



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO.200178 OF 2026 (GM-POLICE)

BETWEEN:

JWALYA @ JWALENDRANATH
S/O RAVICHANDRA KAWALE,
AGE: 37 YEARS, OCC: HOTEL WORK,
R/O H.NO.72, AFZALPUR ROAD,
BIDDAPUR COLONY, KALABURAGI-585 107.

...PETITIONER

(BY SRI S. B. SANGOLAGI, ADVOCATE)

AND:

1. THE STATE THROUGH
DEPUTY COMMISSIONER OF POLICE,
(L AND O) AND SPECIAL EXECUTIVE MAGISTRATE,
KALABURAGI CITY-585 102.
2. THE C.P.I.
ASHOK NAGAR POLICE STATION,
KALABURAGI-585 103
(BOTH REP. BY LEARNED ADDL. S.P.P.,
HIGH COURT OF KARNATAKA, KALABURAGI-585 107.

...RESPONDENTS

(BY SRI VIRANAGOUDA M. BIRADAR, AGA)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A ORDER OR DIRECT IN THE NATURE OF CERTIORARI BY QUASHING/SET ASIDE THE IMPUGNED ORDER PASSED BY 1ST RESPONDENT DEPUTY COMMISSIONER OF POLICE (L AND O) AND SPECIAL EXECUTIVE MAGISTRATE KALABURAGI CITY ON 16.06.2025, VIDE ORDER ಸಂ:06/ಗಡಿಪಾರು/ಎಮ್.ಎ.ಜಿ-2/ಕನ/2025 ANNEXURE-B AND FURTHER KINDLY BE PLEASED TO ISSUE DIRECTIONS TO THE RESPONDENT NO.1 TO CALL FOR THE RECORDS FROM THE CONCERNED DEPARTMENT AS SOUGHT FOR BY THE PETITIONER.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL ORDER

This petition is filed by the petitioner seeking the following reliefs:

- "(a) *Issue a order or direct in the nature of certiorari by quashing/set aside the impugned order passed by 1st Respondent Deputy Commissioner of Police (L & O) & Special Executive Magistrate Kalaburagi City on 16/06/2025, vide order ಸಂ:06/ಗಡಿಪಾರು/ಎಮ್.ಎ.ಜಿ-2/ಕನ/2025 ANNEXURE-B and further kindly be pleased to issue directions to the respondent*



No.1 to call for the records from the concerned department as sought for by the petitioner.

(b) The Hon'ble court may pass any such order in favour of petitioner, if court thinks fit."

2. It is the case of the petitioner that respondent No.2, the CPI Ashok Nagar Police Station, Kalaburagi submitted a report to respondent No.1 on 01.05.2025 stating that the petitioner herein was involved in 13 cases. Respondent No.2 alleged that the petitioner is a habitual offender and rowdy sheeter in Ashok Nagar Area, Sub-urban P.S. and Station Bazar P.S., in Kalaburagi City and Shahabad. Further, he was engaged in illegal activities and creating public tranquility for which he requires to be externed by Ashok Nagar Police Station from Kalaburagi District.

3. Respondent No.1 after receiving the recommendation of respondent No.2 initiated the proceedings against the petitioner and issued notice to the petitioner to appear before respondent No.1 and started



enquiry, but respondent No.1 has not considered the objections of the petitioner and passed the order. According to the petitioner, the said externment order and issuance of so-called notice is illegal, arbitrary and the same deserves to be quashed. It is contended by learned counsel for the petitioner that the impugned order is illegal and not in consonance with the law, as Section 55 of the Karnataka Police Act (for short, 'the Act') can be invoked only if a person is engaged in an offence involving force or violence punishable under chapter XII, XVI, XVII of IPC. It is further contended that most of the criminal cases filed against the petitioner have ended in favour of the petitioner clearly suggesting that false and concocted cases have been leveled against the petitioner. It is further contended that formation of opinion as to the willingness of the witness to depose against the person against whom an order under Section 55 of the Act, is to be passed is a condition precedent. In the present case, while passing the impugned order no such opinion regarding



unwillingness of witnesses has been formed. Therefore, the impugned order is bad in law as it lacks subjective opinion of the authority.

4. *Per contra*, learned Additional Government Advocate for the respondent-State sustains the impugned order by contending that a notice is issued, explanation is sought for, opportunity was provided and the same has not been availed by the petitioner. Hence, after considering all these aspects, an order of externment is passed in accordance to law, which does not call for interference.

