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D.B. Cr. Parole Writ Petition No.12050/2011

**Mitha Lal
Vs
State of Rajasthan & Ors.**

DATE OF ORDER: 31st January 2012

**HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN-II**

By post.

Mr.K.R. Bishnoi, Additional Government Counsel.

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BY THE COURT:

The petitioner-convict undergoing sentence at the Central Jail, Jodhpur has sent this letter petition for being aggrieved against the denial of his prayer for release on permanent parole.

The petitioner has submitted that he has already served 14 years of the sentence and has also availed of the first, second and third regular parole. The petitioner has further submitted that he comes from a poor background and his family is suffering from several financial and social difficulties. The petitioner has stated the grievance that his prayer for release on permanent parole has been declined on 09.08.2011 for his having not completed 11 months of imprisonment after availing of the third parole whereas several prisoners who did not even avail of any parole have nevertheless been allowed permanent parole.

In response to the notices issued in this matter, the respondents have filed a reply and it is pointed out that as on 15.12.2011, the petitioner has served 19 years, 6 months and 11 days of sentence including jail remission of 3 years, 8 months and 28 days. It is also pointed out that the petitioner availed of his first parole of 20 days from 19.07.2005 to 07.08.2005, second parole of 30 days from 07.01.2007 to 05.02.2007 and then, third parole of 40 days from 26.02.2011 to 06.04.2011. It is submitted that the matter of the petitioner-prisoner for granting permanent parole was considered by the State Parole Committee on 28/29.06.2011 but he was not found entitled for release at the given stage because as per Rule 10 of the Rajasthan Prisoners Release on Parole Rules, 1958, second or subsequent release on parole cannot be ordered unless 11 months have elapsed from the date of expiry of period of release on parole immediately preceding. It is submitted that on the date of consideration, i.e., 29.06.2011, the petitioner had not completed 11 months in jail after surrendering on 06.04.2011 and hence, he was not eligible to be granted permanent parole at the given stage.

This letter petition was received on 29.11.2011 and was admitted for consideration on 05.12.2011. The position obtainable now is that on 06.03.2012, 11 months would elapse from the date of the petitioner's surrender after third parole. It goes without saying that as on 06.03.2012, the petitioner would become eligible to be considered for being released on permanent parole, of course, in accordance with law. Therefore, even when we are not issuing any

writ or order on the prayer as made by the petitioner in this petition, it does appear appropriate to observe and direct that the respondents should consider the case of the petitioner for release on permanent parole immediately upon his acquiring eligibility therefor; and for that matter, the petitioner would not be required to move an application afresh but his earlier application itself could be taken up for consideration by the respondents.

Therefore, even when we are not issuing the writ or order as prayed for in this letter petition, this writ petition is being dismissed with the observations and directions aforesaid, for consideration of the case of the petitioner immediately upon his acquiring eligibility for release on permanent parole.

The petition is dismissed subject to the observations and directions aforesaid.

(NARENDRA KUMAR JAIN-II), J. (DINESH MAHESHWARI), J.

cpgoyal/-