



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

CRIMINAL WRIT PETITION NO.1303 OF 2025

1. Niyaz Ahmed Faquir Mohammed Shaikh;
2. Saddam Fakir Mohammed Shaikh;
3. Jakariya Shabbir Qureshi;
4. Wasim Hanif Qureshi ;
5. Kaif Rauf Qureshi ... PETITIONERS

VERSUS

1. The State of Maharashtra;
2. The Superintendent of Police,
Ahilyanagar;
3. Sub-Divisional Police Officer,
Shirdi;
4. The Police Inspector,
Loni Police Station ... RESPONDENTS

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Mr. Shaikh Mazhar A. Jahagirdar, Advocate for the Petitioners
Mr. V. M. Jaware, APP for Respondents - State

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**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

RESERVED ON : 09/02/2026

PRONOUNCED ON:11/02/2026.

ORDER : (Per : Sandipkumar C. More, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally at the admission stage with the consent of the learned counsel for the petitioners as well as the learned APP for the respondents–State.

2. By this writ petition, the petitioners have taken exception to the order dated 21/08/2025 passed under Section 55 (1) of the Maharashtra Police Act (for short, 'the Act') in proceeding bearing No.55/3783/2025 by respondent No.2, the Superintendent of Police, Ahilyanagar whereby the petitioners are externed from the jurisdiction of Ahilyanagar District for the period of one year.

3. The sole ground raised by the petitioners for challenging the aforesaid order is the violation of the principles of natural justice. Learned counsel for the petitioners submits that a notice under Section 59 of the Act was issued, calling upon the petitioners to attend the office of respondent No.2 on 18/08/2025 at 11:00 a.m. On the said date, only two of the petitioners remained present before respondent No.2 and sought time to file their reply. Accordingly, time was granted to them to file their reply on or before 21/08/2025. However, the remaining petitioners could not remain present on that date and therefore fresh notices were issued to them to attend the office of respondent No.2 on 21/08/2025. Learned counsel further submits that on 21/08/2025, the petitioners attended the office of respondent No.2, filed a Vakalatnama of their advocate, Mr. M. A. Sayyed and sought an adjournment by submitting a written application for filing their reply. However, respondent No.2, without considering the said application, passed the impugned order on the same day, without offering any opportunity of hearing to the petitioners. Thus, it is contended that the principle of natural justice has been violated by respondent No.2, rendering the impugned order patently illegal and liable to be quashed and set aside.

4. So far as the alternative remedy under Section 60 of the Act is concerned, learned counsel for the petitioners submits that when the opportunity of filing a reply and being heard is denied, the alternative remedy of filing an appeal under Section 60 of the Act does not arise.

5. On the other hand, learned APP strongly opposed the submissions made on behalf of the petitioners and contended that as recorded in the impugned order, on 21/08/2025 the petitioners had, in fact, argued the matter through their advocate, Mr. A. A. Sayyed. Therefore, after granting due opportunity of hearing to the petitioners, the impugned order was passed. He further raised the objection that the petitioners have an efficacious alternative remedy by way of an appeal under Section 60 of the Act and therefore, prayed for dismissal of the writ petition.

6. Admittedly, on perusal of the impugned order, it is evident that respondent No.2 has recorded therein that the petitioners were heard through their counsel, Mr. A. A. Sayyed. However, upon examination of the record and proceedings of the original case, particularly the Roznama dated 18/08/2025, it is apparent that only two of the petitioners had appeared on 18/08/2025 pursuant to the notice issued by respondent No.2 and had sought an adjournment for filing their reply. The Roznama further reveals that a short adjournment for filing the reply was granted to those two petitioners till 21/08/2025. Since the remaining petitioners were not present on that date, fresh notices were issued to them to attend the office of respondent No.2 on 21/08/2025.

7. Though the Roznama dated 21/08/2025 indicates that all the petitioners remained present before respondent No.2 and argued the matter through their advocate, Mr. A. A. Sayyed, but the record indicates that the Vakalatnama of Mr. A. A. Sayyed was filed on the very day the impugned order came to be passed, i.e. 21/08/2025. Moreover, the adjournment application submitted by the said advocate on 21/08/2025 is also on record, which specifically states that the learned advocate for the petitioners was unable to argue the matter due to non-availability of the necessary documents referred to in the notice and for the purpose of filing a reply.

8. Significantly, there is nothing on record to indicate what order was passed by respondent No.2 on the said application for adjournment. On the contrary, it appears that respondent No.2, without passing any order on the said application, proceeded to pass the impugned order on the very same day. In these circumstances, it is clearly evident that the principle of natural justice was not followed by respondent No.2 while passing the impugned order.

9. The learned APP vehemently argued that the petitioners had an alternative remedy of filing an appeal under Section 60 of the Act; however, they did not avail of the same and directly approached this Court. However, a Coordinate Bench of this Court, Bench at Nagpur, in the case of **Narayan Sitaram Pawar and another vs. Superintendent of Police and others, (2023) 3 AIR Bom R (Cri) 259**, has observed as follows:

“24. Having concluded that the impugned order directly militates against the petitioners’

fundamental rights under Article 19 of the question of raising a plea of bar to the exercise of the Court jurisdiction under Article 226, there being an alternate remedy under Section 60 of the Act, does not arise.”

10. Upon perusal of the aforesaid observations, it is clear that, in the peculiar facts and circumstances of that case, the requirement of availing the alternative remedy under Section 60 of the Act was held to be unnecessary. In the present matter also, as observed herein-above, there is a complete disregard of the principles of natural justice by respondent No.2. Therefore, considering these exceptional circumstances, we are of the view that the question of exhausting the alternative remedy under Section 60 of the Act does not arise in the instant case. Accordingly, we deem it appropriate to quash and set aside the impugned order and to grant the petitioners an opportunity to file their reply and to be heard. However, in order to ensure expeditious disposal of the matter, it is necessary to prescribe a time-bound schedule for deciding the proceedings afresh. Hence, we pass the following order.

ORDER

- A) The writ petition is partly allowed. The impugned order dated 21/08/2025 passed under Section 55(1) of the Maharashtra Police Act in proceedings bearing No. 55/3783/2025 by respondent No.2, the Superintendent of Police, Ahilyanagar, is hereby quashed and set aside.

- B) The matter is remanded to respondent No.2 for fresh consideration, after granting an opportunity to the petitioners to file their reply and to advance their arguments.
- C) Considering the nature of the proceedings against the petitioners, they are directed to appear before respondent No.2 and file their reply on or before 27/02/2026 and to advance their arguments within one week thereafter. No separate notices will be issued to the petitioners.
- D) Respondent No.2 is directed to decide the proceedings expeditiously and, in any case, within one week from the date of conclusion of arguments on behalf of the petitioners.
- E) Rule is made absolute in the above terms.

The writ petition is accordingly disposed of.

(ABASAHEB D. SHINDE J.) (SANDIPKUMAR C. MORE , J.)