

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

CRIMINAL APPLICATION NO. 1805 OF 2014

Smt. Hemlata Shrikant Kulkarni,
Age 56 years, Occu. Service as
a Principal, R/o. 166, N-3, Cidco,
Aurangabad.

....Applicant.

Versus

1. The State of Maharashtra
Through P.I. Police Station
Begumpura, Dist. Aurangabad.
2. Pandit s/o. Sayajirao Shejwal,
Age 48 years, Occu. Junior Clerk,
R/o. Kaiser Colony, Galli No. 5,
Near Fatema Girls High School,
Aurangabad.

....Respondents.

Mr. Pradeep Deshmukh h/f. Mr. Y.P. Deshmukh, Advocate for
applicant.

Mr. R.V. Dasalkar, APP for respondent No. 1/State.

Mr. S.S. Jadhavar, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : JUNE 04, 2018.**

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

1) Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2) The proceeding is filed under section 482 of Criminal
Procedure Code (hereinafter referred to as 'Cr.P.C.' for short) for

relief of quashing of F.I.R. No. 45/2014 registered with Begumpura Police Station, Aurangabad for the offences punishable under sections 468, 471, 420 of Indian Penal Code (hereinafter referred to as 'IPC' for short). Both the sides are heard.

3) The applicant is working as Principal of College of Social Work which is run by Dr. Babasaheb Ambedkar Marathwada University, Aurangabad and the college is situated in the campus of University. Respondent No. 2, original complainant was working as Junior Clerk with this college. He became Head Clerk and then he was aspiring to get post of Office Superintendent. Post of Office Superintendent became vacant in the year 2010. It is the case of respondent No. 2 that as he belongs to reservation category, he is entitled to get the promotional post, the post of Office Superintendent, but only to avoid to give him promotion, false record was prepared by the present applicant and he was denied promotion. It is his case that false record of service book is created and manipulation was done even in roster and that was done by the present applicant. Due to these allegations, the crime is registered for aforesaid offences.

4) The submissions made and the record show that in the past, present respondent No. 2 had come to this Court by filing Writ

Petition No. 291/2011. In view of nature of grievances which he was having, by the order dated 25.11.2011 this Court had advised him to first approach the Grievance Committee. It appears that respondent No. 2 approached the Grievance Committee and Grievance Committee advised the management of the college to consider him for time bound promotion. The advise was given in the month of January 2013 and the management took a decision after considering his case that no time bound promotion can be given to the applicant due to his conduct and the record. Thus, the decision was taken in the year 2013 itself of not giving time bound promotion to him. The submissions made show that management is not ready to give him promotion on the basis of reservation and it is the case of management that the post of Superintendent is isolated post and due to that, the promotion cannot be given on the basis of reservation. This decision was also communicated to respondent No. 2, the employee. The submissions made show that those decisions are not challenged by respondent No. 2.

5) The submissions made shows that respondent No. 2 was working as Head Clerk in the same institution. There is allegation made by respondent No. 2 that false entries were made in service book and even his thumb impressions were not obtained in service book and he has collected such report of private expert. It is

allegation that even when for some period the present applicant was not in service, she created the record for that period also and that shows that she created false record. All these contentions can be considered by the appropriate authority and when the college is under administration of University, respondent No. 2 could have approached the authority for having redressal of his grievance. Further, if the aforesaid decisions are taken, they were taken by the Managing Committee and only Principal could not have taken such decisions. The record shows that two increments were wrongly given to respondent No. 2 and direction was given by Social Welfare Officer of the Division to take steps to recover that amount and refix the pay. In Writ Petition No. 2848/2012, this Court had again advised present respondent No. 2 to go to the Grievance Committee. Thus, instead of following proper procedure for redressal of the grievance, respondent No. 2 preferred to file report against the Principal and he has used his caste which is reserved caste. These circumstances are sufficient to infer that it is abuse of process of law and to pressurize the applicant, respondent No. 2 has played such tactics. Due to all these circumstances, this Court holds that the application needs to be allowed. In the result, following order.

ORDER

- (I) Application is allowed.
- (II) Relief is granted in terms of prayer clause 'B'.

Rule is made absolute in those terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

SSC/