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Compln.(ULP)No.172/2025(O)  
CNR No. MHIC01-000378-2025

**IN THE INDUSTRIAL COURT MAHARASHTRA AT MUMBAI**

**COMPLAINT (ULP) NO. 172 OF 2025**

Noble Nursing Union  
Code Number- 66  
Anand Nagar, Barkha C.H.S. Limited,  
Village Road, Bhandup (West),  
Mumbai-400 078.

...Complainant.

Versus

The Municipal Corporation of Greater Mumbai  
Being sued through its Chief Executive Officer  
namely The Municipal Commissioner  
Mahapalika Building,  
Mahapalika Marg,  
Mumbai-400 001  
and 9 Ors.

...Respondents.

**CORAM: V.G. RAGHUWANSHI, MEMBER.**

Appearances: Smt. A.S. Talekar, Advocate for Complainant.  
Smt. Tanuja Tadvi, Advocate for Respondents.

**ORDER BELOW EXH.U-2**

**(Dated : 29.07.2025)**

1) Noble Nursing Union filed this complaint under Section 28 read with Item No. 9 and 10 of Schedule IV of MRTU & PULP Act. The union claims to be a duly registered trade union. It is recognized by respondent no. 1 Municipal Corporation of Greater Mumbai. It allotted code no. 66 to complainant union. It is one of the biggest unions functioning in the establishment of MCGM. It is having membership of majority of nurses of all hospitals under respondent no. 1. Complainant union authorized its General

Secretary Smt. Kalpana Gajula to file complaint and pursue issues pertaining to nurses' duty pattern, leave and wages.

2) Respondent no. 1 is Municipal Corporation of Greater Mumbai. Respondent nos. 2 to 10 are officers of respondent no. 1 exercising administrative control over the nurses and other staff in various hospitals run by MCGM. Respondents committed and they continued to commit unfair labour practices under Item Nos. 9 and 10 of Schedule IV of MRTU & PULP Act on and from 30.04.2025. Respondent no. 1 has its own rules and regulations as far as duty pattern of all nurses of all hospitals under respondent no. 1.

3) According to guidelines of respondent no. 1, one nurse is required to look after three patients. However, in reality, one nurse is required to look after six patients in the hospital. Nurses work in three rotational shifts as per roster maintained by the matron of hospital. Nurses are required to perform duty of 30 days in a month. They are attending six night duties and enjoying six offs. The work pressure adversely affects nurses. The working pattern creates more pressure on nurses escalating their absenteeism and frequently availing casual leaves and sick leaves.

4) The Sister-in-Charge and other nurses are sent as sister tutors to train new interns and nurses undergoing training. When Sister-in-Charge or staff nurses are deputed for imparting training, other nurses in the ward handle their duties. This creates tremendous pressure on nurses. The Sister-in-Charge and staff nurses are sent on working arrangement to various hospitals.

There is no uniformity in working pattern and duties of nurses in various hospitals run by respondent no. 1. In the K.E.M. Hospital, Nair Hospital, C.M.S. Hospital and E.H.O. Hospital, nurses have 30 working days with six night duties and six offs. Whereas in Sion Hospital, nurses have 30 working days with eight night duties and eight offs during pre-covid period (pre-covid pattern).

5) In pre-covid period, each nurse had 198 hours duty in 30 days, 46.2 hours per week and 8.25 hours per working day in K.E.M. Hospital, Nair Hospital, C.M.S. Hospital and E.H.O. Hospital. Whereas the nurses were required to work for 204 hours in 32 days. They had 47.6 hours working per week and 8.5 hours per working day. The complainant union submitted that nurses were required to exert 8.25 hours to 8.50 hours every day. This was over stressing for a nurse as she is required to look after 6-8 patients in a ward.

6) Complainant union submitted that they are required to work more than the nurses in hospitals run by Central Government and State Government. In J. J. Hospital run by State Government, a nurse is working 8 hours per day. The State Government by a circular dated 20.02.1996 specified duty and off hours and working days of nursing staff. The Central Government also by a circular dated 11.09.1990 laid down working hours and off days of nursing staff. The All India Institute of Medical Sciences, Ansari Nagar, New Delhi also issued a circular on 09.05.2017 and clarified number of offs and the shift duty of staff nurses.

