

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2611 OF 2015

Anil s/o Limbaji Garud **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

**WITH
CRIMINAL APPLICATION NO. 2612 OF 2015**

Rajendra s/o Narayan Wagh **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

.....

Mr. P.S.Paranjape, Advocate for Applicant.

Mr. V.H.Dighe, A.P.P. for Resp. - State.

.....

CORAM : V.M.DESHPANDE, J.

DATE : 30th JUNE, 2015

.....

PER COURT :

1. Heard Mr. P.S.Paranjape, learned counsel for the applicants and Mr. V.H.Dighe, learned A.P.P. for Respondent - State.

2. On 12/01/2015, complainant Chetan Nathu Bagul has approached in the Court of the learned Chief Judicial Magistrate, Dhule against seven persons. Out of them, applicant Anil s/o Limbaji Garud in Criminal Application No. 2611 of 2015 and applicant Rajendra s/o Narayan Wagh in Criminal Application No. 2612 of 2015 were shown as accused Nos. 1 and 5 in the said complaint.

From the complaint, it is clear that there is long standing dispute in between two groups of Songir Vidya Prasarak Mandal, Songir, Tq. and Dist. Dhule which is registered under provisions of the Bombay Public Trust Act for their control over the management.

It is not in dispute that in 2009, applicant Anil in Criminal Application No. 2611 of 2015 was promoted to the post of Head Master, for which approval was granted by the Education Officer. It is submitted that the said approval was recalled by the Education Officer in 2012, necessitating applicant Anil to approach before this Court by filing Writ Petition. It is stated by the learned counsel for the applicants that initially interim stay was granted by this Court in favour of applicant Anil, ultimately his Writ Petition was dismissed. That required applicant Anil to approach before the Hon'ble Apex Court and Hon'ble Apex Court initially granted interim stay in favour of applicant Anil and Hon'ble Apex Court on 15/01/2015 disposed of the Special Leave Petition No. 3712 of 2013 observing that the petitioner Anil should submit his application in the proper form to go under voluntary retirement in the post of Head Master forthwith on receipt of a copy of this order with the third respondent – Institution.

Thus, from 2009 to 2015 there can be hardly any dispute that Anil was discharging his duty as Head Master.

Applicant Rajendra s/o Narayan Wagh in Criminal Application No. 2612 of 2015 was appointed as teacher in the school run by the Trust. The allegation in the complaint before the learned Chief Judicial Magistrate is that the applicant Anil in collusion with the Education Officer of Zilla Parishad, in spite of the fact that applicant Rajendra was not holding requisite qualifications, has promoted him to the post of Superintendent and thus he has committed an offence.

3. Learned A.P.P. vehemently submitted that the Head Master alone is not having authority to grant promotion to any person unilaterally. That has to be accorded by the school committee as envisaged under provisions of the Maharashtra Employees of Private Schools [Conditions of service] Regulation Act, 1977. For decision of the present Criminal Applications for anticipatory bail, this Court need not advert into the said controversy. Suffice it to say that the promotion granted to applicant Rajendra was approved by the Education department.

4. The question before this Court presently is about the custody of the present applicants. Admittedly, applicant Anil s/o Limbaji Garud in Criminal Application No. 2611 of 2015 is now no more in service. Further, learned A.P.P. has fairly stated that all the documents pertaining to the promotion of applicant Rajendra s/o Narayan Wagh in Criminal Application No. 2612 of 2015 are either in the

custody of the Education department of the Zilla Parishad or with the Investigating Officer, thereby it is crystal clear that the applicants are not having any control whatsoever. In that view of the matter, no fruitful purpose will be served by directing the custodial presence of the present applicants. However, for the purpose of further investigation, applicants can be directed to attend police station and to extend their fullest co-operation to the Investigating Officer. That leads me to pass the following order.

- (i) Present both Criminal Applications are allowed.
- (ii) In the event of arrest in connection with Crime No. 29/2015 registered with Songir police station, Dist. Dhule for the offences punishable u/s 109,116,119, 120,120-B,166,167,177,182,193,196,197, 198,199,200,201,204,219,406,409,418, 420,426,465,468,471,474 read with 34 of the Indian Penal Code, applicant Anil s/o Limbaji Garud in Criminal Application No. 2611 of 2015 and applicant Rajendra s/o Narayan Wagh in Criminal Application No. 2612 of 2015 be released on anticipatory bail on they executing P.R. Bond of Rs. 15,000/- [Rupees Fifteen Thousand] with one solvent surety of like amount by each of them.

- (iii) Applicant Anil s/o Limbaji Garud in Criminal Application No. 2611 of 2015 and applicant Rajendra s/o Narayan Wagh in Criminal Application No. 2612 of 2015 shall attend Songir police station, Dist. Dhule from 06/07/2015 to 09/07/2015. During this period, both the applicants shall remain in police station for the purpose of interrogation and investigation with the Investigating Officer from 11.00 a.m. to 3.00 p.m.
- (iv) After this presence from 06/07/2015 to 09/07/2015, if in future the Investigating Officer requires the presence of the applicants, then in that event, Investigating Officer shall call the applicants by giving written communication of at least 48 hours and then the applicants shall attend the police station.
- (v) With these observations, present both Criminal Applications are disposed of.

[V.M.DESHPANDE, J.]