

(2024) 03 MP CK 0052

In the Madhya Pradesh High Court

Case No : Writ Petition No. 7114 Of 2024

Haram @ Haram Singh

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 19-03-2024

Acts Referred:

Constitution Of India, 1950 — Article 226
Madhya Pradesh Excise Act, 1915 — Section 34(2)
Indian Penal Code, 1860 — Section 506, 509
Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 — Section 5(a), 5(b)

Citation : (2024) 03 MP CK 0052

Hon'ble Judges : Pranay Verma, J

Bench : Single Bench

Advocate : Gurumeet Singh Dang, Ashi Vaidya

Final Decision : Disposed Of

Judgement

Pranay Verma, J

1 . The petitioner has filed the present petition under Article 226 of the Constitution of India, challenging the order dated 31/10/2023 passed by the District Magistrate Alirajpur whereby he has been externed for a period of six months from the territory of District Alirajpur and nearby Districts namely Jhabua and Barwani for a period of six months. The aforesaid order was challenged by the petitioner by way of appeal before the Commissioner, Indore, Division Indore which has also been dismissed by order dated 4/3/2024.

2. Learned counsel for the petitioner submits that the petitioner has already undergone almost 4 -1/2 months out of 6 months therefore, the externment of 6 months be reduced to the period already undergone. It is further submitted that the last case which was registered against the petitioner was in the year 2022 for an offence punishable under Section 34(2) of the Excise Act. No fresh case has been registered against the petitioner thereafter up to the date of issuance of show cause notice on 20/9/2023. Thus, no fresh case has been registered

against him for offence punishable under Chapter XII, XVI and XVII or under Section 506 and 509 of the IPC. Reply filed by the petitioner has not been considered in proper manner. The order of externment has been passed mechanically under Section 5 (a) and 5(b) of M.P. Rajya Suraksha Adhiniyam, 1990. It is settled law that only on the basis of number of criminal cases, the order of externment should not be passed without recording satisfaction under Section 5(a) and 5(b) of the Adhiniyam, 1990 as the case may be. The appellate authority has also not considered the aforesaid provisions and the material available on record.

3. On the other hand, learned counsel for the respondent/State has opposed the prayer by submitting that the petitioner has been found engaged in criminal activities. From the year 2013 upto the year 2022 as many as six criminal cases have been registered against the petitioner therefore there is sufficient material against him to extern him from the aforesaid districts.

4. It is a settled law that order of externment should not be passed merely on the basis of number of criminal cases. There has to be evidence before the authorities worth suspending the fundamental right of any person under the provisions of Section 5(a) and 5(b) of the Adhiniyam, 1990 as has been held by the Apex Court and Division Bench of this Court in a number of cases. Even otherwise out of six months the petitioner has already undergone more than four and half months externment. There is no material on record to show that the petitioner has tried to break the law during this period or entering to the districts hence his period can be reduced to the period already undergone.

5. Taking into consideration the totality of facts and circumstances of the case, the externment period of six months is reduced to the period already undergone. For the remaining period, the petitioner shall furnish a bond in the sum of Rs.25,000/- before the District Magistrate, District Dhar for maintaining the peace in the local area.

6. The writ petition is accordingly disposed off to the extent indicated above.