7) Complainant further contended that till pandemic of Covid-19, duty pattern mentioned above were followed by MCGM and State of Maharashtra. After on-set of Covid-19 pandemic, the Central Government issued circular and laid guidelines for management of hospitals run by Central Government. That circular was adopted by State Government as it is in March 2020. The State Government and MCGM issued a circular on 29.03.2020 providing guidelines based on circular issued by Central Government for management of hospitals. As per this circular, in K.E.M. Hospital, Nair Hospital, Nair Dental Hospital, E.H.O., C.M.S. there were 6 night shifts and 8 days off in 30 days. The nurses were required to work for 183 hours in 30 days, 42.7 hours per week and total working hours per day were 8.31 hours. Whereas in Sion Hospital, there were 8 night shifts, 2 half days and 8 offs in 32 working days. The nurses were required to work for 197 hours in 32 days. They were required to exert 43.9 hours per week and working hours per day were 8.20 hours.

8) Due to this working pattern, nursing staff was overburdened. They were compelled to remain absent from duties. Therefore, the hospital was required to run with less staff. The union voiced grievances of its members by writing letters and calling for joint meetings with Deans of hospitals, Chief Medical Superintendents and Directors. The respondents held very few meetings but without any fruits. The respondent no. 1 received all those letters but it failed to conduct a joint meeting and to arrive at a uniform duty pattern for all the nurses under it.

9) The complainant union and Executive Health Officer (respondent no. 4) conducted a joint meeting. It was attended by Executive Health Officer, Dy. Executive Health Officer, Superintendent – Nursing Service Department and General Secretary of the complainant union. The issue of uniform duty pattern for all nursing staff of hospitals under respondent no. 1 was taken up. The complainant union insisted upon 30 days, 8 offs duty pattern for nurses. The Administrative Officer called for a joint meeting on 07.07.2022. The Dy. Dean of Nair Hospital issued a circular/office order dated 07.06.2024 and directed nursing staff to follow working pattern prevailing prior to Covid-19. The complainant union provided a comparable duty hours/off chart to respondents to understand the duty pattern and to provide the work to the nurses for 30 days with 6 night duties and 8 offs. The respondents and all unions entered into workable formula of 30 days and 8 offs for all hospitals of respondent no. 1. All signed said formula on 17.03.2022 (Annex-M).

10) The complainant submitted that respondent did not take any positive action to implement the pattern of Covid-19 duty hours and off days, it raised an industrial dispute by sending its demands to respondents and filing its justification statement before Labour Commissioner, Mumbai. Due to non-cooperation of respondent, the Labour Officer issued failure report and the dispute was referred to industrial tribunal. It was registered as Reference (IT)No.26/2024. The Matron of Nair Hospital submitted her letter to consider the duty pattern on the lines of K.E.M. Hospital and Sion Hospital. The Matron of Nair Hospital by letter dated 22.12.2022 extended

sanction of the order dated 30.08.2022 till further order and allowed to continue the duty pattern which was followed during Covid-19 period. The unions requested respondents repeatedly by their letters dated 26.12.2002, 06.07.2023 and 20.09.2023 to give effect to 30 days, 6 nights duties and 8 offs pattern of duty to nurses of all hospitals under respondent no. 1.

11) The respondent no. 1 issued a circular dated 31.05.2024 and implemented earlier work patten of duty for nurses of all hospitals under respondent no. 1. This circular was issued after receiving copy of Ref.(IT)No. 26/2024 without consulting unions. Thereafter Matrons of all hospitals under respondent no. 1 compelled the staff nurses of all hospitals to comply with the same. The nurses were warned that they would be marked absent on days they were observing the duty off. The circular was arbitrary and was issued without considering letters issued by unions. The unions were not consulted or were not called for joint meeting. As respondents did not give notice of change, this was unfair labour practice under Item 9 of Schedule IV of MRTU & PULP Act. Notice of change in working hours of nurses was mandatory as the circular would change working hours of nurses of all hospitals under respondent no. 1. The respondents committed unfair labour practice under Item 10 of Schedule IV also because the Matrons applied force/pressure to comply with the same.

