
(2016) 10 BOM CK 0015
In the Bombay High Court
Case No : Writ Petition NO. 3729 of 2016

Shishu Vikas Education Society

APPELLANT

Vs

Prabhakar Gulabrao Alone

RESPONDENT

Date of Decision : 01-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226, Article 227

Citation : (2017) 1 ALLMR 91 : (2017) 2 MhLJ 656

Hon'ble Judges : R.K. Despande, J.

Bench : Single Bench

Advocate : Shri B.H. Shambharkar, Counsel, for the Petitioners; Shri V.N. Patre, Counsel, for the Respondent No. 1

Final Decision : Allowed

Judgement

R.K. Despande, J. (Oral) - Rule made returnable forthwith. Heard finally by consent of the learned counsels appearing for the parties.

2. The challenge in this petition is to the judgment and order dated 30.01.2016 passed by the School Tribunal at Nagpur, in Appeal STN No. 77 of 2011. The appellant was terminated from service by way of punishment after holding an enquiry in respect of 7 charges levelled against him including the charge of misappropriation of funds.

3. With the assistance of the learned counsels appearing for the parties, I have gone through the judgment and order passed by the School Tribunal. The only consideration is reflected in paragraph No. 16, which is reproduced below;

"16. Appellant has stated that, he was appointed as Assistant Teacher in the year 1982. He has not received any memo or adverse remarks during period of earlier management. Respondent No.1 has prepared false documents against him. Charges are baseless and bogus. He has not been given fair and proper opportunity of being heard. Inquiry Committee consisting two members have not considered his explanations given to the statement of allegations, charge sheet,

summary of proceedings, documents and material available on record and thereby their findings are perverse. In such circumstances, I do not find any substance in contention raised by Respondent Nos. 1 and 2 and their advocate."

4. There is no finding recorded that inquiry was vitiated on account of violation of any mandatory provision or the procedure prescribed for holding an inquiry. It is not the finding recorded that Inquiry Committee was not properly constituted. It is not the finding that the principles of natural justice have been violated. There is no application of mind to the charges levelled and the findings recorded by the Inquiry Committee. The findings recorded are totally vague, without any consideration to the relevant aspect of the matter. The judgment and the order impugned cannot, therefore, be sustained and the same will have to be quashed and set aside with an order of remand.

5. In the result, writ petition is allowed. The judgment and order dated 30.01.2016 passed in Appeal STN No. 77 of 2011 by the School Tribunal at Nagpur, is hereby quashed and set aside. The parties to appear before the School Tribunal on 17.10.2016. The Tribunal to decide the appeal within the period of six months from the date of first appearance of the parties before it in accordance with law.

Needless to say that the School Tribunal is expected to go through each and every charge levelled against the employee and record the finding as to whether the findings recorded by the Enquiry Committee are perverse or not, in the light of the challenges levelled in the memo of appeal.

Rule is made absolute in above terms. No orders as to costs.