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JUSTICE BEHIND BARS: A STUDY OF SENTENCE REVIEW BOARD OF DELHI

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I. ABSTRACT

This paper critically examines the functioning of the Sentence Review Board (SRB) in Delhi within the framework of the Delhi Prison Rules, 2018, and the constitutional guarantees of equality and personal liberty under Articles 14 and 21 of the Constitution of India. The study addresses the central question whether the SRB, which is intended to operationalize the reformative theory of punishment through periodic review of life convicts eligible for premature release, functions in a manner consistent with statutory and constitutional requirements. A doctrinal methodology has been adopted, based on an analysis of constitutional provisions, the Code of Criminal Procedure, 1973, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Lt. Governor's Policy dated 16 July 2004, the Delhi Prison Rules, 2018, and judicial decisions of the Supreme Court of India and the Delhi High Court. The study finds that, although the legal framework is comprehensive and reform-oriented, its implementation is marked by significant deficiencies. The SRB frequently fails to hold mandatory quarterly meetings, resulting in prolonged delays in the consideration of eligible cases. Its recommendations often rely disproportionately on the gravity of the original offence and police objections, while overlooking relevant factors such as conduct in prison, parole performance, age, health, family circumstances, and prospects of rehabilitation. Judicial decisions have repeatedly characterised such practices as arbitrary and inconsistent with the principles of fair procedure. The paper recommends strict adherence to quarterly meeting requirements, mandatory speaking orders, time-bound submission of reports, reduced dependence on police opinions, and institutional reforms to ensure transparency, accountability, and constitutional compliance.

II. KEYWORDS

Premature Release, Remission, Life Convicts, Judicial Review, Rehabilitation.

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III. INTRODUCTION

A. Statement of the Problem

SRB had a great purpose in mind when implementing it – to provide a proper review and structured consideration process to ensure eligibility of life convicts to be released early. However, the way it works is somewhat disappointing in terms of this design and implementation of the remission power.

Firstly, the Board is unable to hold meetings in a timely manner. As required by both the 2004 policy and the Delhi Prison Rules of 2018, it must hold a meeting at least once every three months. Lack of scheduling meetings results in a delay in dealing with the issues surrounding eligible convicts. This, in turn, leads to further postponement of their release. In most cases, the request from the convicts is rejected merely on the grounds of the crime, brutality of the crime or even the possible negative reaction of the general public. Such critical issues such as conduct of the convict in jail, rehabilitation, age of the convict, personal status, educational improvement, conduct in parole period, and the actual involvement of the convict in the crime are ignored.

The issue was brought out explicitly by the Delhi High Court in the case of "Santosh Kumar Singh v. State (Govt. of NCT of Delhi)". The Court emphasized that rejection of the request only on the grounds of the seriousness of the crime is legally unacceptable. The Board has to deal with each one of them and explain their reasoning with clarity so that the convict can follow and comprehend the decision.

Another case in which the Delhi High Court has held similar views is "Wahid Ahmed v. State (NCT of Delhi)". Here too the Court pointed out that the Board did not take into account the specific role of the convict in the case and made wrong assumptions about his involvement in the crime. The same problem also arose in court proceedings recently where judges time and again questioned the decision of the SRB by arguing that its decisions were unreasonable and repetitive and based on the nature of the crime alone. In "Harpreet Singh v. State (Govt. of NCT of Delhi)," the court emphasized the fact that it was against the very principle of reformative punishment that the prisoner is not allowed to be released early even when he has been imprisoned for long and has exhibited good behavior. Recently, this problem has been noted by

many academicians too. According to some recent research, it appears that in Delhi, the Sentence Review Board continues to view the prisoner in terms of the original crime committed despite his having completed the minimum imprisonment period and showing signs of reform.

The above-mentioned problems give rise to the main question discussed in this thesis, that is, whether the Sentence Review Board of Delhi operates in accordance with Articles 14 and 21 of the Indian Constitution and whether it really serves its reformative purpose. The following chapters will examine the above question.

B. Research Questions

1. Whether the existing legal framework with regards to remission and premature release in India, especially through the provisions made under the Delhi Prison Rules, 2018, adequately ensures the regulation of the operations of the Sentence Review Board?
2. Whether there are regular reviews conducted by the Sentence Review Board of Delhi for eligible life convicts, as required in line with the requirement for holding quarterly meetings as per the provisions under the Delhi Prison Rules, 2018?
3. What are the factors taken into account by the Sentence Review Board while passing decisions regarding the cases of premature release, and whether such factors adhere to the principles of reformative punishment?
4. Whether the violations caused due to irregular meetings and non-speaking recommendations by the Sentence Review Board amount to violation of the constitutional rights to equality and personal liberty, provided under Articles 14 and 21 of the Indian Constitution?
5. How far judicial intervention from the Supreme Court of India and Delhi High Court has impacted the functioning of the Sentence Review Board?
6. What legal and institutional reforms are necessary to ensure that the Sentence Review Board functions as an effective mechanism of timely, transparent and constitutionally compliant sentence review?

C. Research Objectives

1. To study the legal and constitutional position of remission, premature release and the functioning of the Sentence Review Board in Delhi.
2. To study the structure, functions and process of the Sentence Review Board under the Delhi Prison Rules, 2018.
3. To study the various factors and considerations taken into account by the Sentence Review Board while taking decisions regarding premature release of life convicts.
4. To determine whether the delay, irregular meeting and non-speaking decisions of the Sentence Review Board can be considered compliant with the rights guaranteed under Article 14 and 21 of the Constitution of India.
5. To study the role of the Supreme Court of India and Delhi High Court in supervising the working of the Sentence Review Board.
6. To provide recommendations for improving the functioning of the Sentence Review Board.