12) The unions after receiving circular dated 31.05.2024 called upon Deans of all hospitals to withdraw said circular and allow the nurses to follow pattern of working 30 days, 6 nights, 8

offs which was followed during Covid-19 period. It was beneficial to nursing staff as well as the hospital. The respondent did not reply letters of union. Therefore, the complainant union and other unions filed Complaint (ULP)No.497/2024, they also filed an application for interim relief. Said application was partly allowed by order dated 04.12.2024. The court stayed circular dated 31.05.2024 till submission of report/recommendations of the committee constituted by respondent no. 1 as directed in the further clause of said order. The respondent no. 1 was directed to constitute a committee as specified in the circular dated 31.05.2024 within one and half months and said committee was directed to hear all concerned unions on the issue of duty pattern and submit its report to the court within six months from the date of its constitution. In the meantime, respondents were directed to continue existing duty pattern.

13) In spite of this order, respondents continued to unilaterally follow the stayed circular and created pressure on nursing staff and dis-entitled them from taking 8 offs. Because of arbitrary action of respondent, the union was compelled to file an application on 31.01.2025 for getting clarification of the order under Exh.U-2 dated 04.12.2024. Respondents also made an application for clarification on 31.01.2025. Court heard both the applications and by order dated 09.04.2025 clarified who were covered by said order. It was clarified that members of the unions from K.E.M., Sion, Nair and all the hospitals of respondent no. 1 were covered by order dated 04.12.2024.

14) Thereafter, unions wrote letters to all hospitals, maternity homes and dispensaries to abide by the order passed by Industrial Court and to allow the nursing staff to avail 8 offs and 6 night duties for 30 days. The complainant union filed an application to respondent no. 3 under Right to Information Act seeking information about the orders issued by respondent no. 7 and 10 treating absence of nurses as leave without pay. But the respondents did not provide information till date. The respondent did not challenge order dated 04.12.2024, they did not constitute the committee. The General Secretary of complainant union enquired about forming such committee. Executive Health Officer informed him by letter dated 30.04.2025 of constitution of committee by the respondent no. 2 and also informed that date and time of meeting shall be communicated. But till today no date and time of meeting is fixed and informed to union by the concerned office. During this period, the respondents were pressurizing nursing staff and did not allow 8 offs pattern of duty. Failure to constitute the committee and action taken by respondents is contempt of court's order. Therefore, the complainant is before this court and prayed for reliefs mentioned in the plaint.

15) The complainant also filed an application for interim reliefs seeking restraining orders against respondents from treating 8 offs of nurses as casual leaves and/or cross and/or without pay. They also prayed for direction that respondents should treat their absence as off. Complainant also prayed for direction to correct roster as well as service record. The complainant union directed respondents to reimburse the amount deducted from wages of April

2025 of nurses of Kasturba Hospital and allow them to continue the duty pattern of 30 days, 6 nights and 8 offs. The complainant union also prayed for a direction to respondents to allow all nurses who are members of complainant union working in hospitals run by respondent no. 1 to avail 8 offs duty pattern.

The respondent no. 1 filed its affidavit in reply. It submitted that complainant is not a recognised union under MRTU & PULP Act. It has no right to represent the concerned employees and filed a complaint on their behalf. Respondent no. 1 did not fail to implement any award, settlement or agreement. They did not indulge in violence against complainant.

16) Nurses employed in various hospitals run by respondent no. 1 perform different duties and do not have uniform duty pattern. The complainant already raised industrial dispute before Labour Commissioner and the Labour Commissioner referred said dispute for adjudication as Ref.(IT)No.26/2024 concerning circular dated 31.05.2024. Service conditions of employees in hospitals run by respondent no. 1 are governed by rules and regulations of respondent no. 1 and agreements signed between corporation and unions as well as the circulars issued by authorities from time to time. Similar issue is pending in Complaint (ULP)No.497/2024. The court already passed orders in said complaint and therefore this complaint is barred by principles of res-judicata. This second litigation cannot be entertained.

