

(2022) 09 DEL CK 0019

In the Delhi High Court

Case No : Criminal Writ Petition No. 985 Of 2021, Criminal Miscellaneous
Application No. 7347 Of 2021

Randhir Singh

APPELLANT

Vs

Lt. Governor Of Delhi & Ors.

RESPONDENT

Date of Decision : 02-09-2022

Acts Referred:

Constitution Of India, 1950 — Article 21
Delhi Police (Punishment and Appeal) Rules, 1980 — Rule 25(2)
Delhi Police Act, 1978 — Section 47, 47(c)(i), 47(c)(ii), 47(c)(iii), 47(c)(iv), 50, 51,
52, 52(b)
Delhi Excise Act, 2009 — Section 33, 38
Code Of Criminal Procedure, 1973 — Section 107, 150

Citation : (2022) 09 DEL CK 0019

Hon'ble Judges : Mukta Gupta, J

Bench : Single Bench

Advocate : Mir Akhtar Hussain, Kamna Vohra

Final Decision : Dismissed

Judgement

Mukta Gupta, J

1. By this petition the petitioner challenges the orders passed by the Lt. Governor of Delhi and the Additional Deputy Commissioner of Police whereby vide order dated 23rd March, 2021 the petitioner was directed to remove himself beyond the limits of NCT of Delhi for a period of one year with effect from 30th March, 2021 and during the period of externment period was directed not to enter or return to the limits of NCT of Delhi without prior permission except for attending the Court hearings on all dates, which order of the Additional DCP West District was upheld by the Lt. Governor vide the impugned order dated 19th April, 2021.

2. Learned counsel for the petitioner contends that at the time of issuance of the show cause notice by the Additional Deputy Commissioner of Police only one case

was registered against the petitioner in the last three years preceding the show cause notice dated 25th July, 2019 and hence the finding of the two adjudicating authorities that the petitioner was a habitual offender is contrary to the explanation to Section 47 of the Delhi Police Act (in short DP Act). As regards 26 involvements of the petitioner the same were from 1993 to 2007 whereafter the petitioner was involved in only three cases of Excise Act out of which in two he has been acquitted and one case of 2016 was pending trial besides the case of 2019 which was also pending trial. The petitioner having been acquitted in these cases, the same could not have been taken into consideration.

3. Before the Lt. Governor the petitioner raised 8 grounds and none of the said grounds were considered by the Appellate Authority. The Appellate Authority held that the petitioner was involved in 28 cases which is an error apparent on record as the said cases were too remote in time and out of them the petitioner had been acquitted in 7 cases. Thus, at the time of issuance of the notice only one case under Section 33/38 Delhi Excise Act was pending prior and one case was under investigation and hence it cannot be said that the criminal activities of the petitioner were a great menace and that he was so desperate and dangerous as to render his being large in NCT of Delhi or hazardous to the community; contrary to the law laid down by the Division Bench of this Court in the decision reported as 25 (1984) DLT 285 Ravi Kumar Vs. Deputy Commissioner of Police, West District. The cases in which the petitioner has been acquitted have also been utilized for passing the externment order. While deciding an appeal under Section 51 of the DP Act, Rule 25(2) of the Delhi Police Punishment and Appeal Rule was required to be followed, which has not been followed. The Externment Authority and the Appellate Authority both have taken into consideration even cases under the Gambling Act and breach of peace under Section 107/150 Cr.P.C. contrary to the law. It is contended that the Appellate Authority is required to pass a reasoned order in the absence whereof the right granted to the petitioner is illusory. Reliance is placed on the decision reported as AIR 1981 SC 613 Prem Chand Vs. Union of India & Ors. and of this Court reported as 1986 (29) DLT 437 Mohd. Aslam Vs. Delhi Administration & Ors.

