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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4817 OF 2018

Dr. Sachin s/o Hari Deshpande ..Petitioner

Versus

State of Maharashtra and others ..Respondents

Mr. S. B. Talekar a/w Ms. Madhavi Ayyapan I/by Talekar and Associates, Advocate for the Petitioner.

Ms. Kavita N. Solunke, AGP for the Respondent Nos.1 to 3.

Mr. Kunal Nawale I/by Mr. R. V. Govilkar, Advocate for the Respondent No.4.

Mr. Nitin A. Kulkarni, Advocate for the Respondent Nos.5 & 6.

**CORAM: B. R. GAVAI &
M. S. KARNIK, JJ.**

DATE: 12th SEPTEMBER, 2018

ORAL JUDGMENT: (Per B.R. Gavai, J.)

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard by consent of parties.

2] Petitioner has approached this Court for quashing and setting aside the communication dated 6/7/2013 issued by Respondent No.3

to Respondent No.5, directing him to suspend the services of the Petitioner.

3] Perusal of the material placed on record would reveal that the wife of the Petitioner had lodged an FIR against the Petitioner in Sarkarwada Police Station. She also appears to have made complaint to Respondent No.3 with regard to the criminal case filed by her against her husband. It appears that on the basis of the complaint made by wife of the Petitioner, Respondent No.3 addressed a communication, directing Respondent No.5 to suspend the services of the Petitioner, who was working as a lecturer in Shalyatantra. However, during pendency of the Petition, dispute between the Petitioner and his wife Dr Mamta Deshpande came to be amicably settled. The parties have approached this Court by way of Criminal Writ Petition No.614 of 2017 for giving end to the criminal proceedings. By consent of the parties, this Court quashed the FIR by order dated 13/06/2017.

4] It could thus be seen that the very basis on which

communication dated 6/7/013 was issued, is not in existence. We had therefore asked the learned Counsel appearing on behalf of Respondent No.5 as to whether Respondent No.5 was willing to withdraw the suspension of the Petitioner. The learned Counsel appearing on behalf of Respondent No.5, on instructions from Mr. Dilip Prabhakar Purankik, who is a Secretary of Respondent No.5 – Society, stated that Respondent No.5 is bound to follow the directions given by Respondent No.3 on whose directions suspension order is issued by Respondent No.5.

5] We are of the considered view that suspension of the Petitioner was directed by Respondent No.3 only on the ground that wife of the Petitioner has filed criminal case against him. Since the criminal proceedings have now been quashed by the order of this Court, we find that it will not be in the interest of justice to continue the suspension of the Petitioner. Further, it has to be noted that the Petitioner has been paid subsistence allowance for so many years. Thus, it can be seen that the Petitioner is getting substantial amount without rendering any services to Respondent No.5.

6] In that view of the matter, Petition is allowed. The communication dated 6/7/2013 addressed by Respondent No.3 to Respondent No.5 is quashed and set aside. Needless to state that in consequence thereof suspension of the Petitioner is directed to be recalled and he is directed to be reinstated in service. Rule is made absolute accordingly.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)