17) Respondent no. 1 further submitted that it had already constituted a committee and the committee held a meeting also. It

filed minutes of said meeting dated 22.05.2025. It was attended by office bearers of various trade unions representing the staff nurses. They also made submissions in said meeting. It is reflected by the minutes. Wages of nurses of Kasturba Hospital were deducted from April 2025 for not working on two days. It cannot be termed as unfair labour practice as the committee has not given its final report. The DMC (PH) called upon representatives of unions to submit their suggestions in writing before next date in order to submit a report to the court. He also assured to hold next meeting but unions did not submit their representations till date. Employees are required to follow circulars issued from time to time.

18) Wages of the staff were deducted from April 2025 as they availed more than sanctioned offs as per service conditions. Employees were entitled to four regular offs and two night offs only. It cannot be termed as unfair labour practice by any means. The complainant union did not file the details showing its membership. The list Annexure-A shows only 63 employees working in Kasturba Hospital are members of complainant union. There are about 5550 nurses in employment of respondent no. 1. The complainant has no right to plead and claim relief in respect of other nurses who are not members of complainant union. The members of complainant union are also not entitled to any relief at interim stage. There cannot be two service conditions in respect of same class of employees unless all employees through their respective unions are impleaded as party to the above complaint. Complainant failed to prove prima facie case. The respondent no. 1 prayed for rejecting the interim relief application.

19) I have heard Ld. Counsels for both sides. It was submitted by Ld. Counsel of the complainant that Complaint (ULP)No. 497/2024 was an offshoot of the reference and respondents were obliged to comply with orders passed by that court. Working hours of all nurses working under respondent no. 1 should be same. Respondent no. 1 runs many hospitals. There are agreements between respondent no. 1 and various unions in the establishment of respondent no. 1. Ld. Counsel for complainant pointed out Annexure-M showing 30 days working pattern with working hours, night shift with 8 offs, item no. 6 to 8 of Annexure-G to point out that nurses, doctors and staff of hospitals of BMC having indoor patients of Covid-19 should have one off after three working days. In other hospitals, the doctors, nurses and other staff should take one day off after six days. As it was necessary to run hospitals on sundays also, the doctors, nurses and staff of all hospitals should take offs in rotation after working of six days. Ld. Counsel of complainant drew my attention towards circular dated 31.05.2024 (Annexure-R) applying duty pattern prevailing before onset of Covid. She contended that it was infringement of Section 9 of Industrial Disputes Act. She further pointed out that the circular dated 31.05.2024 (Annexure-R) was stayed by order dated 04.12.2024 in Complaint(ULP)No.497/2024 (Annexure-T). By the said order, respondents were directed to constitute a committee within one and half months and submit report, respondents were further directed to continue the existing duty pattern. She pointed out application Exh.C-4 filed by respondents in C(ULP)No. 497/2024, reply filed by complainant and order (para no.4) passed thereon to canvass that once the circular dated 31.05.2024 was

stayed, the stay operated against respondent corporation in respect of all members of complainant union who were working in respective hospitals and other hospitals. That means, order passed below Exh.U-2 was not restricted only to the members of complainant union. The Counsel of complainant pointed out Annexure-W i.e. letters to all hospitals and the order passed by Dy. Executive Officer of respondent no. 1 informing that Additional Commissioner of BMC approved the committee for fixing the duty hours, time and duty pattern for all categories of staff working in main hospitals, suburb hospitals, maternity homes and special hospitals by order dated 24.02.2025 and date and time of said meeting shall be informed to the unions. She submitted that complainant union is entitled to represent its members and it has authority to file this complaint under Section 28 of MRTU & PULP Act. The complainant union was allotted union code 66, therefore, it was recognised by respondent no. 1. The respondent no. 1 failed to follow orders dated 04.12.2024 and 09.04.2025. This amounts to unfair labour practice. She prayed accordingly. She relied upon following citations in support of her contentions.

