



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5537 OF 2024**

Vikas Arjun Davkhar	...	Petitioner
versus		
The State of Maharashtra and Ors.	...	Respondents

Mr. Aniket Vagal, for Petitioner.
Mr. P.P.Malshe, AGP for State.
PSI Amol Gaidhani, Igatpuri Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 9 OCTOBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This Petition under Articles 226 and 227 of the Constitution of India takes exception to a judgment and order dated 24 April 2024 passed by the Divisional Commissioner, Nashik, in an appeal No.22 of 2024, whereby the appeal preferred by the Petitioner under Section 60 of the Maharashtra Police Act, 1951 (the Act of 1951) against the externment order passed by the Competent Authority under Section 56(1)(a) of the Act, 1951 came to be dismissed.
3. The background facts can be stated, in brief, as under :
 - 3.1 A proposal to extern the Petitioner from the Nashik and Thane Districts by invoking the powers under Section 56(1)(a) and (b) was initiated against the Petitioner on the ground that the following crimes were registered against

the Petitioner :

Sr. No.	Police Station	Crime No.	Sections	Remarks
1	Igatpuri	26/2013	324 of IPC	Acquitted
2	Igatpuri	79/2015	435, 323, 504, 506, 427, 34 of IPC	Acquitted
3	Igatpuri	11 of 2017	395, 397, 354, 341, 120B, 427, 504, 506 of IPC	Subjudice
4	Igatpuri	177 of 2022	307, 326, 323, 143, 147, 148, 149, 504, 506	Subjudice

3.2 With reference to the aforesaid antecedents, it was, inter alia, alleged that the movements or acts of the Petitioner were causing or calculated to cause alarm, danger or harm to person or property and there were reasonable grounds for believing that the Petitioner was engaged in the commission of the offences involving force or violence or offences punishable under Chapters XVI or XVII of the Indian Penal Code, and the witnesses were not willing to come forward to give evidence in public against the Petitioner as they apprehended safety of their person or property.

3.3 The Petitioner was given an opportunity to show case against the proposed action.

3.4 The Competent Authority, after appraisal of the material on record, came to the conclusion that the Petitioner had created a reign of terror, and, therefore, the witnesses were not coming forward to depose in public against the Petitioner. Thus, the Petitioner was ordered to be externed from Nashik

and Thane Districts for a period of two years.

3.5 Being aggrieved, the Petitioner preferred an appeal before the Divisional Commissioner, Nashik, under Section 60 of the Act, 1951. The Appellate Authority found not fault with the order passed by the Competent Authority, and, thus, the appeal came to be dismissed affirming the order passed by the Competent Authority.

3.5 Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

4. Mr. Vagal, learned Counsel for the Petitioner, submitted that the impugned action of externment was wholly unsustainable. Out of the four crimes arrayed against the Petitioner, in two of the crimes i.e. C.R.No.26 of 2023 and 79 of 2015, the Petitioner was duly acquitted by the competent Courts. The third crime i.e. C.R.No.11 of 2017 had no nexus with the action of externment as the period of more than six years had elapsed since the registration of the said crime. Moreover, Mr. Vagal would urge, this Court by an order dated 23 April 2025 in WP No.1471 of 2025 has quashed and set aside the externment order passed against the co-accused in C.R.Nos.11 of 2017 and 177 of 2022 (Sr. Nos.3 and 4 above) as the live link had snapped. Lastly Mr. Vagal would urge, the statement of the confidential witness is also of no assistance to the prosecution as the said statement is as general and vague as it could be.

5. Mr. Malshe, learned APP, made an endeavour to support the impugned

order. It was submitted that the subjective satisfaction recorded by the Competent Authority is not open for interference in exercise of the writ jurisdiction.

6. A bare perusal of Section 56 of the Act, 1951 would indicate that the power of removal of persons from the particular area is not unregulated or uncanalised. The authority exercising the power of removal of persons is required to arrive at a subjective satisfaction about the compliance of the grounds in sub-section (1) of Section 56 on the basis of objective material. If the removal of person is to be justified under clause (a) of sub-section (1) of Section 56, it has to be demonstrated that the movements or acts of such person are causing or calculated to cause alarm, danger or harm to the person or property. For clause (b) of sub-Section (1) of Section 56, the Competent Authority has to satisfy itself that there are reasonable grounds to believe that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapters XII, XVI and XVII of the Indian Penal Code. A further condition needs to be satisfied if the removal is to be justified under clause (b) of Section 56(1), namely, the Competent Authority empowered to pass such order should be of the opinion that the witnesses are not willing to come forward to give evidence in public against such person by reason of threat to their person or property. Such an opinion is also required to be formed on the

basis of objective material.

7. The order of externment has serious ramifications. First and foremost, it impinges upon the personal liberty of a citizen guaranteed under the Constitution. Secondly, such an order displaces a person from his home and surroundings, and often affects the livelihood of the proposed externnee and the persons dependent upon him. Thirdly, the order of externment being of extra-ordinary nature, must draw support and sustenance from the extra-ordinary circumstances. It cannot be resorted to deal with a mere law and order problem.