D. Hypothesis

The Sentence Review Board at Delhi does not always abide by the principles and guidelines that govern periodic reviews and the principles of justice as set out in the Delhi Prison Rules of 2018 and the constitution. The consequence is that the review process is delayed, poorly coordinated, and based on unjustified decisions.

E. Research Methodology

In this thesis, a doctrinal approach has been adopted for legal research.The sources of law used in this thesis include both primary as well as secondary sources of law.

Primary sources refer to the Indian Constitution, the Code of Criminal Procedure, 1973, Delhi Prisons Regulations, 2018, Policy of Lt. Governor dated July 16, 2004, Guidelines of National Human Rights Commission dated 2003, and various judgements of the Supreme Court of India and Delhi High Court on the subject of remission and early release.

Secondary sources have been limited to books, journals, papers, articles and other scholarly writings related to the subjects of prison law, remission, reformatory punishment and the workings of the Sentence Review Boards.

Critical and analytical approaches are used in the thesis to find out if the existing legal regime and working of the Sentence Review Board are consistent with the constitutional provisions under Article 14 and 21. Some comparisons are made with other states when required in order to comprehend the Delhi situation.

F. Literature Review

One of the topics that has attracted significant scholarly interest over the past decade is sentence review and premature release through the Sentencing Review Board (SRB). The major idea that can be found in most scholarly publications on the topic is that the gap between the promised possibilities for reform in remission laws and their application in practice is wide. Specifically, many experts argue that despite the apparent presence of reformative goals in the legislation, the practical review procedure tends towards being punitive in nature.

A rather interesting piece of academic literature related to the topic of premature release of prisoners through SRB is the article "Entrapped in a Penal Time Capsule, Extralegal Discourses in Sentence Review of Life Prisoners in India." The core of the argument put forward by the authors of this publication lies in the idea that in most cases life prisoners are reviewed based on the characteristics of the offence rather than the character traits acquired during the period of imprisonment. In other words, according to the authors of the article, a prisoner is "trapped in a time capsule" and thus cannot escape the stigma of his/her criminal past, whatever he/she has become since then. What is noteworthy about the publication is that the authors conclude that the SRB is primarily guided by public sentiments, media discourse, and the gravity of the crime, not rehabilitation-related facts like behavior in prison and age of the individual. Although abolition is not advocated, the authors argue that sentence review has become punitive rather than reintegrative.

An analysis of sentence review boards in India can also be seen in the scholarly study entitled "The Sentence Review Boards in India, A Critical Analysis." It can be assumed

that the main contribution of the research in question lies in the exposure of inconsistencies between theoretical and practical aspects of functioning of SRB. Specifically, the authors claim that in practice, such boards operate opaquely, lack accountability mechanisms, and deliver verdicts lacking rationales. What is more, the author pays special attention to the influence of the police's objections and public sentiments on the decision-making process of the board members. The suggestions for future change lie in the area of statutory reform and establishment of binding deadlines for report delivery, mandatory delivery of ordered verdicts, etc.

Noteworthy among the numerous pieces of research concerning Delhi's SRB is the investigation carried out within the walls of the University of Cambridge, whose findings are considered to have contributed to future reforms in the field. It was revealed that the most pronounced deficiencies of Delhi's sentence review process were connected with the irregularity of SRB meetings and, what seems even more problematic, the tendency of substituting the issue of a prisoner's rehabilitation by his/her crimes' gravity. According to the researchers, the recommendations in cases examined in this particular study had the nature of veto rather than mere advice which goes against the officially accepted position. In conclusion, the current functioning of the SRB in Delhi fails to comply with the requirements of reformative penal theories.

Despite this extensive bibliography, there still is an obvious gap in the existing knowledge regarding this topic. The vast majority of papers either deals with remission on a nationwide level or discusses the philosophical grounds of the reformative punishment as a principle. At the same time, very little is known about the operation of the SRB in Delhi in connection with the actual policy on the matter which implies Lt. Governor's Policy dated 16 July 2004 and the Delhi Prison Rules of 2018. Moreover, the implications of several recent court verdicts (Santosh Kumar Singh v. State (Govt. of NCT of Delhi), Wahid Ahmed v. State (NCT of Delhi), and Harpreet Singh v. State (Govt. of NCT of Delhi) remain unknown as well.

IV. LEGAL FRAMEWORK OF LIFE IMPRISONMENT, REMISSION AND PREMATURE RELEASE IN INDIA

A. Delhi Specific Framework, Lt. Governor's Policy, 2004 & Delhi Prison Rules, 2018

The statutory framework provided in the Code of Criminal Procedure provides a broad legal framework for granting remissions and releasing prisoners early. The procedure for examining the cases of life convicts is based on the respective remission policy which varies according to each particular State or UT concerned. In Delhi there are two distinct mechanisms for dealing with the premature release of prisoners: 1) Lt. Governor's Policy dated 16th July 2004; 2) Delhi Prison Rules 2018.

This remission policy formulated as a result of recommendations from NHRC replaced an earlier instrument dated March of the same year. This instrument laid down the structure of the Delhi SRB with its membership including the Minister in charge of Prisons as chairperson and the Home Department, Law Department, prison administration, police, judiciary, and probation services officials. The policy made provision for conducting quarterly meetings with the aim of avoiding the build-up of cases awaiting consideration. This meeting was supposed to be conducted quarterly since all cases which have reached fourteen years as per Section 433A are entitled for consideration.

