



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1469 OF 2024

Ashok S/o Ramhari Gharat

Age: 50 years, Occu: Driver & Agri.,

R/o. Mahajanwadi, Tq. & Dist. Beed

... PETITIONER

VERSUS

1] The Divisional Commissioner,
Chhatrapati Sambhaji Nagar,
Tq. & Dist. Chhatrapati Sambhaji Nagar

2] The Sub Divisional Officer @
Magistrate, Beed,
Tq. & Dist. Beed

3] Neknur Police Station, Neknur
Tq & Dist. Beed,
Through its Inspector

... RESPONDENTS

....

Mr. Amol S. Gandhi, Advocate for the Petitioner

Ms Chaitali Chaudhari – Kutti, APP for the Respondents – State

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 18.02.2025

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. With consent
of both the sides it is heard finally.

2. By the present Petition under Article 227 of the Constitution of India, the Petitioner impugned the order dated 11.07.2024 passed by Respondent No.1 Appellate Authority, whereby upheld order dated 19.04.2024 passed by Respondent No.2 Sub Divisional Officer @ Magistrate, Beed, externing the Petitioner for a period of one year.

3. The Police Authorities have sought to invoke Section 56 of the Maharashtra Police Act and issued a notice dated 06.01.2024 to the Petitioner calling upon him to submit explanation as to why he should not be externed from Beed, Dharashiv and Ahmednagar Districts because of registration of following crimes:

- i) *Crime No.28 of 2016 registered against him for the offence punishable under Section 379 of Indian Penal Code and Section 26-F, 41 of the Forest Act,*
- ii) *Crime No.48 of 2017 for the offence under Section 379 of I.P.C. read with Section 26-F, 41 of the Forest Act, Section 3 and 4 of the Maharashtra Forest Act.*
- iii) *Crime No.137 of 2019 for the offence under Sections 379 of Indian Penal Code read with Section 26-F, 41 of the Forest Act, Section 3 and 4 of the Maharashtra Forest Act,*
- iv) *Crime No.168 of 2022, for the offence under Section 379 read with Section 34 of Indian Penal Code and Section 26-F, 41, 42 of the Forest Act and*
- v) *Chapter Case No.43 of 2023 under Section 107 of the Code of Criminal Procedure on 31.03.2023.*

4. Accordingly, the Petitioner submitted his reply and stated that, he is belonging to the Agricultural family. His wife, two sons and old aged parents are dependent on his income. He has no source of income except agriculture labour work. He further stated that, Crime No.104 of 2015 registered with Neknoor Police Station against him due to bad company of other accused persons. The Police Authority filed chargesheet against him in the said crime, which is later on registered as R.C.C. No.459 of 2016. After conclusion of trial, he is acquitted in said crime. Thereafter, Crime No.34 of 2012 was registered against him with Pimpalner Police Station. After investigation, the chargesheet was filed against him, which later on registered as R.C.C. No.377 of 2013. After conclusion of the trial, he is acquitted in said crime. In crime No.28 of 2016, charge sheet was filed and it was registered as R.C.C. No.45 of 2016, but on conclusion of trial, he is acquitted on 17.05.2019. Further Crime No.48 of 2017 registered against him with Neknoor Police Station, but trial of said crime is pending. The trial of R.C.C. No.272 of 2017 and R.C.C. No.14 of 2020 are pending against him and other accused. Another Crime No.168 of 2022 was registered with Neknoor Police Station and after filing of charge sheet it is registered as R.C.C. No.193 of

2023 but trial is pending. According to the Petitioner, he has been falsely implicated in all these crimes and he is having hope of his acquittal in all these crime. However, due to service of notice under Section 56(1)(A)(B) of the Maharashtra Police Act, his family is facing problems. So also, his family members are suffering agony and they are deprived from his income. It is further submitted that, hereinafter the petitioner would be obedient citizen and would became a good father for his children. However, on 19.04.2024, the Respondent No.2 passed an order and externed the Petitioner for a period of one year from entire Beed District.

