

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 5548 of 2019

[Vilas S/o Tukaram Gharote ..vs.. Shriram Urban Cooperative Bank Limited, Laxmi Nagar, Nagpur
through Chief Executive Officer and anr.]

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

Court's or Judge's orders

Dr. R. S. Sundaram, Advocate for the petitioner
Mr. S. S. Ghate, Advocate for respondent 1

**CORAM : ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 25-4-2023

Petitioner was an employee of Shriram Urban Cooperative Bank Limited(society), which is a society registered under the Maharashtra Cooperative Societies Act, 1960.

2. The challenge in the petition is to the order of termination which is upheld in the departmental appeal.

3. In our considered view, in the absence of any statutory provision governing the service conditions of employees of the cooperative society, there is no element of public law involved and in writ jurisdiction, we may not be in a position to entertain the grievance.

4. We having expressed such view, learned counsel for the petitioner Dr. Sundaram seeks leave to withdraw the petition. However, Dr. Sundaram has twin apprehensions. The first apprehension is that the petitioner did approach the civil court by instituting Civil Suit 341/2018 challenging the initiation of the departmental enquiry and the plaint is rejected under Order VII Rule 11 of the Code of Civil Procedure by order dated 17-8-2018. This adjudication may be an impediment is the apprehension. We have no doubt in our mind that the order of termination can always be challenged in the civil suit. The earlier adjudication as regards the legality of the enquiry shall not be an impediment, if the petitioner files civil suit challenging the termination. The civil suit shall have to be adjudicated on merits.

5. The other apprehension is that the society may take the plea of limitation. The petitioner shall be free to invoke the provisions of Section 14 of the Limitation Act, 1963 and if so invoked, we expect the

civil court to give due consideration to the time spent in the present petition. That apart, learned counsel for the society Mr. Ghate fairly states that no objection on the ground of limitation shall be raised, if the petitioner files civil suit within the next sixty days.

6. Subject to the observations supra, the petition is disposed of.

(Mrs. Vrushali V. Joshi, J.)

(Rohit B. Deo, J.)

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