

**BEFORE THE MEMBER INDUSTRIAL COURT, MAH., AT
SANGLI****Complaint (ULP) No. 1 Of 2022**

(CNR No.MHIC10-000001-2022)

Shri. Sachin Dinkarrao Bhise, Complainant
R.O. Islampur, Tal- Walva,
Dist- Sangli

VS

Zilla Parishad, Sangli,
Through CEO, Zilla Parishad Sangli Respondent
Office, Sangli-Miraj Road,
Sangli

CORAM : D.M. Patil, Member
APPEARANCE : Adv. R. N. Jadhav, for the Complainant
Adv. D. S. Yadav, for the respondent

Order Below Ex. U-2(Date : 20th July 2023)

1. This is an application for interim relief filed under sec30(2) of MRTU &PULP Act 1971. By filing this application the applicant prays to restrain the respondent from imposing any punishment upon the complainant in pursuance to show cause notice dt.03/8/2021, whereby it was proposed to impose punishment of bringing down the pay scale of the complainant on lower scale.

2. It is the case of the complainant that he was

appointed with the respondent Zilla Parishad on dt. 4/9/2000 in the post of Gramsevak Class-III. He is having clean and unblemished service record. During the year 2013 to 2018, the complainant was working as Gramsevak in Grampanchayat Ahirwadi. However, under the pressure of local officer the complainant was issued with show cause notice. He replied the same however, without considering his reply the respondent issued him charge sheet dt.06/11/2017 and supplementary charge sheet dt.20/7/2018. The complainant never committed any misconduct as alleged in the said charge sheets. Enquiry was conducted against him. However the complainant was not supplied important documents despite demand nor he was granted permission to examine defence witnesses. The charges leveled against the complainant in charge sheet were not proved. However, the respondent is going to impose upon him illegal punishment. The punishment of bringing down the pay scale of the complainant to lower scale is shocking and the complainant will have to suffer heavy financial loss. The enquiry conducted against the complainant is delayed and is conducted in violation of guidelines issued by government. Hence the enquiry is illegal and bad in law,. The complainant therefore alleges prima facie

Unfair labour practices under item 9 and 10 of sch. IV of MRTU & PULP Act, committed by the Respondent and prayed to allow interim application.

3. The respondent filed Written Statement and say to interim application at **Exh.C 4**. According to respondent the complaint and the interim application of the complainant is misleading and vague and not maintainable. According to respondent while working as Gramsevak at Grampanchayat Ahirwadi ,Panchayat Samiti Walva the complainant found guilty of various misconducts, hence he was issued Charge sheet and supplementary Charge sheet. Departmental enquiry was conducted against him as per principle of natural justice. The charges leveled against the complaint are proved in the enquiry. The enquiry officer drawn the findings on the basis of evidence lead in the enquiry. The Competent Authority has agreed with the findings of the enquiry officer, hence the report of enquiry of was forwarded to the complainant along with show cause notice dt 3/8/2021. The complainant was called upon to submit explanation as to why punishment of bringing down the complainant on lower pay scale shall not be imposed. The charges leveled against the complainant are proved in the

enquiry which was conducted by affording opportunity of defence to the complainant. Hence the action of the respondent is legal and need not be interfered . The respondent asserts that there is no prima facie strong case in favour of complainant hence interim application is liable to be rejected.

4. Considering the rival contentions of both the parties following points arise for my determination. My answers to them with reasons thereon are as under-

	<u>Points</u>	<u>Findings</u>
(1)	Whether the complainant has made out strong prima facie case ?	Affirmative
(2)	Whether balance of convenience lies in favour of complainant ?	Affirmative
(3)	Whether the complainant will be put to great loss or hardship if interim application is rejected?	Affirmative
(4)	What order ?	As Per Final Order

Reasons

5. **As To Issue No.s 1 To 3 :-** Heard Ld. Adv shri. R.N. Jadhav for the complainant and Ld. Adv. D. S. Yadav for the respondent Zilla Parishad at length. It is the submission of behalf of complainant that the action taken against him by Zilla Parishad is out come of vengeance of an officer who is responsible for harassing the complainant and he issued notices to the complainant as BDO as

well as in the capacity of Disciplinary Authority. It is submitted that no any misconduct has been committed by the complainant and still enquiry was initiated. No proper opportunity was granted to the complainant in the said enquiry and findings of enquiry officer are not based upon evidence recorded in the enquiry. Hence the action of the respondent is prima facie illegal and required to be set aside.

6. It is submitted on behalf of respondent that while working as Gramsevak Ahirwadi, the complainant has committed serious misconduct of financial as well as administration irregularity. Hence enquiry Was conducted after issuance Charge sheet to the complainant. The complainant was granted proper opportunity in the enquiry in pursuance to principles of natural justice. The enquiry officer drawn the findings on the basis of evidence brought before enquiry officer hence, the action of the respondent can not be said to be illegal. The complainant has no prima facie strong case nor balance of convenience in his favour. Hence the interim application of the complainant is liable to be rejected.

7. Upon hearing the parties, I have gone through the interim application which is supported by an affidavit of the complainant,

Written Statement of the respondent along with documents placed on records by the both parties. The complainant filed documents at **Exh. U-4** & **Exh. U-18**, whereas respondent also filed voluminous documents along with **Exh.C- 5**. On Perusal of memo dt.12/10/2017 it appears that the complainant was issued with Charge sheet with Annexure 1 to 4. Thereafter vide memo dt.03/4/2018 a supplementary Charge sheet was issued to the complainant. The respondent has also filed voluminous documents pertaining to enquiry along with **Exh.C-5** . However, meticulous examination of these document is not possible at this interim stage. On perusal of charges leveled against the complainant it appears that these charges in the charge sheet and supplementary charge sheet pertains to irregularities in work like remaining absent, taking bogus monthly meetings, not issuing notices to members of Grampanchayat misuse of funds, irregularities in record, not implementing employment guarantee scheme. It is pertinent to note that in both the charge sheets prima facie there is no charge of misappropriation of funds of Grampanchayat . Apart from this on perusal of enquiry report it can be seen that the enquiry officer has held 5 charges out of 12 charges as not proved, 3 charges as partly proved and 4 charges

as proved. Under such circumstances detail scrutiny of enquiry papers and findings will be possible at the time of final hearing. At this stage it will be suffice to note that prima facie there in no charge of misappropriation. All these charges leveled against the complainant are not proved in the enquiry. Therefore prima facie punishment which is proposed in the impugned show cause notice dt .03/8/2021 can not be imposed until this complainant is finally decided. During the course of the arguments both the parties have agreed to expedite the complaint. Considering this situation I think it proper to allow interim application by expediting the complaint. It is clarified that both the parties to cooperate this court to dispose this complaint finally on merit within period of 8 months and for that purpose the issues are framed on today itself. In the result I answer Point no 1 to 3 in the affirmative and proceed to pass following order.

ORDER

- (i) Interim application stands allowed
- (ii) The respondent is hereby directed not to impose punishment upon the complainant in pursuance to show cause notice dt. 3/8/2021 pending till final disposal of main complaint.
- (iii) The Complaint is expedited and both the parties are

directed to co-operate this court to dispose this complaint finally on merit within period of 8 months from today.

- (iv) Issues to be framed today and parties are directed to advance arguments on preliminary issues of legality of enquiry and perversity of findings on next date.
- (v) Complaint to proceed further.
- (Vi) Dictated and pronounced in open Court.

Date : 20th July 2023.

Place : Sangli.

(D.M. Patil)
Member
Industrial Court, Sangli