

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

WRIT PETITION NO. 9581 OF 2014

KHAN WAHEEDA HAROON
VERSUS
DR. BABASAHEB AMBEDKAR MARATHWADA UNIVERSITY,
AURANGABAD AND OTHERS

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Advocate for Petitioner : Mr. A.S. Deshpande
Advocate for Respondent 1 : Mr. S.G.Chapalgaonkar
AGP for Respondent 2, 3 : Mr. D.B.Bhange
Advocate for Respondent 4 : Mr. Alok Sharma
Advocate for respondent 5 : Mr. S.S. Bora

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: June 08, 2015

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PER COURT :-

1. Mr. Deshpande, learned counsel for the petitioner submits that petitioner has been terminated, against which an appeal before the College Tribunal has been filed and same is pending. By the present writ petition, the petitioner is independently assailing the order passed by the University withdrawing the approval granted to it. The College Tribunal would not be in a position to consider the legality of the order withdrawing the approval. Hence this writ petition has been filed.

2. It is submitted by the learned counsel for the petitioner that, genesis of the order withdrawing the approval is Shetkar Committee's report dated 28.9.2012. According to the learned counsel, the petitioner would be in a position to show that order withdrawing the approval is perse illegal.

3. Mr. Chapalgaonkar, the learned counsel for the University states that, order withdrawing the approval is not passed on the basis of Shetkar Committee's report, but is passed pursuant to the order of termination. The Management of the institution, on its own conducted inquiry and were found in-illegible by the Management. On inquiry conducted by the Management, termination order was issued by the Management. Thereafter, University has withdrawn the approval granted to the appointment of the petitioner. Learned counsel relies on paragraph No.5 of the affidavit-in-reply to contend the same.

4. Mr. Deshpande, learned counsel submits that it is a case of camouflage. First order of termination is issued and thereafter approval is withdrawn. Such procedure is unheard.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. The text of the order withdrawing approval and impugned in the present writ petition is explicitly clear and does not admit of any ambiguity. Approval is withdrawn on the ground that petitioner has been terminated by the Management. The petitioner has already filed an appeal against the order of termination before the College Tribunal and the same is pending and the College Tribunal certainly will consider the aspect about eligibility of the petitioner to be appointed on the said post and legality of the

termination order.

7. Order of termination certainly is not passed on the basis any inquiry report, but is solely on the ground that the petitioner's services is terminated by the Management. The fate of the order impugned in the present writ petition withdrawing the approval of the petitioner will depend upon the judgment delivered by the College Tribunal in an appeal filed by the petitioner.

8. In light of the above, we are not considering the merits of the said order in the present petition. In case, petitioner succeeds in appeal, then consequences of the appellate order shall follow and will be binding upon the parties concerned.

9. Writ Petition accordingly disposed of. No costs.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-