

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 979 OF 2013

Nihal Jafarsab Saudagar,
Age 40 years, Occu. Service,
R/o. Walandi, Ta. Deoni,
District Latur.

....Applicant.

Versus

1. The State of Maharashtra,
Through Police Station, Deoni,
Ta. Deoni, District Latur.
2. Bhimashankar Shivrudrappa Mahajan,
Age 60 years, Occu. Agri.,
R/o. Deoni, District Latur.

....Respondents.

Mr. A.V. Indrale-Patil, Advocate for applicant.

Mrs. V.S. Choudhary, APP for respondent No. 1/State.

Mr. V.G. Sakolkar, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : 30/07/2018

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. No. 109/2012 and Misc. Application No. 56/2012 in which the order of investigation was made by J.M.F.C., Deoni. The matter was sent to Police Station Deoni by J.M.F.C. for investigation and the offences punishable under sections 420, 34 etc. of Indian Penal Code are mentioned in the complaint by respondent No. 2.

2) Respondent No. 2, complainant has made allegations that the present applicant, who was Secretary of one Educational Institution and also the Head Master of that Institution was selected as open category candidate, but in the year 2007-2008 at the time of preparation of seniority list of the teachers of this school, he used caste certificate showing that he was belonging to Other Backward Class (OBC) category and got the seniority. Allegations are made that in the past, he had obtained a certificate to show that he was belonging to scheduled caste and then he created the record of OBC category in his favour.

3) The caste claim of the present applicant that he belongs to OBC category was considered by Caste Scrutiny Committee and the decision of the Caste Scrutiny Committee was challenged before this Court in Writ Petition No. 2475/2013 decided on 13.1.2014. All the contentions which are involved in the present matter were considered in the said matter. This Court considered the circumstance that OBC certificate was issued to him and there was record to substantiate this claim. It was submitted that in the past 'Khatik' caste was considered as scheduled caste, but subsequently, it was treated as OBC. In the present matter, some record is produced to that effect of 1982. It can be said that first time in the

year 2001 he was treated as 'Muslim Khatik' belonging to OBC. In the decision of the writ petition, a direction is given by this Court to issue validity certificate to certify that present applicant belongs to Musalman (Khatik), which is included in OBC. In view of these circumstances, this Court holds that it is not desirable to direct the applicant to face the trial for aforesaid offences on the basis of allegations made by the first informant. In the result, the application is allowed. Relief is granted to the applicant in terms of prayer clause 'A'. Rule is made absolute in those terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

SSC/