However, the importance of the 2004 policy cannot be overstated. Many prisoners who seek premature release were convicted prior to the coming into force of the Delhi Prison Rules, 2018. In State of Haryana v. Jagdish, the Supreme Court held that the remission policy in force on the date of conviction ordinarily governs the prisoner's entitlement to consideration, and that a subsequently introduced policy cannot be applied retrospectively if it is less beneficial to the convict. This principle has direct relevance to the functioning of the Sentence Review Board, as it requires the Board to identify and apply the policy most beneficial to the prisoner in accordance with the law prevailing at the time of conviction. Comprehending the 2004 policy therefore remains essential in cases involving prisoners convicted before 2018. However, the Delhi Prison Rules, 2018 superseded the previous policy insofar as future cases are

concerned. The Rules provide a more elaborate structure regarding remissions and early release. The concept of the Sentence Review Board as well as its functions are included in the Delhi Prison Rules, 2018. The rules include:

1. The composition of the board,
2. The frequency of meetings,
3. The eligibility of prisoners,
4. The criteria for early release, and
5. The process for recommendations.

In addition, it has been mentioned that according to the Rules, the Sentence Review Board has to convene at least once every quarter, and it is required to take into account consideration such as:

1. Behaviour in jail,
2. Performance on parole and furlough,
3. Restorative possibilities,
4. Age and family circumstances of the accused,
5. Nature of crime, and
6. Social reintegration possibilities.

It goes without saying that, on paper, the Delhi structure appears to be quite a well-constructed tool. However, the real problem and the core focus of this paper is not its structure but its execution.

B. Criteria governing Early Release

The criteria governing early release are not left in the discretion of the officials in the absence of guidance. Not only the criteria established by judiciary in Laxman Naskar but even the relevant criteria under Delhi guidelines provide specific considerations on which the Board must base its decision.

The relevant judicial criteria were laid down by the Supreme Court in "Laxman Naskar v. Union of India". The Court held that, while considering premature release, the competent authority must examine whether:

1. The offence is an individual act of crime without affecting society at large;

2. There is no chance of future recurrence of committing crime;
3. The convict has lost his potentiality in committing crime;
4. There is no fruitful purpose in confining the convict any further; and
5. The socio-economic condition of the convict's family warrants consideration.

These principles have subsequently been reaffirmed and elaborated by the Supreme Court in Rajo alias Rajwa alias Rajendra Mandal v. State of Bihar and Joseph v. State of Kerala, which emphasise that premature release decisions must be based on a holistic assessment of the convict's present circumstances, prospects of reformation, and the continuing necessity of incarceration.

Therefore, it is essential that the criteria are directed toward the status quo as opposed to basing their decisions based on past behavior. The 2004 policy and the 2018 Rules require the Board to assess factors such as conduct within prison, age, health, family condition, conduct during parole and furlough, and prospects of reintegration in terms of the status quo and future possibilities.

A sensible approach is one which takes both factors into account. It is nothing less than an arbitrary decision on the part of an authority which starts from scratch with its focus only on the original crime and fails to take into account all subsequent developments. Such an approach defeats the very object behind remission.

V. SENTENCE REVIEW BOARD UNDER THE DELHI FRAMEWORK

A. Composition of the Sentence Review Board

The composition of a decision-making body determines the quality of the decisions made by it. As a Board that decides on whether a prisoner is reformed must have expertise in many areas such as behavior in prison, law, integration into society, and rehabilitation, it requires members who can contribute knowledge and experience in various disciplines. This is why both the policy and the Rules provide for a multilevel structure of the Board.

According to the policy statement issued by the Lt. Governor on 16 July 2004, the following officials constitute the Sentence Review Board in Delhi:

1. Minister in charge of Prisons - Chairperson
2. Principal Secretary (Home), Government of NCT of Delhi
3. Secretary, Law, Justice and Legislative Affairs
4. District & Sessions Judge, Delhi
5. Chief Probation Officer
6. Senior police officer not below the rank of Joint Commissioner of Police nominated by Commissioner of Police
7. Director General of Prisons, Tihar Jail as Member Secretary

Prisons authorities have knowledge about conduct and behavior while the probation officer has knowledge about the situation in his/her family and possibility of reforming him/her. The judicial member helps in checking the legality of the reasoning while the police officer gives a verdict in regard to maintaining public order and stopping the person from committing further crimes. On paper, it seems like a truly multidimensional evaluation system. Prisons authorities should give an account of conduct during the prison term including behavior while attending the educational and professional courses along with any disciplinary actions. The police officers normally give a verdict in regard to any disturbances that might occur upon release of the prisoner.

B. Procedure Undertaken by the Sentence Review Board

As mentioned above, the SRB procedure involves making sure that decisions are based on factual evidence and not on impressions. The procedure undertaken by the Board under both the 2004 policy and 2018 Rules requires the examination of the case of each eligible prisoner by using a dossier.

It all normally starts when the lifer has served the minimum amount of time stipulated under the relevant policy guidelines. Under Section 433A of the Code of Criminal Procedure, such minimum time should be at least fourteen years of actual incarceration. However, even upon serving fourteen years, the prisoner will not automatically be released, but he would have become eligible for review by the Sentence Review Board. The first step after becoming eligible will be for the prison authorities to compile a full dossier on the prisoner. Such dossier will include:

1. The nature of his conviction and sentence
2. The total time served
3. His conduct in jail
4. The type of punishments and rewards received
5. Education and vocation programs followed
6. Conduct while under parole or furlough
7. Social and family background of the prisoner

This dossier will be further complemented by opinions and reports from other authorities concerned. One most important authority will be the Presiding Judge of the court that tried the prisoner. Under Section 432 of the Code of Criminal Procedure, now Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the proper Government will seek an opinion from the Presiding Judge before offering remission. Moreover, the police force is also expected to prepare a report on the potential of disrupting public order, societal threat, or possibilities of recidivism. It may also be asked to provide details regarding the criminal's familial background and possibilities of rehabilitation.

All the reports being prepared, the case is presented before the Sentence Review Board at its quarterly meeting. In consideration of the case, the Board takes into account many different considerations like,

1. severity of the crime committed,
2. role played by the convicted person,
3. behavioral patterns during imprisonment,
4. possibilities of rehabilitation,
5. physical age and health condition,
6. behaviors during parole or furlough,
7. reintegration into society.