4. Countering the above said arguments learned Additional Standing Counsel for the State contends that the contention of the petitioner that he was not given sufficient opportunity to defend is incorrect for the reason show cause notice under Section 50 of the DP Act was issued to the petitioner on 25th July, 2019 whereafter the petitioner appeared on 3rd September, 2019 and the final order was passed on 23rd March, 2021. All these grounds were urged before the Lt. Governor also who considered the same and passed a reasoned order. Section 52 of the Delhi Police Act attaches finality to the order passed by the Externment Authority and the Appellate Authority, hence the scope of interference by judicial review in a writ petition is very limited, the same being that the Additional DCP and the Lt. Governor did not follow the procedure as prescribed under Section 50 and 51 of the DP Act. Reliance is placed on sub-Section (b) of Section 52 of the DP Act. There is nothing on record to show that the procedure as envisaged

under Section 50 and 51 of the DP Act was not followed. On merits it is stated that the contention of the petitioner that the grounds raised by the petitioner were not considered by the Lt. Governor is incorrect. Both the Additional DCP and the Lt. Governor have passed reasoned orders. Reliance is placed on the decisions reported in W.P.(CRL) 583 & 641 of 1997 Surjeet Singh Vs. State & Ors. decided on 16th March, 1998; 2017 (166) DRJ 50 Avinash Vs. Lt. Governor of Delhi & Ors.; (1973) 1 SCC 372 Pandharinath Shridhar Rangnekar Vs. Dy. Commissioner of Police, State of Maharashtra; (2006) 5 SCC 228 Governor, NCT & Ors. Vs. Ved Prakash and (2005) 5 SCC 181 State of NCT of Delhi & Ors. Vs. Sanjeev.

5. Section 52 of the Delhi Police Act provides as under:

"52. Finality of order in certain cases.- An order passed by the Commissioner of Police under section 46, section 47 or section 48 or the Administrator under section 51 shall not be called in question in any court except on the ground-

(a) that the Commissioner of Police or the Administrator, as the case may be, had not followed the procedure laid down in sub- section (1), sub- section (2) or sub- section (4) of section 50 or in section 51, as the case may be; or

(b) that there was no material before the Commissioner of Police or the Administrator, as the case may be, upon which he could have based his order; or

(c) in the case of an order made under section 47 or an order in appeal therefrom to the Administrator under section 51, the Commissioner of Police or the Administrator, as the case may be, was not of the opinion that witnesses were unwilling to come forward to give evidence in public against the person against whom such order has been made."

6. Section 52 DP Act thus provides that in case there is no material before the Commissioner of Police or the Administrator to form an opinion for externing a person, the Court would interfere in the same and as long as there is material before the Commissioner of Police or the Administrator the sufficiency of the same cannot be gone into by the Court. Hon'ble Supreme Court in State of NCT of Delhi & Ors. Vs. Sanjeev dealing with the scope of interference against an administrative order of externment in a writ petition held as under:

"15. One of the points that falls for determination is the scope for judicial interference in matters of administrative decisions. Administrative action is stated to be referable to broad area of governmental activities in which the repositories of power may exercise every class of statutory function of executive, quasi-legislative and quasi-judicial nature. It is trite law that exercise of power, whether legislative or administrative, will be set aside if there is manifest error in the exercise of such power or the exercise of the power is manifestly arbitrary (see State of U.P. v. Renusagar Power Co. [(1988) 4 SCC 59 : AIR 1988 SC 1737]). At one time, the traditional view in England was that the executive was not answerable where its action was attributable to the exercise of prerogative

power. Professor de Smith in his classical work *Judicial Review of Administrative Action*, 4th Edn. at pp. 285-87 states the legal position in his own terse language that the relevant principles formulated by the courts may be broadly summarised as follows : The authority in which discretion is vested can be compelled to exercise that discretion, but not to exercise it in any particular manner. In general, discretion must be exercised only by the authority to which it is committed. That authority must genuinely address itself to the matter before it; it must not act under the dictates of another body or disable itself from exercising discretion in each individual case. In the purported exercise of its discretion, it must not do what it has been forbidden to do, nor must it do what it has not been authorised to do. It must act in good faith, must have regard to all relevant considerations and must not be influenced by irrelevant considerations, must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act, and must not act arbitrarily or capriciously. These several principles can conveniently be grouped in two main categories : (i) failure to exercise a discretion, and (ii) excess or abuse of discretionary power. The two classes are not, however, mutually exclusive. Thus, discretion may be improperly fettered because irrelevant considerations have been taken into account, and where an authority hands over its discretion to another body it acts *ultra vires*.

