



2025:CGHC:19819-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 257 of 2025**

Dheeraj Sahu @ Dheeraj Sarfraj S/o Phoolchand Sahu Aged About 48 Years (Wrongly Mentioned As 39 Years In Annexure P-1), Village-Subhashnagar Mahasamund, Police Station- Mahasamund (C.G.)

... Petitioner(s)**versus**

1 - State of Chhattisgarh Through- Secretary, Home Department, Mahanadi Bhawan, Nava Raipur (C.G.)

2 - State of Chhattisgarh Through- Additional Secretary, Home Department, Nava Raipur, Atal Nagar Bhawan, Naya Raipur (C.G.)

3 - Collector / District Magistrate Mahasamund, District- Mahasamund (C.G.)

4 - Superintendent of Police Police Station- Mahasamund, District- Mahasamund (C.G.)

... Respondent(s)

For Petitioner(s) : Mr. Pawan Kumar Kesharani, Advocate

For Respondent(s) : Mr. S.S. Baghel, Dy. Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Arvind Kumar Verma, Judge

Order on Board**Per Ramesh Sinha, Chief Justice****01.05.2025**

1. Heard Mr. Pawan Kumar Kesharwani, learned counsel for the petitioner as well as Mr. S.S. Baghel, learned Deputy Government Advocate, appearing for the State/respondents.

2. The present writ petition has been filed by the petitioner with the following prayers:

“10.1. To call for records pertaining to the case of the Petitioner.

10.2. To Quash the externment Order dated 12.02.2025 passed by Respondent No.2 in Appeal No. एफ-4-163/गृह-सी/2024 affirming the Order passed by Respondent No.3 dated 15.07.2024.

10.3. To pass any other order(s) that this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. Brief facts of the case are that an order under Section 3 and Section 5 (a)(b) of Chhattisgarh Rajya Suraksha Adhiniyam, 1990 (in short 'the Adhiniyam, 1990') has been passed by the District Magistrate Mahasmund against the petitioner vide order dated 15.07.2024, whereby the petitioner is ordered to go out of the border area of District Mahasamund and adjacent revenue Districts Raipur, Dhamtari, Gariaband, Balodabazar and Raigarh District within 24 hours for a period of one year and as long as that order remains in effect without taking prior statutory permission the petitioner should not enter into the boundaries of this District and the abovementioned Districts. Challenging the order dated 15.07.2024 passed in Criminal Case No.01/2024 and entire proceedings under the provisions of the Adhiniyam, 1990, for quashment of order dated 15.07.2024 and entire proceeding against the petitioner, the petitioner has filed WPCR No. 275 of 2024 and the same was dismissed vide order dated 05.08.2024.

However, liberty was reserved in favour of the petitioner to file an appeal under Section 9 of the Adhiniyam, 1990 before the appellate authority/State. The petitioner preferred his appeal before the State/Appellate Authority on 14.08.2024 and the same was dismissed by the Appellate Authority vide order dated 12.02.2025 upholding the District Magistrate's externment order. Being aggrieved by the same, present petition has been filed by the petitioner with the aforesaid prayers.

4. Learned counsel for the petitioner submitted that the proceeding against the petitioner was initiated on 18.04.2024 and the learned District Magistrate without considering the ingredients required so as to fulfill the provisions of the Adhiniyam, 1990, i.e., the degree of disturbance and its effect upon the life of people, mechanically proceeded with the case and without giving proper opportunity of hearing to the petitioner, passed the impugned order without any rhyme and reason on 15.07.2024. He further submitted that the Appellate Authority has also not considered that fact that there must be subjective satisfaction for the exercise of power under Section 5 of the Adhiniyam, 1990, whereas in the present case, there does not appear to have been any action taken to that effect. He also submitted that the Appellate Authority, in its order, has relied heavily on an extensive list of criminal cases, many of which are outdated or have been resolved through mutual settlements or acquittals. Furthermore, the petitioner contends that the cases cited do not accurately reflect the current state of

his conduct or his contributions to society, particularly in the context of his political and social involvement. It has been submitted that the order fails to take into account the absence of any substantive charges under any law, and the fact that many of the so-called criminal cases are either politically motivated or settled without coercion. Additionally, the Appellate Authority's conclusion that there has been no improvement in the Petitioner's conduct is based on a misinterpretation of the facts and overlooks the Petitioner's consistent efforts towards social welfare and lawful conduct in recent years. Thus, the orders impugned are legally flawed and made without application of a judicious mind and the same are liable to be quashed.

5. On the other hand, learned State counsel opposed the submissions of learned counsel for the petitioner and supported the impugned orders.
6. We have heard learned counsel for the parties and perused the impugned orders and materials available on record with utmost circumspection.
7. Before adverting to the contentions of the counsel for the petitioner as discussed earlier and examining them on the anvil of the law prevailing in the field of externment, it is apt to refer the provisions of the Act, 1990. Sections 5 and 6 of the Act, 1990 under which the order of externment has been passed is quoted hereinbelow :-

"5. Removal of persons about to commit offence.- Whenever it appears to the District Magistrate-

(a) that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person or property; or

(b) that there are reasonable grounds for believing 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, 4 XVI or XVII or under Section 506 of 509 of the Indian Penal Code, 1860 (45 of 1860) or in the abetment of any such offence, and when in the opinion of the District Magistrate witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property; or

(c) that an outbreak of epidemic disease is likely to result from the continued residence of an immigrant;

the District Magistrate, may by an order in writing duly served on him or by beat of drum or otherwise as the District Magistrate thinks fit, direct such person or immigrant-

(a) so as to conduct himself as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease;

(b) to remove himself outside the district or districts or any part thereof or such area and any district or districts or any part

thereof, contiguous thereto by such route within such time as the District Magistrate may specify and not to enter or return to the said district or part thereof or such are and such contiguous districts, or part thereof, as the case may be, from which he was directed to remove himself."

