

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

CRIMINAL WRIT PETITION NO.497/2022

1. Wahid Kha s/o Jahangir Kha,
aged about 55 years, Occ. Business,
r/o Baidpura, Akola, Tq. Dist. Akola.
2. Adil Khan Firoz Khan,
aged about 30 years, Occ. Labour,
r/o Baidpura, Akola, Tq. Dist. Akola.**PETITIONERS**

...V E R S U S...

1. The Superintendent of Police,
Akola, Tq. Dist. Akola.
2. Sub Divisional Police Officer,
Sub-Division, Balapur, Dist. Akola.
3. State of Maharashtra through
its Police Station Officer,
Old City Police Station, Akola,
Tq. Dist. Akola.**RESPONDENTS**

Mr. S. A. Mohta, Advocate for petitioners.
Mr. S. S. Doifode, A.P.P. for respondents.

CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.
DATED :- 07.09.2022

ORAL JUDGMENT (Per: Anil L. Pansare, J.)

Rule. Rule is made returnable forthwith. Heard
finally by consent of learned counsel for the parties.

2. We have heard Mr. S. A. Mohta, learned counsel for the petitioners. We have perused the impugned order dated 19.07.2022, whereby the respondent no.1-Superintendent of Police Akola externed the petitioners from Akola District for a period of two years. The respondent no.1-Superintendent of Police, Akola who has passed the impugned order, has mentioned in his order that after receipt of report from the Sub Divisional Police Officer, Balapur, show cause notice dated 13.07.2022 came to be issued to the petitioners to submit their response on 19.07.2022. However, the petitioners failed to submit reply and therefore respondent no.1 proceeded to pass the impugned order.

3. Learned counsel for the petitioners has pointed out to us that in fact petitioners have submitted their response vide communication dated 18.07.2022. They have obtained acknowledgment to that effect from the office of respondent no.1.

4. We have gone through the said response which, admittedly, has not been considered by the respondent no.1.

Learned A.P.P. could not point out to us from the reply filed today that the said response was considered by the respondent no.1. That apart the order impugned itself indicates that the reply has not been considered. Thus, the impugned order is not sustainable.

5. The petitioners have made out a case in their favour. Accordingly, we pass the following order.

ORDER

- (i) The writ petition is allowed.
- (ii) The impugned order dated 19.07.2022 passed under Section 55 of the Maharashtra Police Act, 1951, by respondent no.1 is quashed and set aside.
- (iii) We make it clear that this order shall not preclude respondent no.1 from initiating any action, in accordance with the law.

Rule is made absolute in the above terms.
No order as to costs.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)