

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

WRIT PETITION NO.4849 OF 2013.

Smt. Suwarna D/o Sahebrao Barde,
Age: 36 Yrs., occu. Service,
R/o Saipuja Complex, Flot No.2,
Opp.Jakat Naka, Sakri Road,
Dhule. Dist. Dhule.

- PETITIONER

VERSUS

- 1) The Commissioner,
Social Welfare,
Maharashtra State, Pune.
- 2) The North Maharashtra University,
Through its Vice Chancellor,
Jalgaon, P.B.No. 80,
Umavi Nagar, Jalgaon-425001.
- 3) The Secretary,
Samta Shikshan Sanstha,
687, Shriram Apartment,
Sadashiv Peth, Kumthekar Road,
Pune - 30.
- 4) The Principal,
Dr.Babasaheb Ambedkar College
of Social work, Morane(Nakane)
Dhule.

- RESPONDENTS

Mr.Amit A.Mukhedkar, Advocate for Petitioner;
Mr.MM Neralikar, AGP for Respondent No.1;
Mr.VL Dhoble, Advocate for Respondent No.3.

**CORAM : S.S.SHINDE &
 P.R.BORA,JJ.**

DATE : 20th April,2015.

ORAL JUDGMENT (PER:- S.S.SHINDE,J.)

- 1) Heard. Rule. Rule made returnable

forthwith by consent of learned Counsel for the parties.

2) A limited grievance raised by the petitioner is, the impugned communication/order dated 25th March, 2013, terminating the services of the petitioner, is contrary to self-assessment report, inasmuch as, the performance of the petitioner as regards Teaching, Field work; research and extension, have been assessed as "very good". It is submitted that before terminating the services of the petitioner, neither show cause notice was served on the petitioner, nor the petitioner was given an opportunity of hearing to put-forth his contention and contrary to the performance report, order of termination has been issued. It is further submitted that the action of Respondent No.1, terminating the services of the petitioner, was with a view to accommodate some other candidate of the choice of the management.

3) Respondent No.4 has filed an affidavit in reply, wherein it is stated that the performance of the petitioner during probation period was not satisfactory and, therefore, the services of the

petitioner were terminated before expiry of the period of two years' probation. It is further submitted that neither show cause notice nor hearing to the petitioner is contemplated under the Rules. Therefore, it is prayed that the petition may be dismissed.

4) Learned AGP invited our attention to the affidavit in reply filed on behalf of Respondent No.1, wherein it is stated that since the probation period of the petitioner was not found satisfactory, Respondent No.3 has rightly terminated the services of the petitioner. Therefore, the petition may be dismissed.

5) We have given careful consideration to the submissions of learned Counsel appearing for the respective parties. With their able assistance, perused the pleadings in the petition, annexures thereof and other documents placed on record as well as replies filed by respective respondents. We find considerable force in the arguments of learned counsel for petitioner that the very Principal, who had earlier given memorandum No.2/2012 dated 4th July,

2012, has assessed performance of the petitioner at later stage. It appears that the said assessment has not been taken into consideration before services of the petitioner have been terminated. In that view of the matter, in our opinion, ends of justice would be met in case the impugned order of termination is quashed and set aside and Respondent Nos. 3 and 4 are directed to re-consider whether termination of the petitioner's services was warranted in the light of the self-assessment report endorsed by the Principal.

6) In the result, impugned order of termination dated 25.3.2013 issued by Respondent No.3, is quashed and set aside. Respondent Nos.3 and 4 are directed to re-consider the decision of terminating the services of the petitioner in the light of self assessment report endorsed by the Principal of the College, as expeditiously as possible and preferably on or before 15th June, 2015.

. Needless to observe that the interim protection granted by this Court during pendency of this petition, shall remain in force till a fresh decision is taken by Respondent Nos.3 and 4. In case the said decision goes against the petitioner, the

interim protection, so granted, shall remain in operation for a period of further two weeks from such decision, to enable the petitioner to avail appropriate remedy.

7) The petition is disposed of in the aforesaid terms with no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(S.S.SHINDE)
JUDGE

bdv/