

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

WRIT PETITION NO. 10210 OF 2022

M/s. Vidya Prasarak Mandal & Anr.

..Petitioner/s

v/s.

Dr. Avinash Madhukar Chincholkar & Anr.

..Respondents

Mr. M.J.Bhatt for the Petitioner/s.

Ms. Anjali Helekar with Anu C. Kaladharan for the Respondent No.1.

Mr. S.H.Kankal, AGP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 07th DECEMBER, 2022.**

P.C.

1. The Petitioners have challenged judgment dated 20.12.2021, passed by the learned Presiding Officer, Mumbai University and College Tribunal, in Appeal No.20 of 2019.

2. The Respondent No.1 was appointed as Principal in the college run by the Petitioner Trust since the year 2017 on temporary and adhoc basis. After obtaining approval of the University, the Petitioner No.1 issued an advertisement in local news paper inviting applications from the eligible candidates for the post of Principal to the Petitioner No.2 College. The Respondent No.1 applied for the post of Principal and he was selected by the Selection Committee. Accordingly, on 12.09.2018,

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he was issued fresh appointment letter appointing him on probation of one year for the academic year 2018-2019.

3. It is stated that the Respondent No.1 had issued e-mail to the Chairman of the Petitioner No.1 alleging that he had received an unanimous and unsigned letter making several allegations against him. The Respondent No.1 had offered to resign . There is correspondence between the Respondent No.1 and the Chairman in respect of the said letter. By Termination Order dated 24.07.2019, the Petitioner No.1 relieved the Respondent No.1 from the post of Principal. The Respondent No.1 challenged the termination by filing an appeal before the University and the College Tribunal, Mumbai. By the impugned judgment the Tribunal allowed the appeal and set aside the termination order dated 24.07.2019 and directed the Petitioners to reinstate the Respondent No.1 with continuity in service on the same post and to pay full back wages, excluding the salary and emoluments earned by the Respondent No.1 during interregnum period.

4. Learned Counsel for the Petitioners contends that the Respondent No.1 was on probation, he had volunteered to resign and that his services could be terminated without assigning any reason. He further states that the Respondent No.1 has accepted the termination order without any demur and as such he is estopped from claiming continuity in service.

5. It is not in dispute that the Respondent No.1 was appointed as Principal from the academic year 2017-2018 with one year probation till end of the academic year 2018-2019. It is not in dispute that the termination order was issued after the end of probation period and as such the services of the Respondent could not have been terminated without reasons for termination. Even otherwise, services of the Principal on probation can be terminated by the Governing body when the work of the Principal is not found to be unsatisfactory. In the instant case, the services of the Respondent No.1 are not considered to be unsatisfactory. On the contrary, the Petitioner No.1 through its Chairman had expressed trust and faith in the working of the Respondent No.1. Respondent No.1 was informed that his honesty and commitment to the job was beyond doubt and that the institution had full faith in him. Hence his services could not have been terminated in exercise of the powers under Statute 440 sub clause 2(a).

6. The Petitioner has made certain accusations against the Chairman in letter dated 5.8.2019. It is evident that the termination was consequence of the allegations made in the said letter and was punitive in nature. The Respondent No.1 was not even served with a show cause notice, much less chargesheet and departmental inquiry. In such circumstances, the Tribunal was justified in holding that the termination

was illegal and unsustainable. Hence the petition has no merits and it accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)