

(2020) 01 CAL CK 0284
In the Calcutta High Court

Case No : Writ Petitions (WP) No. 23255 (W) Of 2019

Md. Khalid & Anr

APPELLANT

Vs

Chief Secretary, State Of West Bengal & Ors

RESPONDENT

Date of Decision : 10-01-2020

Acts Referred:

Citation : (2020) 01 CAL CK 0284

Hon'ble Judges : Sabyasachi Bhattacharyya, J

Bench : Single Bench

Advocate : Tapas Kumar Bhanja, Rana Mukherjee, Md. Sabir Ahmed, Saikat Banerjee, Arnab Roy

Judgement

Sabyasachi Bhattacharyya, J

The grievance of the petitioners is that, despite the petitioner no. 1 having been behind the bars for more than 26 years, the case of the petitioner no. 1

for release has not been considered, despite several orders of this Court, being order dated November 02, 2017 passed by a co-ordinate Bench of this

Court in W.P. No. 4510(W) of 1997, as well as the order dated September 04, 2018 passed in W.P. No. 8573(W) of 2018 with W.P. No. 7252(W) of

2018, by a Division Bench, which contained a direction on the State, pursuant to a Suo motu reference by the Supreme Court, to consider the cases of

such persons for early release who have served more than 14 years of sentence, get 15 daysâ?? parole every year and against whom there is no bad

report.

Learned counsel for the petitioners submits that the petitioner no. 1 has been released on parole several times previously and on each of such

occasion, the reports were in favour of the petitioner no. 1 inasmuch as the

petitioner no. 1 behaved well and there was no question of the public having any grievance against the petitioner no. 1.

However, learned counsel appearing for the State-respondents files a minutes of a proceeding of the State Sentence Review Board, West Bengal, for consideration of premature release of the convicts, held on September 14, 2018 and points out Item No. 10, pertaining to the present petitioner no. 1.

In the right hand column of Item No. 10, with reference to the petitioner no. 1, it has been recorded that the release of the said petitioner was refused apparently on the ground of organized and heinous crime having been committed by the petitioner no. 1, which still has an impact on the society and that chances of future recurrence cannot be ruled out. Strong objection of local people was also cited as a reason and it was recorded that the release was not recommended by police and Chief Probation-cum-After Care Officer, West Bengal and as such, was rejected by the Board.

Learned counsel appearing for the respondent no. 3 submits that a wrong statement has been made by the petitioner in paragraph 8 thereof, inasmuch as interpretation of the orders of this Court is concerned.

It appears from the said paragraph that the direction of this Court on the State was mandatory, although actually such direction was directory in nature.

However, since the orders of this Court have themselves been annexed and the petitioners ought not to be hauled up for an apparent erroneous interpretation of law and the orders, which have been annexed, showing the bona fides of the petitioners, this Court chooses not to take any action against the petitioners on that score alone.

Despite the State-respondent having shown prima facie evidence that reasons were assigned for not releasing the petitioner no. 1 from prison even after undergoing incarceration for 26 long years, in view of the several annexures pursuant to the reports on the petitioner no. 1 when he was released on parole, which are annexed in the present writ petition, it appears that the petitioners have got a counter case to prima facie rebut the reasons given by the authorities, at least as regards the alleged strong objection of local people and chances of future occurrence of the crime committed by the petitioner no. 1.

In such view of the matter, the petitioners have made out a prima facie case that the matter ought to be heard on merits.

Accordingly, the respondents are directed to file their affidavit(s)-in-opposition to this writ petition within a fortnight from date, reply/replies, if any, to

be filed by the petitioners within a week thereafter.

Let the matter come up for hearing on February 12, 2020.