

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

Writ Petition No. 4457 of 2022

Akshaykumar Vyankatrao Dhule	...	Petitioner
v/s.		
State of Maharashtra & ors.	...	Respondents

Mr. Suhas S. Deokar,, Advocate for the Petitioner.

Ms. P.N. Diwan, AGP for Respondent Nos. 1 & 2
Mr. M.V. Thorat for Respondent Nos. 3 & 4.

**CORAM : S.V. Gangapurwala &
R.N.Laddha, JJ.**

3rd October 2022

P.C.

Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The Petitioner was appointed as a Shikshan Sevak by Respondent No.3 on 17th October 2019. On or about 18th February 2022 the Petitioner is terminated from service on the ground that Petitioner was arrested in a criminal case on 19th March 2021 and was in custody upto 31st March 2021. On 31st March 2021 the Petitioner was released on bail. The Chargesheet is filed on 16th July 2021 purportedly for an

offence punishable under Section 417 read with Section 498A. The show-cause notice was issued to the Petitioner. However, departmental enquiry was not initiated.

3. The learned Counsel for the Petitioner submits that termination is stigmatic. The Petitioner could not have been removed without holding departmental enquiry. Reliance is placed on the judgment of Division Bench of this Court in *Rajendra vs. State of Maharashtra*¹

4. The learned Counsel for Respondent Nos.3 & 4 and learned AGP for Respondent Nos.1 & 2 support the order of termination. It is contended by them that Petitioner has remedy to approach one Committee appointed by the G.R. dated 10th March 2000. It is further contended by them that a criminal case is filed against the Petitioner. Clause-18 of the G.R. dated 10th March 2000 says that if during the period of employment Shikshan Sevak commits misconduct then the appointment can be cancelled.

5. We have considered the submissions. The order of termination is certainly stigmatic. The Petitioner is terminated on the ground that the criminal case is filed against the Petitioner. The Petitioner was in police custody from 19th March 2021 till he got bail on 31st March 2021. The same is a serious one and as such Petitioner is terminated from service. No departmental enquiry is initiated against the Petitioner. The Division Bench of this Court in the case of *Rajendra vs. State of Maharashtra (supra)* relying upon the Judgment of another Division

1 2017 SCC OnLine Bom 7563

Bench observed that:

“ Now , it is well settled law that even a temporary Government servant cannot be removed from service without holding departmental enquiry, if the complaint is there regarding misbehavior or misconduct, and without giving him an opportunity to defend himself as per the rules prescribed for the departmental enquiries.”

6. In the light of the above, impugned order is quashed and set aside. The Respondents shall reinstate the Petitioner in service. The Petitioner will be entitled for continuity. Considering the facts and circumstances of the case, we are not inclined to grant back wages. The Petitioner shall be reinstated within 15 days from today.

7. The present order would not be an impediment for the Respondents to take action against the Petitioner in accordance with provisions of the Statute and the Rules.

8. Writ Petition stands disposed of. Rule is made absolute accordingly.

(R.N.Laddha, J)

(S.V.Gangapurwala, J)