

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

Criminal Application No.4193 of 2014

* Bipin Dinkar Zope,
Age 42 years,
Occupation : Service,
R/o Manisha Building,
Behind R.R. High School,
Jalgaon,
Taluka & District Jalgaon. **.. Applicant.**

Versus

- 1) The State of Maharashtra,
Through Police Inspector,
Ramanandnagar, Jalgaon,
Taluka and District Jalgaon.
- 2) Chiman Asaram Zope,
Age 54 years,
Occupation: Agriculture,
R/o Faijapur, Taluka Yawal,
District Jalgaon. **.. Respondents.**

Shri. Shambhuraje V. Deshmukh, Advocate, for applicant.

Shri. R.V. Dasalkar, Additional Public Prosecutor, for
respondent No.1.

Shri. B.R. Waramaa, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
K.L. WADANE, JJ.**

Date: 27 JULY 2018

JUDGMENT (Per T.V. Nalawade, J.):

1) The proceeding is filed under section 482 of the Code of Criminal Procedure for the relief of quashing of F.I.R. No.45/2014 registered with Ramanand Nagar Police Station Jalgaon for offences punishable under sections 420, 468, 34 etc of the Indian Penal Code. Both the sides are heard.

2) The complaint was filed by respondent No.2 Chiman Zope and the said complaint was registered in view of the order made by learned Judicial Magistrate First Class Jalgaon under section 156(3) of the Code of Criminal Procedure. Allegations are made against present applicant that he is hale and hearty person but he falsely showed that he was handicapped person and he got appointment on the post of teacher in one school from Jalgaon in 1996. It is contended that applications were invited for the post on 12-5-1996 and on that date there was no handicap certificate with him and handicap certificate was issued in his favour subsequently on 28-8-1996. It is also contended that in one renewed certificate

it is mentioned that there was disability in respect of left lower limb to the extent of 40% but in other certificate the disability was shown in respect of left upper limb and so the applicant has created false record. In paragraph 7 of the complaint the four certificates are mentioned which are of 1987, 1996, 2002 and 2009. It is contended that in the certificate of 28-8-1996 there was mention of disability in respect of left lower limb.

3) This Court has carefully gone through the record of appointment and the disability. It is true that in the advertisement it was not made clear that the post was reserved for handicapped persons from reserved category. In the application given by the applicant he had mentioned that he was having handicap certificate. It can be said on the basis of the contents of the complaint itself that there was old certificate of 1987. The submissions made show that the disability certificate needs to be renewed and accordingly the applicant got renewal of the certificate. There is certificate dated 21-6-1987 showing that due to polio in the childhood wasting to arm and forearm and hand muscle was there and due to that there

was physical disability. The certificate dated 28-8-1996 shows that there was disability in respect of left lower limb but all the subsequent certificates issued there was mention of disability of left upper limb. Final certificate about the disability is issued by Medical Board of Civil Hospital and it is in respect of left upper limb and the disability was to the extent of 56% as on 13-6-2014. It is not disputed that appointment was given to the applicant as a person from handicap category.

4) It is also the contention of the complainant that driving licence was obtained by the present applicant in respect of motor cycle and that circumstance also shows that his claim of disability is false. It was submitted that in the disability certificate it is mentioned that he cannot ride motor cycle having gear but he obtained driving licence in the year 1989 to drive motor cycle with gear. Though there is such circumstance but on the basis of this circumstance it cannot be said that the disability certificate obtained by him was false. It can be said that in one certificate mistake was committed by the authority issuing the disability certificate but the fact remains that

disability is there. Inquiry was also made after making of the complaint to the authority by the complainant and after that inquiry also the authority came to the conclusion that there was disability. In view of these circumstances this Court holds that nothing can be achieved in making investigation and asking the applicant to face the trial for the aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause (B). Rule made absolute in those terms.

Sd/-
(K.L. WADANE, J.)

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

rs1