It could be said that the Board's recommendation is only advisory in nature. Its recommendation is conveyed to the Lieutenant Governor, who makes the final call. But, as could be seen from the above discussion, the Board recommendation serves as an important milestone in the process. Despite the seemingly elaborate nature of the

procedure, there are several drawbacks associated with it. One of the main hurdles is delay in receiving reports from the police and Presiding Judge. In most instances, however, the views of either the police or Presiding Judge are treated as conclusive despite lack of any legal obligation on their part to do so.

C. Requirements for Quarterly Meetings and the Problem of Delay

The requirement of holding quarterly meetings constitutes the very lifeline of the process. Absence of which renders the cases of eligible prisoners beyond consideration. The quarterly minimum is clearly specified in both the policy of 2004 and the Rules of 2018, and there is no discretion in this matter. The right that is being violated here is not the right to release it is the right to have the issue of release seriously considered within time. If the Board does not meet, then the right has not been decided against the person in the case of a decision made through an exercise of discretion, but because no effort has been made to consider the matter at all. The situation becomes even more serious for people who have served much beyond the statutory minimum period. Every month that goes by without a meeting means a further month in custody without the matter having been considered for its justification. There are many instances where this problem has arisen in the High Court of Delhi.

Evidence of failure to comply with the quarterly obligation, however, has consistently been observed through judicial precedent. Courts have consistently highlighted that such meetings are not held on time; eligible cases are ignored; and large intervals arise between the time of eligibility and the time of decision. These are recurring incidents, and not mere administrative oversights.

Further delays result from receiving external reports. Given the fact that the Board has always waited for reports to be received before taking a decision, one such delay due to one report from the police service or a retired judge providing an opinion can delay a decision for a few months. The prisoner remains in jail neither denied parole nor granted parole simply because of the delay in getting external reports. The court in "Gopal Sarkar v. State of West Bengal" also observed that failure to take timely decisions amounts to unfair delay in incarceration. In the case of "Harpreet Singh v.

State (Govt. of NCT of Delhi)", the Delhi High Court observed that repeated delays in considering a prisoner's case and the failure to undertake a meaningful assessment of premature release are contrary to the reformative purpose underlying the penal system.

While the question of delay is more of an administrative concern, there are constitutional implications as well. The right to life and personal liberty is guaranteed under Article 21 of the Constitution of India, and arbitrary extension of period of imprisonment without a proper cause could be a violation of the same right. The irregularity in holding the meetings on a quarterly basis raises many constitutional concerns as regards Article 14 and 21. The Board needs to take the requirement of holding meetings quarterly seriously since it directly impacts on the liberty of the people who have become eligible for sentence review under the Act.

D. Factors Considered by the Sentence Review Board

The substance of the Board's assessment is equally as important as the timing of it. Both the 2004 policy and the 2018 Rules set out a number of considerations that the Board must weigh up, and the courts have made it clear that a multifactorial approach cannot be collapsed into one factor, regardless of how important that factor might be.

The nature of the offence and its consequences are legitimate factors to consider when a crime has had a wide impact on society. However, there must be an understanding of why such factors are considered by the Board. Resentencing is not within the scope of the process; the sentence was imposed during sentencing at the trial level. It is the responsibility of the Board to determine whether the offender has been rehabilitated during their time behind bars, and if the purpose of imprisonment still exists. This is the very reason why behavior is crucial to the determination of the Board. A well-behaved offender is one who has participated positively in the experience of imprisonment.

It also becomes significant how the prisoner behaves himself during his release on parole and furlough. In case if he was released on parole or furlough previously and returned back to jail in due time and without committing any breach of parole conditions, then it adds credibility to the possibility that the prisoner can be

successfully reintegrated into society. At the same time, the age of the prisoner, his state of health, as well as the conditions of his life can provide for the consideration of new criteria. For example, an aged prisoner and an infirmed person present totally different dangers than young ones, their health condition might not even let them repeat the same crime again. Supportive and healthy family and relationships are a positive indicator of future reintegration, and it is precisely what the probation report aims to evaluate. If the crime was committed by more than one person, then differentiation is necessary. Even if two prisoners were sentenced for the same crime, their roles in its commission can be totally different; this can be seen in the case of Wahid Ahmed.

In the case of Wahid Ahmed, the failure of the Board to take into account the nature of the actual act committed by the petitioners, together with their dependence on the characterisation of the offence rather than facts, resulted in a ruling that not only had factual errors but was legally flawed; it was an "arbitrary exercise of power" that disregarded crucial facts, which the Board ought to consider. Risk of reoffending and chances of reform are ultimately the two key issues that relate most directly to the justification for further confinement. In Laxman Naskar, the Board is required to honestly assess whether the inmate will commit another offense and whether his tendency towards criminal activity has ceased. Moreover, they must determine whether there is a penological reason for keeping him in prison.

What constitutes the core issue addressed in this research is the divergence between what is prescribed in legislation and court decisions and how the Board applies these legal requirements in practice. Cases, where more importance is attached to the seriousness of the crime than to proof of rehabilitation, are not an exception but a trend.

In the case of "Santosh Kumar Singh v. State (Govt. of NCT of Delhi)," it is observed that the Sentence Review Board tends to concentrate on the brutality of the crime alone while overlooking elements like the conduct of the prisoner, his age, his health conditions, and the possibility of his rehabilitation. The court emphasised that all relevant aspects must be taken into account by the Board and cannot ignore a case

simply because the offence is serious. It is this domination by the element of seriousness of the offence and exclusion of all other factors that is the most enduring criticism of the Board.

