



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1717 OF 2023

Padmavati Motilal Kotecha .. Applicant

versus

State of Maharashtra .. Respondent

Mr. S. S. Bora, Advocate for the Applicant.

Mr. B. A. Shinde, APP for the State.

Mr. Rajendra Deshmukh, Senior Counsel, instructed by Mr. S. V. Deshmukh, Advocate for the informant.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1721 OF 2023

Sanjay Sureshchandraji Surana .. Applicant

versus

State of Maharashtra & another .. Respondents

Mr. A. A. Fulfagar Advocate for the Applicant.

Mr. B. A. Shinde, APP for the State.

Mr. Rajendra Deshmukh, Senior Counsel, instructed by Mr. S. V. Deshmukh, Advocate for the informant.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1747 OF 2023

Ruksana Bi Tajmmul Husen
@ Ruksana Akram Shaikh .. Applicant

versus

The State of Maharashtra & another .. Respondents

Mr. P. S. Salunke, Advocate for the Applicant.

Mr. B. A. Shinde, APP for the State.

Mr. Rajendra Deshmukh, Senior Counsel, instructed by Mr. S. V. Deshmukh, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 12th JULY, 2024.

ORDER :

1. Applicants are apprehending arrest in connection with Crime No. 161/2023 registered with Bhusawal City Police Station, Dist. Jalgaon on 13.08.2023.

2. Informant is the ex-President of Shri Saraswati Vidya Prasarak Mandal, a trust registered under Maharashtra Public Trust Act. The said trust runs college in the name of PK Kotecha Women's Junior College at Bhusawal. It is alleged by the informant that Ruksana and Mahesh were said to have been appointed on the post of Assistant Teacher in the college by using forged and fabricated documents. It is alleged that these two persons were working in two different institutions and still they are shown to have been working with this college. It is also alleged that false and bogus resolutions were prepared showing their appointment by following due process of law and on the basis of such fabricated documents, a proposal came to be forwarded to the Deputy Director of Education for approval of their names as regular teachers. It is alleged that by playing fraud,

accused persons have cheated the Government and mis-appropriated public fund.

3. Learned counsel for the applicants submits that the informant is ex-President of the trust and there are two fractions of the management of trust and that for this reason, baseless allegations are made against the applicants. It is sought to be argued that the appointment of these two Assistant Teachers was done after issuance of advertisement on 24.08.2014 and the interviews were also conducted before their appointment. It is submitted that after following due process of law, resolution came to be passed on 04.09.2014 appointing them in the services of the college. As far as regularisation is concerned, it is the contention of learned counsel for the applicants that till the year 2018, there was ban on recruitment and for that reason regularisation of teachers was not done by the Education Department. It is only after issuance of Government Resolution dated 13.03.2018, said process is being initiated. It is contended that thereafter, through proper channel, proposal was moved before the Deputy Director of Education for seeking approval of these teachers and it was accordingly granted.

4. On behalf of applicant Ruksana, one of the teachers so appointed, it is submitted by learned counsel for applicants that the allegations against the management of playing fraud and creating bogus documents is not sustainable. It is his submission there is no embargo to appointment of teacher in two establishments if the teacher is not holding permanent post. It is submitted that this applicant was working as part time teacher at Tapti International School and the documents placed on record indicate the said employment was for a particular period which enabled her to work in the PK Kotecha Women's Junior College. In this regard reference is made to Rule No. 22(g) of the Maharashtra Employees of Private Schools Rules to contend that there is no such embargo for appointment in any two schools simultaneously.

5. Learned counsel for other applicants who are part of management have submitted that the material placed on record clearly indicates following of due process of law including issuance of advertisement and interview being taken by the interviewing panel before effecting their appointment. It is argued that merely because there are disputes between the management and there are two fractions of the management, it does not become a ground for

accepting false allegations. It is their contention that in no case custodial interrogation of the applicants would be necessary.

