

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5257/2019

Sandip B. Buradkar

..VS..

Vodithala Education Society & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D.P. Jaiswal, Advocate for the petitioner
Shri S.W. Sambre, Advocate for the respondent nos. 1 and 2
Ms. M. Gokhale, Adv h/f Shri P. Patil, Adv for the respondent no. 3
Shri N.P. Lambat, Advocate for the respondent no. 4

CORAM : Z.A.HAQ, J.

DATED : 19/08/2019

Heard.

The petitioner was served with notice of termination dated 04/04/2019 which was challenged by him before the University and College Tribunal by filing appeal under Section 81 of the Maharashtra Public Universities Act, 2016. The appeal filed by the petitioner is allowed by the impugned order and the notice / order of termination is quashed. After the order is passed by the Tribunal, the Principal of the respondent no. 2 – Institution has issued an order dated 09/07/2019 again terminating the services of the petitioner on the ground of closure of B.E. Electronics Engineering Course.

Though the petitioner is not disputing that he was appointed and had been working in the Electronics Department, according to the petitioner, his services are

illegally terminated by the order dated 09/07/2019 without complying with the mandate of Statute 53 and Ordinance No. 24 (College Code). According to the petitioner, the respondent nos. 1 and 2 should have obtained permission from the State Government as required by Section 121 of the Act of 2016, for closing the department of the institution. And as the respondent nos. 1 and 2 have illegally closed down the department without obtaining permission from the State Government, the termination order dated 09/07/2019 is illegal. It is further submitted that the respondent nos. 1 and 2 have no right to terminate the petitioner without holding any enquiry and without affording opportunity of hearing to the petitioner.

After considering the matter, I find that challenge to the order passed by the Tribunal by the petitioner is mis-directed. The Tribunal has allowed the appeal filed by the petitioner and has quashed the termination order dated 04/04/2019. The observations made by the Tribunal in para no. 23 does not affect the claim of the petitioner to continue in employment. If otherwise, he is entitled for continuation in employment, the legality of the subsequent termination order dated 09/07/2019 will have to be examined by the Tribunal in separate appeal which the petitioner is entitled to file as per Section 81 of the Act of 2016.

I find that the Tribunal has not dealt with entitlement of the petitioner for the monetary benefits and has only recorded that the termination order dated 04/04/2019 is quashed. In my view, the natural consequence of quashing the termination order dated 04/04/2019 is that the petitioner is entitled for all the benefits and monetary

emoluments till 09/07/2019 on which date the subsequent termination order is issued.

With the above modification of the Tribunal's order and the observations made regarding entitlement of the petitioner to challenge the termination order dated 09/07/2019, the writ petition is **disposed**. In the circumstances, the parties to bear their own costs.

JUDGE

Ansari