

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

WRIT PETITION NO. 4119 OF 2016

Preeti Deepak Desai

.. Petitioner

Versus

Shri Saibaba Sansthan Trust, Shirdi & Anr.. Respondents

Mr.A.K. Shejwal, Advocate for the petitioner.

Mr.N.R. Bhavar, Advocate for respondent No.1.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 30.11.2017

P.C. :-

1. Mr. Shejwal, learned advocate for the petitioner submits that pursuant to the appointment order dated 14.03.2015, the petitioner was appointed to the post of Clinical Assistant (Medicine) in respondent No.2-hospital. The petitioner joined on 17.03.2015. Respondent No.2 on 18.07.2015 issued an order directing the concerned persons to issue OPD papers in the name of the petitioner by admitting patients in her unit. The petitioner was given authority on every Tuesday, Saturday and alternate Sunday. The petitioner was rendering

service to the best of her ability and sincerity. Abruptly on 15.03.2016, respondent No.1 issued an order terminating services of the petitioner on the ground that the services of the petitioner are not satisfactory.

2. Learned advocate submits that the order of termination is issued on false and erroneous ground. Not a single complaint was registered against the petitioner during the whole tenure of her service. Learned advocate submits that the power to discharge Sansthan employee on probation or to terminate services of the Sansthan employee can be exercised by the Committee or the officer authorized by the Committee. The order of termination is issued by the Chief Executive Officer, who does not have any authority or power to issue such order. Learned advocate refers to Rule 17 of the Service Regulations governing respondent No.1 and the petitioner. The termination order is passed in flagrant violation of the principles of natural justice. Notice of one month is not issued to the petitioner. For all the aforesaid

reasons, the order of termination is bad in law.

3. Mr.Bhavar, learned advocate appearing for the respondents submits that the Committee has taken a decision to terminate services of the petitioner on 09.03.2016, as her services were not found to be satisfactory. The Committee resolved to terminate services of the petitioner w.e.f. 16.03.2016. Said decision is taken on 09.03.2016 by the Committee and authorized the Chief Executive Officer to issue termination order. The rules are properly followed.

4. We have considered the submissions canvassed by learned Counsel for the respective parties. It is not disputed that pursuant to the appointment order dated 14.03.2015, the petitioner joined with respondent No.2 on 17.03.2015. The petitioner was under probation when the order terminating her services was issued. The power to terminate or discharge an employee on probation certainly vests with the Committee. The order of the

Committee dated 09.03.2016 is placed on record, wherein the Committee has recorded their dissatisfaction about the services of the petitioner and has resolved to terminate services of the petitioner w.e.f. 16.03.2016. The petitioner being on probation has been discharged/terminated during the period of probation. In such case enquiry is not contemplated. The Committee has by resolution taken a decision to terminate services of the petitioner and authorized the Chief Executive Officer to issue the order of termination. Same is complied by the Chief Executive Officer.

5. In the light of above, there is no case for interference. As such the writ petition is disposed of. No costs.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]