

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

Writ Petition No.6092 of 2014
(Mahadeo Sadashiv Ghope v. Shemba Shikshan Samiti and others)

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

Court's or Judge's orders

Shri S.P. Palshikar, Advocate for Petitioner.
Ms Radhika Bajaj, Advocate for Respondent No.1.
Shri K.P. Mahalle, Advocate for Respondent No.2.
Shri Amit Chutake, Assistant Government Pleader for Respondent
Nos.3 and 4.

Coram : R.K. Deshpande, J.

Date : 29th November, 2016

After holding an enquiry against the petitioner, the order of termination was issued, which was the subject-matter of challenge before the School Tribunal under Section 9 of the Maharashtra Employees of Private School (Conditions of Service) Regulation Act, 1977. The School Tribunal has dismissed the appeal on 18-9-2014. Hence, this writ petition by the employee.

Shri Palshikar, the learned counsel appearing for the petitioner-employee, has invited my attention to Rule 36(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 to urge that the Management has to inform the allegations to the employee and demand his written explanation in respect of the same. According to him, not only

the statement of allegations was issued to the petitioner, but also the chargesheet and other documents were also served upon him, and this was the non-compliance of Rule 36(1) of the MEPS Rules. It is also urged that the procedure for conducting the enquiry was not followed as per the procedure prescribed in Rules 36 and 37 of the MEPS Rules, and hence the enquiry was vitiated.

Every non-compliance of the rules does not necessarily result in vitiating the entire enquiry. The Tribunal has to find out whether the requirement is mandatory in nature or there is substantial compliance of the requirement, without causing any prejudice to the employee concerned. The violation of the procedure pointed out by the learned counsel for the petitioner-employee does not go to the root of the matter. The substantial compliance of the rules is found to have been made, and the findings of fact recorded by the School Tribunal being based upon the evidence available on record, no interference is called for.

The writ petition is dismissed.

Judge.