16. The present trend of judicial opinion is to restrict the doctrine of immunity from judicial review to those classes of cases which relate to deployment of troupes, entering into international treaties, etc. The distinctive features of some of these recent cases signify the willingness of the courts to assert their power to scrutinise the factual basis upon which discretionary powers have been exercised. One can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground is "illegality", the second "irrationality", and the third "procedural impropriety". These principles were highlighted by Lord Diplock in *Council of Civil Service Unions v. Minister for the Civil Service* [(1984) 3 All ER 935 : 1985 AC 374 : (1984) 3 WLR 1174 (HL)] (commonly known as CCSU case). If the power has been exercised on a non-consideration or non-application of mind to relevant factors, the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated. (See *CIT v. Mahindra and Mahindra Ltd.* [(1983) 4 SCC 392 : 1983 SCC (Tax) 336 : AIR 1984 SC 1182]) The effect of several decisions on the question of jurisdiction has been summed up by Grahame Aldous and John Alder in their book *Applications for Judicial Review, Law and Practice* thus:

"There is a general presumption against ousting the jurisdiction of the courts, so that statutory provisions which purport to exclude judicial review are construed restrictively. There are, however, certain areas of governmental activity, national security being the paradigm, which the courts regard themselves as incompetent to investigate, beyond an initial decision as to whether the government's claim is

bona fide. In this kind of non-justiciable area judicial review is not entirely excluded, but very limited. It has also been said that powers conferred by the Royal Prerogative are inherently unreviewable but since the speeches of the House of Lords in *Council of Civil Service Unions v. Minister for the Civil Service* [(1984) 3 All ER 935 : 1985 AC 374 : (1984) 3 WLR 1174 (HL)] this is doubtful. Lords Diplock, Scarman and Roskill appeared to agree that there is no general distinction between powers, based upon whether their source is statutory or prerogative but that judicial review can be limited by the subject-matter of a particular power, in that case national security. Many prerogative powers are in fact concerned with sensitive, non-justiciable areas, for example, foreign affairs, but some are reviewable in principle, including the prerogatives relating to the civil service where national security is not involved. Another non-justiciable power is the Attorney General's prerogative to decide whether to institute legal proceedings on behalf of the public interest."

(Also see *Padfield v. Minister of Agriculture, Fisheries and Food* [1968 AC 997 : (1968) 1 All ER 694 : (1968) 2 WLR 924 (HL)] .)

17. The court will be slow to interfere in such matters relating to administrative functions unless decision is tainted by any vulnerability enumerated above; like illegality, irrationality and procedural impropriety. Whether action falls within any of the categories has to be established. Mere assertion in that regard would not be sufficient.

18. The famous case commonly known as "the Wednesbury case [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1947) 2 All ER 680 : (1948) 1 KB 223 (CA)] " is treated as the landmark so far as laying down various basic principles relating to judicial review of administrative or statutory direction.

19. Before summarising the substance of the principles laid down therein we shall refer to the passage from the judgment of Lord Greene in *Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.* [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1947) 2 All ER 680 : (1948) 1 KB 223 (CA)] (KB at p. 229 : All ER pp. 682 H-683 A). It reads as follows:

"... It is true that discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology used in relation to exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, there may be something so absurd that no sensible person could even dream that it lay within the powers of the authority. ... In another, it is taking into consideration extraneous matters. It is

unreasonable that it might almost be described as being done in bad faith; and in fact, all these things run into one another.”

Lord Greene also observed (KB p. 230 : All ER p. 683 F-G)

“... it must be proved to be unreasonable in the sense that the court considers it to be a decision that no reasonable body can come to. It is not what the court considers unreasonable. ... The effect of the legislation is not to set up the court as an arbiter of the correctness of one view over another.”

(emphasis supplied)

Therefore, to arrive at a decision on “reasonableness” the court has to find out if the administrator has left out relevant factors or taken into account irrelevant factors. The decision of the administrator must have been within the four corners of the law, and not one which no sensible person could have reasonably arrived at, having regard to the above principles, and must have been a bona fide one. The decision could be one of many choices open to the authority but it was for that authority to decide upon the choice and not for the court to substitute its view.

20. The principles of judicial review of administrative action were further summarised in 1985 by Lord Diplock in CCSU case [(1984) 3 All ER 935 : 1985 AC 374 : (1984) 3 WLR 1174 (HL)] as illegality, procedural impropriety and irrationality. He said more grounds could in future become available, including the doctrine of proportionality which was a principle followed by certain other members of the European Economic Community. Lord Diplock observed in that case as follows : (All ER p. 950h-j)

“Judicial review has I think developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground I would call ‘illegality’, the second ‘irrationality’ and the third ‘procedural impropriety’. That is not to say that further development on a case-by-case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of ‘proportionality’ which is recognised in the administrative law of several of our fellow members of the European Economic Community;”

Lord Diplock explained “irrationality” as follows : (All ER p. 951a-b)

“By ‘irrationality’ I mean what can by now be succinctly referred to as ‘Wednesbury unreasonableness’. It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.”

