



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1110 OF 2006

UTTAM DATTATRAYA POTDAR AND
THE HEADMISTRESS, SHRI DATTA PRATHAMIK VIDYA
MANDIR
VERSUS
THE STATE OF MAHARASHTRA
AND
SANJAY SHANKARRAO MEHAKARE

...
Mrs. S.G. Chincholkar, Advocate for the applicants.
Ms. A.S. Mantri, APP for Respondent No.1/State.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 09 December 2025

P. C. :-

1. Though respondent No.2 is served, however, nobody appeared for respondent No.2 on the last occasion and today also, none appears for him.
2. Heard the learned advocate for the applicants.
3. The applicants, through this application under Section 482 of the Code of Criminal Procedure, are praying for quashing and setting aside the order dated 01.03.2006 passed by the learned Judicial Magistrate First Class, Udgir, whereby, the

process was issued against the accused/ applicants for the offence punishable under Section 13 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The said private complaint bearing STC No.339/2006 was instituted by respondent No.2 on 01.03.2006.

5. During the pendency of this application, applicant No.1 (Uttam) passed away, therefore, the application to his extent is already abated.

6. Learned advocate for the applicants pointed out that respondent No.2 in fact has lodged the aforesaid STC No.339/2006 contending that the School Tribunal, Solapur, passed the judgment and order dated 05.12.2005 in Appeal No.265/2004 thereby, allowed the appeal of respondent No.2 wherein, the applicants and the Management were directed to pay 50% back wages to respondent No.2. Though the judgment of the School Tribunal was subsequently assailed in Writ Petition No.773/2006 and this Court vide its order dated 29.03.2006 was pleased to grant stay to the order of the School Tribunal, however, same was suppressed by respondent No.2 while filing the complaint against the applicants and the Management.

7. The operative order passed by this Court in Writ Petition No.773/2005 reads thus:-

“Heard Shri G.N. Chincholkar, learned counsel for the petitioners. Shri P.S. Pawar, learned counsel for Respondent No.1 and Shri P.M. Shinde, learned Assistant Government Pleader for Respondent No.2.

Rule. Hearing expedited.

Shri P.S. Pawar, learned counsel for Respondent No.1 and Shri P.M. Shinde, learned Assistant Government Pleader, for Respondent No.2 waive service.

Ad-interim relief in terms of prayer clause (C).”

8. The order of the School Tribunal is dated 05.12.2005. Writ Petition No.773/2006 was filed before this Court on 23.12.2005 and it was presented on 09.01.2006. Though respondent No.2 is aware that the petition was filed before this Court on 23.12.2005, still the complaint is filed by him on 01.03.2006. There was no occasion for respondent No.2 to prefer the complaint against the applicants. Further, the stay was granted by this Court on 29.03.2006 to the judgment of the School Tribunal and the said writ petition is pending before this Court. In that view of the matter, *prima facie* case is made out to

allow the application. Accordingly, this Criminal Application is allowed. The impugned order dated 01.03.2006 as well as the proceedings initiated by respondent No.2 vide STC No.339/2006 are quashed and set aside.

kps

(SUSHIL M. GHODESWAR, J.)