

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

CRIMINAL APPLICATION NO. 1237 OF 2014

Smt. Sadiya Naheed w/o. Mirza Azizulla .. Applicants
Baig and others.

Versus

The State of Maharashtra & another .. Respondents

Mr. S.S. Kazi, Advocate for the applicants.
Mr. A.G. Magare, A.P.P. for respondent/State.
Mr. H.M. Shaikh, Advocate for Respondent No.2.

CORAM : A.V.NIRGUDE, J.

DATED : 18.04.2016

P.C. :-

1. Heard. The accused in Crime No.1294 of 2013 have moved this application for quashing of the crime and R.C.C. No.260 of 2014, which was registered after investigation.

2. Facts leading to this complaint in short can be stated as under :-

. There is a society by name Al-Faaran Educational & Welfare Society, Aurangabad, which runs an aided secular school. There occurred dispute between members of the society. Both the groups started claiming that their managing committee was lawful. The change reports

were filed and were opposed. During the pendency of one of such change report, the Dy. Charity Commissioner, Aurangabad vide his order dated 8th December, 2011 appointed one Advocate Mr. Anil Gawande as an Election Officer. He was further directed to hold elections as per the rules and regulations of the society within two months. As per the order Mr. Gawande, Advocate published election program in well-known newspapers on 26th December, 2011. He prepared a list of Members and published it, inviting objections etc. After due enquiry he prepared a list and he was about to start the election process. At that point of time, present complainant moved another application in December, 2011, alleging that the list prepared by the Election officer was illegal and false etc. He also requested the Joint Charity Commissioner to stop election process but vide order dated 27th December, 2011, the Jt. Charity Commissioner, refused to interfere in the process of election which had already began. Learned Jt. Charity Commissioner, clearly mentioned in his order that a list of members was published and is now finalized. The objection if any ought to have been decided by the Election Officer. There is clear indication through its order that the preparation of Voters' list was part of the election officer's duty. It is after the failure of this application, seeking stoppage of election process,

present complaint came to be filed. In this complaint it is alleged that the Election Officer with the help of some person prepared a false list of members for the purpose of election. On the fact of this allegation, it is clear that the allegation is not maintainable at all. The list is prepared as per duty caste on the Election Officer who was nothing but a Court Commissioner acting as per the order of the Court. If at all he commits any error in preparing list of members, same would be subject to challenge, when change report would be filed. In view of this, complaint was not maintainable at all.

3. The Criminal Application is allowed in terms of prayer clauses (A) & (B) and disposed of accordingly.

[A.V.NIRGUDE, J.]