

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

CRIMINAL APPLICATION NO. 6383 OF 2015

Shri Ramdas s/o Sakharam Shevale
age 57 years, occ. service
r/o Jalna, Tq. Bhokardan,
Dist. Jalna.

.. APPLICANT

VERSUS

1. The State of Maharashtra
Through the Police Inspector
Bhokardan Police Station
Tq. Bhokardan, Dist. Jalna.
2. Totaram s/o Kundlik Jadhav
age 75 years, occ. President
Shri RAmeshwar Shikshan Sanstha
Bhokardan r/o Dehede
Post Danapur, Tq. Bhokardan
Dist. Jalna.

.. RESPONDENTS

Mr. V.B. Jagtap, advocate holding for Mr. V.D. Sapkal, advocate for applicant.

Mr. S.J. Salgare, APP for the State.

Mr. V.V. Deshmukh, advocate for respondent no. 2

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CORAM : R.M. BORDE &

P. R. BORA, JJ.

DATE : 28th APRIL, 2016.

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for respective parties.

2. This is an application by the accused who is serving as Education Officer requesting to quash the proceeding initiated in pursuance to lodging of the complaint to the Magistrate registered as Criminal Misc. Application No. 274/2015. It is not a matter of controversy that the complainant claims

to be the office bearer of the education institution as also some of the accused are office bearers of the education institution and that there is dispute interse pending with the Charity Commissioner. Applicant claims to hold control over the affairs of the management. The act alleged against the Education Officer relates to according approval to the appointment of one of the teacher which, according to complainant, has been granted wrongfully with malafide intention. The Education Officer while granting approval to the appoint has acted in discharge of his official duties. The Education Officer is a public servant within definition of section 14 of the Indian Penal Code and no criminal proceeding can be maintained against him without securing sanction within contemplation of section 197 of the Code of Criminal Procedure. Admittedly, no sanction has been granted to proceed against the applicant. The complaint itself, on its bare perusal, appears to have been presented to settle score with the members who are opposing the complainant in gaining control over the affairs of the management and, the Education Officer, who has acted in discharge of his official duty is unnecessarily dragged into the controversy. Initiation of complaint against the Education Officer cannot be said to be a bonafide act.

3. For the reasons recorded above, criminal proceeding initiated against applicant who is public servant needs to be quashed and set aside and the same is accordingly quashed and set aside. Rule made absolute.

(P. R. BORA)
JUDGE

dyb

(R. M. BORDE)
JUDGE