

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL WRIT PETITION NO.1022 OF 2015**

**Rajesh Vishwasrao Burange**

**..vs..**

**The State of Maharashtra, through Sub Divisional Police Officer, Morshi, Taluka Morshi,  
District Amravati and ors**

.....  
Office Notes, Office Memoranda of Coram,  
appearances, Court orders or directions  
and Registrar's orders  
.....

Court's or Judge's Order

Shri P.R. Agrawal, counsel for the petitioner.  
Shri V.A. Thakre, Addl.P.P. for the respondents/State.

**CORAM : B.P. DHARMADHIKARI &  
A.S. CHANDURKAR, JJ.**

**DATED : AUGUST 25, 2016.**

Heard learned counsel Shri P.R. Agrawal  
for the petitioner and learned Additional Public  
Prosecutor Shri V.A. Thakre for the respondents/State.  
We have also perused judgment of this Court in the case  
of Manohar Gajanan Joshi ..vs.. B.Kulkarni and others,  
reported at 1989 CRI L.J. 1364.

In the present matter, we are satisfied that  
there is some error on the part of the Authorities  
because in show cause notice, served upon the  
petitioner, period for which he is to be temporarily  
restrained is stipulated to be 17.9.2015 to 27.9.2015. In  
impugned order dated 22.9.2015 a show cause notice,  
wherein period stipulated, was from 23.9.2015 to  
30.9.2015 has been mentioned.

Learned counsel Shri P.R. Agrawal for the petitioner submits that after this order, again one more order was passed similarly restraining the petitioner for a period from 18.2.2016 to 20.2.2016 on the eve of “Shiv Jayanti”.

That order is, unfortunately, not produced before this Court. Similarly, as per Scheme of Section 144 of the Criminal Procedure Code, order dated 22.9.2015 had life of two months and has expired thereafter. The petition has been filed on 28.12.2015.

In the case of the Division Bench mentioned *supra*, there were multiple orders of similar in nature and the matter itself has been decided within a period of two months of last such orders. The Division Bench has, however, observed that mere expiry of period should not be a ground to refuse to scrutinize order on merits. We find here that order itself was suffered by the petitioner without any demur. The petition has been filed after almost three months.

During hearing, we found that real anxiety of the petitioner is that he would be subjected to similar treatment again in near future when Ganesh Festival will be celebrated.

The law is laid down by the Division Bench mentioned *supra*. The respondents have passed two

such orders against the petitioners. As such, there is no question of respondents passing any order *ex parte* or without giving necessary opportunity to the petitioner. Hence, with a direction to the respondents to pass any such order only after due opportunity to the petitioner and not to use earlier orders as precedents in the matter, we dispose of the present criminal writ petition. No costs.

JUDGE

JUDGE

!! BRW !!

**C E R T I F I C A T E**

**I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.**

**Uploaded by : Bhushan R.Wankhede.  
(Personal Assistant)**

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