21. In other words, to characterise a decision of the administrator as “irrational” the court has to hold, on material, that it is a decision “so outrageous” as to be

in total defiance of logic or moral standards. Adoption of "proportionality" into administrative law was left for the future.

22. These principles have been noted in the aforesaid terms in *Union of India v. G. Ganayutham* [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] . In essence, the test is to see whether there is any infirmity in the decision-making process and not in the decision itself. (See *Indian Rly. Construction Co. Ltd. v. Ajay Kumar* [(2003) 4 SCC 579 : 2003 SCC (L&S) 528] .)

23. Though Section 52 limits the scope of consideration by the courts, the scope for judicial review in writ jurisdiction is not restricted, subject of course to the parameters indicated supra.

24. It is true that some material must exist but what is required is not an elaborate decision akin to a judgment. On the contrary the order directing externment should show existence of some material warranting an order of externment. While dealing with the question mere repetition of the provision would not be sufficient. Reference is to be made to some material on record and if that is done, the requirements of law are met. As noted above, it is not the sufficiency of material but the existence of material which is *sine qua non*.

25. As observed in *Gazi Saduddin* case [(2003) 7 SCC 330 : 2003 SCC (Cri) 1637] satisfaction of the authority can be interfered with if the satisfaction recorded is demonstratively perverse based on no evidence, misreading of evidence or which a reasonable man could not form or that the person concerned was not given due opportunity resulting in prejudice. To that extent, objectivity is inbuilt in the subjective satisfaction of the authority."

7. Supreme Court in the decision reported as *Governor, NCT & Ors. Vs. Ved Prakash* culled out the law laid operating in the field of externment as under:

"13. The law operating in the field is no longer *res integra* which may hereinafter be noticed:

(i) In a proceeding under the Act all statutory and constitutional requirements must be fulfilled.

(ii) An externment proceeding having regard to the purport and object thereof, cannot be equated with a preventive detention matter.

(iii) Before an order of externment is passed, the proceedee is entitled to an opportunity of hearing.

(iv) The test of procedural safeguards contained in the Act must be scrupulously complied with.

(v) The satisfaction of the authority must be based on objective criteria.

(vi) A proceeding under Section 47 of the Delhi Police Act stands on a different footing than the ordinary proceeding in the sense that whereas in the latter the details of the evidence are required to be disclosed and, thus, giving an

opportunity to the proceedee to deal with them, in the former, general allegations would serve the purpose.

The High Court ordinarily should insist on production of the entire records including the statement of the witnesses to express their intention to keep their identity in secret so as to arrive at a satisfaction that such statements are absolutely voluntary in nature and had not been procured by the police officers themselves.

14. We have noticed hereinbefore, that the High Court itself held that the allegations made in the notice satisfy the statutory requirement but, in our opinion, the High Court was not correct in coming to the finding that the third appellant was bound to disclose the cases in which the witnesses had not deposed against the respondent out of fear or because of threat, etc. If an attempt is made to communicate the cases in which witnesses were not forthcoming due to the activities of the proceedee, the same would violate the secrecy required to be maintained and would otherwise defeat the purpose for which Section 47 of the Act had been enacted.

15. An order of externment must always be restricted to the area of illegal activities of the externee. The executive order must demonstrate due application of mind on the part of the statutory authority. When the validity of an order is questioned, what would be seen is the material on which the satisfaction of the authority is based. The satisfaction of the authority although primarily subjective, should be based on objectivity. But sufficiency of material as such may not be gone into by the writ court unless it is found that in passing the impugned order the authority has failed to take into consideration the relevant facts or had based its decision on irrelevant factors not germane therefor. Mere possibility of another view may not be a ground for interference. It is not a case where malice was alleged against the third appellant.

