

BDPPS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO.285 OF 2011
IN
WRIT PETITION NO.2241 OF 2011

Shri Jaywant Pandurang Tendulkar

....Appellant.

V/s

State of Maharashtra and Ors.

.... Respondents

Mr. V.K. Bodhare i/b Mr. A.M. Joshi for the Appellant.

Mr. Shrishail Sakhare for Respondent No.7.

CORAM: V. M. KANADE &
MRS. SWAPNA JOSHI, JJ.

DATE: 6th September, 2016

P.C.:-

1. Heard the learned Counsel for the Appellant.
2. Appellant has preferred this appeal against the order passed by the learned Single Judge dated 24/03/2011. By the said order, the learned Single Judge was pleased to dismiss the Writ Petition filed by the Appellant/Petitioner in which he had challenge the order passed by the School terminating his services by letter dated 30/05/2002.
3. The learned Counsel appearing on behalf of the Appellant submitted that the Appellant was appointed on temporary basis for a

period of two years. He submitted that before the period of probation could be over, his services were terminated without holding any inquiry. He submitted that the order of termination also clearly mentions that the Appellant was asked to give an explanation about his conduct of abusing his colleagues on the basis of their castes. He submitted that the said observation in the order of termination casts a stigma on the Appellant and therefore as per the settled position in law an inquiry ought to have been held before terminating his services. In support of the said submission, reliance is placed on the judgment of the Apex Court in *State Bank of India vs. Palak Modi and Anr.*¹

4. We have perused the impugned order passed by the learned Single Judge and also the order of termination dated 30/05/2002. In our view, the said order of termination does not cast any stigma on the Appellant. The said letter of termination does mention that the Appellant was asked to give an explanation about his conduct but it further mentions that the said explanation was given by the Appellant. In the next paragraph, however, the Management makes it clear that though the conduct of the Appellant was proper, it did not wish to continue the services of the Appellant. The said letter, if read in proper perspective, would reveal that there is no stigma attached to the conduct of the Appellant at any time and, in fact, a good certificate has been given by the Management about his character.

5. Since no stigma is attached to the conduct of the Appellant by

¹ (2013) 3 SCC 607

virtue of the said letter of termination, ratio of the judgment in *State Bank of India and Ors* (supra) will not apply to the facts of the present case. It is a well settled position in law that during a period of probation, it is open for the Management to terminate the services of teacher and such termination simpliciter is valid in law. The learned Single Judge, after taking into consideration various judgments of this Court and the Apex Court, has held that since the appointment of the Appellant/Petitioner was on probation, he cannot challenge the said order of termination.

6. We do not find any reason to interfere with the order passed by the learned Single Judge. Appeal is dismissed.

(MRS SWAPNA JOSHI, J.)

(V.M. KANADE, J.)