

**IN THE HIGH COURT OF JUDICATURE FOR MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV**

**ON THE 23<sup>rd</sup> OF FEBRUARY, 2022**

**WRIT PETITION No. 23695 of 2021**

**Between:-**

**SADDAM ALI S/O ABDUL REHMAN, AGED  
ABOUT 28 YEARS, OCCUPATION SELF  
EMPLOYEE, R/O PUTTI BADA, SINGHPUR  
ROAD, DISTRICT SHAHDOL (MADHYA  
PRADESH)**

**....PETITIONER**

***(BY SHRI RAHUL DIWAKER, ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH  
THROUGH THE PRINCIPAL SECRETARY,  
DEPARTMENT OF HOME, AAYUSH  
DEPARTMENT, VALLABH BHAWAN  
(MADHYA PRADESH)**
- 2. THE DIVISIONAL COMMISSIONER,  
SHAHDOL DIVISION, DISTT. SHAHDOL  
(MADHYA PRADESH)**
- 3. THE COLLECTOR, SHAHDOL, DISTT.  
SHAHDOL (MADHYA PRADESH)**
- 4. SUPERINTENDENT OF POLICE, POLICE  
HEADQUARTERS, DISTT. SHAHDOL  
(MADHYA PRADESH)**

**....RESPONDENTS**

***(BY SHRI CHANDRA MOHAN TIWARI, GOVERNMENT  
ADVOCATE WITH SHRI SACHIN JAIN, PANEL LAWYER)***

-----

-

*This petition coming on for admission this day, this court passed  
the following:*

**ORDER**

The petitioner is aggrieved by order dated 20.09.2021 (Annexure-P/8), passed by Divisional Commissioner, Shahdol, whereby, the order dated 18.01.2021 (Annexure-P/1), passed by the District Magistrate, Shahdol, has been affirmed and appeal under Section 9 of the Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 (hereinafter referred to as the “Act of 1990” for short) preferred by the petitioner has been dismissed. The solitary grievance of the petitioner is that the order of externment passed in exercise of powers under Sections 5, 6 and 7 of the Act of 1990 is erroneous for the reason that the same is based on a report of Superintendent of Police, Shahdol dated 17.09.2018.

2. According to learned counsel for the petitioner, the impugned order came to be passed on 18.01.2021 and the District Magistrate has taken the action of externment on the basis of report dated 17.09.2018 which itself is sufficient to establish that the mandate of Act of 1990 is violated and the District Magistrate, Shahdol has not applied his mind and has acted arbitrarily. He places reliance on the decision of this Court *Ashok Kumar Patel V. State of M.P.*<sup>1</sup>, *Sanju @ Sanjay Ben V. State of M.P. And Ors.*<sup>2</sup>, *Kala V. State of M.P.*<sup>3</sup>, *Raghuwanshi V. State of M.P.*<sup>4</sup>, *Pappu V. State of M.P.*<sup>5</sup>, *Dharmendra Singh V. State of M.P.*<sup>6</sup>, *Meena Sonkar V. State of M.P.*<sup>7</sup> and *Chandra Prakash @ Tinku Pandey Vs. The State of M.P. & others*<sup>8</sup> and submits that only on the aforesaid grounds, the instant writ petition deserves to be allowed and the order of externment deserves to be set aside.

3. This Court directed the State counsel to produce the record of the externment proceedings. A certified copy of the original record is perused. The record of the District Magistrate, Shahdol clearly shows that report dated 17.09.2018 contained therein that on account of registration of various cases since 2014 onwards against the petitioner, an action for his

---

1 2009 (4) MPLJ 434.

2 2005 (4) MPHT 102.

3 2004 (4) MPLJ 234.

4 2014 (4) MPLJ 654.

5 (2007) 3 MPLJ 115.

6 (2007) 2 MPLJ 108.

7 (2017) 2 MPLJ 565.

8 W.P.No.11825/2021, order dated 18.11.2021.

externment under the provisions of the Act of 1990 was proposed. It is seen that the District Magistrate in paragraph No.5 has recorded a finding that there were cases against the petitioner since 2014 onwards and the last case which was registered against him was in the year 2019. Accordingly, the petitioner was directed to be externed from District Shahdol and its adjoining State i.e. Sidhi, Satna, Umaria and Anuppur for a period of one year.

4. This Court has perused the record and it is seen that there is no material before the District Magistrate to indicate that in recent past, the petitioner has committed any crime or has attempted to cause any danger or harm to any person. The important aspect of the Mandate of Clause (b) of Section 5 of the Act of 1990 that is to be reasonably believe that such person is engaged or is about to be engaged in the commission of an offence involving force or violence, or an offence punishable under Chapter XII, XVI or XVII, or under Section 506 or 509 of IPC, or in the abetment of any such offence, are missing. There is no mention about any satisfaction or reason to believe that the witnesses are not willing to come forward to give evidence against the petitioner. Only long list of registration of criminal cases does not *ipso facto* give right to a Magistrate to exercise power of externment under Section 5(b) of the Act of 1990. The District Magistrate has recorded that it cannot be said that the petitioner was not involved in anti-social/criminal activities, therefore, the action under the provisions of the Act of 1990 is warranted. Such alone is not the appropriate reason to invoke the provisions of the Act of 1990 and, hence, the order of externment is found to be without application of mind and the same therefore, deserves appropriate interference.

5. In view of the aforesaid, the impugned order of externment dated 20.09.2021 (Annexure-P/8) and dated 18.1.2021 (Annexure-P/1) are, hereby, set aside and the present petition is accordingly **allowed**.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

Nitesh