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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 3975 of 2021

With

R/SPECIAL CRIMINAL APPLICATION NO. 4180 of 2021

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SWAMI SATYAPRAKASHDASJI
GURU GHANSHYAMPRASAD DASJI
and
SWAMI GHANSHYAMVALLABHDASJI
GURU SWAMI NARAYANPRIYADASJI

Versus

STATE OF GUJARAT & ORS.

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Appearance :

MR BM MANGUKIYA, ADVOCATE for the Petitioners

MR MITESH AMIN, PUBLIC PROSECUTOR with
MR HARDIK SONI, APP for the Respondents

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CORAM: HONOURABLE MR. JUSTICE PARESH UPADHYAY

Date : 01/10/2021

CAV ORDER

1. Challenge in these petitions is made to the orders passed by the Sub-Divisional Magistrate, Botad, both dated 31.05.2021, whereby the present petitioners were externed for a period of two years from several districts - Botad, Bhavnagar, Amreli, Rajkot, Surendranagar and Ahmedabad. The said orders are stated to have been passed in exercise of powers under Section 56 of the Gujarat Police Act, 1951.

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2. The execution of the impugned orders was stayed by this Court vide order dated 15.06.2021, for the reasons recorded therein.

3. Affidavit in reply dated 21.06.2021 is on record.

4. Heard learned advocate for the petitioners and learned Public Prosecutor for the respondent Authorities. It is noted that, both the learned advocates have addressed the Court at length and have extensively taken this Court through the material on record.

5. Learned advocate for the petitioners has submitted that, the very notices by the Authorities would indicate that the same were for the purpose other than what is written in the notices and the orders be set aside.

6. Learned Public Prosecutor has submitted that, the petitions would not be maintainable and even on merits, no interference be made by this Court. It is submitted that these petitions be dismissed.

7. Before the rival contentions are dealt with, it is noted that, the impugned order is read before the Court, line-by-line. This Court has considered the same. The glaring aspects are that, the petitioners approaching this Court and getting protection against arrest etc., are also shown as the circumstances as to why they are required to be externed. The notice and the order also indicate that, the election of the Trust, which manages this religious sect, is also treated as a factor against these petitioners.

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8. From the material on record it also transpires that, the stacks of the election in question are so high that there are number of orders right upto the Supreme Court of India, copies of which are placed on record by both the sides. This further fortifies the prima facie satisfaction of this Court that, the State, through its instrumentalities, has been facilitating the battles, including the legal battles, of one side against the other side, including by resorting to externment orders of the Priests of one group of the same religious sect.

9. Having heard learned advocates for the respective parties and having considered the material on record, including the satisfaction of the concerned S.D.M. to order externment of the petitioners, as reflected in the impugned orders, as noted above, this Court finds that, going by any parameter, the impugned externment orders are unsustainable and need to be set aside. The glaring aspect is the high-handedness of the police officials, which is readily accepted by the Revenue Authorities through the Sub-Divisional Magistrate. In totality, these petitions need to be allowed.

10. For the reasons recorded above, the following order is passed.

10.1 Both these petitions are allowed.

10.2 The impugned orders passed by the Sub-Divisional Magistrate, Botad, both dated 31.05.2021 are quashed and set aside.

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10.3 Rule is made absolute in above terms, in both the petitions.

M.H. DAVE/2

(PARESH UPADHYAY, J)

