



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

CRIMINAL WRIT PETITION (WP) NO. 73 OF 2026

Swapnil @ Lalya Ashok Palkar

Versus

State of Maharashtra through Secretary, Home Department (Special) Mantralaya

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.N.Ali, Advocate for the petitioner.

Shri D.V.Chavan, Government Pleader assisted by Shri A.B.Badar, APP for the
respondent/State.

**CORAM : URMILA JOSHI-PHALKE &
NIVEDITA P. MEHTA, JJ.**

DATED : 27th APRIL, 2026.

By this petition, the petitioner is seeking direction as well as quashing and setting aside the impugned order dated 12.01.2026 passed by the respondent no.2 District Magistrate/Collector, Akola.

2. It is submitted by the learned counsel for the petitioner that the detention order dated 12.01.2026 is already quashed and set aside and he is already set at free. Only issue remains as to the compliance of the order dated 01.04.2026 passed by this Court.

3. On 01.04.2026 this Court has observed in paragraph 2 that “in response to previous orders, learned Additional Public Prosecutor has tendered across bar the order of conferment of powers under Section 3 of of the Maharashtra Prevention of Dangerous Activities Act, 1981 (for short “Act of 1981”) dated 30-12-2025 as also the order of approval dated 23-1-2026 and the order of confirmation under Section 12 along with report of advisory board. Same is taken on record and marked collectively as ‘A’ for identification.”

4. In paragraph 3 this Court has observed “the petitioner is before the Court aggrieved by order of detention passed under Section 3 of the Act of 1981, which was approved and confirmed by the State Government.”

5. In paragraph 4 this Court has observed that “ In a bunch of petitions with lead petition in the case of ***Akshay Bhaskar Sahare Vs. State of Maharashtra and anr. (Criminal Writ Petition No. 223/2025)***, this Court had vide order dated 30-9-2025 condemned the manner in which the respondents had invoked the provisions of the Act of 1981. While setting aside the orders, this Court held that the order conferring powers under Section 3 of the Act of 1981 must identify specific circumstances prevailing or likely to prevail in the particular local area for which the powers of State Government are delegated to officers below.”

6. In paragraph 5 this Court has observed that “this Court had also taken exception to the blanket/state wide portrayal of identical circumstances considering the scope of Section 3 of the Act of 1981. The High Court was required to make such comments because the order conferring powers included almost all the districts. This Court had reproduced sample order which reads thus:

“Date- 26th June, 2024.

ORDER

No. MPDA - 0624/CR - 409/Spl – 3B: Whereas the Government of Maharashtra is satisfied that having regard to the circumstances prevailing and which are likely to prevail in the Districts of Thane, Palghar, Raigad, Ratnagiri, Sindhudurg, Pune, Solapur, Kolhapur, Sangli, Satara, Nashik, Ahmednagar, Dhule, Nandurbar, Jalgaon, Chhatrapati Sambhajinagar, Jalna, Parbhani, Nanded, Hingoli, Beed, Dharashiv, Latur, Akola, Washim, Wardha, Yavatmal, Buldhana, Amravati, Nagpur, Bhandara, Gondia, Chandrapur and Gadchiroli it is necessary that during the period commencing from 01st July, 2024 and ending on the 31st December, 2024, the District Magistrates of the said Districts may also, if satisfied as provided exercise the powers in sub-section (1) of Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons, Video Pirates, Sand

Smugglers and Persons engaged in Black-marketing of Essential Commodities Act, 1981 (Mah. No.LV of 1981) (hereinafter referred to as "the said Act");

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 3 of the said Act, the Government of Maharashtra hereby directs that for the period commencing from 01st July, 2024 and ending on the 31st December, 2024, the District Magistrates Thane, Palghar, Raigad, Ratnagiri, Sindhudurg, Pune, Solapur, Kolhapur, Sangli, Satara, Nashik, Ahmednagar, Dhule, Nandurbar, Jalgaon, Chhatrapati Sambhajinagar, Jalna, Parbhani, Nanded, Hingoli, Beed, Dharashiv, Latur, Akola, Washim, Wardha, Yavatmal, Buldhana, Amravati, Nagpur, Bhandara, Gondia, Chandrapur and Gadchiroli may also, if satisfied as provided in sub-section (1) of Section 3 of the said Act, exercise the powers conferred on the State Government by sub-section (1) of Section 3 of the said Act.

By order and in the name of the Governor of Maharashtra,

(Venkatesh Madhav Bhat)

Joint Secretary to the Government of Maharashtra, Home Department (Special)."

7. In paragraph 6 it was observed that "the aforesaid sample order indicates that almost in the entire State of Maharashtra, similar or identical circumstances were either prevailing or likely to prevail. Existence of such situation is fictitious, which in a way, also projects a poor status of law and order in the State. Accordingly, the High Court held that conferring powers of State Government to authorities below is unsustainable. Despite such a categorical finding, the Deputy Secretary to the Government of Maharashtra, Home Department (Special) has, on 30-12-2025 passed following order.

