

‘ONLY ONE STATE CAN DECIDE ON REMISSION’

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Remission or premature release of a convict has to be considered in terms of the policy applicable in the State where the crime was committed and not where the trial was transferred to and concluded, the Supreme Court has said.

A Bench of Justices Ajay Rastogi and Vikram Nath said under Section 432(7) of the Code of Criminal Procedure (CrPC), 1973, there cannot be a concurrent jurisdiction of two State governments on the issue of remission.

Plea by convict

The top court was hearing a plea by a convict seeking direction to the State of Gujarat to consider his application for premature release under the policy dated July 9, 1992, which was existing at the time of his conviction.

Though the crime was committed in Gujarat, the top court in 2004 had transferred the case to Mumbai due to the peculiar facts and circumstances of the case.

The top court said in the instant case, once the crime was committed in Gujarat, after the trial concluded and judgment of conviction came to be passed, all further proceedings have to be considered, including remission or premature release, as the case may be, in terms of the policy which is applicable in Gujarat where the crime was committed and not the State where the trial stands transferred and concluded for exceptional reasons under the orders of the court.

"The respondents are directed to consider the application of the petitioner for premature release in terms of its policy dated 9th July, 1992, which is applicable on the date of conviction and may be decided within a period of two months. If any adverse order is passed, the petitioner is at liberty to seek remedy available to him under the law," the Bench said.

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