E. Problems in the Operation of the Sentence Review Board

Despite its intention to be a tool for reformative justice, the functioning of the Sentence Review Board in the context of Delhi has been found to possess various major shortcomings. Among those criticising its operations there are both judges in courts and academic writers. Some of the defects include irregular meeting times, lengthy periods before a hearing, automatic rejection of cases, excessive attention to the gravity of the offense and lack of detailed rationale for decisions. First of all, the main problem lies in the fact that the Board fails to schedule its meetings regularly. Quarterly meeting times are not set up to be achieved, they are required by law. Moreover, it seems that at times the Board simply ignores the number of cases to be reviewed, and the prisoners wait in queue endlessly.

Another defect of the Board is connected to its tendency to reject cases automatically. In many cases, the Board just mentions that the crime was heinous and therefore concludes that there is no point in releasing the prisoner. Such decisions do not consider other important aspects, like prisoner's conduct, age, state of his/her health, family conditions, parole behavior, or possibility of reform.

In the case of "Santosh Kumar Singh v. State (Govt. of NCT of Delhi)", the High Court of Delhi commented that the Sentence Review Board has formed a practice of rejecting remissions on the sole ground of the seriousness of the offence, without making a proper assessment of the present situation of the offender. It was remarked by the Court that such a practice runs contrary to the very object of granting remission. In addition to the former, the non-provision of a reasoned order makes the latter equally hard-to-tackle difficulty. Where there is no reason in the order passed by the Board, there can be no way of assessing whether it has considered the proper criteria or not. In fact, the lack of reasoning makes such a decision completely immune to judicial scrutiny, which could perhaps be one of its merits.

The rationale behind a decision is an essential aspect of the principles of administrative law. The government body having jurisdiction over the liberty of a person is supposed to provide its rationale. Although the above viewpoints hold merit, they do not hold legal standing. However, the Board usually gives them much weight. When the police object to releasing a prisoner owing to the severity of the crime committed or the possible reaction of the public, the Board usually rejects the application without conducting an impartial assessment.

In the case of "Rajo @ Rajwa @ Rajendra Mandal v. State of Bihar", the Supreme Court of India held that it would be unlawful for any authority to depend exclusively on the viewpoint expressed by the Presiding Judge. The court further said in the case of "Vinesh Fal Dessai v. State of Goa" that the opinions of the police do not hold more value than all other facts.

Another important defect associated with the Board's decision-making process is the failure to take into account the participation of the convict in the crime. In instances where there are numerous people charged with the same crime, the Board does not differentiate among the convicted offenders. The question became evident in the case of "Wahid Ahmed v. State (NCT of Delhi)" where the Board failed to appreciate the difference in the position of the petitioner compared to those primarily involved in committing offences. The Court held that the action taken by the Board was arbitrary.

VI. JUDICIAL REVIEW OF SENTENCE REVIEW BOARD DECISIONS

A. Scope of Judicial Review

The power to remit a sentence or grant premature release rests with the executive. Generally, courts will not substitute their discretion for that of the executive. The decision to release a prisoner is essentially a matter for the concerned Government and the Sentence Review Board. As these decisions affect the rights of prisoners, it follows that they cannot escape judicial review.

The judicial review in cases of remission and premature release is based upon Articles 14 and 21 of the Indian Constitution. Article 14 prohibits the arbitrariness of the State and requires reasonableness in decision making. Article 21 guarantees that no person

may be deprived of his personal liberty except according to the procedure prescribed by law. Such a procedure must be fair and just.

Thus, although a prisoner does not possess any basic right towards premature release, he has a right towards proper assessment and consideration of his case according to the law. A dismissal of a prisoner's case by the Sentence Review Board on unjustifiable grounds, ignoring important aspects or considering only the gravity of the offense committed could result in a rather arbitrary deprivation of one's freedom. Such a differentiation between two different rights was set by the Supreme Court in the ruling of Zahid Hussain v. State of West Bengal, whereby the Court noted that, although remission could not be regarded as an individual's right, every eligible convict had a right to have their case assessed under the necessary procedure and principle of law. Such a right is enforceable.

In other words, judicial review is an important part of the structure that helps correct specific cases of malpractice by the Board and create standards due to its accumulative power.

B. Whether Decisions of the Sentence Review Board are Subject to Judicial Review

Others maintain that whether to grant remission or to release the convict early or not is a wholly executive matter; the judiciary ought not to interfere with the decision of the Sentence Review Board in this regard. As the Constitution as well as the Code of Criminal Procedure does not guarantee the automatic release of prisoners, the decision taken by the Sentence Review Board in the instant matter would be final.

This stance has been rejected by the Courts. The judiciary is unequivocal on one point, while a prisoner does not have a right to release himself, he surely has a right to a proper and reasonable review of his case. In view of the same, the decision of the Sentence Review Board is amenable to judicial review if found to be violative of any constitutional/legal norms. The difference is too significant to be overlooked. No prisoner has any vested right to remission. Eligibility makes him entitled to consideration but not to favorable consideration. The Government has the last say in

the matter. However, after such consideration has begun, it must necessarily be a serious affair.

Zahid Hussain v. State of West Bengal reflects the principle that, although a convict has no vested right to premature release, he has a legally enforceable right to fair and lawful consideration under the applicable remission policy. This principle was comprehensively reaffirmed in State of Haryana v. Jagdish, where the Supreme Court held that executive discretion under Section 432 of the Code of Criminal Procedure must be exercised in accordance with the remission policy applicable to the convict and remains subject to judicial review if exercised arbitrarily, irrationally, or contrary to the governing policy. These principles define the limits of executive discretion and confirm that remission decisions are not immune from constitutional scrutiny.

The same logic is applicable to the Sentence Review Board since it is a public body with the power to affect a prisoner's liberty. Therefore, the board's decision should pass constitutional tests for fairness. The courts have interfered with the Sentence Review Board's decision when,

1. It fails to take into account crucial information.
2. The decision is based only on the gravity of the offense.
3. No reasons are given.
4. Police opinions are considered alone.
5. There is no case review although the prisoner qualifies.