5. Being aggrieved by the said order, the Petitioner filed Appeal under Section 60 of the Maharashtra Police Act. On 11.07.2024, the Respondent No.1 passed the impugned order and upheld order of externment passed by Respondent No.2 on 19.04.2024.

6. The learned counsel for the Petitioner canvassed in vehemence that, the impugned orders passed by the Respondent Police Authorities, are with utter disregard to the principles of natural justice and contrary to the provisions of Section 56 of the

Maharashtra Police Act, 1951. Therefore, both the orders are not sustainable in the eyes of law. It is further canvassed that, though Respondent No.2 passed an order on 19.04.2024 holding that, the statements of confidential witnesses (A) and (B) are recorded but the Respondent No.2 fail to verify said statements personally to arrive at conclusion that due to activities of the Petitioner there is danger to life of the citizens and property. So also, the witnesses are not coming forward due to terror of the Petitioner. The offences which have been considered while issuing notice under Section 56 of the Maharashtra Police Act but the Petitioner already acquitted in Crime No. 28 of 2016 registered with Wadwani Police Station under Section 26 F, 41 of Forest Act and Section 379 of I.P.C. and in Crime No.137 of 2019 registered with Neknoor Police Station for the offence under Section 379 read with 34 of I.P.C. and Section 26 F, 41 of the Indian Forest Act and Section 3 and 4 of the Maharashtra Forest Act. Therefore, the Police Authorities could have discard both offences while passing the order of externment. However, both the authorities below have failed to consider acquittal of the petitioner in two crimes. Therefore, the impugned order is illegal, bad in law, hence, prayed for quash and set aside the same impugned orders.

7. Per contra, Shri Chandrakant Govind Gosavi, Assistant Police Inspector, Neknoor Police Station, filed reply affidavit and strongly opposed the Petition. The learned APP canvassed that, on 06.01.2024, the Petitioner served with the notice under Section 56(1) (A)(B) of the Maharashtra Police Act and called upon the Petitioner to submit his cause as to why he can not be externed from entire Beed, Dharashiv and Ahmednagar Districts due to his various criminal activities and registration of several crimes. The Petitioner is indulged into serious nature of crimes and his behaviour in society is danger to life of persons in the society and property. So also, due to terror of the Petitioner, the witnesses are not coming forward to depose against him. Though the Petitioner submitted his reply but it was not found proper and satisfactory. Therefore, on 19.04.2024, the Respondent No.2 passed an order considering statements of witness A and B (confidential), who have stated that the Petitioner is engaged into committing theft of sandalwood and causing extortion of money from the people in society by issuing threats. So also, the Petitioner indulged into dealing with illegal business of selling of sandalwood with the help of some peoples from the society and issuing threats to the citizens. Therefore, there is danger to the life of shopkeepers,

businessmen and normal people. It is further canvass that, due to criminal activities of the Petitioner no one coming forward to lodge a report against the Petitioner.

8. The learned APP further canvassed that, while passing the order dated 19.04.2024, the Respondent No.2 considered the reply filed by the Petitioner and externed the petitioner for a period of one year from entire Beed district. On 11.07.2024, the Respondent No.1 appellate authority passed the impugned order and upheld order passed by the Respondent no. 2. The Respondent Police Authorities have complied with principles of natural justice by giving sufficient opportunity to the petitioner to submit reply and provided sufficient opportunity of hearing.

9. It is further canvassed that, initiation of externment proceeding under Section 56 of the Maharashtra Police Act is an administrative action to prevent the particular person from indulging into criminal activities and to prevent from committing similar nature of crimes in the society. Therefore,said administrative action cannot be interfered by this Court.

