

BDPSPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2195 OF 2017
IN
WRIT PETITION NO.7152 OF 2015**

Dr. Suhasrao Dnyandeo Khambe ..Applicant

IN THE MATTER BETWEEN

Yashwant Shikshan Sanstha, Sangli,
Kupwad, Taluka Miraj, District Sangli,
Through its Chairman
Shri. Sharad Ramgonda Patil and another ..Petitioners

Versus
State of Maharashtra,
Through Principal Secretary,
General Administration Department,
and others ..Respondents

Mr. C. G. Gavnekar a/w Gautam Hiranandani, Advocate for the Applicant.

Mr. P. R. Suryawanshi i/by G. M. Savagave, Advocate for the Petitioner.

Mr. C. P. Yadav, AGP for Respondent Nos.1, 2, 3, 6 & 7 for the Respondents.

**CORAM: B. R. GAVAI &
MANISH PITALE, JJ.**

DATE: 8th DECEMBER, 2017

P.C.:-

1] By way of present Application, Applicant is challenging the departmental proceedings initiated against the Applicant.

2] Mr. Gavnekar, learned Counsel appearing on behalf of the Applicant submits that, on earlier occasion, departmental proceedings were initiated against the Applicant. He submits that the said proceedings gave rise to Writ Petition No.11427 of 2015. In the said Petition, learned Single Judge of this Court has specifically recorded in order dated 20/09/2016 that University had withdrawn the approval granted for initiation of departmental proceedings against the Applicant. It is therefore submitted that now initiation of proceedings on the very same charges is not sustainable in law.

3] It will be relevant to refer to the following observations of the learned Single Judge in order dated 20/09/2016 passed in Writ Petition No. 11427 of 2015:-

“.....There is no dispute that the Management can hold independent enquiry against the petitioner by following the procedure laid down for the purpose under the Shivaji University Act and the Statute. In view of this clarification, nothing survives in the petition for the decision of the Court.....”

4] It could thus be clearly seen that the learned Single Judge has reserved a right of the Management to hold an independent inquiry against the Applicant by following the procedure laid down for the said purpose in the University Act and the Statutes framed thereunder.

It will also be relevant to note that subsequent to the order passed by the learned Single Judge dated 20/9/2016 in the said Writ Petition, the Respondent – Management has again sought permission of the University for holding departmental proceedings against the Applicant. University, as per order dated 20/9/2016 passed in Writ Petition No.11427 of 2015 has, accordingly, not only granted permission for initiation of departmental proceedings against the Applicant in view of Statute Nos. 216-A and 216-C but has also approved the appointment of the Inquiry Officer.

5] In that view of the matter, we find that the contention raised by the Applicant deserves no merit. Application is rejected.

6] Apart from that, the learned Counsel for the Management submits that, at the conclusion of the inquiry, Applicant has been found to be guilty and has been terminated from service. As such, Applicant can very well challenge the order of termination before the learned University/College Tribunal. Needless to state that we have not considered the merits with regard to the charges leveled against the Applicant and the learned Tribunal to deice the appeal, if filed by the Applicant, on its own merit.

(MANISH PITALE, J.)

(B. R. GAVAI, J.)