For example, in the case of “Wahid Ahmed v. State (NCT of Delhi)” , the High Court of Delhi was compelled to intervene due to the failure of the Board to appreciate the true status of the person petitioning and the misapprehension of facts. Again, in the case of “Santosh Kumar Singh v. State (Govt. of NCT of Delhi)” , it has been observed that the policy of denying remission on the basis of the gravity of the crime committed was against the spirit of remission.

C. Jurisdiction of the High Court under Article 226

Jurisdiction of the High Court in intervening in the decisions taken by the Sentence Review Board emanates from Article 226 of the Constitution of India. Article 226

confers upon every High Court jurisdiction to issue directions or orders or writs for enforcement of any of the rights conferred by Part III of the Constitution of India and for any other purpose. Since the decision of the Sentence Review Board affects the personal liberty of a person, the High Court can invoke its writ jurisdiction if the decision is unreasonable, arbitrary, and illegal.

It is essential to note that, in most cases, there is no effective alternative remedy against the decision of the Sentence Review Board. It would generally not be possible for an applicant whose case has been rejected by the Sentence Review Board to challenge that decision. Therefore, the only remedy would be to approach the High Court under Article 226. The State's arguments from time to time that the remissions are immune from the writ jurisdiction as the decisions fall within the sphere of executive discretion have no legal support whatsoever.

"The judgement in the case of Whirlpool Corporation v. Registrar of Trademarks", however, aids in understanding the jurisdiction of the High Court in such matters. In this case, the Court held that the presence of an alternate remedy will not deprive the Court of exercising jurisdiction under the writ were:

1. the matter infringes any fundamental right,
2. a quasi-judicial body has acted ultra vires its powers, or
3. there is arbitrariness or contravention of the principles of natural justice in deciding the case.

While the case of Whirlpool Corporation did not deal directly with the issue of remission, the principles enunciated in this case were often relied on by Courts while considering matters before the Sentence Review Board.

This can be seen in "Harpreet Singh v. State (Govt. of NCT of Delhi)", where the State contended that the petitioner could not invoke Article 226 because premature release falls within the domain of executive discretion. Rejecting this contention, the Delhi High Court held that it is fully empowered to examine whether the Sentence Review Board has acted arbitrarily, unreasonably, or contrary to law. The Court further observed that, where the Board persistently fails to comply with legal and

constitutional requirements, the High Court may issue appropriate directions, including, in exceptional cases, an order directing the prisoner's release.

This is a mechanism meant to ensure the higher value of achieving what should be achieved, that is, a lawful and fair evaluation of the prisoner's sentence.

D. Speaking and Reasoned Decisions Requirement

One of the general principles of public power is that all authorities must make sure that there is a reasonable explanation for their decisions. In fact, this requirement becomes extremely important when the individual's freedom becomes affected by such decisions. This means that the Sentence Review Board, which decides on the freedom of the prisoner, must make a reasonable decision.

A reasoned order is multifunctional. It ensures discipline for the decision maker by compelling him/her to engage seriously with the facts of the case rather than falling back into a mere formula. It also ensures that the prisoner is adequately informed as to why his/her case was rejected. Thirdly, it ensures that the review court has before its adequate material to determine if the decision was a legal one. The provision of no reason makes impossible each and every one of these objectives. In the case of Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan, the Court established this principle in terms of constitutional administrative law, giving reasons is an essential element of legality, which in turn is a requirement of the rule of law.

In respect of the Sentence Review Board, however, the obligation is especially important. A prisoner who has spent fifteen, twenty or even thirty years in prison and who is having his/her case rejected deserves to be told out of sheer courtesy why the State thinks it necessary to keep him/her in prison. The reason that has been followed by the Board in the past has never been adequate. The mere fact that an order of the Board states that the prisoner is "not fit for premature release" or that the nature of the offense is "grave and heinous" does not amount to a reason. It is merely a conclusion masquerading as a reason which does not show whether or not the factors such as conduct while in prison, age, state of health, role played in the crime, and prospects of rehabilitation were considered by the Board.

The High Court of Delhi was crystal-clear regarding this point in Santosh Kumar Singh; mechanical orders do not serve the purpose of giving reasons. The Board has to consider each of the important matters mentioned above and then show how on the basis of those considerations premature release may not be granted to the petitioner. Failure to comply with this obligation amounts to failing in one's basic administrative responsibility.

In essence, the requirement for reasons cannot be considered as mere procedure. It is rather a constitutional obligation which is necessary under Articles 14 and 21 where a public authority decides upon personal liberty in its exercise of power. If an SRB order does not meet this standard, then it would be legally flawed and can be overturned during judicial review.

VII. CRITICAL EVALUATION OF THE FUNCTIONING OF THE SENTENCE REVIEW BOARD

A. Delays and Irregular Meetings

Irregularity of the Board in conducting meetings regularly is one of the most apparent and administratively straightforward aspects of its deficiencies because it is stipulated clearly by law and it was repeatedly proven in cases. The obligation of the Board to conduct meetings every quarter was intended to guarantee that no eligible prisoner would be left to wait in vain and no administrative mechanism would remain idle.

Indeed, the courts concluded that this obligation is ignored. The Board often conducts its meetings only several months or even years after the previous one and sometimes despite the organization of the meeting, the review of all eligible cases cannot be ensured. The actual result of this situation is that those prisoners who spent at least the minimum amount of time set by law wait for several months or even years before any decision regarding their cases can be made. There are also no fixed periods for the reports from third parties. The Board's policy of waiting for all its reports before taking any action thus means that a late reply to one report may result in an indefinite delay caused by the failure of the Board to consider the case. This lack of a definite deadline

and the ability of the Board to proceed based on whatever information is available to it after the said period has expired makes it impossible to avoid such delay.

