

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.5201 OF 2018

Kumar Pralhad Wagh and Ors. ... Petitioners

Versus

State of Maharashtra ... Respondent

Mr. Ritesh Thobde for the Petitioners.

Mr. Deepak Thakre, PP a/w Shri. K.V. Saste, APP for the respondent State.

**CORAM : B.P. DHARMADHIKARI &
N.M. JAMDAR, JJ.**

DATE : FEBRUARY 11, 2019

P.C.:

Petitioner no.1 headmaster and petitioner no.2 Chairman of Education Society are before this court under section 482 of Cr.P.C. for quashing of FIR and chargesheet in CR No.139 of 2015 and Special Case No.09/17 which are under section 7, 12 13(1) (D) and 13(2) of the Prevention of Corruption Act.

2. The contention is petitioner no.1 being the headmaster, in terms of the section 19 of Prevention of Corruption Act read with section 4 of MEPS Act, sanction of the employer education society is must.

3. Without prejudice to this contention, it is also pointed out that here the sanction is accorded on 05/11/2015 by the Director of Education and on 01/03/2016 i.e. much after the said date that power has been conferred upon the Director by the State Government. Learned counsel submits that such power available with the employer could not have been made over to the Director. Our attention is invited to other GR by which power to suspend in such situation was also made over to the Director. It is pointed out that the said GR dated 14/7/2016 was held ultra virus and set aside by the Division Bench of this court.

4. It is not the case of the petitioners that for prosecuting petitioner no. 2 Chairman of Education Society such sanction is required. The challenge is limited only to prosecution of headmaster. The department has obtained sanction from the authority which releases the grants to education society namely the Director of Education. When the Chairman of the Education society himself is co-accused along with the headmaster, insistence on sanction from the Education society cannot be sustained.

5. However, in this situation, we are not inclined to intervene in extra ordinary jurisdiction. We keep all the contentions of the

petitioners open and with liberty to the petitioners to raise it at appropriate juncture in trial court, dispose of the petition.

(N.M. JAMDAR, J.)

(B.P. DHARMADHIKARI, J.)