- 1) Richardson & Cruddos (1972) Ltd. Vs. Mahdeo, 1984 LawSuit(Bom) 411
- 2) Rashtriya Mill Mazdoor Sangh Vs. K.B. Wagh, Presiding Officer & Ors., 1993 LawSuit(Bom) 369
- 3) Municipal Corporation of Greater Mumbai Vs. Laxman Saidoo Timmanepyati & Ors., 1991 (2) CLR
- 4) Hindustan Lever Ltd. Vs. Ashok Vishnu Kate 1996 AIR 285 SC

20) On the other hand, Ld. Counsel for respondents submitted that this is not a case of termination of services of complainants warranting preventive relief. Entitlement of parties to reliefs claimed can be decided only on merits. He submitted that an industrial dispute has already been raised and reference is pending before Industrial Tribunal. He submitted that four complaints and two references touching this dispute are already pending. This is fifth complaint, it is not maintainable in view of Section 59 of MRTU & PULP Act. Item 9 and 10 of Schedule IV are not attracted as there is no agreement, award or settlement, hence, there is no unfair labour practice. He submits that the order of Industrial Court on an interim relief application in Complaint (ULP)No. 497/2024 is not an award. There is no other agreement or settlement which is not followed by the respondent. Therefore, there is no unfair labour practice. Service conditions of nurses are governed by circulars. There is no stay to those circulars. He drew my attention to the circular dated 31.05.2024 and submitted that committee needs to be formed according to the circular. There is no urgency. Unless evidence is recorded, nothing can be decided. Therefore, this is not a fit case to grant interim relief. He submitted that the nurses started taking 8 offs on their own without any permission from the respondents. Therefore, their absence was recorded and their wages were deducted. He drew my attention towards minutes of meeting dated 22.05.2025, which was attended by Smt. Kalpana Gajula for complainant union. She was also allowed to make her submissions. Therefore, there is no unfair labour practice. There is delay in filing this complaint. He also submitted that the respondents run many hospitals and provide medical aid to common people. Some

hospitals are big and some hospitals are small, situated in suburban areas. Duty patterns of these hospitals (big and small) cannot be compared because they face different difficulties and has different nature and number of patients. Small hospitals cannot be compared with K.E.M., Nair or Sion Hospital. The staff from big hospitals are not transferable to small hospitals, similarly, staff of small hospital are not transferable to big hospitals. Therefore, their service conditions are totally different and cannot be compared or equated. He prayed for rejecting this application. He relied upon following citations in support of his contentions.

- 1) The Raja Bahadur Motilal Poona Mills Ltd. Vs. Girni Kamgar Sanghatana & Anr.1985 I CLR 188 Bom.HC
- 2) State of Uttar Pradesh & Ors. Vs. Sandeep Kumar Balmiki & Ors., (2009) 17 S.C.C. 555
- 3) Ichalkaranji Municipal Council Vs. Raju Bandu Taral & Ors., 1999 I CLR 1257 Bom.HC
- 4) Hemant Govind Vaidya Vs. Vasant Dada Sugar Institute & Ors., 2000 (86) FLR 49 Bom.HC
- 5) Executive Engineer, M.S.E.B. Morshi & Anr. Vs. Industrial Court, Amravati & Anr., 2001 (4) L.L.N. 657 Bom.HC
- 6) General Workers Union Vs. Sangli Municipal Council, Sangli & Ors., 1984 (48) FLR 411 Bom.HC
- 7) Zilla Parishad, Jalgaon through its Chief Executive Officer Vs. Maya Tukaram Sonawane (Smt.), Jalgaon, 2016 II CLR 580 Bom.HC
- 8) State of U.P. & Ors. Vs. Ram Sukhi Devi, 2004 (103) FLR 568 (SC)
- 9) Jacob Chinnannam Vs. Sudarshan Aluminium Industries Ltd., (2002) 9 MHLJ. 434

21) The record shows that unions were requesting respondents to equate the working pattern of nurses working in different hospitals run by respondent since many years. The unions of nurses were requesting to equate working patterns in the hospitals run by respondents with the working patterns of nurses working in hospitals run by State Government and Central Government. Thereafter, there was onset of Covid-19 pandemic. Having regards to grim situation in the country during pandemic, the government issued circulars guiding the hospitals regarding working conditions of doctors and other staff in hospitals. After the Covid wave receded, the hospitals again reverted to normal working and the respondents issued circular dated 31.05.2024.