6. Learned Senior Counsel appearing on behalf of the informant and learned APP opposed the said submission. It is their contention that the evidence collected during the course of investigation is more than sufficient to show that the appointment of two teachers is nothing but on the basis of false and created record. It is submitted that Mr. Choudhari who was also appointed as a teacher in the college at Bhusawal was infact working in a college at Thane which is situated at a distance of about 400 km from Bhusawal. It is their submission that it cannot be believed that a person was working in both establishments simultaneously. In order to substantiate the said contention, investigation papers are relied upon wherein information is provided by Tapti International School Bhusawal as well as Utkarsha Mahavidyalala, Thane indicating appointment of both teachers in their respective establishments. It is submitted that there is more than sufficient evidence on record to hold that the resolution dated 04.09.2014 is fabricated. In order to support said submission, reference is made to affidavit-in-reply filed on behalf of the trust showing resolution of the same date. It is

argued that the resolutions placed on record along with affidavit on oath, does not show resolution passed for appointment of these two teachers on that day. It is also argued that the members of interview committee have given statement indicating that they never interviewed those persons who are said to have been interviewed on that day. According to them, having regard to the material collected during the course of investigation and in particular statements of Mr. Lahoti, Mr. Lalwani, Ms. Pratibha Patil and Mr. Narsinh are sufficient to prima facie establish fabrication of documents and once such case is made out, question of grant of anticipatory bail to the applicants does not arise.

7. At first blush, it appears that the First Information Report could have been filed against applicants owing to the dispute between the management of the trust. However, close scrutiny of the evidence collected during investigation clearly reveals that prima facie there is substance in the allegations made against these applicants of creating bogus record and documents for the purpose of showing appointment of two teachers and thereafter getting their confirmation to enable them to receive wages/salary from Government aid. In this case, at this stage, it would be material to take note of affidavit-in-

reply filed by Sanjay Surana wherein he has stated on oath about resolution being passed and the resolution so passed was made part of affidavit. Resolution No. 713 which is said to have been passed for appointing these two teachers in the college does not find place in the minutes of meeting of said date. There is communication received from Utkarsh College, Thane and Tapti International School, Bhusawal, to show indicating that Mr. Choudhari and Ms. Ruksana were working as a teacher in the said colleges.

8. Though learned counsel for applicants may be justified in claiming that there is no complete embargo for appointment of teachers in two establishments/colleges, it is practically impossible for any person working in a college at Thane to be able to work simultaneously in a college at Bhusawal. Apart from this, evidence collected during investigation indicates that Ruksana was on the roll of Tapti International School and the record indicates that at the relevant time she was said to have been working in the school. It appears from the said record that during the relevant period she had opted for a limited period of work on the ground that she had delivered a baby and required time for her. In such circumstances, it

is difficult to accept that she was working in PK Kotecha Women's Junior College.

9. Apart from this, informant has placed on record brochure for relevant academic year indicating names of teachers wherein names of these two teachers is not included. Similarly, the brochure includes photographs of the teaching and non-teaching staff and even in the said photograph they are not seen. The statement of members who have been part of Interviewing Committee also shows that they never conducted interview of these two teachers along with four others as claimed by the applicants. All these facts prima facie are more than sufficient to demonstrate that this is a case of fabrication of documents for the purpose of showing employment of two teachers. It is pertinent to note that on regularisation, these two teachers have drawn salary from Government funds. There is reason to believe statement made on behalf of informant that to receive monetary gains from Government funds, documents are created by applicants. Moreover, showing persons to be working on the establishment of college and to seek their regularisation, there is apparent mis-appropriation of public exchequer. Having regard to the nature of offence and prima facie evidence and since offence

involves fabrication of documents, custodial interrogation of the applicants would be necessary. As such, applicants are not entitled for pre-arrest bail. All the applications stand dismissed.

10. At this stage, learned counsel for applicants have sought extension of the interim protection granted by this Court vide order dated 13.10.2023 to challenge this order before the Hon'ble Supreme Court.

11. Learned APP and learned Senior Counsel for the informant have opposed the said request.

12. Considering the fact that liberty of the applicants was protected for a period of nine months, this Court finds it appropriate to extend the said order for a period of six weeks to enable the applicants to test this order before the Hon'ble Supreme Court.

(R. M. JOSHI)
Judge

dyb