

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 975 OF 2016.

(Akshay Durgesh Shende .vs. The Dy. Commissioner of Police, Nagpur & another)

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

Mr. R.R. Vyas, Advocate for petitioner,
Mr. S.M. Ukey, Additional Public Prosecutor for respondent
nos.1 & 2.

CORAM : B.R. GAVAI & KUM. INDIRA JAIN, JJ.

DATED : MARCH 14, 2017.

The petitioner has approached this Court being aggrieved by the order dated 22.10.2016 vide which the petitioner has been externed from the city of Nagpur for a period of two years.

Heard Mr. R.R. Vyas, learned Counsel for the petitioner and Mr. S.M. Ukey, learned Additional Public Prosecutor for the respondent nos.1 & 2.

Mr. R.R. Vyas, learned Counsel for the petitioner, submitted that the order is liable to be set aside on three grounds, i.e. (1) that though order is passed under Section 57 of the Maharashtra Police Act, 1951, the grounds as mentioned in Section 56 are also taken into consideration, (2) that the order is excessive in nature, inasmuch as though the allegations with regard to the activities of the petitioner are restricted only to Imambada Police Station, he has been externed from the entire city and (3) since the order mentions that in the event the

petitioner does not respond to the show-cause notice, the order of externment would be passed against him, the authorities were acting in a pre-determined manner.

In so far as the first ground is concerned, we find that the order is basically under Section 57 since it has been passed on account of the conviction of the petitioner under the provisions of the Maharashtra Prevention of Gambling Act, the petitioner has been once convicted for the said offence and one case is pending against him for the said offence.

In so far as the second ground is concerned, the order only restricts the petitioner to enter in the city of Nagpur and does not even restrict him to reside in other parts of Nagpur district. As such, it cannot be said to be excessive.

In so far as the third ground is concerned, merely mentioning that in the event the petitioner does not respond to show-cause notice, order would be passed against him cannot be said to be pre-determined by an authority. It appears to be a format in which the show-cause notice is issued.

In that view of the matter, no case is made out for interference. The petition is rejected.

Judge

Judge

J.