22) The dispute arose out of circular dated 31.05.2024 only. The complainant union and Municipal Nursing and Paramedical Staff Union filed Complaint (ULP)No.497/2024. In that complaint, they filed an application for interim reliefs. That application was partly allowed by order dated 04.12.2024. The Industrial Tribunal directed the respondents to constitute a committee as specified in impugned circular within 1½ months and directed said committee to hear all unions about duty pattern and submit its report within 6 months from the date of its constitution. The tribunal stayed impugned circular till submission of report by said committee and directed respondents to continue the existing duty pattern.

23) Perusal of said order dated 04.12.2024 would reveal that contentions of union were materially similar to contentions in this application except allegations of marking absent and deducting

wages after order dated 04.12.2024. While deciding interim relief application in Complaint (ULP)No.497/2024, the tribunal dedicated para no. 57, 60, 62 and 63 to hold that issuance of impugned circular was unfair labour practice and then passed an order discussed above.

24) I am unable to agree with the observation in said order that implementation of duty pattern contrary to circular of central and state government amounted to unfair labour practice. I want to point out judgment [Transport and Dock Workers' Union and Ors., Vs. Mumbai Port Trust and Anr., 2010 (127)-FLR-1095] relied by Industrial Tribunal in para no. 56 of said order wherein the Apex Court observed that it is prerogative of management to fix hours of work if they do not violate statutory provisions or rules. It is function of management and the court must exercise restraint and should not ordinarily interfere with managerial function of the employer. Differential treatment does not perse amount to violation of Article 14 of the Constitution. It violates Article 14 only when there is no conceivable reasonable basis for the differentiation. The Apex Court further observed that it is not prudent or pragmatic for the court to insist on absolute equality when there are divergent situations and contingencies as in the present case. In view of inherent complexities involved in the modern society some free-play must be given to executive authorities in this connection. I personally think it was too early to comment that the impugned circular was contrary to circular issued by state government or central government and therefore, it was an unfair labour practice. The respondents issued impugned circular in exercise of their

managerial powers and they issued it by inspecting their needs for better management of their hospitals. Perusal of the impugned circular would reveal that they had pondered over the consequences of giving offs of 8 and 7 days, having regards to availability of nurses in morning shift and they concluded that if duty patterns having 8 days or 7 days offs are implemented, then it will result in deficient number of nurses and disruption of services of patients.

25) This shows that the respondents exercised their conscience before issuing impugned circular and they were acting for rendering effective services to their patients. Moreover, inconvenience to 5,550 nurses would not tilt balance of convenience in their favour, if their convenience is causing inconvenience to the lakhs of patients who take treatment in hospitals run by respondents. A judicial note can be taken of valuable services rendered by hospitals run by BMC in Mumbai. In absence of hospitals run by BMC in Mumbai, the health services provided by state government and union government would not have been enough for the city like Bombay. Therefore, I beg to differ with the observation of Industrial Tribunal in order dated 04.12.2024.

26) But the matter before me is that after this order was passed, the respondents deducted wages of nurses who remained absent for more than 6 days or in other words, who insisted that they would enjoy offs of 8 days. The Industrial Tribunal had stayed impugned circular and directed respondents to continue with existing duty pattern. In view of this order, the respondents could not have deducted the wages of nurses who insisted to enjoy offs of

8 days. Therefore, it is necessary to restrain the respondents from deducting their wages or marking them absent till the committee constituted as per impugned circular submits its report. In view of clarification given by the Industrial Tribunal in order below Exh.C-4 dated 09.04.2025(para 4), this order shall be applicable to all hospitals run by BMC. The complainant is entitled to relief to that extent. Before parting with this order, I think it is necessary to mention that all litigations relating to duty patterns of nurses in the hospitals run by BMC and impugned circular should be tried by the same court. The parties shall submit numbers of all cases filed by them, so that steps can be taken to place those matters before one court.

27) With this I proceed to pass the following order.

**ORDER**

- 1) The application is partly allowed.
- 2) The respondents are restrained from treating the 8 offs taken by nurses as causal leaves or cross (absent) or without pay and the respondents shall treat their absence as offs till the committee constituted by them submits its report.
- 3) The respondents shall reimburse the amount already deducted from wages of nurses who availed 8 offs.
- 4) This order shall be applicable to all hospitals of BMC.

Dated: 29.07.2025

(V. G. RAGHUWANSHI)  
Member  
Industrial Court, Mumbai.