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

**ANTICIPATORY BAIL APPLICATION NO.1644 OF 2022
WITH APPLN/4104/2022 IN ABA/1644/2022**

**PRABHAKAR ROHIDAS CHAUDHARY
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Applicant : Mr. P.P. More h/f Mr. V.S. Panpatte
APP for Respondent/State : Mr. S.B. Narwade
Advocate for Complainant/Assist to PP : Mr. Bipinchandra K. Patil

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CORAM : S.G. MEHARE, J.

DATED : 07th DECEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. The present case is an example of immorality, dishonesty and disobedience of the law and white-collar insurgency. Unfortunately, the teachers, whom society respects as the architect of society, have been seen as involved in immoral crimes. It can be seen from the allegations and role attributed to the applicant to what extent a teacher is going to secure the job by playing fraud.
3. It has been alleged against the applicant that he obtained the job from the back door. He was ineligible for an appointment as a teacher. However, in collusion with the School Management and Education Authorities, he got appointed illegally. He, on his own, had collected his proposal for approval and submitted to the Office of the Deputy Director of Education. He prepared a fake advertisement

inviting applications for the post of teacher to make his claim legal, knowing well that he was not eligible to be appointed. He got appointed and recovered the dues from the Government. He did not face the Teachers Eligibility Test (TET) and never registered on the Pavitra portal. Since there were considerable illegalities in the appointment of the teachers and non-teaching staff in private education societies as per the direction of the Bombay High Court, the Government has formulated the above scheme for the fair appointment of teachers in private schools. However, it seems that the management, teachers and staff of the private schools did not respect the above schemes. They interpret the Laws, Rules and Government Resolutions suitable to their convenience and create a mess. The Chairman, Directors and Trustees of the schools are mostly influential and close to politicians. Education is so expensive that today has gone beyond the reach of a common man. The Government, time and again, is framing laws and issuing resolutions to regulate fair recruitment in private schools and trying to implement the constitutional rights of the last citizens. Still, the persons who are in power seem not to respect the law and mould the law suitable to them. Persistent disobedience of the law is a sort of insurgency. It is a common experience that most of the time, the persons appointed in the private schools are close in relation to the trustees of the society. Many times, the post reserved for Scheduled Caste and Scheduled

Tribes are kept vacant to convert the reserved posts into regular posts. In this case, it has come to light that to favour the present applicant on the regular post, avoiding the Government Resolution regularizing the staff who were serving the society for a longer period.

4. It is not in dispute that before the last appointment, the applicant was never a regular employee. He was appointed on a clock-hour basis. But the prosecution evidence *prima facie* indicates that the applicant was in collusion with the management and he has tampered with the record of the public office.

5. In the light of the above allegations and the evidence collected by the prosecution, the learned counsel for the applicant has argued that the election of the society is approaching. Hence, the applicant has been made a scapegoat for the rivalry of the management. The applicant was qualified/eligible on the date of his last appointment. He got a degree in M.A. History in the year 2017. He has not received a single penny for the services he rendered. He fairly admitted that he was appointed as a teacher on clock hourly basis. He also alleged that on the date of his appointment i.e. on 01.08.2015, the complainant was the Chairman. A difference in the date on his appointment letter is not sufficient to infer that he has committed the illegality; at the most, it may be irregularity. He was appointed against a vacant post. The applicant has a good future. If he would not be released on bail, he may lose his career. The police

collected complete papers related to the present crime from the school and the concerned department. The applicant has impugned the order of the Deputy Director of Education, cancelling the approval in a writ petition. The order of the management terminating him has also been impugned before the School Tribunal. The applicant has no role to play in passing the resolutions and appointment orders. Therefore, he cannot be blamed for the wrongs of others. Considering the material against the applicant, no offence is made against him. The prosecution has no case for custodial interrogation. Hence, he may be granted bail.

6. Learned APP and learned counsel for the complainant would submit that the accused are the influential persons. The complainant was to take the recourse of 156(3) of the Criminal Procedure Code to get the offence registered. Before calling back the order of approval, the Deputy Director of Education gave each accused a hearing. In their explanation, they admitted that they had sent the proposal for approval of this applicant without considering the procedures. The accused illegally gave retrospective effect for his approval from 2015. It is also vehemently argued that the prosecution has evidence that the applicant has forged the documents of his service from 2015 in collusion with the management. The role attributed to each of the accused cannot be segregated. There are no provisions to send the proposal of teachers for approval, who were

working on a clock-hour basis. To regulate the proper appointments of the teachers, the Government introduced the Teachers Eligibility Test (TET). In the year 2017, the applicant became qualified for the regular post. However, he was to qualify TET and register on Pavitra Portal for his regularisation. But the illegalities have been committed giving a go-by to those eligibility tests. The prosecution has evidence from the Editor of the newspaper “Rajrang Times” that he did not receive communication from the school or its management for publishing the so-called advertisement. The prosecution also has the statement of the school clerk that he did not pay the charges for the said advertisement. The evidence collected by the prosecution *prima facie* reveals that in this entire episode of the appointment of the applicant, he was involved at every stage and every level. The conduct of the applicant taking his proposal is suspicious when normally, the teacher is not supposed to take his approval proposal from the school to the office of the Deputy Director of Education. Unless the police interrogate the applicant, it would be difficult to unearth the fraud and involvement of the persons concerned. It will also help to unearth similar serious offences committed by the management in the appointments of non-teaching and teaching staff. It has been vehemently argued that this is a fit case for custodial interrogation. Hence, the application may be dismissed.

7. The discussion made above, *prima facie*, establishes that the appointment of the applicant was apparently illegal and without following the due procedure of law and Government Resolutions. The evidence collected by the prosecution obviously shows favouritism and collusion. The conduct of the applicant was highly suspicious. It is to investigate who has forged the advertisement inviting applications for appointment on the post the applicant has been appointed. It is also required to be investigated who has tampered with the documents from the proposal sent for approval. The investigation papers also reveal that he has received a salary for his past services. On going through the prosecution papers, the possibility of great exploitation cannot be ruled out. The Court had considered the arguments advanced by the respective counsels and the papers produced before it and satisfied that it was a systematic conspiracy to cheat the Government. In the circumstances, the Court is of the view that the custodial interrogation of the applicant is essential. Hence, the application stands dismissed.

8. Criminal Application No.4104 of 2022 is allowed.

(S.G. MEHARE, J.)