The reason why it is worth repeating here is due to the fact that the prisoner's right has to do not with his release but with his right to have his case properly considered. If there is no consideration, then that right is being violated.

The constitutional ramifications are grave. The right to life guaranteed under Article 21 cannot be fulfilled if there exists incarceration based on any form of administrative lethargy without any decision being made. The principle of equality under Article 14 will be applicable where two prisoners under similar circumstances are treated differently based solely on the fact that their respective cases were scheduled to appear before the Board. Failure by the Board to hold quarterly meetings is not merely an administrative matter but a serious issue relating to law and constitution.

B. Over-reliance on the Offence's Severity

One of the most common criticisms about the operations of the Sentence Review Board is the way it has a tendency to base almost all of its decisions on the severity of the crime committed when considering whether to grant parole for prisoners under the board's jurisdiction. In some cases, the refusal to grant parole is made based merely on the fact that the crime is heinous, brutal, and/or unacceptable to society.

Offence gravity can indeed be considered as part of the decision-making process, and there is nothing inane with the idea. It must be emphasized that murder and acts of terrorism are not comparable to petty larceny, among other crimes, in terms of severity. What makes the issue more complex is that, when the decision-making process is centered solely on offense gravity, then it is not a case of ignoring relevant information. Rather, it means that the process itself does not consider anything else. The sentencing review process requires the consideration of what occurred since then, but a focus on the conviction's permanence fails to raise this important question: Has the person become incapable of committing crimes? Answers to these questions cannot be drawn from consideration of the nature of the offense committed alone. These answers depend on events that happened in the course of time since then.

In cases of high-profile murders, terrorism, and other crimes that received wide coverage in the press, the Board's policy has been particularly detrimental. What seems to be the guiding principle in such cases is that the magnitude of the crime justifies everything, despite what the offender's disciplinary record in jail says. This attitude has been condemned repeatedly by the courts, and it speaks to the board's focus on social visibility and public expectation, not on legal principles.

This policy was harshly denounced by the Delhi High Court in "Santosh Kumar Singh v. State (Govt. of NCT of Delhi)." The Court said that the habit which has taken shape at the Board is to refuse consideration to any application for remission in cases where there was an exceptionally brutal offense, since such approach is contrary to the very aim of remission, as it ties the inmate to his/her previous conduct. It follows from Joseph v. State of Kerala that if long imprisonment and rehabilitation are both evident at the same time, continued refusal to recognize such an achievement on account of the initial crime alone is contradictory in itself. This would defeat the very purpose of the sentence review procedure. Harpreet Singh made the most glaring example of such contradiction. Years of good behavior during detention and success after being released on parole did not affect the Board's perception of the case in any way.

The only possible legal evaluation of such conduct in this situation can be a finding of arbitrariness. Any decision which does not take into consideration information which it is bound to examine cannot be called a reasoned one.

C. Mechanical and Non-speaking Decisions

Often, too, the Board's decision is no more revealing than it is brief. A statement that the offender is "not ready for early release" or that the offence was "grave and serious" says absolutely nothing about how the Board came to its decision. There is no explanation of the factors taken into consideration, let alone the weights attached to different factors, and least of all the logic by which one side of the balance outweighed the other.

Reason giving in such matters is not an exceptional duty in remission orders, but one of the hallmarks of administrative law whenever the use of public power impacts individual rights. Reason giving shows that the authority made a consideration of the

evidence, allows the individual who was affected to know why the result was achieved, and enables judicial scrutiny by recording what led to the decision. Without reason, none of this would be possible. In the case of the Delhi Sentence Review Board, these conditions do not apply:

1. Whether the conduct of the prisoner while in prison was taken into account,
2. whether their conduct on parole or leave was taken into account,
3. whether their age, health condition or family considerations played a part,
4. whether they were likely to reoffend, or
5. whether their further detention was required.

The impression given by such repetitive formulaic orders is that the order was reached before reasoning took place. What appears to happen in far too many cases is that the Board decided without deliberating. The reaction of the Delhi High Court in Santosh Kumar Singh was unambiguous on this point. It has to give a clear reason why, in view of the prisoner's behavior, imprisonment period already served, and other relevant factors, release would not be justified. A non-explanatory order is not just ineffective, but legally untenable as well, since it does not provide any justification for the conclusion that the necessary criteria have been taken into account.

D. Over-reliance on the Police Opinion

The over-reliance by the Board on the police opinion is another dimension of the Board's failure. There is nothing wrong with the police providing their opinions because they can evaluate whether the person being reviewed will pose any risks of becoming a repeat offender and affect public order, something that the other members of the board cannot do since they come from other fields. However, there are more dimensions to the issue, and that of the police is just one of them. Furthermore, the police's opinion tends to carry too much weight in decisions. When the police are against the release of a convict, the Sentence Review Board often refuses even considering the case to evaluate whether there are any objective reasons behind the police position. Police report usually object to the early release of the convict on the basis that:

1. The offense committed was serious/severe,

2. The family of the victim will be against the release of the prisoner,
3. There might be public reaction against his/her release,
4. He/she might again affect public order.

The irony here is obvious – the Board's decisions tend to rely heavily on the gravity of the offence, police reports also rely heavily on the gravity of the offence to justify their position against release, and the acceptance of the police reports uncritically by the Board leads to the use of a single-factor approach in the input and the output of the process.

In summary, the overall impact of the deferral to the police is to strengthen the penal approach that dominates the work of the Board. A Board that defers to assessments made by the police based on the severity of the original offence is one that irrespective of its preambles considers punishment its core function.

VIII. FINDINGS AND RECOMMENDATIONS

A. Major Findings of the Study

Perhaps the first and foremost findings from the research are that there is nothing wrong with the system of rules and regulations. The constitutional foundation based on Articles 72 and 161, along with the statutory provisions in Section 432 to 433A CrPC (Section 473 to 475 BNSS), the policy of 2004 and the Rules of 2018 form a fairly coherent body of rules that, if executed properly, could provide fair and reformatively oriented results.

