

	<u>Appeal No.18/2024</u> Dr. Dipak s/o Vinayak Shirbhate -Vs- Shri Dadasaheb Gawai Charitable Trust, Amravati and others
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ORDER BELOW EXH-5

(Passed on 28.02.2025)

1] Perused the application. Heard the learned counsels for both sides.

2] In this case the appellant has challenged his termination order dated 31.05.2024. According to the appellant, his termination is illegal. Hence, he prayed to grant stay to the execution and operation of impugned order dated 31.05.2024 till the final disposal of this appeal. The learned counsels for respondent No. 1 and 2 opposed the application and submitted that the termination of the appellant is legal and stay cannot be granted to the order of termination at interim stage.

3] Following points arose for my determination and I have given my findings with reasons as under :-

Sr. No.	Points for determination	Findings
1	Whether the appellant is entitled for grant of stay to the execution and operation of termination order dated 31.05.2024 till the disposal of this appeal ?	 In the negative.

2.	What order?	 Application is rejected.

:RESONS:

As to point No. 1 and 2

4] Hon'ble Supreme Court in **State of U.P. and other -Vs- Sandip Kumar Balmiki and others**, reported in 2009 (17) SCC 555 held that final relief cannot be granted at the interim stage and hence interim order staying the order of termination could not be passed. In **State of Haryana-Vs- Suman Datta**, reported in 2000 (10) SCC 311. the Hon'ble Supreme Court observed that High Court erred in law in staying the order of termination as interim measure in the pending writ petition. The Hon'ble Supreme Court further observed that by such interim order if an employee is allowed to continue in service and then ultimate then the writ petition is dismissed, then it would tantamount to usurpation of public office without any right to the same.

5] Again the Hon'ble Bombay High Court, Aurangabad Bench in **the Zilla Parishad, Jalgaon through its Chief Executive Officer -Vs- Smt. Maya Tukaram Sonawane** reported in MANU/MH/1222/2015 observed that “By way of interim order the order of suspension, termination, dismissal and transfer etc. should not be stayed during the pendency of the proceeding in the Court.”

6] Considering the legal position laid down by the Hon'ble Supreme Court and the Hon'ble Bombay High in above case laws, I am

not inclined to grant any stay as prayed by the appellant. Fate of the present application is going to be decided on the basis of legal position as discussed above. Considering such legal position I am hereby restrained myself to make any observation on factual aspect of the present case. Accordingly, I have answered point No. 1 in the negative and in answer to point 2, I proceed to pass the following order.

: ORDER :

The application is hereby rejected.

Amravati
Date : 28.02.2025

(Anand Y. Borkar)
Presiding Officer,
School Tribunal, Amravati