

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

WRIT PETITION NO. 6348 OF 2015

Azharhulla Ansari Akhtarulla Ansari. **..PETITIONER.**

VERSUS

The State of Maharashtra and
others. **..RESPONDENTS.**

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Advocate for Petitioner : Smt.Ansari Razwana Tabassum
M.K.

AGP for Respondents/State: Mr.S.S. Dande.

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

Dated: 16th November, 2015.

PER COURT :-

1. Heard learned Counsel for the petitioner and learned AGP for the respondents / State.
2. The learned Counsel for the petitioner submits that though the petitioner was appointed for 11 months as a lecturer by appointment order dated 12th December, 2014,

his services came to be terminated by order dated 17th June, 2015. It is submitted that, similarly situated lecturers who were appointed on contractual basis, are being continued in services. However, without assigning any reasons and adhering to the principles of natural justice, petitioner's services came to be terminated by order dated 17th June, 2015. It is submitted that the petitioner was appointed by duly constituted selection committee, there were sanctioned posts and the petitioner is fully qualified for the appointment as a lecturer. Therefore, the learned Counsel for the petitioner submits that, the petition deserves to be allowed.

3. In support of her contention that, even though the appointment is on contractual basis and for a stipulated period, without completion of said period of appointment and without following principles of natural justice, no order terminating services can be passed, she placed reliance on the reported judgment of the Supreme Court in case of **Madan Singh vs. State of Haryana**¹, and the judgment of the Division Bench of this Court in case of **Mula Education**

¹ 1988 AIR(SC) 2133;

Society, Sonai and another vs. Haribhau s/o Jagannath Kardile and others² and also an unreported order dated 27th January, 2015 delivered by Nagpur Bench of this Court in case of ***Ujwale Ganesh Sadhu & Ors. vs. State of Maharashtra and another*** in Writ Petition No.10145 of 2014 with connected petition. Therefore, relying upon the pleadings in the petition, grounds taken therein, annexures thereto and the judgments cited across the Bar, the learned Counsel for the petitioner submits that the petition may be allowed.

4. On the other hand, learned AGP appearing for the respondents invited our attention to the averments in the affidavit-in-reply filed on behalf of the respondents No.1 to 3 and submits that, already Maharashtra Public Service Commission has conducted the examination for the vacant posts of lecturers including the post which was occupied by the petitioner. As a matter of fact, the petitioner did participate in the selection process and, therefore, it is not open for the petitioner to take exception to the order of termination. It is submitted that the contents of the

² 2007(6) Mh.L.J.492;

appointment order would make it abundantly clear that, the petitioner was appointed on contractual basis for eleven months on every occasion and even, the petitioner did not complete three years period. Therefore, the learned AGP submits that, the petition may be rejected.

5. We have heard learned Counsel for the petitioner, and learned AGP for the respondents, with their able assistance, perused the entire documents placed on record. It is not in dispute that, the petitioner did participate in the selection process conducted in pursuance to the advertisement issued by the M.P.S.C. on 6th July, 2013. It is also not in dispute that, the petitioners appointment was on contractual basis for eleven months till the regular selection process is undertaken by the M.P.S.C. The reliance placed by the learned Counsel for the petitioner on the aforementioned judgments of the Supreme Court and this Court is misplaced in the facts of the present case inasmuch as, in the present case, even the petitioner did not complete three years period as a lecturer and also participated in the selection process conducted by the M.P.S.C. Upon considering the material placed on record, in our considered

views, as the petitioner was appointed on contractual basis for a stipulated period and he did participate in the selection process conducted by the M.P.S.C., the petitioner has no right to assert.

6. In that view of the matter, writ petition sans merits and the same stands dismissed. Rule is discharged.

(P.R. BORA, J.)

(S.S. SHINDE, J.)