The second conclusion is derived from the first one and states that execution is the major problem here rather than design. The requirements for quarterly meetings have not been met. Eligible prisoners wait for long until their cases are considered. The right to timely consideration, the only right they enjoy, gets violated through bureaucratic inactivity.

Finally, the research proves that Sentence Review Board makes decisions that lack both logical and factual basis. The board justifies denial of request to be released by indicating the seriousness of the crime. Yet, nothing about the decision-making process gets reflected in the documents - the board fails to indicate if they considered

various factors such as behavior in prison, age, health, family status, or rehabilitation perspective.

Fourth and last, the Board's bias toward weighing heavily the gravity of the offence in question is the gravest problem identified in this study. Even if this consideration is a valid factor among several, the tendency towards weighing the one over the others results in the Board's overlooking all other considerations, i.e. prisoners being evaluated not based on how they have changed during their years of imprisonment but based solely on the nature of their crime.

Some of the key areas where this oversight may be seen are as follows:

1. lack of consideration for the prisoner's conduct in jail
2. absence of recognition for educational/vocational success
3. disregard for successful completion of parole/furlough
4. lack of concern regarding role differentiation of the accused

It has been exemplified by Wahid Ahmed v. State (NCT of Delhi).

Sixth, the Board tends to attach too much weight, legally unjustifiably, to the views expressed by the Police, as well as by the Presiding Judge, in certain instances. The delegation of the power of determining the validity of the allegations raised by the concerned sources to the Board without the necessity of conducting an independent inquiry as to whether the allegations made against the accused inmate are based on facts related to the inmate's current situation violates the legal framework.

The study further points out that there is an increasing tendency to involve judges because of the failure of the Sentence Review Board to adhere to its own rules and regulations. Examples include "Santosh Kumar Singh v. State (Govt. of NCT of Delhi)" and "Harpreet Singh v. State (Govt. of NCT of Delhi)."

Overall, it may be concluded that the existing functioning of the Sentence Review Board serves as a continuation of punishment rather than as a way for rehabilitation. Reformative scheme established by the law in question has become ineffective due to the approach taken by the board that reduces the consideration of the case to

evaluating the offense in light of which the sentence was issued. Such an approach contradicts both the legal provisions and constitutional rights of prisoners.

B. Recommendations

Given the above issues which have been identified in the earlier chapters, the proposed reforms for making the Sentence Review Board function effectively in Delhi are as follows:

1. The quarterly meeting rule should be followed properly. The Sentence Review Board must be compelled to conduct its meeting every three months. A schedule of meetings must be drawn up at the beginning of the year and made known to the public.
2. Timelines must be set as to when reports can be obtained from the prison authorities, the police, the probation officer, and the presiding judge. Generally, the reports must be received within thirty days. If no report is received within the stipulated period, the Board must take its decision based on the material available.
3. Each decision made by the Sentence Review Board should be accompanied by an order specifying:
    - What considerations were given weightage;
    - What evidence was considered relevant;
    - The reason for giving or refusing the request;
    - The grounds for considering it necessary to continue imprisonment.
4. The law should specify that while the seriousness of the offense is important, it can never be the sole or determining factor. In addition, the Board should take into account:
    - Conduct while in jail;
    - Conduct on parole and furloughs;
    - Age and physical condition;
    - Family conditions;
    - The extent of the convict's participation in the crime;
    - The factors mentioned in "Laxman Naskar v. Union of India".

5. The membership of the Sentence Review Board should be increased. Besides the police officer and prison official, the board should consist of:
    - A psychologist;
    - A criminologist;
    - A social worker;
    - A rehabilitation specialist.

This would help determine if the convict has been reformed and if he is fit to be integrated back into society.

6. The views of the police officer and the trial judge should not carry conclusive weight. The law should clarify that these views are only advisory in nature, and the Board must be independent.
7. A digital monitoring system can be created for all the eligible prisoners which would include:
    - The date after which the prisoner becomes eligible for early release,
    - The status of the case,
    - The number of reports that have been received,
    - The reasons why there were delays.
    - The creation of such a system will help ensure that the case of an eligible prisoner does not remain pending because of administrative reasons.
8. It must be ensured that the Sentence Review Board operates on a transparent basis. For this purpose, they must publish annually the following information:
    - The number of cases considered,
    - The number of releases granted,
    - The number of refusals, and
    - The overall reasons behind the refusals.
9. The Sentence Review Board's working procedures must be reviewed regularly by the judiciary. In this regard, the Delhi High Court or an independent committee can examine whether the Board is holding its quarterly meetings and passing orders.

10. Lastly, the rules under the Delhi Prison Rules, 2018 must be amended to make these recommendations a part of it. Unless the courts' recommendations are made binding through amendments in law, the problems may continue

C. Conclusion

However, the mandate of the Sentence Review Board is ultimately about determining whether there is still enough justification for retaining this individual behind bars. And such determination can only be made by focusing on the prisoner as an individual at present not as he/she was at the time of the offense. If a system of review takes only the past into consideration, then it is not really carrying out any kind of review process; rather, it is validating the original sentencing.

This study has demonstrated that Delhi's laws regarding remission have a reformist focus. At the same time, however, it has been proven that the Sentence Review Board tasked with implementing those laws does not actually fulfill that task. This is the key discovery of the research conducted within the framework of this paper. The proposed reforms are therefore quite moderate; they are calling on the Sentence Review Board to do what it was originally intended to do. They ask it to convene on a regular basis, to think logically, to consider evidence of change, to consider rehabilitation, and to be open about their deliberations. This is not much to ask, but were they to satisfy these requirements, it would mark an end to the current process of sentencing review and return it to what it always should have been: a process of recognizing and rewarding true human transformation.

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