

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9764 OF 2018

Mr.Mahadev Tukaram Ujagare

... Petitioner

Vs

Dr.D.Y. Patil Vidyapeeth (Deemed University)
Pune and Anr.

... Respondents

Mr.J.G.Aradwad (Reddy) for the Petitioner.

Mr.Mandar M.Goswami for Respondent Nos.1 and 2.

**CORAM : S.C. DHARMADHIKARI &
M.S.KARNIK, JJ.**

MONDAY, 7TH JANUARY, 2019

P.C. :

1 By this writ petition under Article 226 of the Constitution of India, the petitioner challenges the action and particularly a suspension order dated 8th May, 2018, followed by order of dismissal from service dated 23rd July, 2018.

2 On such a writ petition, this Court passed an order on 10th December, 2018. That order reads as under:-

“Let the respondent Nos.1 and 2 file an affidavit explaining in what circumstances the impugned communication has been issued.

In the event, as now stated, these communications are mere show cause notices but not final termination orders, then, let the respondent Nos.1 and 2 indicate when the inquiry will commence and conclude. Place this matter on 07th January, 2019. The matter shall be listed on the urgent admission board.

The affidavit-in-reply, if any, shall be filed on or before 03rd January 2019 with an advance copy to the other side.”

3 In pursuance of that order, an affidavit-in-reply has been filed by the second respondent-Deemed University.

4 On a perusal of the same, we inquired from Shri Goswami appearing on behalf of the second respondent as to how the dismissal order can be justified in absence of any inquiry being held into the charges levelled against the petitioner. Pertinently, the affidavit-in-reply also refers to a self declaration resulting in registration of FIR against the petitioner.

5 On taking instructions, Shri Goswami says that there should not be any confusion insofar as the allegations based on which the FIR is registered and the complaints against the petitioner of having allegedly accepted monies as bribes to secure admissions in this

Deemed University. It is these complaints which are the basis of the show cause notice and the suspension order. The dismissal follows the self declaration.

6 The above reproduced order of this Court clearly indicates that *prima facie* position in law is otherwise. There could not have been a dismissal order or dismissal from service effected based on mere complaints or the show cause notice. A full fledged inquiry will have to be held at which both sides will have full opportunity to establish the guilt or innocence. In these circumstances, Shri Goswami says that the Management will initiate the regular inquiry and conclude it as expeditiously as possible, and in any event, within two months from the date of communication of this order, provided the petitioner co-operates with the Inquiry Officer.

7 We accept this statement of Shri Goswami, made on instructions, as an undertaking to this Court. We allow the suspension order to continue pending the inquiry, but in the light of the clear position emerging from the facts and circumstances peculiar to this case, we quash the dismissal order dated 23rd July, 2018. Needless to

clarify that such order can be passed after the charges are established and proved conclusively. We also keep open all objections of the petitioner to such inquiry and he can raise appropriate pleas on jurisdiction, competence as also merits before the Inquiry Officer. The writ petition is disposed of by clarifying that we have not expressed any opinion on the rival contentions.

[M.S. KARNIK, J.]

[S.C. DHARMADHIKARI, J.]