



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

21 CRIMINAL APPLICATION NO.1877 OF 2022

Dr. Satish Sandu Thombre,
Age 55 yrs., Occ. Professor,
R/o Honajinagar, Jatwada Road,
Harsul, Aurangabad,
Tq. & Dist. Aurangabad.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through In-charge Police Inspector,
Police Station, Jafrabad,
Tq. Jafrabad, Dist. Jalna.
- 2 Sham Kondiba Sarje,
Age 50 yrs., Occ. Principal of Siddharth
Arts, Commerce and Science College,
Jafrabad.
R/o Raje Sambhaji Nagar, Jafrabad,
Tq. Jafrabad, Dist. Jalna.

... Respondents

...

Mr. S.R. Sapkal, Advocate for applicant
Mr. A.M. Phule, APP for respondent No.1
Mr. M.M. Ambhore, Advocate for respondent No.2

...

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 24th FEBRUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed initially for quashing First Information Report vide Crime No.115/2022 dated 19.05.2022 registered with Police Station, Jafrabad, Tq. Jafrabad, Dist. Jalna and by way of amendment for quashing charge sheet pending before learned Judicial Magistrate First Class, Jafrabad, Dist. Jalna, for the offence punishable under Sections 420, 468, 470, 471 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.R. Sapkal for applicant, learned APP Mr. A.M. Phule for respondent No.1 and learned Advocate Mr. M.M. Ambhore for respondent No.2.

3 Learned Advocate for applicant submits that applicant was possessing required qualification for the post of Senior Lecturer. He came to know about advertisement for such post from OBC category in 2005 for Sillod Shikshan Sanstha. He applied for the said post and came to be appointed vide order dated 20.10.2005. He joined the duty on 21.10.2005. Prior to that he was serving with Rajarshi Shahu College, Latur since 13.10.1997. He was made permanent on 08.12.2001 and his appointment was approved by Swami Ramanand Tirth Marathwada University, Nanded on 01.01.2002. The proposal for his caste verification was submitted by Rajarshi

Shahu College, Latur to the Divisional Caste Verification Committee, Aurangabad. The proposal was returned by Caste Verification Committee, Aurangabad saying that in view of Government Resolution dated 25.01.2000 there is no complaints in respect of caste who have been appointed prior to 2000 and, therefore, the caste verification is not necessary. After his appointment with Siddharth Arts, Commerce and Science College, Jafrabad run by Sillod Shikshan Sanstha the Management sent proposal for granting approval to Dr. Babasaheb Ambedkar Marathwada University, Aurangabad. The approval was then granted, however, applicant was served with show cause notice on 20.02.2016 and 07.01.2017 by the Sanstha stating that applicant is not obeying the directions of Administration. Three members' inquiry committee was constituted to conduct inquiry of applicant and applicant had challenged the constitution of inquiry committee as well as suspension order before this Court in Writ Petition No.2919 of 2017 and 8167 of 2017. During the hearing the Management made a statement that charge No.1 will not be considered. The charge No.1 was that applicant has produced a false certificate in respect of his caste. Termination of applicant by order dated 20.02.2018 was illegal and contrary to the order passed by this Court, therefore, he filed appeal bearing No.3/2018 before University and College Tribunal, Aurangabad, which came to be allowed on 24.02.2020. His termination was set aside and he was reinstated with back wages and

benefits. Management had not allowed him to join his duties and observe the directions given by College Tribunal and, therefore, Contempt Petition bearing No.2 of 2020 was filed before the same Tribunal. It came to be allowed. The President of Sanstha and Principal of College were held guilty of committing contempt of the order. The Management has challenged the order in the appeal before the College Tribunal in writ petition before this Court and said writ petition is pending for adjudication. The Management has also filed writ petition challenging the order in contempt proceedings and that is also pending for adjudication. In the meantime, the Management is pressurizing the applicant to leave the back wages and, therefore, filed a false First Information Report with Police Station, Jafrabad on 10.03.2022 and Crime No.115/2022 came to be registered on 19.05.2022.

4 Learned Advocate for applicant submits that applicant is 'Kunbi' by caste and has been so certified by Tahsildar, Aurangabad. The claim of applicant for said caste had been validated by Caste Scrutiny Committee on 20.07.2006 and the committee had forwarded the caste validity to Principal of Siddharth College. Under such circumstance, First Information Report is false and has been filed with ulterior motive after so many years of service. Learned Advocate for applicant also relies on the observations in earlier proceedings by this Court as well as Hon'ble College Tribunal and points out

that on 20.07.2006 itself the said caste certificate was submitted to Principal of Siddharth College, Jafrabad. He relies on the decision in **Suresh Subhashrao Bhoyar vs. Smt. Hemlata d/o Bapurao Patil and another** [2013 BCI 1280], wherein with similar facts when the institution had come with case that the caste certificate has been obtained fraudulently, this Court had taken note of Section 11(2) of the Caste Certificate Act, which states that “*no Court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorized by the Scrutiny Committee for this purpose*” and quashed and set aside the offence punishable under Section 409, 467, 468, 471, 420 of the Indian Penal Code. Similar view was taken in **Ms. Safa Khwaja Shaikh vs. State of Maharashtra** [2019 DGLS Bombay 719] and **Shamina Bano d/o Janu Mohd. Pathan and another vs. State of Maharashtra** [2013 BCI 1284].

