

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

2 CRIMINAL APPLICATION NO. 1654 OF 2017

CHANDRABHAN SANDU @ KHANDU PARCHURE
VERSUS
THE STATE OF MAHARASHTRA

Shri. Amol S. Sawant, Advocate, for applicant.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 4 April 2017

ORDER:

1) The application is filed for the relief of anticipatory bail in Crime No.43/2017 registered in Dhule City Police station for offence punishable under section 420 of the Indian Penal Code. The learned counsel argued for interim relief. This Court feels that even issuance of notice to other side is not necessary in view of the nature of allegations made against the present applicant.

2) The crime is registered on the basis of report given by employee of the Education Department, Deputy

Education Officer (Secondary), Zilla Parishad Dhule. After making inquiry the Education Officer had given direction to take steps like giving of the report against the Education Officers who had joined hands with the management for filling the vacant posts which were meant for reserved category candidates.

3) There is specific allegation against the present applicant that when he was holding the post of Education Officer (Secondary) Zilla Parishad Dhule between 9-1-2009 and 31-5-2010, he approved the appointments of one trained graduate teacher and one trained non graduate teacher of F.M. Lalwani High School, Betawad run by Janta Vidya Prasarak Sanstha, Betawad, Tahsil Shindkheda, District Dhule and due to these appointments the Government has suffered loss of Rs.16.73 lakh. Thus, not only the posts which were meant for reserved category candidates were filled due to the present applicant, but there is loss of amount of Rs.16.71 lakh which is apparently misappropriation of the Government money due to joining hands by the present applicant with the management.

4) The learned Sessions Judge has considered the duties of the applicant and has come to the conclusion that it is not fit case to grant the relief. The learned counsel for the applicant submitted that it was not the duty of the Education Officer to ascertain as to whether the post is reserved or not reserved and after receipt of proposal from the management he can only approve or disapprove the appointments. This submission is not correct in law. First thing is that when the post is to be filled, even before appointment when advertisement is being published, permission of the Education Officer is required to be taken. At that time itself the Education Officer is expected to see that upto date roster of that school is maintained to ascertain as to whether the post is reserved or not. In that case he cannot grant permission even to publish advertisement of the post for open category candidates if the post is reserved. Similarly, he is not expected to allow the educational institution to appoint open category candidate as against the post meant for reserved category candidate. There is specific allegation that he approved such appointments and thereby he committed offence under the Reservation Act

2004 and he caused loss to the Government,

5) Learned counsel for the applicant submitted that the applicant is a heart patient and protection needs to be given to him. He is retired Education Officer. Though there are these circumstances the things cannot be taken lightly. It is noticed that many Education Officers have created havoc. They join hands with the managements and due to that illegal appointments are made by the managements and they are made even against the posts reserved for backward class category candidates. Such employees of the Education Department need to be dealt with stringently so that fear is created in the minds of others and they do not dare to indulge in such activities. Discretionary relief cannot be used in favour of such employees. Only after custodial interrogation police can ascertain the other instances which may not be within the knowledge of the Government in which the applicant was involved. The application is rejected.

Sd/-
(T.V. NALAWADE, J.)

rs1