

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

WRIT PETITION NO. 5254/2019

Amol B. Dhankar

..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.

According to the petitioner, he was appointed and had been working in the Electronics and Communication Department of the respondent no. 2 – Institution and not in

the Electronics Department, and the All India Council for Technical Education has not granted permission to the respondent nos. 1 and 2 to close down the Electronics and Communication Department. According to the petitioner, the respondent nos. 1 and 2 have issued the termination order dated 09/07/2019 taking advantage of the observations made by the learned Presiding Officer in the impugned order that the management will be at liberty to take appropriate decision regarding continuation / termination of the services of the petitioner in view of the approval granted by the AICTE on 29/04/2019 for closure of certain course.

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