

(2023) 10 MP CK 0121
In the Madhya Pradesh High Court
Case No : Writ Petition No. 24464 Of 2023

Harish Sharma

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 25-10-2023

Acts Referred:

Constitution Of India, 1950 — Article 226
Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 — Section 5(a), 5(b), 6(c), 9
Indian Penal Code, 1860 — Section 306

Citation : (2023) 10 MP CK 0121

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Makbool Ahmad Mansoori, Harshlata

Final Decision : Disposed Of

Judgement

Subodh Abhyankar, J

They are heard and perused the record.

This petition has been filed by the petitioner under Article 226 of the Constitution of India, against the order of externment dated 08.9.2023 (Annexure P/1), passed by the respondent No.2/the District Magistrate, Indore under the provisions of Sections 5(a), 5(b) and 6(c) of M.P. Rajya Suraksha Adhiniyam, 1990, (hereinafter referred as 'the Act of 1990') whereby, the petitioner has been externed from the limits of District Indore as well as the adjoining Districts viz; Ujjain, Dewas, Dhar, Khargone and Khandwa, for a period of six months.

Admittedly, an appeal against the aforesaid order is also maintainable before the concerned Commissioner under Section 9 of the Adhiniyam, 1990.

However, counsel for the petitioner has submitted that the impugned order suffers from illegality on account of the fact that the notice to the petitioner was issued under Section 5 (a) and 5(b) of the Adhiniyam; whereas, the order has been passed under Section 6(c) along with Sections 5(a), 5(b) of the Adhiniyam;

despite the fact that almost all the cases are under the Gambling Act except one case under Section 306 of the IPC, which was registered on 7.2.2023 against the petitioner. Counsel has submitted that apart from that the order has also been passed in respect of District Khadwa, which is not the adjoining district-Indore, thus, it also suffers from jurisdictional error. Counsel has also submitted that the petitioner is also required to look after his mother, who is suffering from various old age diseases. The medical documents regarding which are also placed on record.

Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that since the appeal of remedy is available, no case for interference is made out.

On due consideration of the rival submissions and on perusal of the documents filed on record, this Court finds it expedient to dispose of this petition with a direction to the petitioner to file an appeal as provided under the Adhiniyam, 1990 before the appellate authority and, considering the documents which the petitioner has filed on record and the grounds raised therein, it is directed that till the petitioner's appeal is decided, operation of the impugned order dated 08.9.2023 shall remain stayed.

With the aforesaid, the petition stands disposed of.