"ORDER

No.MPDA-1225/CR-673/Spl-3B:- Whereas the Government of Maharashtra is satisfied that having regard to the circumstances prevailing and which are likely to prevail in the Districts of Thane, Palghar, Raigad, Ratnagiri, Sindhudurg, Pune, Solapur, Kolhapur, Sangli, Satara, Nashik, Ahilyanagar,

Dhule, Nandurbar, Jalgaon, Chhatrapati Sambhajnagar, Jalna, Parbhani, Nanded, Hingoli, Beed, Dharashiv, Latur, Akola, Washim, Wardha, Yavatmal, Buldhana, Amravati, Nagpur, Bhandara, Gondia, Chandrapur and Gadchiroli it is necessary that during the period commencing from 01 January, 2026 and ending on the 30th June, 2026, the District Magistrates of the said Districts may also, if satisfied as provided exercise the powers in sub-section (1) of Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons, Video Pirates, Sand Smugglers, Persons engaged in Black-marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficker Act, 1981 (Mah. No.LV of 1981) (hereinafter referred to as "the said Act");

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 3 of the said Act, the Government of Maharashtra hereby directs that for the period commencing from 01 January, 2026 and ending on the 30th June, 2026, the District Magistrates Thane, Palghar, Raigad, Ratnagiri, Sindhudurg, Pune, Solapur, Kolhapur, Sangli, Satara, Nashik, Ahilyanagar, Dhule, Nandurbar, Jalgaon, Chhatrapati Sambhajnagar, Jalna, Parbhani, Nanded, Hingoli, Beed, Dharashiv, Latur, Akola, Washim, Wardha, Yavatmal, Buldhana, Amravati, Nagpur, Bhandara, Gondia, Chandrapur and Gadchiroli may also, if satisfied as provided in sub-section (1) of Section 3 of the said Act, exercise the powers conferred on the State Government by sub-section (1) of Section 3 of the said Act.

By order and in the name of the Governor of Maharashtra."

8. In paragraph 7 further it is observed that "thus, an identical order is passed ignoring the law laid down by this Court. Such is an act which sets forth an insolent conduct of the authorities below."

9. In paragraph 8 this Court has further observed "the conduct continued while passing order of approval under sub-section (3) of Section 3 of the Act of 1981. This Court had in **Akshay Bhaskar Sahare** case (supra) held that order of approval must be substantive and not mechanical. The order should

reflect consideration of the materials including grounds for detention. The Court had noticed that the order of approval did not disclose the grounds on which detention was approved nor did it reveal how approved period related to prevailing or likely circumstances.”

10. In paragraph 9 this Court has observed that “thus, it was expected that the approval order will now be a reasoned order indicating application of mind.

11. In paragraph 10 this Court has observed that “the aforesaid order is identical to the order that this Court had considered in ***Akshay Bhaskar Sahare*** case (supra). The only difference is that earlier order was passed by Section Officer and now the order is passed by the Under Secretary. Thus, the designation of the officer passing order has changed but the content remains same. What was, however, incumbent upon the State Government was not only to change hands but to change the mindset.”

12. In paragraph 11 this Court has observed that “the lapses do not stop here but continue in assessment at confirmation stage. This Court had held that the confirming authority, while passing order under Section 12 of the Act of 1981, must re-assess circumstances as they exist on the date of conferment and record reasons for continuing detention and for duration fixed. The conferment authority was duty bound to record reasons as to why detention should be continued for a specific duration, particularly when the detention is extended to maximum permissible duration of twelve months. The order of confirmation, however, reads as under :

“Date: 09.03.2026

ORDER

No.MPDA-0126/CR-38/Spl-3B-Whereas, the District Magistrate, Akola in exercise of the powers conferred by Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders, Dangerous Persons, Video Pirates, Sand Smugglers, Persons Engaged in Black Marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficer Act, 1981 (hereinafter referred to as the 'said Act'),

issued an order on 12th January, 2026 directing that Shri. Swapnil Alias Lalya Ashok Palkar, R/o. Panchsheel Nagar, washim Bypass, Old City, Akola, be detained under the said Act;

And whereas, the Advisory Board appointed under the said Act, has opined that there is sufficient cause for the continued detention of the said detenu;

And whereas, the Government of Maharashtra after considering the opinion/report of the Advisory Board, has decided that it is necessary to confirm the detention of the said detenu;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 12 of the said Act, the Government of Maharashtra hereby confirms the detention order issued by District Magistrate, Akola and directs that the detention of the said Shri. Swapnil Alias Lalya Ashok Palkar, be continued for a period of Twelve months from the date of detention.

By order and in name of the Governor of Maharashtra,

Sd/

*Under Secretary to the Government of
Maharashtra, Home Department (Special)”*

13. By this observation, it was mentioned that thus the identical order as was tested in **Akshay Bhaskar Sahare** case (supra) which was set aside saying that order was passed without assigning reasons for continuation of detention for a specific period and without ascertaining whether the circumstances shall continue to prevail for the specified period.

14. It is further observed by this Court in the said order that in the light to above and since the orders of conferment of powers, order of approval and order of confirmation passed under Sections 3(2), 3(3) and 12 of the Act of 1981 are apparently illegal, we set aside the said orders dated 30-12-2025, 23-1-2026 and 9-3-2026 and the petitioner shall be set at liberty, if not required in any other case.