16. The High Court and this Court would undoubtedly jealously guard the fundamental rights of a citizen. While exercising the jurisdiction rested in them invariably, the courts would make all attempts to uphold the human right of the proceedee. The fundamental right under Article 21 of the Constitution undoubtedly must be safeguarded. But while interpreting the provisions of a statute like the present one and in view of the precedents operating in the field, the court may examine the records itself so as to satisfy its conscience not only for the purpose that the procedural safeguards available to the proceedee have been provided but also for the purpose that the witnesses have disclosed their apprehension about deposing in court truthfully and fearlessly because of the activities of the proceedee. Once such a satisfaction is arrived at, the superior court will normally not interfere with an order of externment. The court, in any event, would not direct the authorities to either disclose the names of the witnesses or the number of cases where such witnesses were examined for the simple reason that they may lead to causing of further harm to them. In a given case, the number of prosecution witnesses may not be many and the proceedee

as an accused in the said case is expected to know who were the witnesses who had been examined on behalf of the prosecution and, thus, the purpose of maintaining the secrecy as regards identity of such persons may be defeated. The court must remind itself that the law is not mere logic but is required to be applied on the basis of its experience.”

8. One of the contentions raised by the petitioner is that he was not given a proper hearing. A perusal of the externment file as also the orders reveal that after the show cause notice was issued on 25th July, 2019 the petitioner appeared before the competent authority on 3rd September, 2019 without a counsel. The allegations in the notice were explained to him in Hindi language which he denied, pleaded not guilty and desired to contest the case. The petitioner was given an opportunity to file his written reply to the notice, furnish his surety and supply the list of defence witnesses to be produced for examination in his defence. However, no written reply was filed by the petitioner. He neither submitted his written reply to the notice nor furnished his surety till the conclusion of the proceedings. Since the petitioner was further involved in criminal activities and one case under the Gambling Act was registered against him besides a DD entry for breach of peace, a supplementary show cause notice was issued to the petitioner on 4th August, 2020 for which also he did not submit any written reply. The petitioner was also given sufficient opportunity to engage a lawyer through Delhi Legal Services Authority, however the petitioner did not avail the said right. The petitioner examined one defence witness whose statement was recorded on 28th November, 2019, however, the said witness denied having any knowledge about the criminal cases against the petitioner. Further, an appeal against the order of the Additional DCP was filed before the Lt. Governor by the counsel for the petitioner and thereafter he is duly represented by a counsel. Therefore this Court finds no merit in the contention that the petitioner was not given a fair opportunity to defend himself.

9. The petitioner was furnished show cause notice in relation to the following cases:

S.No.

