

The M.P. Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karmachariyon Ko Padachyut Karne/Sewa Se Hatane Sambandhi Prakriya) Niyam, 1983

MADHYA PRADESH

India

The M.P. Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karmachariyon Ko Padachyut Karne/Sewa Se Hatane Sambandhi Prakriya) Niyam, 1983

Rule

THE-M-P-ASHASKIYA-SHIKSHAN-SANSTHA-ADHYAPAKON-TATHA-A of 1983

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The M.P. Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karmachariyon Ko Padachyut Karne/Sewa Se Hatane Sambandhi Prakriya) Niyam, 1983Published vide Notification No. F. 73-69-82-E-5-20, dated 22-12-1983, Madhya Pradesh Gazette (Extraordinary) dated 27-1-84, pages 201-203In exercise of the powers conferred by sub-clause (i) of clause (e) of sub-section (2) of Section 10 read with sub-clause (iii) of clause (a) of Section 6 of the Madhya Pradesh Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karmachariyon Ke Vetano Ka Sandaya) Adhiniyam, 1978 (No. 20 of 1978), the State Government, hereby makes the following rules, namely:-

Part I – General

1. Short title and commencement.

(1)These rules may be called The Madhya Pradesh Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya karmachariyon Ko Padachyut Karne/Sewa Se Hatane Sambandhi Prakriya) Niyam, 1983.(2)These rules shall come into force with effect from the date of their publication in the Madhya Pradesh Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires:(a)"Act" means the Madhya Pradesh Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karmachariyon Ke Vetano Ka Sandaya) Adhiniyam, 1978 (No. 20 of 1978);(b)Words and expressions used but not defined in these rules and defined in Madhya Pradesh Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karmachariyon Ke Vetano Ka Sandaya) Adhiniyam, 1978 (No. 20 of 1978) shall have the meanings respectively assigned to them in that Act.

Part II – Procedure for Teachers and other Employees

3. Show Cause Notice.

- No order imposing any of the penalties specified in sub-clause (iii) of clause (a) of Section 6 of the Act on a teacher or other employee, shall be made unless he has been informed in writing of the grounds on which it is proposed to take action and he has been given reasonable opportunity of defending himself.

4. Charges and Statement of Allegations.

- The grounds on which it is proposed to take action under sub-clause (iii) of clause (a) of Section 6 of the Act shall be reduced in the form of a definite charge or charges which shall be communicated to the teacher or other employee as the case may be, together with a statement of allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders in the case under sub-clause (iii) of clause (a) of Section 6 of the Act.

5. Written Statement.

- The teacher or other employee as the case may be, shall be required to submit within such time, as may be specified, a written statement of his defence and to state whether he desires to be heard in person and produce witness.

6. Inspection of Records.

(1)The teacher or other employee charged may seek permission for inspection of relevant records and documents for the purpose of preparing his defence.(2)Such permission may be refused on the grounds that if such records are not strictly relevant to the case or it is considered not desirable in the interest of the institution to allow inspection of the records or documents or part thereof for reasons of secrecy or privileged nature of contents.

7. Enquiry Officer.

(1)After the written Statement is received from the teacher or other employee in accordance with Rule 5 or if no statement is received, within the time specified a reference shall be made-(a)in the case of a teacher of pre-primary, primary and middle school, to the concerned District Education Officer.(b)in the case of a teacher of Higher Secondary School to the concerned Divisional Superintendent of Education;(c)in the case of a teacher or Lecturer of a college, to the Secretary, Madhya Pradesh Uchcha Shiksha Anudan Ayog; and(d)in the case of a teacher of a technical institution to the Director of Technical Education for appointing an enquiry officer whereupon the Officer/Ayog, applied to, shall appoint such other officer as he deems fit, to act as the Enquiry Officer;(e)in the case of an employee, the Head of the Institution shall be appointed as an Enquiry Officer.(2)The Enquiry Officer, after his appointment shall enquire into the charges framed against the teacher or other employee as provided in Rule 8.

8. Inquiry.

- If the teacher or other employee desires to be heard in person, he shall be so heard by the Enquiry Officer and if he desires that an oral enquiry be held, such an enquiry shall be held by the enquiry officer. At such enquiry, evidence as may be adduced by either side shall be taken on points arising for determination :Provided that the Enquiry Officer may, for reasons to be recorded, in writing, refuse to call witness whose evidence is, in the opinion of the Enquiry Officer not relevant or material, or whose presence cannot be secured except at considerable inconvenience and expense.

9. Report of Enquiry Officer.

- At the conclusion of the enquiry, the authority enquiring into the charges shall prepare report of the enquiry, recording its findings on each of the charges together with the reasons therefor. If in the opinion of such authority, the proceeding of the enquiry establish charges different from those, originally framed, it may record its findings on such charges :Provided that findings on such charges shall not be recorded unless the teacher or other employee charged has admitted or substantially admitted the facts constituting them or has had an opportunity of defending himself against them.

10. Record of Inquiry.

- The record of the enquiry shall include:-(i)the charges framed against the teacher or other employee and the statement of allegations furnished to him under Rule 4;(ii)his written statement of defence, if any;(iii)the evidence recorded in the course of enquiry;(iv)a report setting out the findings on such charge and the reasons therefor.

11. Consideration by Management.

(1)The Management shall consider the record of the enquiry and determine which of the findings of the enquiring authority, are worthy of acceptance.

12. Decision of Management.

(1)The Management shall, if it disagrees with the findings of the Enquiry Officer on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.(2)If the Management having regard to the findings on all or any of the article of charge, is of the opinion that the teacher or other employee should be dismissed or removed from service or his services should be terminated, it shall-(a)furnish to the teacher or other employee a copy of the report of the Enquiry Officer and a statement of the findings in regard to each article of charge together with brief reasons for its disagreement if any, with the findings of the Enquiry Officer;(b)give the teacher or other employee a notice stating the action that is proposed to be taken by the management under sub-clause (iii) of clause (a) of Section 6 and calling upon him to submit within fifteen days of receipt of the notice or such further time not exceeding fifteen days, as may be allowed, such representation as he may wish to make on the proposed action on the basis of the evidence adduced during the enquiry held under these rules.(3)(a)The Management shall after considering the representation, if any, made by the teacher or other employee, determine what action, if any, should be taken against the teacher or other employee and make a proposal for the order which it intends to pass.(b)The Management shall thereupon forward the whole case along with its proposal of the Order intended to be passed to the competent authority for its approval and the competent authority shall not refuse to grant such approval except on one or more of the following grounds:-(i)that there has not been, in the course of enquiry, proper or sufficient compliance of the procedure laid down in these rules;(ii)that the provisions of the Act are likely to be defeated by the said Order; and(iii)that the said Order, on the face of it, is perverse.(4)Where the competent authority is of the opinion that the proposal sent to it by the management under clause (b) of sub-rule (3) suffers from any of the defects mentioned therein, it shall, return the case to the management with such directions as it thinks fit for proceeding with the case in a manner free from the said defects.

13. Time Limit for Decision.

(1)The entire procedure prescribed shall, as far as possible be completed within six months from the date the decision is taken to hold the enquiry.(2)No final order in any enquiry under this part shall be rendered invalid on account of any defect in the appointment of Enquiry Officer or any irregularity in procedure not affecting the merits of the case.