

USE EXTERNMENT ORDERS WITH CAUTION: SC

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The Supreme Court has held that a person cannot be barred by authorities from entering a place on mere suspicion. The court said authorities can pass an order of externment against a person only under extraordinary circumstances.

'Very sparingly'

The discretion should be used "very sparingly" as it deprived a person of his or her right of free movement in the country. An externed person may not even be able to stay with his family or home.

"There cannot be any manner of doubt that an order of externment is an extraordinary measure. The effect of the order of externment is of depriving a citizen of his fundamental right of free movement throughout the territory of India," a Bench of Justices Ajay Rastogi and Abhay S. Oka observed in a recent judgment.

There is even a possibility that an order of externment would deprive a person of his livelihood.

SDM order

"Such an order also prevents the person even from staying in his own house along with his family members during the period for which this order is in subsistence. In a given case, such order may deprive the person of his livelihood," Justice Rastogi observed.

The court was hearing a challenge against a Sub Divisional Magistrate's (SDM) order of a two-year externment against the appellant, Deepak, under the Maharashtra Police Act. Two years is the maximum period of externment under the Act. The Bombay HC had refused to intervene, following which Deepak had moved the apex court.

Reminding the authorities on the conditions before ordering externment, the court said there should be "objective material on record on the basis of which the competent authority must record its subjective satisfaction that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to persons or property".

Fundamental right

Noting that clause (d) of Article 19(1) of the Constitution provides citizens a fundamental right to move freely throughout the territory of India, the court said an externment order "must stand the test of reasonableness".

"These reasons which necessitate or justify the passing of an extraordinary order of externment arise out of extraordinary circumstances," the court noted, quashing aside the SDM's order.

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