5. I have heard learned counsel for the petitioner and learned Additional Government Advocate for the respondent-State.

6. The fundamentals behind passing an externment order is where the petitioner becomes dangerous to the society and where he creates or is a threat to breach public tranquility and peace, an order of



externment could be passed by the State. But before doing so, there are certain reasons, grounds and procedures that require to be followed, which is contemplated under Sections 55, 56 and 58 of the Act. It is the rule of law that it is the fundamental right of every citizen to reside anywhere and move around throughout the country. By an order of externment, the same is infringed and while doing so, the State would have to be cautious and careful by invoking such regulations or the provisions, which breaches the fundamental rights of the citizen. It is only in exceptional circumstances that such measures should be taken as a drastic action to extern a person from one place to the other, whereby it is made out by the State that the person intended to create breach of public peace and tranquility and he would be a threat to the society and hence, requires to be externed to another place. While doing so, it becomes a duty and obligation of the State to show the reasons for externment, provide necessary material to the externee, calling for explanation



for the externment. On such explanation being provided, the petitioner would have to be provided an opportunity of hearing and thereafter, a reasoned order would have to be passed by the State, externing him from one place to the other on being satisfied with the ground so made out and the explanation being not satisfactory.

7. Section 55 of the Act deals with the procedure that is required to be adhered to by the State before passing an order of externment. The externee would have to be given a proper notice and reason for externment along with the materials, if any, that was relied by the State. Therefore, before passing any order, the State is liable and obligated to follow the procedure contemplated under Section 58 of the Act, which in turn contemplates a reasonable opportunity, which must be scrupulously adhered to.

8. In the present case on hand, after careful perusal of the materials of notice and the externment



order, it is seen that the procedure as contemplated under Sections 55 and 58 of the Act is not followed by the respondent-State which is condition precedent for passing order against the petitioner externing him from one place to another. The Hon'ble Apex Court in the case of **Deepak vs. State of Maharashtra [2022 SCC Online SC 99]**, at paragraph Nos.6, 13 and 15, has held as follows:

"6. We have given careful consideration to the submissions. Under clause (d) of Article 19(1) of the Constitution of India, there is a fundamental right conferred on the citizens to move freely throughout the territory of India. In view of clause (5) of Article 19, State is empowered to make a law enabling the Imposition of reasonable restrictions on the exercise of the right conferred by clause (d). An order of externment passed under provisions of Section 56 of the 1951 Act imposes a restraint on the person against whom the order is made from entering a particular area. Thus, such orders infringe the fundamental right guaranteed under Article 19(1)(d). Hence, the restriction imposed by passing an order of externment must stand the test of reasonableness.

7. to 12. xxx

13. Considering the nature of the power under Section 56, the competent authority is not expected to write a judgment containing elaborate reasons. However, the competent authority must record its subjective satisfaction of the existence of one of the grounds in sub-section (1) of Section 56



on the basis of objective material placed before it. Though the competent authority is not required to record reasons on par with a judicial order, when challenged, the competent authority must be in a position to show the application of mind. The Court while testing the order of externment cannot go into the question of sufficiency of material based on which the subjective satisfaction has been recorded. However, the Court can always consider whether there existed any material on the basis of which a subjective satisfaction could have been recorded. The Court can interfere when either there is no material or the relevant material has not been considered. The Court cannot interfere because there is a possibility of another view being taken. As in the case of any other administrative order, the judicial review permissible on the grounds of mala fide, unreasonableness or arbitrariness.

14. xxx

15. As the order impugned takes away fundamental right under Article 19(1)(d) of the reasonableness contemplated by clause (5) of Article Constitution of India, it must stand the test of 19. Considering the bare facts on record, the said order shows non-application of mind and smacks of arbitrariness. Therefore, it becomes vulnerable. The order cannot be sustained in law."

9. Therefore, in the present case, I am of the opinion that in view of the judgment of the Hon'ble Apex Court in the case of **Deepak** (*supra*), the matter deserves indulgence.

10. Accordingly, I pass the following:



ORDER

- i. This petition is allowed.
- ii. The impugned order dated 16.06.2025 bearing No.06/ಗಡಿಪಾರು/ಎಮ್.ಎ.ಜಿ-2/ಕ.ನ./2025 passed by respondent No.1 under Section 55 of the Karnataka Police Act, 1963, is hereby quashed.
- iii. This shall not preclude the respondent-authorities from initiating fresh action against the petitioner if for any reason to be extenuated. However, the same shall be by following due process of law and procedure contemplated under Sections 55(b) and 58 of the Karnataka Police Act, 1963.

**Sd/-
(PRADEEP SINGH YERUR)
JUDGE**

RSP
List No.: 1 SI No.: 85
CT:SI