

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

CRIMINAL WRIT PETITION NO.987 OF 2020

SHAIKH HARUN SHAIKH IQBAL
VERSUS
THE SUPERINTENDENT OF POLICE, JALGAON AND OTHERS

...
Advocate for Petitioner : Shri S. S. Deshmukh
APP for Respondent Nos. 1 & 2 : Shri R. V. Dasalkar
...

**CORAM : RAVINDRA V. GHUGE AND
B. U. DEBADWAR, JJ.**

DATE : 01ST APRIL, 2021

PER COURT :

1. On 31-03-2021, we had passed the following order :-

"1. The learned Prosecutor submits that he would take instructions from respondent No.2 and if possible, even from respondent No.3. We would appreciate, if respondent No.2 remains present in the Court, tomorrow.

2. Stand over to 01/04/2021 at 2:30 p.m."

2. Today, respondent No.3 Shri Bhaskar Patil and respondent No.2, P.S.I. R. D. Pawar, Savda Police Station are present in the Court. The petitioner had filed complaint with the Savda Police Station on 10-08-2020, alleging that two persons were illegally granted approval by respondent No.3, without there being a proper selection process for appointment of the said two persons and in the absence of a legal proposal forwarded by the Head Master of Anglo Urdu High School, Savda, Tq. Raver, operated by the Ettehad Education Society, Jalgaon. Several allegations have been set out therein.

3. The learned prosecutor is instructed by respondent No.2 to state that he had informed respondent No.3 to submit necessary papers for assisting proper investigation into the complaint. He had recorded the statement of the petitioners on 05-09-2020. On 22-02-2021, the concerned Head Constable, Shri Muhammad Shah Kadir Shah intimated the Education Officer to supply the copies of the documents, in relation to such approval. However, respondent No.3 has not supplied the said documents.

4. We have cursorily perused the original file shown to us by the learned prosecutor, on instructions from respondent No.3. Though we are not making any observations as regards the truthfulness of the documents in the said file, we find it appropriate to record that the advertisement was published in a relatively unknown newspaper by name *Apla Navarajya*, by the Education Society, to create a picture that the advertisement for filling up the post in 2012 was published in a newspaper.

5. Considering the efficacious remedy available to the petitioner, we are disposing off this petition with the following directions :

- a) Respondent No.3 shall supply all necessary documents to respondent No.2, on or before 07-04-2021, by attesting the documents, with his signature and stamp.
- b) Any deficiency or shortfall in the documents will be

considered as dereliction of duty on the part of respondent No.3 and respondent No.4, CEO of Zilla Parishad, Jalgaon shall then initiate appropriate disciplinary action against him.

- c) Upon receipt of the documents from respondent No.3, Shri R. D. Pawar would himself investigate into the matter and by following due procedure of law, shall initiate proceedings as are necessary in law. This exercise be completed within 30 days from the date of receipt of the documents.
- d) The learned advocate for the petitioner submits on instructions that in the event the complaint filed by the petitioner turns out to be false / frivolous / vexatious, he would deposit an amount of Rs.1 lakh as costs with the Savda Police Station, within 30 days, for setting the police machinery into motion.
- e) We are not expressing any opinion as regards the merits of the complaint and the investigation process, since we are confident that the P.S.I. would ensure that the investigation is taken to a logical end and if there is truth in the complaint filed by the petitioner, appropriate proceedings, as prescribed under the Code of Criminal Procedure, would be initiated.

6. The learned advocate for the petitioner graciously submits that the amount of Rs.25,000/- that he had deposited in this Court to show his *bona fide*, pursuant to the order of this Court dated 08-09-2020, be donated for the treatment of COVID-19 patients, to the Government Medical College and Hospital at

Aurangabad. This amount shall be set off against the amount of Rs. 1 lakh, in the eventuality under clause 5(a).

7. The C.E.O. Zilla Parishad, Jalgaon shall note that the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and the rules thereunder, mandate publication of such advertisement for recruitment of teaching and non-teaching staff in three newspapers, having wide circulation in the concerned region / State of Maharashtra, and these instructions / rules are not being scrupulously followed. He shall, therefore, initiate action against Education Officers, who grant approval to recruitment and appointments, when such recruitment processes are based on advertisement published in practically unknown newspapers or weeklies.

8. We also deem it appropriate to direct the learned Registrar (Judicial), to place this order before the Secretary, Department of Education, State of Maharashtra, to issue strict guidelines to all authorities and instrumentalities of the State and such public bodies that they shall ensure that such advertisements are published strictly in accordance with the prescription of law.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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