

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT THANE**COMPLAINT (ULP) NO. 77 of 2025**
(CNR No. MHIC040001432025)Shri. Rajendra Gulabrao Misal & Another - **Complainants**: **Versus** :Smt. Sakshi Shinde
Gram Vikas Adhikari, Khone & Others - **Respondents**-: **ORDER ON PRELIMINARY ISSUE** :-
(Dated 16th January, 2026)

1. As per the Order passed below Exh.CA-6 on 28.11.2025 the Order came to be passed and the preliminary issue is framed as “Whether Gram Panchayat is an Industry within the meaning of Law” at Exh.O-2. It is reproduced below and findings to it is given on the basis of the arguments and submissions advanced by both sides alongwith referred citations as discussed under :-

<u>Preliminary Issues</u>	<u>Findings</u>
1. Whether Gram Panchayat is an Industry within the meaning of Law ?	In the affirmative
2. What order ?	: As per final order.

-: **REASONS** :-2. **As to Issue No.1** :- By filing the application Exh.CA-6

the respondents submitted for framing of preliminary issues by mentioning that the Gram Panchayat is not an Industry within the meaning of Law. So no such complaint under MRTU & PULP Act can be filed against respondents No.1 and 2 i.e. Gram Panchayat and Gram Vikas Adhikari. It is submitted that, Gram Panchayat is established as per the provisions of Maharashtra Village Panchayats Act, 1959 discharging public functions, which are of sovereign nature and are for welfare of the citizens. Therefore, it is not an Industry governed under the Law.

3. The written arguments are filed on record at Exh. CA-7 by submitting that, as per various judicial interpretations, the definition of 'Industry' excludes Institutions engaged in sovereign or statutory functions of the State, which are not commercial or profit oriented. As per the provisions of Section 2(j) of the Industrial Disputes Act, 1947 the Gram Panchayat is not covered under the definition of an 'Industry'. The Gram Panchayat is self-Government body, discharging delegated Government functions of village administration. The employees are appointed thereby for execution of such Governmental functions. By pointing out the ratio in referred citations in the list Exh.CA-8; a) **Bangalore Water Supply & Sewerage Board V/s. A. Rajappa 1978 LAB I.C. 467(SC)**, wherein it is submitted that, triple test is provided to determine whether the activity is covered under the definition of Industry. For coming under the definition of Industry, there should be I) systematic activity, II) organized by co-operation between an employer and employee,

and III) conducted for production, supply and distribution of goods or services calculated to satisfy human wants or wishes.

b) **The Management of Safadar Jung Hospital, New Delhi V/s. Kuldip Singh Sethi 1970 LAC I.C. 1172 (SC)**, wherein it is held that, Governmental departments performing non-commercial activities for public welfare were held outside the scope of Section 2(j) of the Industrial Disputes Act. Here it is further held that, public utility services, when the business is run then it is necessary to see that what kind of economic activity, which is analogous, which is Trade or business needs to be seen for considering the Institution as an Industry. c) **Bharat Sanchar Nigam Ltd. & Anr. V/s. Union of India & Ors. AIR 2006 Supreme Court 1383**. The facts of the cited case are different than the present case, hence not applicable. d) **Executive Officer, Zilla Parishad V/s. Labour Court 1992 I CLR 336 (Bom)**, wherein it is held that, local bodies are performing statutory functions, when they are engaged in the commercial ventures then only can be treated as an Industry. e) **Gram Panchayat, Sawargaon V/s. Jamnuprasad Raghunath Prasad (Bom.) 1968 I LLJ 222**, and f) **Gram Panchayat, Katil V/s. Presiding Officer, First Labour Court, Nagpur & Others Bombay HC 1989 II CLR 460**, wherein it is held that, it is necessary to see what kind of activities are carried out and for what purpose the complainant is submitting about commission of unfair labour practice for the service rendered by him being an employee for such Gram Panchayat being employer. g) **Village Panchayat of Collem V/s. Industrial Tribunal, Government of Goa 1995 (71) FLR 249 (Bom.H.C.-**

P.B.), and h) Dhari Gram Panchayat V/s. Saurashtra Mazdoor Mahajan Sangh 1987 DGLS (SC) 673, wherein it is held that, when Village Panchayat primarily performs local self-government and administrative duties provided under Statute, then it is not an Industry.

