

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

903 WRIT PETITION NO.4778 OF 2020
WITH CA/4358/2020 IN WP/4778/2020

AMOL PANDURANG AWCHAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Syed Azizoddin R.
AGP for Respondents-State : Mr. S.R.Yadav-Lonikar.
Advocate for Respondent Nos.3 & 5 : Mr. S. B. Pulkundwar.
Advocate for Respondent No.6 : Mr. P. P. Uttarwar.

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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 03.08.2021

PER COURT :-

1. On 07.07.2021, we had passed the following order :

" 1. This Court has earlier passed an order on 19.10.2020, which reads as under :

"1. The affidavit-in-reply and other documents filed by the respondents demonstrate that the petitioner was not diligently functioning during COVID-2019 pandemic. COVID-19 pandemic is a difficult time. It was expected that the petitioner would rise to the occasion and perform his duties diligently and to the best of his ability. On the contrary, affidavit-in-reply and the documents filed along with it, depict otherwise.

2. Mr. Syed, the learned counsel for the petitioner seeks time to file rejoinder. Stand over to 2nd November, 2020."

2. *The petitioner has filed a rejoinder.*

3. *The foundation of this petition rests on a legal submission by the petitioner that though he was engaged as a Doctor on purely contract basis for eleven (11) months, he has been terminated by the impugned order dated 09.04.2020 containing allegations against him and, therefore, his termination would amount to severing of employer-employee contractual relationship by way of a stigmatic termination.*

4. *We are of the view that the contract with the petitioner was terminated vide the impugned order and he being in contractual employment, whether the impugned order is stigmatic or not, would have no significance since, after the expiry of the eleven (11) months' contract, the petitioner would have been dis-engaged by efflux of time. Since he is a Doctor and not a workman, there is no question of granting reinstatement in contractual employment and at best, the petitioner would be entitled for damages to the extent of the salary for the residual period of his contract post termination.*

5. *In view of the above, we do not find that the petitioner has made out a case for grant of interim relief.*

6. *We could have admitted this matter by issuing Rule. However, the learned advocate for the petitioner submits that if Rule is issued, the petitioner would get locked in this Court for twenty (20) years. He, therefore, prays that instead of issuing Rule, this Court may list this matter on any date for final hearing.*

7. *The learned advocate for the petitioner further submits, in the light of paragraph No.9 of the affidavit filed by Shivaji S/o Poma Pawar – District Health Officer, Zilla Parishad dated 17.10.2020, that if the respondent makes a declaration that his termination was not on account of mis-behaviour or was not stigmatic and his contractual employment was brought to an end by termination of contract, the petitioner can pray for the disposal of this petition, as he does not desire any further reliefs from the respondents.*

8. *The learned advocate representing respondent Nos.3 and 5 seeks two weeks' time to take instructions to make a statement.*

9. *Stand over to 27.07.2021 in "urgent admission category".*

2. The learned advocate representing the Zilla Parishad submits, on instructions from the Chief Executive Officer that the behaviour of the petitioner was extremely damaging for the institution. He was indulging in misdeeds and misdemeanors. Since he was a contractual employee, the Zilla Parishad issued a stigmatic termination order levelling allegations against him, without conducting an inquiry.

3. We are unable to accept the submissions of the Zilla Parishad in view of the fact that the termination of contract of employment of the petitioner dated 09.04.2020 is clearly a stigmatic termination. Several allegations have been levelled against him. No charge-sheet was issued. No opportunity of hearing was given. It would lead to a chaotic situation if this Court was to accept the submission of the Zilla Parishad that because the petitioner was a contractual employee, he could be terminated with the issuance of a stigmatic termination order without even granting him an opportunity of hearing.

4. In view of the above, this petition is allowed. The impugned termination order dated 09.04.2020 is quashed and set aside. Since the petitioner was appointed on a purely

contractual basis for eleven (11) months, there would be no order of reinstatement in service. However, as the stigmatic termination order is set aside, he shall be entitled to the monthly contractual payments, till the date for which his contract was to last by efflux of time.

5. In view of the above, the Civil Application filed by the petitioner seeking reinstatement in service, does not survive and stands disposed off.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-