.**

RESERVED ON : 10th FEBRUARY, 2025

PRONOUNCED ON : 05th MARCH, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Heard learned Advocate for petitioner and learned Advocate General with learned PP in pursuance to order dated 26.11.2024 passed by this Court, especially in respect of constitutional validity of the rules of 1959 as amended by Notification dated 10.02.2022, learned Advocate General places on record the decision of the Co-ordinate Bench in **Shivaji Ganeshrao Jawale vs. The State of Maharashtra and another** in Criminal Writ Petition No.52 of 2024 decided on 09.01.2024, **Amit Gajanan Gandhi vs. The State of Maharashtra** in Criminal Writ Petition No.47 of 2023 decided on 24.01.2023 by the Co-ordinate Bench at Nagpur. It is submitted that both the Courts have come to the conclusion that in view of Full Bench decision in **Kantilal Nandlal Jaiswal vs. Divisional Commissioner, Nagpur** [2019 (6) Mh.L.J. 186] Proviso to clause 2 of Rule 19 of the Rules of 1959 was struck down which was on the similar line, being violative of Article 14 and 21 of the Constitution of India. The amendment has the same effect and then he also submits that a clarification dated 04.02.2025 has also been issued. In view of further amendment to the parole, furlough rules on 02.12.2024 that the

pending applications would be governed by the new rules, now, there will not be any confusion for the authorities who are deciding the parole, furlough leave applications.

2 Taking into consideration all the communications and since the fresh rules have come into effect from 02.12.2024 and also a clarification that the pending applications would be considered in view of the new rules, we need not consider the constitutional validity of the old rules. We have already decided the petition to the extent of grant of parole leave to the petitioner by said order dated 26.11.2024 directing respondent No.3 to grant the parole leave. Now, nothing remains. The writ petition stands disposed of.

(MANJUSHA DESHPANDE, J.)

(SMT. VIBHA KANKANWADI, J.)

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