



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL WRIT PETITION NO. 239 OF 2026

(Firoj Kazi @ Bali Zahuruddin Kazi ..vs.. State of Maharashtra, through its Secretary, Home Department (Special) Mantralaya, Mumbai and another)

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

Court's or Judge's orders

Mr. M.N. Ali, Counsel for the petitioner,
Mr. S.S. Doifode, Addl.P.P. for the respondents/State.

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

DATED : 08-06-2026

The petitioner is before the Court aggrieved by the order of detention dated 03-12-2025 passed under Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons and Video Pirates, Sand Smugglers, Persons Engaged in Black Marketing of Essential Commodities, Illegal Gambling, Illegal Lottery and Human Trafficker Act, 1981 (for short "Act of 1981") which was approved on 13-12-2025, and confirmed by the State Government on 29-01-2026.

2. 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 30-09-2025*** 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.

3. In the case of **Akshay Bhaskar Sahare** (*supra*) in paras 5 and 6, it is held as under :

“5. 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).*

6. *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 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 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 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.”

4. 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 Section Officer to the Government of Maharashtra, Home Department (Special) has, on 13-12-2025 passed following order.

“ORDER

No.MPDA-1225/CR-683/Spl-3B:- In exercise of the powers conferred by sub-section (3) of Section 3 of the said 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) the Government of Maharashtra hereby approves the order of Commissioner of Police, Amravati City D.O. No. CB/DET/MPDA/AMT/05/2025, dated 03rd December, 2025 made in respect of Firoj Kazi alias Bali Zahiruddin Kazi, R/o Iqbal Colony, Amravati, to be detailed under the said Act.

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

Sd/-

Section Officer to the Government of Maharashtra, Home Department (Special).”

5. Thereafter on 29-01-2026 the order of confirmation was passed by the Under Secretary to the Government of Maharashtra, Home Department (Special), which is reproduced below :

“No.MPDA-1225/CR-683/Spl-3B:- Whereas, the Commissioner of Police, Amravati City 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 Trafficker Act, 1981 (hereinafter referred to as the "said Act"), issued an order on 03rd December, 2025 directing that Firoj Kazi alias Bali Zahiruddin Kazi, R/o. Iqbal Colony Amravati, 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 detainee:

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 detainee;

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 Commissioner of Police, Amravati City and directs that the detention of the said Firoj Kazi alias Bali Zahiruddin Kazi, 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)”*

6. 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.

7. 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.

8. Thus, it was expected that the approval order will now be a reasoned order indicating application of mind. The aforesaid orders are identical to the order that this Court had considered in ***Akshay Bhaskar Sahare*** case (supra). Similarly, in the case of ***Akshay Bhaskar Sahare*** case (supra), the Section Officer had passed the order. In the present case also, earlier order was passed by the Section Officer and Confirmation Order was passed by the Under Secretary.

9. 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.

10. Thus, this is also an 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.

11. In addition to above, the Court had explained the vitality of the Advisory Board as a Constitutional safeguard and noted that in these cases, the Board's role did not rectify the procedural deficiencies at other stages. The corrective steps appears to have been not taken in the present case as well.

12. The State Government had assailed the judgment of this Court before the Hon'ble Supreme Court in the case of **State of Maharashtra Vs. Akshay Bhaskar Sahare** in *SLP (Cri) No. 18690/2025*. The Hon'ble Supreme Court, vide order dated 21-11-2025, thought it proper to not interfere with the judgment. Thus, the judgment of this Court attained finality on 21-11-2025. Despite such status, on 30-12-2025, the Deputy Secretary to the Government of Maharashtra has passed order of conferment of powers under Section 3 of the Act of 1981, which was followed by order of approval and order of confirmation of detention. These orders are absolutely identical to the order which this Court found fault with. The illegality, however, has continued, which according to us, is a blatant violation of judgment dated 30-9-2025 passed by this Court in 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)**.

13. In light of the above and since the order 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 03-12-2025, 13-12-2025 and 29-01-2026. The petitioner shall be set at liberty, if not required in any other case.

14. The petition is disposed of.

(Nivedita P. Mehta, J.)

(Urmila Joshi-Phalke, J.)