

(2000) 01 AHC CK 0184

Allahabad High Court

Case No: Writ Petition No. 507 (H/C) of 1999

Banveer Singh alias Gudru Singh

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: Jan. 19, 2000

Citation: (2001) 1 ACR 256

Hon'ble Judges: Kamal Kishore, J; D.K. Trivedi, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

D.K. Trivedi and Kamal Kishore, JJ.

By means of this writ petition the Petitioner prays for a writ of habeas corpus by issuing direction to opposite party Nos. 1 to 3 to release the Petitioner forthwith and further a writ of certiorari quashing the impugned rejection order dated 27.9.1995, passed by the State Government on the Form A of the Petitioner. It is not disputed that the Petitioner served out a sentence and is eligible for consideration for premature release. The Probation Board in its report submitted that convict over-stayed the leave and was arrested and sent to jail. The Board further stated in his report that there is counter murder. The State Government after considering this report submitted by the Board, rejected the Petitioner's premature release vide order dated 27.9.1995.

2. The main contentions of the Petitioner's counsel is that in the counter-affidavit filed before this Court, it is admitted that in fact over-stay after parole by the Petitioner is not correct. The Petitioner was granted parole and after expiry of parole he surrendered before the Jail Authority and the fact that he over-stayed and was arrested and then sent to jail is not correct. In these circumstances the report submitted by the Probation Board on the face of it is incorrect. As regards the second fact that some counter murder took place, the contentions of the Petitioner is that no further incident took place and in this report counter murder incident means the present incident in which Petitioner was convicted and sentenced to life

imprisonment. This fact is also not disputed.

3. In view of the facts that the report submitted by the Probation Board was factually incorrect and further it is also not disputed that on the basis of incorrect report the State passed an impugned order rejecting the Petitioner's Form A for premature release, in our opinion the impugned order is vitiated and is liable to be quashed. If the facts are wrongly mentioned in the report and taking them as correct the State Government passed the order then the same is liable to be quashed.

4. Accordingly, a writ of certiorari is issued and the order dated 27.9.1995, rejecting the Petitioner's Form-A is hereby quashed. The State Government is directed to again reconsider the application of the Petitioner in the light of the order passed earlier in Writ Petition No. 374 (H/C) of 1992, as well as order passed today in the present writ petition within three months from the date of receipt of certified copy of this order. A copy of the order be handed over to the parties counsel within a week.