

(1989) 12 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 2754 of 1989

Manjeet Singh

APPELLANT

Vs

State of Haryana and anr.

RESPONDENT

Date of Decision : 11-12-1989

Acts Referred:

Citation : (1990) 1 AICLR 340 : (1990) 1 RCR(Criminal) 464

Hon'ble Judges : J.S.Sekhon, J

Advocate : Azad Singh, B. S. Bhalur, Advocates for appearing Parties

Judgement

J.S Sekhon, J.

1. Manjit Singh convict was granted four weeks parole for agricultural purposes by the requisite authority under section 3(1)(c) and 3(2)(c) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, as applicable to the State of Haryana, although the above referred provisions provide for grant of six weeks parole for this purpose. He has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for issuing a writ in the nature of habeas corpus for extension of this parole by two weeks in order to enable him to do the agricultural work. The petitioner further alleges that two weeks parole already availed of by him in the year 1986 was special emergency parole granted by the Government byway of flood relief.

2. In the return filed by the State it is averred that the petitioner had already availed of two weeks parole in the year 1988 and thus he was entitled to four weeks parole only. However, it is not controverted that the above referred two weeks parole was a special concession granted by the State Government in order to meet the situation created by floods.

3. The relevant portion of section 3(1)(c) and 3(2)(c) runs as under :

"3. Temporary release of prisoners on certain grounds (1) The State Government may, in consultation with the District Magistrate and subject to such conditions

and in such manner as may be prescribed, release temporarily for a period in subsection (2) any prisoner if the State Government is satisfied that

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence;

(2) The period for which a prisoner may be released shall be determined, by the State Government so as not to exceed.

(c) Where the prisoner is to be released on the ground specified in clause (c) of subsection (1), six weeks.

4. A perusal of this provision leaves no room for doubt that for agricultural purposes, the period of such parole would not exceed six weeks, which in turn, implied that the Government has discretion to curtail this period to even less than six weeks. Learned counsel for the petitioner pointed out instructions by the Punjab Government to the effect that for agricultural purposes the parole should not be recommended for less than six weeks. These instructions were issued to the concerned jail authorities. The instructions would not amount to diluting the effect of statute wherein discretion is left to the requisite authorities regarding the minimum period of parole for agricultural purposes. The petitioner has not alleged that this period was curtailed for some mala fide reasons or due to some motivation.

5. Under these circumstances, no case is made out for extending the period of parole.

6. This writ petition is, therefore, dismissed.