

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

CRIMINAL WRIT PETITION NO.296 OF 2009

Laxuman s/o Bhumanna Myadarwad
Age 42 years, Occu. Service,
R/o Nanded. Tq. & District Nanded. ... PETITIONER

VERSUS

- 1) The State of Maharashtra
through Police Station,
Vazirabad, Nanded.
(Copy to be served on
Public Prosecutor,
High Court of Bombay,
Bench at Aurangabad)
- 2) Sanjay s/o Kamaji Dhavale,
Age 37 years, Occu. Unemployed,
R/o Village Kushnali, Tq. Kandhar,
District Nanded. ... RESPONDENTS

.....
Shri M.V. Ghatge, Advocate holding for
Shri B.N.Gadegaonkar, Advocate for petitioner
Shri S.J. Salgare, A.P.P. for respondent No.1/State
.....

CORAM: T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.

DATED: 20th July, 2017.

ORAL JUDGMENT :

1. This petition is filed for relief of quashment of the
F.I.R. No.50/2007 , registered at Vazirabad Police Station, Nanded
for offences punishable under Sections 408, 420, 468 and 471 of

the Indian penal Code and Section 3(i)(x), 4 and 10 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Learned counsel for the petitioner and learned A.P.P. for State are heard. Nobody turned up for respondent No.2 (original complainant). Present petitioner was working as a Social Welfare Inspector, He was deputed by Social Welfare Officer to attend the meeting dated 28/3/2005, which was held for selection of candidates for the post advertised by Zilla Parishad. He did attend that meeting and selection process was completed. The submission made was that, appointment order came to be issued in favour of one candidate on 7/5/2005.

3. The submission made and the record produced show that, when police called present petitioner for enquiry as police had received some complaints, he gave report on 6/11/2006 to Social Welfare Officer and informed that probably the record of selection was tampered to favour a candidate who was not belonging to reserved category when the post was reserved for reserved category candidate. It appears that, on 15/2/2007, the complainant Sanjay Dhavale filed private complaint in which he showed present petitioner as witness, as according to complainant, some information was supplied by present petitioner to him with regard to the manipulation of the record

made in that process. The same complainant then gave F.I.R. to Police Station on 26/6/2007, in which he made allegations against all members of the Committee. In view of this circumstance, the proceeding is filed.

4. Learned counsel for the petitioner submitted that, when the petitioner could have been a good witness of the incident, he is shown as accused and even in the private complaint, said complainant Dhavale had shown him as a witness. Learned counsel submitted that, when he had given the report, it needs to be presumed that, after making recommendation of the candidate belonging to the reserved category by him, and after signing of the record by him, the persons from Zilla Parishad had done some manipulation. Learned counsel submitted that, due to this possibility, the F.I.R. as against the present petitioner needs to be quashed.

5. The aforesaid contention made by the petitioner can be treated only as a case or defence of the present petitioner. What exactly happened and when the manipulation was done, whether it was done, is a matter of investigation. This Court cannot presume anything only due to such contention. The so called report given by the present petitioner, dated 6/11/2006 to the superior officer is on record and it shows that the petitioner is not disputing that there is manipulation in the record of the

selection process. In view of this circumstance, this Court holds that, thorough investigation is necessary and the F.I.R. cannot be quashed. The petitioner is interested for early investigation. It can be said that, only due to interim order of this Court, the things are stalled. Sufficient time needs to be given to the police to make investigation. In view of this, this Court holds that, no relief can be granted in favour of the petitioner. Criminal Writ Petition is dismissed. Rule discharged.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

fmp/