



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CRIMINAL WRIT PETITION NO. 464 OF 2015

Gajanan Pundlik Malpure

...Petitioner

Versus

1. The State of Maharashtra
2. The Divisional Commissioner, Nashik
3. The Sub Divisional Magistrate
Jalgaon
4. The Sub Divisional Police Officer
Jalgaon

5. City Police station, Jalgaon

...Respondents

Advocate for the Petitioner : Mr. Patil Vijay B.
APP for Respondents: Ms. V.S. Choudhari

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CORAM : SHIVKUMAR DIGE, J.
DATED : 16th JULY, 2024.

PER COURT :-

1. By this petition, the petitioner is challenging the order dated 01.04.2015 passed by respondent No.2 Divisional Commissioner, Nashik Division, Nashik in Haddapar/Externment Appeal No. 8 of 2014 thereby confirming the order dated 05.03.2015 passed by the Sub Divisional Magistrate, Jalgaon division, Jalgaon in Haddapar/Externment/SR/No./26 of 2014. Thereafter, the appellate authority modified the said order and confirmed the externment order for a period of six months instead of one year.

2. It is the contention of the learned counsel for the petitioner that the order passed by the Divisional Commissioner, (appellate authority) is absolutely illegal, bad in law and against the settled provisions of law. Learned counsel further submitted that the petitioner is local resident of Jalgaon and belongs to Shiv Sena party (UBT group). The petitioner is active social worker and member of Shiv Sena political party (UBT group). The learned counsel further submitted that as an active member of the political party, the petitioner had taken active participation in the political agenda like calling Morcha, Samp, Hadtal, Band. In this factual scenario, some criminal cases have been registered against the petitioner and other members of the party. As on today, the petitioner is not convicted in any offence. Learned counsel further submitted that the petitioner has been acquitted in three criminal cases. The petitioner has replied to the show cause notice issued by respondent No.4. Learned counsel further submitted that the respondent No.4 has pointed out that 13 cases are against the petitioner and out of those 13 cases, the petitioner has been acquitted in three cases. Learned counsel further submitted that the petitioner was never in jail in respect of the any offence. Nor he has been convicted. But without considering these aspects, the externment order is passed which is illegal. Hence, requested to allow the writ petition.

3. It is the contention of learned A.P.P. that 13 offences have been registered against the petitioner. There are witnesses who have stated against the petitioner that he created inimical terms between two groups in the area where he resides and there is communal tension in the said area. The witnesses have stated that there are danger to their lives from the petitioner. The appellate authority has considered all these aspects and has passed the reasoned order. No interference is required in it.

4. I have heard both the learned counsel. Perused the impugned order passed by the appellate authority. In the order it is mentioned that 13 cases have been registered against the petitioner and he was kept in jail for some period and thereafter also there was no any reformation in his behaviour. It is also mentioned that due to activities of the petitioner, there was inimical terms between Hindu and Muslim in the area where he resides. Perused the chart regarding the offences registered against the petitioner. The said chart shows that the majority of offences registered against the petitioner are under the Maharashtra Police Act. No any offence in respect of bodily injury is registered against the petitioner. Considering these facts, I find substance in the contention of learned counsel for petitioner and I pass the following order:-

O R D E R

- I. Writ petition is allowed.
- II. The order dated 01.04.2015 passed by respondent No.2 Divisional Commissioner, Nashik Division, Nashik in Haddapar/Externment Appeal No. 8 of 2014 thereby confirming the order dated 05.03.2015 passed by the Sub Divisional Magistrate, Jalgaon division, Jalgaon in Haddapar/ Externment/SR/No./26 of 2014 are quashed and set aside.

(SHIVKUMAR DIGE, J.)

rlj/