

Rajinder and Others Vs. State of Haryana and Others

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Court : Punjab and Haryana

Decided On : Aug-21-2013

Appellant : Rajinder and Others

Respondent : State of Haryana and Others

Judgement :

CRM-M-30563-2012 1 IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH (1) CRM-M-30563-2012 Date of decision :

21. 08.2013 Avtar Singh @ Jaggi ..Petitioner Versus State of Haryana and others ..Respondents (2) CRM-M-21931-2011 Sukhdev Singh and others ..Petitioners Versus State of Haryana and others ..Respondents (3) CRM-M-30609-2012 Rajinder and others ..Petitioners Versus State of Haryana and others ..Respondents CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL Present: Mr.V.S.Rana, Advocate for the petitioner in CRM-M-30563-2012 & CRM-M-21931-2011.

Mr.S.K.Garg Nirwana, Senior Advocate with Mr.Naveen Gupta, Advocate for the petitioner in CRM-M-30609-2012.

Mr.Shekhar Mudgal, AAG, Haryana for the respondents.

Davinder Kumar 2013.08.26 17:28 I attest to the accuracy and integrity of this document CRM-M-30563-2012 2 REKHA MITTAL, J.(ORAL) By way of this order, I shall dispose of CRM-M No.30563 of 2012 (Avtar Singh @ Jaggi versus State of

Haryana and others).CRM-M No.21931 of 2011 (Sukhdev Singh & others versus State of Haryana and otheRs.and CRM-M No.30609 of 2012 (Rajinder and others versus State of Haryana and otheRs.as they involve adjudication of similar question of facts and law.

For the sake of convenience, the facts are being taken from CRM-M No.30563 of 2012 (Avtar Singh @ Jaggi versus State of Haryana and others).Counsel for the petitioners submits that the petitioners have been convicted and sentenced for commission of offence under the Narcotic Drugs and Psychotropic Substances Act 1985 (for brevity 'the NDPS Act') and they have been undergoing sentence awarded by the Court.

It is further submitted that according to the Jail Manual applicable to the prisoners / convicts in the State of Haryana, remission are of three types:- i) ordinary remission; ii) special remission; and iii) State Government remission.

Counsel for the petitioners has been fair enough to concede that the petitioners are not entitled to special remission and State Government remission, being convicts under the NDPS Act.

He has argued with vehemence that there is no rule or policy decision which disentitles the petitioners to avail benefit of ordinary remission, allowed for two days per month for good conduct and another two days per month for industry and due performance of the daily task imposed.

In support of his contention, he has referred to a judgment of Division Bench of this Court in Criminal Writ CRM-M-30563-2012 3 Petition No.1923 of 2010, Mann Singh versus State of Haryana and another, whereby a number of writ petitions were decided together.

In Mann Singh's case, the Court has held as quoted thus:- The learned counsel for the respondent - State could not produce any notification of the State Government or draw the attention of this Court towards any provisions of the Punjab Jail Manual, which debars the ordinary remission or yearly good conduct remission to the prisoners on the ground that such prisoner is convicted under the NDPS Act.

Counsel for the State of Haryana has conceded that the cases of the petitioners have not been considered in the light of Division Bench's judgment of this Court.

Counsel for the State has failed to cite any contrary law or point out any relevant provisions in the Jail Manual or any policy formulated by the State of Haryana in exercise of powers conferred by Section 432 Cr.P.C. or under Article 161 of the Constitution of India, to deprive the convicts under NDPS Act, of benefit of ordinary remission.

In view of what has been discussed hereinabove, the petitions are disposed of with a direction to the respondents to consider the case of the petitioners for grant of ordinary remission in accordance with law, and dispose of the matter by passing a speaking order, within a period of two months.

Disposed of accordingly.

(REKHA MITTAL) JUDGE August 21, 2013.

Davinder Kumar

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