4. By emphasizing on all these citations and their ratio it is again submitted that, there is no element of trade, business or manufacturing activities, carried out by the respondents therefore, Industrial Court has no jurisdiction to entertain such complaint. The complainant is at liberty to avail alternate remedy available. Further it is submitted that, when statutory remedies are provided, they cannot be bypassed. Therefore, in conclusion, it is submitted that, the Industrial Court has no jurisdiction to entertain such complaint and complaint is not maintainable.

5. From the side of the complainant, the Written arguments are submitted at Exh.U-9, wherein it is submitted that, in the referred citation at Sr.No.1, by the respondents as per list Exh.CA-8 and also cited as per the list Exh.U-10 in Bangalore Water Supply case, triple test is provided. It is submitted that, the respondents are providing water, street lights, and health services after getting necessary charges for the same from the villagers, therefore, it is not correct to say that, it is performing only sovereign functions. It is further argued that, there is difference in between 'sovereign' and 'non-sovereign'

functions performed by any Institution, it all depend on the nature of the power of the Industry i.e. how it is exercised. Whether the executive function can be called as sovereign in nature, and whether the State is answerable for such action for administration of justice, maintaining and law and order etc. The States are to function while doing the administrative work, regulating and controlling activities are also required to be performed, which includes educational, commercial, social, economic and political activities. The Gram Panchayat is getting funds from Zilha Parishad, which is also an Industry. The Zilha Parishad is an Industry. All the Nagarparishad and Municipalty are also Industries. By raising the said objection, as preliminary issue, the complainant is delaying the proceeding, so it needs to be answered properly. The referred citations filed at Exh.U-10 in Agricultural Produce Market Committee V/s. Ashok Harikunj & Anr. etc. 2000 III CLR 813(SC), and Navsari District Panchayat and Another V/s. Sumanbhai Morarbhai Patel and Another 2003 LAB I.C. 1088 (Gujrat H.C.), again the emphasis is given on the issue regarding jurisdiction of the Court.

6. After considering all the citations and submissions of both sides, now it is necessary to see the nature of complaint filed against the respondents. Initially he approached to the Labour Commissioner. The respondents remained absent for conciliation proceeding for recovery of back wages. Here the complainant is claiming for wages at the rate of minimum rate of wages. As per the provisions of Section 2(j) of the Industrial

Disputes Act, the word 'Industry' is defined as where systematic activity is carried on by co-operation between an employer and employees. Here it is seen that, the word 'Industry' has wider meaning. The service or employment, when provided to workmen for any Undertaking can be termed as an Industry. Therefore, here it is clear that, object of the Act is for improvement of service conditions of industrial workers and to provide the industrial peace so as to accelerate productive activities. Organizing activities in co-operation with the employer-employee, if any, carried out with specific purpose by rendering services, then it is necessarily covered under the definition of 'Industry'. Here it is seen that, the complaint is filed against the Gram Vikas Adhikari, Gat Vikas Adhikari, Panchayat Samiti and Zilha Parishad by making the allegations that the complainant has not received the wages as provided under Minimum Wages Act. The allegations about commission of unfair labour practice are made.

7. Though it is clear that, Gram Panchayat and all other respondents are established as per the provisions of Indian Constitution and they have to perform sovereign functions, but it is also equally true that while performing all these sovereign functions, they are doing administration and having control over the employees employed by them for performing their duties. So considering the nature of proceedings, the reliefs claimed, it can be held that for the purpose of this complaint and in order to adjudicate about allegations raised against the respondents,

the said Gram Panchayat, through its Gram Vikas Adhikari can be termed as 'Industry' within the meaning of Law. Hence, Preliminary Issue No.1 is answered in the Affirmative.

8. As per above discussion for Issue No.2 following order is passed:

- : ORDER : -

- 1) The Gram Panchayat is held as 'Industry' within the meaning of Law.
- 2) Accordingly, preliminary issues came to be decided and complaint to proceed further.
- 3) Costs in cause.

Place :- Thane

Date :- 16.01.2026

Asg/-

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