

MHIC040001432025



BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT THANE
(PRESIDED BY :- MRS. PRADNYA S. KALE, MEMBER)

COMPLAINT(ULP)NO. 77 of 2025

Shri. Rajendra Gulabrao Misal & Anr. - Complainants

V/s.

Smt. Sakshi Shinde

Gram Vikas Adhikari, Khone & Ors. - Respondents

-: ORDER BELOW EXH. CA-6 :-
(Delivered on 28th November, 2025)

1. This application is filed by the respondents for framing and deciding the preliminary issue by submitting that, the respondent Gram Panchayat is not an Industry within the meaning of Law. So such complaint ULP filed under MRTU & PULP Act cannot be entertained and proceeded against the Gram Panchayat i.e. respondents No. 1 and 2.

2. It is submitted that, the Gram Panchayat is constituted under Maharashtra Village Panchayats Act, and discharging public and sovereign functions for the welfare of the citizens. As per the settled legal principles, the Organization and Institution if engaged in discharging the sovereign and statutory function, then it cannot be

considered as an Industry. It is a pure question of law, going to the root of the jurisdiction of the matter. Hence, it is necessary to frame the issue and decide the same.

3. From the side of the complainants the say is filed by submitting that, the respondents are collecting water charges and other taxes and providing the services, as such, the case is covered as per the guidelines of settled law. So claim is made to reject the application.

4. Heard arguments from both sides. Written note of arguments are filed on record as per Exh.CA-7 and Exh.U-9 and citations are also referred as per Exh.U-10 and Exh.CA-8. Considering the submissions from both sides. Perused the documents and citations referred following Points arise for determination. The findings against each of them are recorded for the reasons to be followed:-

<u>Points</u>	<u>Findings</u>
1. Whether preliminary issue is required to be framed, as proposed ?	- In the Affirmative.
2. What Order ?	- As per final order.

-: REASONS :-

5. **As to Point No.1** :- During the course of arguments from the side of respondents No.1 and 2 it is submitted that, the Gram Panchayat is not covered within

the definition of Industry. It is the statutory body performing the Government duties while discharging sovereign functions. They are not commercial or profit oriented, so cannot be considered as Industry. The detail submissions are made in the written notes of argument about establishment of Gram Panchayat and local self government body. The emphasis was given on the definition of the word "Industry" as provided under Section 2(j) of the Industrial Disputes Act. Further it is submitted that, the remedy is available to the complainant, which can be exhausted by them. The reliance is placed on various citations filed below list Exh. CA-8 as follows:

1. Bangalore Water Supply and Sewerage Board V/s. A. Rajappa and Ors. 1978 LAB I.C. 467 (SC).
2. The Management of Safdar Jung Hospital, New Delhi V/s. Kuldip Singh Sethi 1970 LAB I.C. 1172 (SC).
3. Bharat Sanchar Nigam Ltd. & Anr. V/s. Union of India & Ors. AIR 2006 Supreme Court 1383 (SC).
4. Gram Panchayat, Sawargaon V/s. Jamnaprasad Raghunath Prasad 1968 I LLJ 222 (Bom.H.C.).
5. Gram Panchayat, Katil V/s. Presiding Officer, First Labour Court, Nagpur & Ors. 1989 II CLR 460 (Bom.H.C.).
6. Village Panchayat of Collem V/s. Industrial Tribunal, Government of Goa 1995(71)F.L.R. 249 (Bom.H.C.-P.B.).
7. Dhari Gram Panchayat V/s. Saurashtra Mazdoor Sangh 1987 DGLS(SC) 673 (SC).

6. On perusal of all these citations, it is held that, the triple test is laid down by the Hon'ble Supreme Court for determining any establishment as to whether an Industry or not. There should be systematic activity, co-operation between an employer and employee and production / distribution of goods or service calculated to satisfy human wants. When the object is public welfare and under the statutory obligation, it cannot be termed as Industry. There is no element of trade, business etc. and it is funded by the Government grants and taxes.

7. From the side of the complainants it is submitted that, the respondents are not performing the sovereign duties, but are providing water, street lights or health services after getting the necessary charges from the villagers. It would all depend upon the nature of power and manner of its exercise for determining any function as a sovereign or non sovereign. The details are provided about the nature of duty performed by these respondents. Gram Panchayat is receiving the funds from Zilla Parishad. The Zilla Parishad is also an Industry, and therefore there is no merits in the objection raised. Hence, claim is made to dismiss the application. The reliance is placed on the citations filed at Exh.U-10 as follows:

1. Agricultural Produce Market Committee V/s. Ashok Harikuni & Anr. 2000 III CLR 813 (SC).

2. Navsari District Panchayat and Another V/s.
Sumanbhai Morarbhai Patel and Another 2003
LAB I.C. 1088 (Gujrat H.C.)

8. On perusal of the same it is held by the Hon'ble Supreme Court that, the dominant object of the establishment needs to be considered for considering it as a sovereign or non sovereign establishment. The department of Panchayat is held as an Industry. The absence of profit motive and gainful objective is irrelevant while considering the establishment of Gram Panchayat. The functional test is about employer-employee relationship existed in between the parties.

9. After considering the submissions of both sides here it is clear that the complainants are claiming to be the employees of respondents, they were not paid as per minimum rate of wages and there is apprehension of their termination as their services are not regularized by the respondents. For all these claims there is submission of commission of unfair labour practice by the respondents. For deciding the claim it is necessary to establish the relationship between the parties and the litigants should be the employee/workman and the employer / industry against whom only the claim can be entertained. When these respondents have submitting that they are not covered under the head of Industry, it is now necessary to decide the same. So considering the nature of the

proceeding, at this stage it is necessary to frame the preliminary issue as to whether the Gram Panchayat is the Industry or not. Hence, Point No.1 is answered in the affirmative and for Point No.2 following order is passed:

-: **ORDER** :-

1. The application is allowed.
2. The preliminary issue is framed as -
“Whether Gram Panchayat is an Industry within the meaning of Law.”
3. Both parties are directed to argue on the said issue.
4. Costs in cause.

Place :- Thane

Date :- 28-11-2025

Asg/-

(Mrs. Pradnya S. Kale)
Member,
Industrial Court, Thane