15. Copy of the judgment in the case of **Nenavath Bujji etc. Vs. State of Telangana and Others [2024 SCC OnLine SC 367]** passed by the Hon'ble Supreme Court, the copy of the judgment dated 30-9-2025 passed by his Court in the case of **Akshay Bhaskar Sahare Vs. State of Maharashtra and anr** in Criminal Writ

Petition No. 223/2025 and copy of the order passed in present petition shall be served upon the Advisory Board for taking appropriate measures in the matters of the preventive detention under the provisions of the Act of 1981.

16. In the above said order passed by this Court on 01.04.2026, the Deputy Secretary, Home Department, Mantralaya, Mumbai has filed an affidavit and it is specifically stated in the affidavit in paragraphs 10, 11, 12, 13, 14 and 15 reproduced as under:

“10. We further submit that, in compliance with the directions in the judgment of Akshay Bhaskar Sahare Vs. State of Maharashtra, Criminal Writ Petition No. 223 of 2025, the State obtained comprehensive reports from the relevant detaining authorities and delegated powers wherever deemed necessary. While the reasoning for such delegation was not reflected in the published orders, it is duly recorded in the officials files considered during the decision-making process. Following the order dated 01.04.2026, the State has revised its order format to ensure that reasons for delegation are explicitly published. The answering respondents humbly acknowledge the previous procedural lapses and sincerely apologize for any inconvenience caused to this Hon’ble Court.

11. It is submitted that after receiving reports from the detaining authority, the State carefully examine the prevailing law-and-order situation, the likely impact of detention on public tranquility, the criminal history and record of the detenu, and other relevant factors within the jurisdiction of the concerned authority. Based on this considered assessment, the State makes a decision regarding approval of the detention order. The State has to take steps to explicitly disclose the grounds on which detention is sanctioned. Directions have been issued to all concerned detaining authorities that all proposal for detention must henceforth be submitted along with properly analyzed reports and well-reasoned grounds justifying State approval. The answering respondents sincerely apologize for the earlier lapses and the inconvenience caused to this Hon’ble Court. Copy of approval order passed by the State Government on 09.04.2026 is enclosed herewith as Annexure-II.

12. We further submit that the Director General of Police and the Advisory Board will play a pivotal role in the revised procedure as subject-matter experts. The State Government, through the Director General of Police, will reassesses prevailing circumstances and record

reasons for continuation and duration of detention. To ensure that orders are in line with observations of this Hon'ble Court, the State, as the authority conferring detention, will specifically record reasons justifying continuation for a particular period, especially when detention is extended to the maximum permissible duration of twelve months. The answering respondents humbly acknowledge prior procedural lapses and offer their unreserved apologies for any inconvenience caused to this Hon'ble Court. Copy of letter dated 10.04.2026 addressed to the Director General, State of Maharashtra, Mumbai is attached herewith as Annexure-III.

13. We further say and submit that the State Government has already taken cognizance of the directions issued by the Supreme Court of India in Nenavath Bujji Vs State of Telangana, Criminal Appeal No. 1738-39 of 2024 and this Hon'ble Court in the matter of Akshay Bhaskar Sahare Vs. State of Maharashtra, Criminal Writ Petition No. 223 of 2025, has started inviting reports from all the concerned authorities before delegation of the detaining powers to the concerned authority. All these reports are the part of office file and has been analyzed and approved by the Hon'ble Chief Minister appears that these changes being not incorporated in the orders. Due to that this Hon'ble Court carried an impression that the state has not implemented the directions given by this Hon'ble Court in the matter of Akshay Bhaskar Sahare Vs. State of Maharashtra, Criminal Writ Petition No.223 of 2025. We say that the answering respondents hold the judiciary in the highest regard and have never entertained any intention to disobey or act contrary to the orders of this Hon'ble Court.

14. We respectfully submit that the answering deponents are designated signing authorities, and in accordance with the Rules of Business, all directions received are communicated to the concerned authorities through their signatures. The deponents act strictly in accordance with the established administrative procedures. We further say and submit that State has already commenced the process to ensure that orders made under MPDA Act are in tune to the directions, observations and interpretation given by this Hon'ble Court. This is the process of transformation and change of procedure, the lapse, if any, be not treated as intentional.

15. Considering the foregoing facts, we most humbly place before this Hon'ble Court our sincere and unconditional apologies for any inconvenience caused and assure this Hon'ble Court of our unwavering commitment to comply with all judicial directions and maintain the

highest standards of legality, propriety, and diligence in all official actions.”

17. Thus, a specific statement was made on behalf of the respondents that the deponents would act strictly in accordance with the established administrative procedures and they have already commenced the process to ensure that orders made under MPDA Act are in tune to the directions, observations and interpretation given by this Court. They have also tendered apology by way of this affidavit and the effective steps they have already taken. In view of that the apology is accepted. However, the authorities shall take into consideration that the breach of this undertaking would result into the dire consequences.

18. With this, the criminal writ petition is disposed of.

[JUDGE]

[JUDGE]