10. In support of these submissions, the learned APP placed reliance on the case of *N.C.T. of Delhi and Anr. Vs. Sanjeev alias Bittoo, AIR 2005 SC 2080*, wherein the Hon'ble Apex Court has held that, the Courts will be slow in interfering in the matters relating to administrative functions unless decision is tainted by any vulnerability like illegality, irrationality and procedural impropriety.

11. Keeping in mind the guidelines laid down by the Hon'ble Apex Court in cited case, I have gone through the petition paper book. In case-in-hand it is not disputed that, the Petitioner served with the notice dated 06.01.2024 under Section 56(1)(A)(B) of the Maharashtra Police Act, 1951 and he was called upon to submit his reply as to why he should not be externed from Beed, Dharashiv and Ahmednagar Districts for a period of two years, due to registration of (1) Crime No.28 of 2016 with Wadwani Police Station, (2) Crime No.48 of 2017 with Neknoor Police Station, (3) Crime No.137 of 2019 with Neknoor Police Station, (4) Crime No.168 of 2022 with Neknoor Police Station and (5) Chapter Case No.43 of 2023 registered with Neknoor Police Station.

12. Indeed, the Petitioner submitted his cause stating that, he is acquitted in Crime No.104 of 2015 registered with Neknoor Police Station, Crime No.34 of 2012 registered with Pimpalner Police Station and Crime No.28 of 2016 registered with Neknoor Police Station. The notice dated 06.01.2024 does not disclose about registration of Crime No.104 of 2015 with Neknoor Police Station and Crime No.34 of 2012 registered with Pimpalner Police Station.

13. No doubt, the Petitioner acquitted in Crime No.28 of 2016 vide Judgment and order dated 17.05.2019. Further, vide judgment and order dated 18.01.2024, the Petitioner is acquitted in Crime No. 137 of 2019 registered with Neknoor Police Station for the offences under Section 324, 341, 323, 504, 506 of I.P.C. However, trials of other crimes are pending against the Petitioner before the competent Court. As per Notice dated 06.01.2024, Crime No.28 of 2016 only registered with Wadwani Police Station, Taluka Wadwani, District Beed and other offence described at Serial Nos. 2, 3, 4 and 5 are registered with Neknoor Police Station, District Beed. Since the Petitioner indulged into various criminal activities committing theft of sandalwood and causing danger to the life of citizens and properties. The offences allegedly committed by the petitioner are covered under

Chapter 17 of I.P.C. Therefore, Respondent No.2 authority require to consider criminal and endanger activities of the Petitioner within the jurisdiction of particular Talukas. Since, the Petitioner is not indulged into any such criminal activities in other talukas except Wadwani and Beed Talukas, therefore, the Petitioner could have been externed from Wadwani and Beed Talukas. However, while passing the order dated 19.04.2024, the Respondent No.2 Authority has not assigned any reason for externment of the Petitioner beyond Wadwani and Beed Talukas, though the petitioner has not indulged into criminal activities in other talukas of Beed District. On 11.07.2024, the Respondent No.2 passed the impugned order and upheld order dated 19.04.2024 passed by Respondent No.2 just to prevent criminal activities of the petitioner. Therefore, considering nature of crimes registered against the Petitioner as well as his fundamental rights of granted under Article 19 of the Constitution of India in respect of free movement, it would be just and proper to extern the Petitioner from Wadwani and Beed Talukas and the Petitioner cannot be externed from entire Beed district. In view of above discussion, impugned order dated 11.07.2024 passed by Respondent No.1 upholding order dated 19.04.2024 passed by Respondent No.2 needs

to be modified to the extent of area of externment for Wadwani and Beed Talukas. Accordingly, impugned order dated 11.07.2024 passed by Respondent No.1 arising out of order dated 19.04.2024 passed by Respondent No.2 is hereby modified and order of externment of the Petitioner is restricted to the extent of Wadwani and Beed Talukas.

14. Accordingly, Rule is made partly absolute. Writ Petition is disposed of.

[Y. G. KHOBRAGADE, J.]

SMS