FIR

DATED

SECTION OF LAW

POLICE

STATION

PRESENT

POSITION

1

269

25.05.1993

61/1/14 Excise Act

Tilak Nagar

Acquitted

2

981

09.12.1998

61/1/14 Excise Act

Tilak Nagar

Acquitted

3

704

31.08.1999

61/1/14 Excise Act

Tilak Nagar

Acquitted

4

884

29.10.1999

61/1/14 Excise Act

Tilak Nagar

Acquitted

5

235

03.04.2000

61/1/14 Excise Act

Tilak Nagar

Convicted

6

273

12.05.2001

61/1/14 Excise Act

Tilak Nagar

Convicted

7

351

29.05.2002

61/1/14 Excise Act

Tilak Nagar

Convicted

8

507

06.07.2002

61/1/14 Excise Act

Tilak Nagar

Acquitted

9

97

16.02.2004

61/1/14 Excise Act

Tilak Nagar

Convicted

10

199

05.04.2004

61/1/14 Excise Act

Tilak Nagar

Convicted

11

325

26.05.2004

61/1/14 Excise Act

Tilak Nagar

Convicted

12

541

17.07.2004

61/1/14 Excise Act

Tilak Nagar

Convicted

13

645

18.08.2004

61/1/14 Excise Act

Tilak Nagar

Convicted

14

127

23.02.2005

61/1/14 Excise Act

Tilak Nagar

Convicted

15

215

29.05.2005

61/1/14 Excise Act

Tilak Nagar

Convicted

16

739

15.11.2005

61, 78, 1(E), 1, 14 Excise Act

Tilak Nagar

Convicted

17

188

11.03.2006

61/1/14 Excise Act

Tilak Nagar

Convicted

18

426

07.06.2006

61/1/14 Excise Act

Tilak Nagar

Convicted

19

651

30.08.2006

61/1/14 Excise Act

Tilak Nagar

Convicted

20

689

11.09.2006

61/1/14 Excise Act

Tilak Nagar

Convicted

21

332

02.05.2007

61/1/14 Excise Act

Tilak Nagar

Convicted

22

344

08.05.2007

61/1/14 Excise Act

Tilak Nagar

Convicted

23

258

19.10.2011

33/38 Delhi Ex. Act

Tilak Nagar

Acquitted

24

155

03.03.2014

33/38 Delhi Ex. Act

Khyala

Acquitted

25

157

15.03.2016

33/38 Delhi Ex. Act

Khyala

PT

26

134

20.04.2019

33/38 Delhi Ex. Act

Khyala

PT

10. Further, a supplementary show cause notice was issued for the following cases:

S.No.

FIR No./

DD No.

DATE

UNDER SECTION

POLICE

STATION

PRESENT

POSITION

1

DD No.

44A

16.01.2020

107/150 Cr.P.C.

Khyala

Bound Down

2

133

16.02.2020

12/9/55 Gambling Act

Khyala

Pending

Investigation

11. Contention of learned counsel for the petitioner is that he has been wrongly noted as the habitual offender by the Externment Authority. A perusal of the order impugned passed by the Externment Authority would show that the word habitual offender was used by the PW Inspector Gursewak Singh, SHO PS Khyala in his statement. However, the Externment Authority did not extern the petitioner based on the finding of the habitual offender in terms of the explanation to Section 47 of the DP Act. The finding of the learned Additional DCP was that based on the statement of the witnesses, record of his criminal activity and the evidence adduced he has no hesitation in concluding that the petitioner was a criminal who is not likely to reform his way of life and his activities and his acts in the area of NCT of Delhi are calculated to cause harm to the respectable citizens and his continuous presence in the area is a constant source of tension and disturbance to other law abiding citizens of the area who also have a right to peaceful life. Thus the impugned orders cannot be set aside on this court.

12. Undoubtedly, the contention of learned counsel for the petitioner that cases too remote in time could not have been considered deserves consideration. For a show cause notice of externment issued in the year 2019, 22 alleged offences committed till the year 2007 out of which the petitioner stood convicted in 17 cases would be too remote in time. These cases can, however, be noted to show the past history. Further, the issue is whether based on the cases of the year 2011, 2014, 2016 and 2019 as also of the year 2020 when supplementary show cause notice was given, the Externment Authority can be said to have no material before it to come to the conclusion that there is no material against the petitioner to pass the impugned order. Even after having been convicted in 17 cases, the petitioner continued to be involved in cases under the Excise Act. Hence there was material before the Externment Authority to proceed against the petitioner and pass the impugned order. Further, in the decision reported as 33 (1987) DLT 119 Kaushalya Vs. State this Court noted that even cases under the Excise Act can be considered for externment of a person.

13. Contention of learned counsel for the petitioner that cases in which the petitioner has been acquitted have also been considered and thus the externment order stands vitiated deserved to be rejected. As noted above, even though the cases till the year 2007 were remote, however considering the continuous propensity of the petitioner to involve himself in cases of Excise Act despite having been convicted in 17 out of 22 cases gives sufficient background material to the Externment Authority to form an opinion based on the current involvements. At the time of issuance of show cause notice though the petitioner was acquitted in two cases of the year 2011 and 2014, however two cases under the Delhi Excise Act of the year 2016 and 2019 were pending trial. This Court has perused the statements of the witnesses recorded in camera by the Externment Authority who have deposed about the situation prevailing in the area because of the appellant's activities, due to which people do not come forward to make complaints against him. Hence, it cannot be held that there was no sufficient material much less no material before the Externment Authority to extern

the petitioner.

14. Further, the finding of the Lt. Governor in the impugned order was that after having gone through the case file and considering submissions made by both the sides it was observed that the petitioner was involved in 28 cases involving offences under the Excise Act and Gambling Act from 1993 to 2020 which adversely affect the normal life of citizens and therefore it is a fit case for externment under Section 47(c)(i) of the DP Act. Thus, the externment order has been passed under Section 47(c)(i) and not under Section 47(c)(ii), (iii) or (iv) of the DP Act.

15. In view of the discussion aforesaid, this Court finds no error in the two impugned orders.

16. Petition and application are dismissed.

17. Order be uploaded on the website of this Court.