8. Reverting to the facts of the case at hand, out of the four crimes arrayed against the Petitioners, in two of the crimes, the Petitioner has been acquitted by the Competent Courts. The Competent Authority, therefore, could not have taken into account those two crimes to draw an inference that the Petitioner was engaged in the commission of offences involving force or violence or the offences against the persons or property.

9. Secondly, there was no live link between the third crime and the action of externment. In WP No.1471 of 2025, this Court while setting aside the externment order against Manoj @ Manohar Arjun Davkhar, co-accused against whom also C.R.No.111 of 2017 and 177 of 2022 (Crim Nos.3 and 4 extracted above), were registered, has categorically observed that there was no live link between the crime registered in the year 2017 and the extrenment

order. This Court observed as under :

“7. Upon perusing the records, it is evident that these offences were registered in the year 2017 and 2022 while the show cause notice was issued on 1 November 2023. There is no live link between the registration of the offence and the order of externment. Moreover, there has been no proper discussion regarding live link between the offences registered and initiation of externment proceedings against the petitioner. Additionally, the authorities have not recorded their satisfaction for the petitioner’s externment from two districts despite the fact that offences were registered at Igatpuri Police Station only. The rationale behind petitioner’s two year’s externment remains unclear.

8. In **Deepak Vs. State of Maharashtra & Ors.**¹, it was observed that :

“17. “On a plain reading of Section 58, it is apparent that while passing an order under Section 56, the competent authority must mention the area or Districts in respect of which the order has been made. Moreover, the competent authority is required to specify the period for which the restriction will remain in force. The maximum period provided for is of two years. Therefore, an application of mind on the part of the competent authority is required for deciding the duration of the restrained order under Section 56. On the basis of objective assessment of the material on record, the authority has to record its subjective satisfaction that the restriction should be imposed for a specified period. When the competent authority passes an order for the maximum permissible period of two years, the order of externment must disclose an application of

1 2022 SCC OnLine SC 99.

mind by the competent authority and the order must record its subjective satisfaction about the necessity of passing an order of externment for the maximum period of two years which is based on material on record. Careful perusal of the impugned order of externment dated 15 December 2020 shows that it does not disclose any application of mind on this aspect. It does not record that subjective satisfaction of the respondent No.2 on the basis of material on record that the order of externment should be for the maximum period of two years. If the order of externment for the maximum permissible period of two years is passed without recording subjective satisfaction regarding the necessity of extending the order of externment to the maximum permissible period, it will amount to imposing unreasonable restrictions on the fundamental right guaranteed under Clause (d) of Article 19(1) of the Constitution of India.”

9. Thus, it is clear that when the competent authority passes an order of externment for a maximum period of two years, it must demonstrate that it has applied its mind and recorded its subjective satisfaction regarding the necessity of such an order. However, upon reviewing the impugned orders, no reasoning or indication on the externing authority's subjective satisfaction can be found. It is not clear why the petitioner was externed for a period of two years from entering two districts despite the fact that offences were registered at Igatpuri Police Station only.

10. Furthermore, it is settled position in law that the material allegations and the general nature of such accusations must be communicated in the show cause notice. While specific details identifying the witnesses need not be disclosed to the proposed externee, all other relevant particulars that could be used to challenge the authorities level of satisfaction

must be made available. The proposed externee has a right to be informed about all relevant material, as this right is an integral part of principles of natural justice. However, in the present case, no such material was made available to the petitioner. In *Dnyaneshwar Vs State of Maharashtra*², it was held that :

“34(iv) The material allegations and general nature of such allegations need to be informed in show cause notice. Only specific particulars which will fix the identity of witnesses, who are unwilling to depose in public against proposed externee are not to be made available to the proposed externee. All other particulars which can be used by proposed externee to show that the degree of satisfaction cannot be attended by the officer concerned need to be given to the proposed externee. The proposed externee has right to know all such other material as that right is a part of principles of natural justice and order involves the aforesaid fundamental rights of proposed externee.”

10. The aforesaid reasons apply with equal force to the facts of the case at hand.

11. This Court further finds that the in-camera statements of the confidential witnesses are general and vague. The witnesses have not at all referred to a particular incident. Such statements of confidential witnesses do not sustain the weight of the externment order which has the serious consequences on the personal liberty of the Petitioner.

² 2019 SCC Online Bom 1105

12. The impugned order also suffers from the vice of arbitrariness as no reasons are ascribed as to why the Petitioner had been externed from Nashik and Thane Districts when the crimes have been registered against the Petitioner in Igatpuri Police Station only. In the absence of subjective satisfaction recorded by the Competent Authority as to why it was necessary to extern the Petitioner from two districts, the externment of the Petitioner from the two districts for a period of two years, amounts to imposition of unreasonable restrictions on the fundamental right guaranteed under Article 19 of the Constitution of India.

13. Resultantly, the Petition deserves to be allowed.

14. Hence, the following order :

ORDER

(i) The Writ Petition stands allowed.

(ii) The impugned order dated 24 April 2024 passed by the Divisional Commissioner, Nashik, as well as the order dated 31 January 2024 passed by the Competent Authority, stand quashed and set aside.

(iii) No costs.

(N.J.JAMADAR, J.)