

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.757 OF 2023

Abhijeet Babasaheb Jankar ... Petitioner
V/s.
The Divisional Commissioner and Ors. ... Respondents

Mr. Abhijit B. Kadam for the petitioner.

Mr. Arfan Sait, APP for the respondent No.4/State.

Mr. Maruti Paud, Police Constable, B.N. 1994, Phaltan
Police Station, District Satara.

CORAM : AMIT BORKAR, J.

DATED : MARCH 6, 2023

P.C.:

1. The writ petition arises out of externment proceedings under section 56(1)(A)(B) of the Maharashtra Police Act, 1951.
2. The respondent No.2 on 8th August 2022, issued show cause notice to the petitioner under section 56(1)(A)(B) of the Maharashtra Police Act, 1951. The petitioner replied the notice by stating that in the offences registered in the year 2015, he has been acquitted. In relation to the offence registered in the year 2021, the Phaltan Police Station has submitted B-Summary report. In relation to the last offence of the year 2022, submitted that the offence has been registered due to political rivalry.
3. The first authority based on cumulative effect of all offences

passed by order dated 15th September 2022, externing the petitioner for a period of six months.

4. On perusal of paragraphs 8 and 9, it appears that the first authority has taken into consideration offences of 2015 from which the petitioner was acquitted and the offences of 2021 in relation to which B-Summary report was filed. The order of first authority indicates that the subjective satisfaction is based on cumulative effect of offences from 2015 to 2022. Therefore, it is clear that the subjective satisfaction is based on extraneous material.

5. The additional reason which weighed with the first authority is that the petitioner is unemployed. Unemployment of the citizen is not ipse dixit for exercising power of externment.

6. Learned APP sought to justify the orders by stating that considering the nature of offences, hence no interference is required in the impugned order.

7. In my opinion, the subjective satisfaction having been based on extraneous material, the impugned order cannot be sustained. The writ petition is, therefore, succeeds.

8. The writ petition is allowed in terms of prayer clause (a). No costs.

(AMIT BORKAR, J.)