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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

921 CRIMINAL WRIT PETITION NO. 1348 OF 2024

1. Pralhad Laxman Munde,
Age: 52 years, Occ. Agriculture
2. Madhav Pralhad Munde,
Age: 30 years, Occ. Agriculture
3. Ankush Pralhad Munde,
Age: 25 years, Occ. Agriculture/JCB Operator

All R/o Ramachiwadi, Tq. Loha,
Dist. Nanded.

....PETITIONERS

VERSUS

1. The State of Maharashtra,
Thr. Divisional Commissioner,
Chhatrapati Sambhajanagar
2. The Externment Authority and
Superintendent of Police-Nanded
S.P. Office, Nanded
3. Sub-Divisional Police Officer, Kandhar,
S.D.P.O. Office, Kandhar, Dist. Nanded
4. Police Station Officer,
Malakoli Police Station, Tq. Loha,
Dist. Nanded

....RESPONDENTS

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Mr Sachin S. Panale, Advocate for Petitioners
Mr G. O. Wattamwar, APP for Respondents/State

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 01 OCTOBER 2025

JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the respective parties.

2. By this petition under Articles 226 and 227 of the Constitution of India, the petitioners are praying for quashing and setting aside the order dated 23/07/2024, passed by respondent No.1/Divisional Commissioner, Chhatrapati Sambhajnagar in Appeal No.60/2024, thereby confirming the order dated 23/04/2024, passed by respondent No.2/Superintendent of Police, Nanded in Case No.1/2024, whereby the petitioners came to be externed for six months from entire Nanded District.

3. According to the petitioners, respondent No.4/Police Station Officer, Malakoli Police Station, Taluka Loha, Dist. Nanded sent proposal for externment of petitioners alleging that they being members of gang, they should be externed for two years from Nanded, Parbhani, Hingoli and Latur districts. In pursuance of the same, respondent No.2/Superintendent of Police, Nanded directed respondent No.3/Sub-Divisional Officer, Kandhar, Dist. Nanded to conduct enquiry. Accordingly, on 16/04/2024, the petitioners appeared before respondent No.2. Respondent No.2 on 23/04/2024, passed the order

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of externment of the petitioners for six months from entire Nanded District. Being aggrieved with the said order, the petitioners filed appeal under Section 60 of the Maharashtra Police Act, 1951 before respondent No.1/Divisional Commissioner, Chhatrapati Sambhajanagar, which came to be dismissed vide the order dated 23/07/2024. Hence, the petitioners approached this Court.

4. This Court, vide order dated 12/08/2024, granted stay to the impugned order of externment.

5. The petitioners have raised various grounds in order to challenge the impugned order. According to learned Advocate for the petitioners, there is no material available to establish that the petitioners are members of any gang, as defined under Section 55 of the Maharashtra Police Act, 1951. Petitioner No.1 is father and petitioner No.2 and 3 are his sons, and therefore, they cannot be said to be members of gang under Section 55 of the Maharashtra Police Act. The show cause notice which was issued to petitioners shows that four crimes are pending against them, whereas the impugned order states that two crimes and one chapter case is pending against them. Thus, show cause notice itself was defective as it differs from the impugned order as the old crimes have been deleted in which petitioners have been acquitted by the Sessions Court after full-fledged trial. It is also

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submitted that two crimes, which are shown to be pending against petitioners are registered on the basis of FIRs from persons from kith and kin of the petitioners. The said crimes are arising in view of dispute of percolation and water flow during rainy season from one field to another field. There is no material to infer that the said crimes have been committed by any gang or the said crimes are at the instance of any gang against any society at large. The impugned orders have been passed with total non-application of mind and as such same cannot sustain, and therefore, deserves to be quashed and set aside. Even the show cause notice which is issued after laps of nine months and which is the base for passing impugned orders also does not mention recording of statements of any witness and as such, the petitioners were not having opportunity to give appropriate reply to the said show cause notice. The learned Advocate for the petitioners relies on following reported judgments :-

- (I) Vijay Lalso Jadhav Vs. State of Maharashtra and others, 2014 ALL MR (Cri.) 1277;
- (II) Rohit S. Kamble Vs. Deputy Commissioner of Police, Zone-X, Mumbai and others, 2022 ALL MR (Cri.) 2181;
- (III) Ankush Ramu Bhoir Vs. State of Maharashtra, 2022 ALL MR (Cri.) 2187;
- (IV) Farukh Khan @ Pappu s/o Zahir Khan Qureshi and others Vs. The State of Maharashtra, 2022 ALL MR (Cri.) 2730;

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(V) Govind s/o Burla Pungati Vs. The State of Maharashtra, 2022 ALL MR (Cri.) 2738;

(VI) Pratik s/o Prakashrao Kamble VS. Divisional Commissioner, Amravati, [2023 (3) Mh.L.J. (Cri.) 284];

(VII) Mohammad Bin Saeed Bin Kileb and another Vs. The Divisional Commissioner, Aurangabad and others, 2022 ALL MR (Cri.) 3485; and

(VIII) Yadav Chandoba Dawlekar Vs. The State of Maharashtra and another, 2022 ALL MR (Cri.) 3489; and

(IX) Imtiyaz Hussain Sayyad Vs. The State of Maharashtra and others, 2024 ALL MR (Cri.) 1675.

Thus, learned Advocate for the petitioners prays for allowing present writ petition.

6. Per contra, learned APP supports the impugned order. He relies on affidavit filed on behalf of respondent No.2/ Superintendent of Police, Nanded justifying passing of the impugned order.

7. On perusal of the cases which are registered against the petitioners, it is evident that said crimes are committed by them together. Perusal of Section 55 of Maharashtra Police Act discloses the object which is for dispersal of gangs and body of persons. Thus, in all, power under Section 55 of the Act can be exercised only in relation to any gang or body of persons, whenever the movement or

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encampment of any gang or body of persons in the area in their charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or persons thereof. Thus, Section 55 contemplates collective action against gang.

8. Learned Advocate for the petitioners pointed out crimes which are registered against the petitioners and also takes this Court to complaints filed by them against rival family. The offences registered against the petitioners discloses that they are connected with the familial dispute between the petitioners and other accused persons who are also named 'Munde' by surname. The said incidents are result of free fight on account of damage to the agricultural field. Resultantly, foundational premise that the petitioners are operating as a gang or body of persons indulging in criminal activities, cannot be said to have been made out. The appropriate authority and appellate authority passed the orders without posing themselves a pertinent question as to whether, the allegations against the petitioners brought their acts and conducts within meaning of Section 55 of the Maharashtra Police Act. The show cause notice dated 12/04/2024 is issued after nine months after the last incident alleged against petitioners. It is therefore

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pertinent to mention here that there is no live link with the offence alleged against petitioners and initiation of present externment proceedings against them. While passing impugned orders, the authorities have considered the stale offences, and therefore, there is no live link and proximity between the registration of the said offences and initiation of externment proceedings.

9. In view of the above discussion, both the impugned orders are liable to be quashed and set aside. As such, present criminal Writ Petition is hereby allowed in terms of prayer clauses (B) and (C), which read thus :-

“B) The order dated 23/07/2024 passed by respondent no.1 i.e. Divisional Commissioner Chhatrapati Sambhajinagar, in Appeal No.60/2024 may please be quashed and set aside;

C) The order dated 23/04/2024 passed by respondent no.2 i.e. Superintendent of Police, Nanded, in Case No.1/2024 may pleased be quashed and set aside.”

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

[SUSHIL M. GHODESWAR, J.]

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