

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 10327 of 2022

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MAHENDRABHAI @ BHUPATBHAI MANUBHAI CHAVADA
Versus
STATE OF GUJARAT

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Appearance:

MR VIRAT G POPAT(3710) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3
MS CM SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 19/01/2024

ORAL ORDER

1. By way of this application, the applicant convict prisoner Mahendra @ Bhupatbhai Chavda seeks to quash the order dated 10.08.2021 passed by the Home Department, State of Gujarat, whereby the application for his premature release has not been considered on the ground that the applicant is a life convict and against his remission, the opposite party raised their objection and there is a negative report by the advisor of the jail.
2. This Court has heard learned counsel Mr.Virat Popat for the applicant and Ms.C.M. Shah, learned APP for the respondent – State.
3. It is submitted that the applicant has undergone for a

period of 16 years of his imprisonment and his jail conduct is also satisfactory and therefore, merely objection raised by the complainant Virendrasinh Zala who is affiliated with the ruling party, would not be a ground to reject the representation. It is further submitted that the decision dated 10.08.2021 was taken in an arbitrary and mechanical manner and the same reflects non-application of mind by the authority concerned and thus, without considering the policy of 1992, which is applicable to the case of the applicant, the case may be remanded to the concerned authority to reconsider the case within a stipulated time.

4. On the other hand, Ms.C.M. Shah, learned APP for the respondent – State, referring the notification dated 06.04.2023, has submitted that the Government will consider the case of the applicant in accordance with the applicable policy.
5. Having considered the averments in the application and on perusal of the jail remarks as well as the notification referred by the State, this Court is of the considered view that the earlier representation was not properly dealt with by the authority concerned and *prima facie*, it appears that

in a mechanical manner, it has been rejected. Thus, therefore, the communication dated 10.08.2021 at Annexure-E, Page-40, is quashed. The respondent authority is directed to reconsider the case of the applicant on the basis of the proposal dated 20.11.2023 submitted by the Advisory Committee and decide the same on its own merits, within four weeks from the date of this order. Learned APP shall convey the State Authorities about passing of this order.

6. In view of the above, present application is ***disposed of*** with the aforesaid directions.

Direct Service is permitted.

Rakesh

(ILESH J. VORA,J)