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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5746 OF 2019**

Shri Govindrao Sitaram Dabhade and Ors. Petitioners.

V/s

The State of Maharashtra and Others Respondents.

Mr. Laxman S. Deshmukh for the Petitioners.

Mr. K.L. Vyas, Special Public Prosecutor with Mr. Konde-Deshmukh,
APP for the Respondent-State.

**CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.**

DATE: FEBRUARY 20, 2023

P.C.:-

1] On instructions, Petition is not pressed at the behest of Petitioner Nos. 2, 3, 4, 12, 13, 14 and 17 and prayer is made for withdrawal of the Petition against the said Petitioners.

2] Petition stands dismissed at the behest of Petitioner Nos. 2, 3, 4, 12, 13, 14 and 17 as withdrawn.

3] Petitioner No. 1 to 4 are office bearers who have appointed remaining Petitioners as teaching staff. Petitioners are seeking

quashing of Crime No. 0403 for the offence punishable under Sections 120-B, 109, 186, 201, 409, 420, 465, 467, 468, 471, 34 of the IPC and under Sections 13(1)(a)(b) and 13(2) of the Prevention of Corruption Act

4] Submissions are, even if Petitioner Nos. 5 to 17 have sought appointment and were appointed against the posts which were sanctioned from permanent no grant category and their services were absorbed in grant-in category, they cannot be blamed for such act as they were duly qualified. According to Counsel for the Petitioners, procedure adopted as per the provisions of MEPS Act and Rules framed thereunder qua selection and appointment of the teaching staff was duly followed.

5] If we appreciate the prosecution case, the allegations against the Petitioners are that in the management of an educational institution, the teachers are recruited after having approval from the Education Officer and in case if the posts which are filled-in on grant-in-aid basis, the salaries are released from public exchequer. There is another category of employees viz. permanent no grant basis for

which the State is not releasing any grant and the institutions are required to fund themselves to meet with the expenses and salary of these teaching and non-teaching staff.

6] In the case in hand, the prosecution has claimed that the office bearers of such educational institution i.e. Petitioner Nos.1 to 4 initially appointed rest of the petitioners on permanent no grant basis. The services of the Petitioners thereafter were absorbed in grant-in-aid basis and the salaries are released from public exchequer.

7] In the matter of grant of employment with an educational institution pursuant to the provisions of Right to Education Act or the Maharashtra Employees of Private School (Conditions of Service) Regulation Act, it is mandatory that there has to be a permission for operating a school may be primary i.e. 1st to 8th Standard or a Secondary or Higher Secondary School from the Education Department. The Education Department considering the strength of pupils lays down the ratio as regards the necessity of teaching and non-teaching staff and deals with the prayer of the Management for grant of permission to recruit such staff. After the permission, the

advertisement is issued in the paper and the selection process needs to be followed. The appointment orders issued to the qualified candidates are sent for approval to the Education Officer and it is only after Education Officer's approval qualified candidate gets recognition *qua* his employment. Such employment may be recognized/approved in two categories viz. grant-in-aid or no grant-in-aid. For grant-in-aid category approvals, the salaries are released by the State exchequer after post receiving pay bills from the educational institution.

8] In the case in hand, during the investigation it is noticed that the Petitioner Nos.1 to 4 without following aforesaid procedure have not only generated the fake appointment process but issued appointment orders by forcing the Management to do so illegally and converted such appointments from no grant basis to grant-in-aid basis. As such, by practicing fraud released their salaries by burdening public exchequer. As such, the petitioners were booked for offence punishable under Sections 120B i.e. criminal conspiracy, 109 i.e. abetment of offence, criminal breach of trust, cheating, disappearance or destroying of the evidence, forgery with common intention. The perusal of the allegation in the FIR and the material brought to our

notice by the Special Public Prosecutor demonstrates *prima-facie* involvement of the Petitioners in the offence alleged as the investigation depicts satisfaction of necessary ingredients of the sections referred above under which the Petitioners are booked.

9] This Court has tried to confirm from the Petitioners as regards following of the selection process pursuant to the aforesaid statutory provision which the petitioners have failed to demonstrate either by producing the advertisement, selection process, appointment orders, approvals etc. which were issued after following due process of law. In this background, no case for quashing as prayed is made out.

10] The petition as such stands dismissed.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]