

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

CRIMINAL WRIT PETITION NO.1002/2025

(Akshay S/o Rajesh Wankhede Vs. Divisional Commissioner, Amravati & ors.)

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

Court's or Judge's orders

Mr. A.M. Jaltare with Mr. N. D. Dawad, Advocate for petitioners.
 Mr. A.M. Joshi, APP for respondents.

CORAM: M. M. NERLIKAR, J.

DATED : 23/12/2025.

Heard the learned counsel for the petitioner and
 learned APP for respondents.

2. The petitioner by this petition is challenging the
 order dated 10.11.2025 passed by the Divisional
 Commissioner, Amravati Division, Amravati in Appeal
 No.38/2025 and order dated 29.05.2025 passed by the
 Deputy Commissioner of Police, Zone-1 bearing
 Externment order No.925/2025.

3. The learned counsel appearing for the petitioner
 has invited my attention to the show cause notice issued by
 the Assistant Commissioner of Police, Frazerpura Division,
 Amravati City, wherein there is no reference of in-camera
 statements in the said notice. However, he has further
 invited my attention to the impugned order dated

29.05.2025 passed by the Deputy Commissioner of Police, Range-1, Amravati City, wherein it appears that in-camera statements were recorded. According to him, there is no compliance of Section 59 of the Maharashtra Police Act ("Police Act"). According to him, in the notice issued under Section 59 of the Police Act, it was not mentioned that in-camera-statements are recorded and therefore entire inquiry is vitiated and further the order passed under Section 56 of the Police Act would also vitiate. He has invited my attention to the offences, wherein the petitioner was acquitted, however even those offences are also considered. He further submits that the last offence was committed by the petitioner on 20.07.2024, however, the order was passed almost after ten months i.e. on 29.05.2025, meaning thereby, the live-link is snapped, therefore, he submits that on all these grounds, the petition deserves to be allowed. He has preferred the appeal under Section 60 of the Police Act, however, the Divisional Commissioner, Amravati without considering the facts and circumstances of the case, has passed a cryptic order. Even the order passed by the Divisional Commissioner is without application of mind as nothing was considered by the

Divisional Commissioner.

4. On the other hand, the learned APP vehemently submits that the petitioner is a habitual criminal and as many as five offences are registered against him, though in two offences, the petitioner was acquitted, however the fact remains that still there are three serious offences pending against the petitioner. He submits that the offence punishable under Section 307, 120-B of the Indian Penal Code are pending against the petitioner. The petitioner is a notorious criminal. He further submits that in spite of taking preventive action under Section 129(e)(g) of the BNSS, still there is no change in his behaviour. Even in-camera statements are recorded which can be gathered from the impugned order and he lastly submits that by a reasoned order, the petitioner was externed by the Deputy Commissioner of Police which has been upheld in the appeal.

5. Upon perusal of the show cause notice issued to the petitioner under Section 59 of the Police Act, it appears that except chart showing criminal offences against the petitioner, absolutely there is no whisper about in-camera

statements. In-fact, Section 59 of the Police Act is the backbone of the externment proceedings which has not been complied with. While conducting the inquiry under Section 59 of the Police Act, opportunity is required to be given to the Externee to rebut allegations made against him. Further, the Assistant Commissioner who has conducted inquiry is duty bound to disclose all the allegations against the petitioner in writing i.e. general nature of material allegations. A reasonable opportunity of tendering explanation should be given, however gist of general nature of material allegations are not forming part of notice under Section 59 of the Police Act which would vitiate the entire proceedings.

6. Admittedly, in the present case, after perusal of the notice, there is nothing to suggest that in-camera statements were recorded therefore, the inquiry under Section 59 of the Police Act is nothing but an eye wash and cannot sustain in law. Further, the impugned order based on such inquiry even the same cannot sustain.

7. So far as the other grounds which have been raised by the petitioner are concerned that the order of

acquittal passed by the Competent Authority were also considered by the Externment Authority to enter the petitioner that by itself demonstrates non-application of mind by the Externment Authority. It is apparent from the record that the petitioner was acquitted in two out of five crimes.

8. So far as the last ground raised by the petitioner is that the last crime No. 237/2024 was committed on 20.07.2024. However, it appears that the impugned order was passed on 29.05.2025 which is almost after ten months from the date of last crime. In-fact, the very object of the externment proceedings is to prevent a person from committing crimes. Similarly, the fact that the order of externment should be passed immediately so as to maintain live-link between the date of last committed offence and the impugned order, if the order is passed after ten months then said order cannot sustain in law as the live-link is snapped. Even I have gone through the order of externment as well as the order passed by the Appellate Authority i.e. the Divisional Commissioner in appeal under Section 60 of the Police Act, it appears from both the orders that the mandate of law has been violated

by the concerned authorities, therefore, without application of mind, cryptic orders have been passed. Under such circumstances, both the order cannot sustain in law and therefore, the same deserves to be quashed and set aside, hence, this Court passes the following order:-

ORDER

(I) Criminal Writ Petition is hereby allowed.

(II) This Court hereby quashes and sets aside the order dated 10.11.2025 passed by the Divisional Commissioner, Amravati Division, Amravati in Appeal No.38/2025 and order dated 29.05.2025 passed by the Deputy Commissioner of Police, Zone-1 bearing Externment order No.925/2025.

9. Petition stands disposed of in above terms.

(M. M. NERLIKAR, J.)