

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

WRIT PETITION NO.7971 OF 2018

(Sunil Wamanrao Wasade Vs. The Chairman, Vidya Shikshan Prasarak Mandal,
Nagpur and others)

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

Court's or Judge's orders.

Shri K.N. Dadhe, Advocate for Petitioner.
Shri V.P. Marpakwar, Advocate for Respondent Nos.1 to 3.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 22nd JANUARY, 2020.

1] The petitioner original complainant in Complaint (ULP) No.226/2015, is aggrieved by the order dated 28.08.2018 passed by the Labour Court, Nagpur framing two issues, firstly, whether the complainant proves that the enquiry conducted against him is illegal, unfair and against the principles of natural justice and secondly, does the plaintiff prove that the findings of the Enquiry Officer are perverse. The Labour Court has directed both the issues to be decided at the earliest before proceeding with the other issues.

2] The petitioner complainant is also aggrieved by the order dated 04.10.2018 passed by the same court vide which, application Exh.C-10 filed by the respondent management seeking leave to produce xerox copies of the documents, has been allowed.

3] I have considered the submissions of the learned Advocates for the respective sides and have gone through

the following judgments cited by the learned Advocate for the management:-

- [i] Maharashtra State Co-operative Cotton Growers Marketing Federation Ltd., through its Managing Director and another v. Vasant Ambadas Deshpande 2014(3) Mh.L.J. 339.
- [ii] Pandurang Gangaramji Karhale v. State of Maharashtra (deleted as per Court's order) and others 2016(4) Mh.L.J. 316.
- [iii] Divisional Controller, Maharashtra State Road Transport Corporation v. Bhushan Jagannathrao Bulbule 2018(5) Mh.L.J. 936.

4] It requires no debate that the law with regard to framing of the two issues as regards the fairness of the enquiry and the findings of the Enquiry Officer, have to be formulated if there is a specific challenge to conducting of a domestic enquiry. The Hon'ble Apex Court has laid down this law in the case of *The Workmen of Motipur Sugar Factory Private Ltd. v. The Motipur Sugar Factory Private Limited* reported in *AIR 1965 SC 1803*. This law has been long standing for more than 55 years. This Court had the occasion to deal with the law with regard to these aspects in the matters of Maharashtra State Co-operative Cotton Growers Marketing Federation (*supra*), Pandurang Gangaramji Karhale (*supra*) and Divisional Controller, MSRTC (*supra*).

5] In view of the above, I do not find that the Labour Court has committed any error in framing the two issues and directing the parties to advance oral submissions on the said two issues considering the crystallized position of law and there is no requirement of leading fresh evidence when the Labour Court only has to scrutinize the entire record and proceedings of the enquiry to find out whether the enquiry suffered non-observance of the principles of natural justice and whether the findings of the Enquiry Officer are perverse on account of lack of evidence.

6] So also, it is well settled that the employer has to produce the entire record and proceedings of the departmental enquiry before the Labour Court and which becomes a compilation of the R and P of the domestic enquiry, which has to be revisited by the Labour Court to trace out answers to the two issues framed. As such, the Labour Court should have directed the management to produce the entire R and P of the enquiry rather than producing certain documents selectively, though they happen to be a part of the domestic enquiry R and P.

7] In view of the above, this petition is partly allowed. The challenge to the framing of the two issues and the direction to advance arguments on the said two issues vide order dated 28.08.2018 stands rejected. The order dated 04.10.2018 permitting the management to produce certain documents shall stand modified with a direction to the management to produce the entire R and P before the Labour Court. The original R and P shall remain with the

Labour Court in its record and copies of the said R and P can be supplied to the Advocate for the complainant.

(Ravindra V. Ghuge, J.)

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