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W.P.No.17271 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.17271 of 2025

and

W.M.P.Nos.19566 and 19567 of 2025

Bala Vivekanandhan @ Arumugapandian @ Raja ... Petitioner

versus

1. State represented by
The Commissioner of Police,
Greater Chennai,
Chennai City.
2. The Deputy Commissioner of Police,
T.Nagar, Chennai.
3. The Inspector of Police,
E3 Teynampettai Police Station,
Chennai City.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order dated 25.04.2025 in Na.Ka.No.03/Ve.Aa/2025 passed by the 1st respondent under Section 51A of the Madras City Police Act, 1888 and quash the same.



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For Petitioners : Mr.K.Jeyamohan
For Respondents : Mr.K.M.D.Muhilan
Additional Public Prosecutor

ORDER

Challenge has been made against the order dated 25.04.2025 passed by the first respondent under Section 51-A of the Chennai City Police Act, 1888 [hereinafter referred to as 'CCP Act'] directing the petitioner to stay away from the city of Chennai.

2. The impugned order has been passed by the first respondent/Commissioner of Police on the ground that there are many cases pending against the petitioner and the witnesses are afraid even to depose against the petitioner. That apart, that may lead to a situation where the people may lose confidence on the Police and therefore, after invoking powers under Section 51-A of the CCP Act, the order of an externment has been passed.

3. The learned Additional Public Prosecutor appearing for



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respondents-Police by referring to the counter affidavit filed by the third respondent submitted that more than 20 cases have been registered against the petitioner and now, 9 cases are pending against him. It is further stated that after following due procedures, the impugned order has been passed.

4. The learned counsel for the petitioner submitted that even though the petitioner has replied to the second respondent - Deputy Commissioner of Police for the very show cause notice dated 10.04.2025, without considering the same, the impugned order had been passed on 25.04.2025 by the first respondent - Commissioner of Police.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondents submitted that the Deputy Commissioner of Police is the only authorized person to issue a show cause notice, however, the Commissioner of Police by taking note of the reply submitted by the petitioner has passed the impugned order. Therefore, the learned Additional Public Prosecutor opposed the petition.

6. Heard the learned counsel on either side and perused the materials available on record.

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7. Be that as it may, however, there is no proof whatsoever available on record and produced before this Court to substantiate the submissions of both parties. The order of externment has been passed under Section 51-A of the CCP Act. The said Act reads as follows:

"Section 51A - Power to direct removal of persons from City in Special cases

(1) Whenever the Commissioner is satisfied from information received or otherwise --

(a) Central Act XLV of 1860-- that the movements or acts of any person in the City of Madras who has not been born in the said City or in the district of Chingleput or North Arcot as it existed immediately before the 1st April 1960 are causing or are calculated to cause, alarm, danger or harm to person or property, or that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of any offence involving force of violence or punishable under Chapter XII, XVI or XVII of the Indian Penal Code or in the abetment of any such offence ; and

(b) that witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part regarding the safety of their



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person or property, the Commissioner may, by an order in writing signed by him, direct such person so to conduct himself as small seem necessary to the Commissioner to prevent such alarm, danger or harm or the commission of such offence, or require such person to move himself outside the said City within, such time as may be specified in the order.

(2) Before an order is passed against any person under subsection (1) the Commissioner or any Joint Commissioner or any Deputy Commissioner authorized by him shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations. The Commissioner or Joint Commissioner or Deputy Commissioner may also examine any witnesses produced by such person. Any written statement made by such person shall be filed with the record. Such person shall be entitled to appear before the Commissioner or Joint Commissioner or Deputy Commissioner by an advocate or attorney for the purpose of explaining the allegations against him and examining the witnesses produced by him.

(3) The Commissioner or Joint Commissioner or Deputy Commissioner authorized under sub-section (2)



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may, for the purpose of securing the attendance of any person against whom an order is proposed to be made under sub-section (1), exercise all or any of the powers of a Court under Sections 75 to 77 of the Code of Criminal Procedure, 1898.

(4) Any person aggrieved by an order of the Commissioner under sub-section (1) may, within thirty days from the date of such order, appeal to the State Government who may, after considering all the circumstances of the case, confirm, vary or rescind the order. Where an appeal is preferred to the State Government under this sub-section, they may at their discretion, subject to such conditions, if any, as they may think fit to impose, stay the operation of the Commissioner's order, pending the passing of final orders on the appeal.

(5) No order passed by the Commissioner under subsection (1) or by the State Government under subsection (4) shall be called in question in any Court except on one or more of the following grounds, namely :--

(a) that the procedure laid down in sub-section (2) was not followed ; or

(b) that there was no material upon which the order could have been based ; or

(c) that there was no sufficient ground for believing



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that witnesses were not willing to come forward to give evidence in public against the person in respect of whom the order was made.

(6) (a) Any person who is guilty of the breach of any direction given to him under sub-section (1) of sub-section (4) shall be punishable with imprisonment which may extend to two years or with fine or with both ; (b) If any person directed under sub-section (1) or subsection (4) to remove himself outside the City of Madras fails or refuses to do so or re-enters the said City while such direction is in force, the Commissioner may, in lieu of or in addition to prosecuting such person under clause (a), cause him to be arrested and removed in police custody to such place outside the said City as he may direct.

(7) Nothing in this section shall be deemed to require any Police Officer to disclose to the person against whom an order is made under sub-section (1) or to any Court the sources of his information or any fact the communication of which might, in the opinion of the Commissioner, lead to the disclosure of the identity or name of any informant."

8. A perusal of the above said provisions of law makes it clear that before passing an order of externment, it is mandatory on the part of the



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Commissioner / Joint Commissioner / Deputy Commissioner of Police to

issue show cause notice informing the person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations. The very order passed by the first respondent-Police indicates that reply has been sent by post which is said to be rejected. Further, there is no details in the order especially whom has considered the said reply.

9. The impugned order has not been passed by considering the entire materials. Further, it is a specific contention of the petitioner that the show cause notice has been replied. However, in the counter, it is the stand of the respondents-Police that an opportunity was given to the petitioner to appear before the second respondent and to explain the allegation, but he failed to appear in person and submitted his explanation only through registered post. Though the said reply did not provide sufficient grounds, it has not been considered. It is admitted by the respondents that the explanation has been sent by the petitioner through registered post. Even though the explanation has been sent through registered post, the respondents ought to have considered the same which has not been done.

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10. In fact, the very provision gives an opportunity to the person against whom action is sought to be taken to engage a lawyer of his choice even to explain the allegations under Sub-Section (2) of Section 51-A of the CCP Act, such opportunity has not been given. Therefore, this Court is of the view that the very order passed by the first respondent cannot be sustained in the eye of law. Hence, the impugned order has to be set aside.

11. Accordingly, this Writ Petition is allowed and the impugned order dated 25.04.2025 is hereby set aside. It is open to the respondents to initiate fresh action by issuing a fresh show cause notice, after giving an opportunity of hearing to the parties as provided under Section 51-A of CCP Act, and thereafter, proceed with the case on merits and in accordance with law by following all the procedures. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

1. The Commissioner of Police,
Greater Chennai,
Chennai City.
2. The Deputy Commissioner of Police,
T.Nagar, Chennai.
3. The Inspector of Police,
E3 Teynampet Police Station,
Chennai City.
4. The Public Prosecutor,
High Court, Madras.



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N.SATHISH KUMAR, J.

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and
W.M.P.Nos.20416 and 20419 of 2025

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