5 Learned APP strongly opposed the application and submits that since charge sheet is now filed, let there be trial.

6 Learned Advocate for respondent No.2 relies on the affidavit-in-reply of Sham Kondiba Sarje, I/C Principal of Siddharth Arts, Commerce and Science College, Jafrabad, wherein he has mainly relied on the school leaving certificates of applicant, wherein his caste has been shown as ‘Maratha’. In

fact, he has relied on more documents in his affidavit-in-reply than the documents which he had produced before Investigating Officer. Further, there appears to be a complaint filed by one Nagraj Chandba Gaikwad and Gangatre Dadarao Shankarrao against applicant before District Caste Scrutiny Committee, Aurangabad, which came to be decided on 11.11.2022, wherein the Committee has refused to make any statement in respect of Caste Scrutiny Certificate dated 28.11.2006, however, in respect of caste certificate dated 24.08.1995 it was found that it was not issued from the competent authority's office. The applicant has been directed to submit the said certificate immediately to the Committee. Learned Advocate for respondent No.2, therefore, submits that the post on which applicant came to be appointed was reserved for the OBC category, but though he was from Maratha caste, he suppressed the things and obtained the service for him, thereby he has cheated the institution.

7 Here, in the present case, the chequered history shows that relationship between applicant and Management had turned bitter and in that background after so many years respondent No.2 has lodged report. There is absolutely no reasonable ground stated as to why there was so much of delay. It cannot be accepted that at the time when applicant was given an appointment by Sillod Shikshan Sanstha, it had not verified the educational

record of applicant. When once it was accepted by Sanstha that he has qualified for the post, it cannot be restricted to educational qualification when the post was reserved for a particular category. At the time of appointment applicant was possessing a certificate issued by Tahsildar, Aurangabad of caste 'Kunbi' and further, along with letter dated 20.06.2007 he had produced the caste validity certificate and in fact, the office of Caste Scrutiny Verification Committee, Amravati Division had directly addressed letter dated 28.11.2006 to respondent No.2 and along with same the committee had given its decision of verification of caste 'Kunbi' of applicant. When respondent No.2 had received those letters, then why respondent No.2 should do the digging work of certificate which was given by Tahsildar, Aurangabad on 24.08.1995 in 2022, is a question. Further, respondent No.2 itself has produced the decision by District Caste Scrutiny Verification Committee, Aurangabad dated 11.11.2022, whereby the committee has refused to make any comment in respect of certificate issued by coordinate committee of Amravati dated 28.11.2006. No doubt, when it had come before the committee that the caste certificate dated 24.08.1995 has not been issued from Tahsildar, Aurangabad office, it has asked the applicant to produce the said certificate before it and it has been decided to confiscate the same. The committee had not decided to take any action under Section 11(2) of the Caste Certificate Act against the applicant. Therefore, there is

no question of any cheating. The offence under Section 468, 470 and 471 of the Indian Penal Code could have been filed only by the committee and not by respondent No.2 and for Section 420 of the Indian Penal Code, as aforesaid, the basic conditions were fulfilled and respondent No.2 or the Sanstha had accepted the communication from Caste Scrutiny Committee, Amaravati. First Information Report is intentionally silent on the said communication from Caste Scrutiny Committee, Amaravati. We do not want to go into the aspect as to whether Caste Scrutiny Committee, Amaravati had jurisdiction to make verification as it is beyond the scope of this Court's inquiry under Section 482 of the Code of Criminal Procedure, but if the said committee had no jurisdiction and there was an opportunity to seek clarification from applicant or take any other action, then the Sanstha or respondent No.2 ought to have acted immediately after receipt of said certificate in 2006-07. Keeping silence for so many years and allowing the applicant to continue his job and then getting approval on his behalf by Sanstha from the University are the points which are going against the Sanstha. Further, when first show cause notice was served on 20.02.2016 and thereafter applicant had in fact, challenged his suspension or before this Court in two separate writ petitions, thereafter also the Sanstha had not approached police with First Information Report. His appeal challenging termination order was decided by Hon'ble College Tribunal on 24.02.2020;

yet, present First Information Report has been lodged on 19.05.2022. Even respondent No.2's predecessor was held guilty of contempt by College Tribunal on 06.12.2021; yet, no action was taken. Therefore, the present First Information Report is nothing but an attempt in vengeance, which cannot be allowed to sustain.

8 The contents of charge sheet would show that only communications have been issued and statements of witnesses on the basis of college record has been recorded. Interestingly, there is a panchnama of spot i.e. college premises, which is the classic example of non application of mind by Investigating Officer to the facts of the case. Here, also the school leaving certificate of school where the applicant had passed 4th standard is taken as a basis to say that he is 'Maratha' by caste. No statements of members of Caste Scrutiny Committees either from Amravati or Aurangabad have been recorded. Therefore, with such kind of evidence and with the said background case is made out for quashing First Information Report and proceedings. Hence, following order.

ORDER

- i) Criminal Application stands allowed.
- ii) The proceedings in Regular Criminal Case No.271/2022 pending

before learned Judicial Magistrate First Class, Jafrabad arising out of First Information Report vide Crime No.115/2022 dated 19.05.2022 registered with Police Station, Jafrabad, Tq. Jafrabad, Dist. Jalna, for the offence punishable under Sections 420, 468, 470, 471 of the Indian Penal Code, 1860, stands quashed and set aside as against applicant **Satish Sandu Thombre**.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

agd