
R.N.R.

Before Ram Chand Gupta, J.

JARNAIL SINGH,—Petitioner

versus

STATE OF HARYANA AND OTHERS,—Respondents

Crl. Writ Petition No. 1782 of 2010

10th November, 2010

Haryana Good Conduct Prisoners (Temporary Release) Act, 1988—Ss. 3 (1)(d) & 6—Petitioner seeking release on parole for repair of house—Whether parole can be availed for agricultural and house repair within same year—Held, yes—No bar under the provisions of 1988 Act—Agricultural parole is covered u/s 3(1)(c) whereas house repair parole is granted u/s 3(1)(d)—Petition allowed.

Held, that bare perusal of Section 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 shows that release of petitioner on parole can be refused only on the grounds that the same is likely to endanger the security of the State or the maintenance of the public order. However, the request of the petitioner for his release on house repair parole has not been rejected on any of the grounds mentioned in Section 6 of the Act. Rather his release was rejected on the plea that he had availed agricultural parole from 29th March, 2010 to 11th May, 2010. However, about six months have expired since he returned from earlier parole. Moreover, there is no bar under the Act and the rules for availing agricultural parole and house repair parole within the same year as agricultural parole is covered under Section 3(1)(c) of the Act whereas house repair parole is granted under Section 3(1)(d) of the Act.

(Para 8)

R.K. Bagga, Advocate, *for the Petitioner.*

Amandeep Singh, A.A.G., Haryana

RAM CHAND GUPTA, J (ORAL)

(1) The present petition has been filed under Article 226 of the Constitution of India to quash order of respondent No. 2,—*vide* order No. C.J.A./41J 1038 dated 17th September, 2010 refusing release of petitioner on house repair parole for four weeks under Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short the 'Act')

(2) Reply has been filed on behalf of respondent—State.

(3) I have heard learned counsel for the parties and have gone through the whole record.

(4) Admitted facts are that, petitioner was convicted and sentenced for life imprisonment in case FIR No. 118 dated 17th March, 1998, under Sections 302/148/307/323/149 IPC, Police Station Guhla. He applied for his release on parole for repair of house and his application for house repair parole was duly recommended by respondent No. 3 i.e. Superintendent, Central Jail, Ambala as he was entitled as per law and the rules. Even District

Magistrate, Patiala recommended release of the petitioner on house repair parole and however, competent authority i.e. Divisional Commissioner, Ambala Range, Ambala rejected the release of the petitioner on parole merely on the ground that he had availed six weeks agricultural parole from 29th March, 2010 to 11th May, 2010 in recent past.

(5) It has been stated by learned counsel for the petitioner that now about six months have expired since the petitioner returned from earlier parole for agricultural purpose.

(6) Section 3 of the Act provides that a convict can be released on parole which reads as under :-

“3. Temporary release of prisoners on certain grounds.

(1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the official gazette and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2), any prisoner, if the State Government is satisfied that :

- (a) a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill; or
- (b) the marriage of prisoner himself, his son, daughter, grandson, grand-daughter, brother, sister, sister's son or daughter is to be celebrated; or
- (c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the petitioner.
- (d) it is desirable to do so any other sufficient cause.

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

- (a) where the prisoner is to be released on the grounds specified in clause (a) of sub-section (1), three weeks;

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- (b) Where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and
- (c) where the prisoner is to be released on the grounds specified in clause (c) of sub-section (1), six weeks;

Provided that the temporary release under clause (c) can be availed more than once during the year, which shall not, however, cumulatively exceed six weeks.

- (3) The period of release under this section shall not count towards the total period of the sentence of a prisoner.
- (4) The State Government may, by notification, authorize any officer to exercise its powers under this section in respect of all or any other ground specified thereunder.”

(7) Further Section 6 of the Act provides for the grounds on which the parole can be refused, which reads as under :—

“6. **Prisoners not entitled to be released in certain cases.**— Notwithstanding anything contained in Sections 3 and 4, no prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.”

(8) Bare perusal of Section 6 of the Act shows that release of petitioner on parole can be refused only on the ground that the same is likely to endanger the security of the State or the maintenance of the public order. However, in the present case, the request of the petitioner for his release on house repair parole has not been rejected on any of the grounds mentioned in Section 6 of the Act. Rather his release was rejected on the plea that he had availed agricultural parole from 29th March, 2010 to 11th May, 2010. However, about six months have expired since he returned from earlier parole. Moreover, there is no bar under the Act and the rules for availing agricultural parole and house repair parole within the same year as agricultural is covered under Section 3(1)(c) of the Act whereas house repair parole is granted under Section 3(1)(d) of the Act.

(9) Hence, in view of these facts, the present petition is allowed and the impugned order dated 17th September, 2010, Annexure R2 passed by the competent authority refusing release of the petitioner on house repair parole is set-aside.

(10) Respondents are directed to reconsider the case of the present petitioner for his release on parole in the light of the observations of this Court made above, as per Act and Rules and instructions on the point, within a period of two weeks from the date of receipt of certified copy of this order.

(11) Disposed of accordingly.