6. Removal of persons convicted of certain offences.- If a person has been convicted -

- (a) of an offence.-
 - (i) under Chapter XII, XVI or XVII or under Section 506 or 509 of the Indian Penal Code, 1860 (45 of 1860); or
 - (ii) under the Protection of Civil Rights Act, 1955 (22 of 1955); or
- (b) twice, of an offence under Suppression of Immoral Traffic in Women and Girls Act, 1956 (104 of 1956); or
- (c) thrice, of an offence within a period of three years under Section 3 or 4 of 4-A of the Public Gambling Act, 1867 (3 of 1867), in its application to the State of Chhattisgarh;

the District Magistrate may, if he has reason to believe that such person is likely against to engage himself in the commission of an offence similar to that for which he was convicted direct such person by an order to remove himself outside the district or part thereof or such area and any district or districts or any part thereof, contiguous thereto by such route and within such time as the District Magistrate may order and not to enter or return to the District or part thereof or such area and such contiguous district or

part thereof, as the case may be, from which he was directed to remove himself.

Explanation :- For the purpose of this Section, the expression, "an offence similar to that for which he was convicted" means

(i) in the case of a person convicted of an offence mentioned in clause (a), an offence falling under any of the Chapters or Sections of the Indian Penal Code, 1860 (45 of 1860), mentioned in that clause or an offence falling under the provisions of the Act mentioned in sub-clause (ii) of that clause; and

(ii) in the case of a person convicted of an offence mentioned in clauses (b) and (c), an offence falling under the provisions of the Act mentioned respectively in the said clauses.

8. From perusal of the impugned orders and materials available on record, it transpires that for the action of externment from the District, Senior Superintendent of Police, Mahasamund has presented the information about the involvement of the petitioner in criminal activities to the Collector-cum-District Magistrate, Mahasamund alleging that the petitioner is a person of criminal and hooligan nature of Mahasamund police station area. Since the year 1995, he along with his associates has been continuously involved in hooliganism, fights, quarrels, abuses, assaults, deadly attacks, gets agitated on complaints against him and starts threatening. He tries to create pressure at higher levels to hide his criminal activities. Due to fear and terror of him, the people of Mahasamund area are not able to inform the police

about many crimes committed by him. Since his act poses a serious threat to the security of public peace and a situation of adverse effect on public order is created and a request has been made to take preventive action against the petitioner. District Magistrate Mahasamund issued a show cause notice to the petitioner in relation to the above mentioned report of the Superintendent of Police Mahasamund and summoned him for hearing. Despite giving the petitioner a reasonable opportunity of being heard, he did not present his side and presented other documents (newspaper cuttings) which were not related to the case. Action was also taken from time to time as per law to improve criminal conduct, on which preventive action was also taken against him 08 times, but the said action has had no effect on it, and there has been no improvement in his conduct.

9. It further transpires that 18 criminal cases were registered against the petitioner from the year 1995 to 2023 and 08 Istgasas were registered from the year 1996 to 2018. Out of the 18 cases pending against the petitioner, he has been acquitted in 05 cases on the basis of mutual compromise/settlement, which shows that the aggrieved party has got the case resolved by compromising due to fear/pressure of the petitioner. The petitioner has been punished with fine after being found guilty in 03 cases and in 04 cases, the petitioner has been acquitted giving the benefit of doubt. Preventive action was taken 08 times when there was no improvement in the criminal conduct of the applicant, yet it is

shown that there has been no improvement in the conduct. When common people made complaint against the petitioner or someone in the locality tries to stop him, the petitioner becomes even more agitated and starts threatening. Due to its criminal activities, an atmosphere of panic and terror has been created in the city and ward. Petitioner's free movement in the society and in the region has become extremely dangerous for maintaining peace and order in the region, thus we are of the opinion that the conduct of the petitioner is too dangerous for the people living in the locality.

10. Looking to the number of criminal activities registered under different Acts and prohibitory actions taken against the petitioner, which are increasing day by day and also looking to the conduct of the petitioner by which free movement in the society and in the region has become extremely dangerous for maintaining peace and order, we are of the opinion that the District Magistrate has followed the due procedure of law and has rightly passed the impugned order against the petitioner under Sections 5 and 6 of the Act of 1990. Moreover, considering the finding recorded Appellate Authority while rejecting the appeal preferred by the petitioner and also considering the nature of cases registered against the petitioner and his anti-social activities and action taken by the respondents is preventive in nature, we do not find any illegality or infirmity in the impugned order dated 15.07.2024 passed by the District Magistrate, Mahasamund, whereby the

petitioner is ordered to go out of the border area of District Mahasamund and adjacent revenue Districts Raipur, Dhamtari, Gariaband, Balodabazar and Raigarh District within 24 hours for a period of one year and as long as that order remains in effect without taking prior statutory permission the petitioner should not enter into the boundaries of this District and the abovementioned Districts and the order impugned dated 12.02.2025 passed by the Appellate Authority/State, whereby the appeal preferred under Section 9 of the Adhiniyam, 1990 has been dismissed.

11. Accordingly, the instant writ petition stands **dismissed**.

Sd/-
(Arvind Kumar Verma)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice