

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 181 OF 2019

Dr. Purushottam S/o. Marotrao Kalbhoot,
Aged about 59 years, Occ. Principal,
R/o. C/o. Sudhakar Rao Deole,
Giripeth, Kalra Square, Arvi Road,
Wardha.

.... **APPLICANT**

----**VERSUS**----

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Wardha (City),
Wardha.

2. The Deputy Superintendent of Police,
Vigilance Cell, Scheduled Tribes
Scrutiny Committee, Nagpur.

.... **NON-APPLICANTS**

Shri R. M. Bhangde, Advocate for the Applicant.

Shri S. S. Doifode, Additional Public Prosecutor for the Non-applicants/State.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 23.09.2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.

2. **Rule.** Rule is made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging Charge-Sheet No.618/2018 and consequent proceedings pending on the file of the learned Second Judicial Magistrate First Class, Wardha for the

offences under Sections 11(1)(a) and 11(1)(b) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

4. The applicant was granted certificate on 26.06.1981 by the Executive Magistrate, Wardha certifying that the applicant belongs to "Pawara" caste. On the basis of such certificate, the applicant was appointed as full time lecturer in "Anandniketan College of Science, Arts and Commerce", Anandwan, Warora by appointment order dated 31.08.1988 and thereafter, was appointed to the post of Principal under open category. On the complaint made by Dr. Babasaheb Ambedkar Teachers Welfare Association, Warora, Caste Scrutiny Committee by order dated 12.05.2008, cancelled and confiscated the Caste Certificate of the applicant and authorised the non-applicant No.2 to file First Information Report against the applicant. The Deputy Superintendent of Police Vigilance Cell, Scheduled Tribes Scrutiny Committee filed a complaint on 07.08.2008 with the non-applicant No.1 – Police Station, Wardha and on the basis of the said complaint, the First Information Report came to be registered against the applicant. The Charge-Sheet came to be filed against the applicant on 03.12.2018. The applicant has

therefore, challenged registration of the Charge-Sheet by way of present application.

5. This Court on 25.02.2019, issued notice to the non-applicants and in the meantime, stayed the proceedings initiated in pursuance of the First Information Report No. 3260/2008. The non-applicant No.1 has filed reply stating that there is sufficient material available against the applicant.

6. We have heard Shri R. M. Bhangde, the learned Advocate for the applicant and Shri S. S. Doifode, learned Additional Public Prosecutor for the State.

7. Shri R.M. Bhangde, the learned Advocate for the applicant submits that the issue involved in the present application is squarely covered by the judgment of this Court in the case of ***Vilas S/o Rambhau Majrikar Vs. State Of Maharashtra in Criminal Application No.1173/2010***, wherein this Court has held that filing of police case by registration of the First Information Report before the Criminal Court is not contemplated and what is contemplated is filing of a private complaint by the Scrutiny Committee or its Authorized Officer in accordance with Chapter XV of the Code of Criminal Procedure. It is further held that since the provisions of the said Act of 2000 came into force with effect from 23.05.2001,

the offences committed prior to coming into force of the said Act, would not be covered as the said Act is prospective in nature.

8. In the facts the present case, undisputedly, the First Information Report has been registered with the Police Station; the alleged offence of issuance of invalid Caste Certificate is prior to coming into force of the Act of 2000.

9. Therefore, we pass following order :-

The Charge-Sheet No. 618/2018 and consequent proceedings pending on the file of Second Judicial Magistrate First Class, Wardha for the offences under Sections 11(1)(a) and 11(1)(b) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 are quashed and set aside.

10. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE