

MHIC100000482019



**BEFORE THE MEMBER, INDUSTRIAL COURT, SANGLI
(PRESIDED OVER BY R.V. UTPAT)**

COMPLAINT (ULP) NO.29 OF 2019

Kondiba Katare
Kupwad, Sangli ... Complainant

VERSUS

Managing Director,
Vasantdada Sah. Sakhar Karkhana & Ors.
Sangli ... Respondents

ORDER BELOW EXH.C-33

(Dated 11th July, 2025)

1. This application is filed by the respondent No.1 seeking amendment of the written statement. It is stated that, the complaint is filed after the possession of the respondent No. 1 Karkhana was taken over under the SARFESI Act, in 2017 therefore, certain factual aspects remained to be pleaded due to non-availability of documents and information. Most of the staff members of the respondent Karkhana had quit their job and the concerned Labour officer had also retired and entered into litigation. Therefore, there was no proper handover of the records. Because of that, proper instructions and information could not be given while preparing the written statement. However, some documents relevant to the present complaint are

now traced while searching the records of old disposed of cases. The documents are pertaining to certain service conditions, decisions taken during the relevant period between the representative union and management and are already filed on record. The proposed amendment is not going to change the nature of the dispute but, it is necessary for the decision on the important aspects involved in the matter. Since the vital documents were not within the reach of the respondents, the respondents could not plead the relevant factual aspects. On these averments, the respondent No.1 has prayed for allowing it to add para No.13 (xv) (a to h) after existing para No.13 (xv) of the written statement.

2. The application is resisted by the complainant on the ground that, the same is frivolous and aimed at prolonging the matter.

3. I have heard learned Adv. Mr. Sandip S. Mutalik for the respondent No.1 and learned Advocate Mr. Dhairyasheel S. Yadav for the complainant at length.

4. The learned Advocate for the respondent No.1 vehemently submitted that, in 2017, the possession of the Karkhana was taken over by the concerned bank and thereafter, it was handed over to the respondent No.2. However, there was no proper handover of the record and no proper instructions were given while drafting the written statement. He further submitted that, some documents which are pertaining to the

factual aspects involved in the complaint are traced recently and are already placed on record. He further submitted that, the proposed amendment is necessary for just determination of the real controversy between the parties and no prejudice would be caused to the other side if the same is allowed. He also submitted that, the respondent has diligently moved this application after the documents were traced, and the say filed by the complainant is cryptic.

5. Per contra, the learned Advocate for the complainant submitted that, the respondent had earlier moved application for amendment with similar contents and the same was rejected by this Court. He further submitted that, the Hon'ble High Court has confirmed the said order and serious prejudice would be caused to the complainant if the application is allowed. He also submitted that, the application is moved only for protracting the trial and the same is not *bona fide*. He lastly submitted that, it is necessary to impose costs on the respondent while rejecting the application.

6. I have given thoughtful consideration to the submissions made on behalf of the parties. It is a matter of record that, on 3.9.2021, the respondent No.1 was permitted to file written statement subject to costs of Rs. 500/-. Thereafter, application (Exh.C-15) came to be moved by the said respondent seeking waiver of the costs and my learned predecessor was pleased to grant the said application and waive

the costs. Thereafter, the written statement of the respondent No.1 came to be taken on record. It is also material to note that, the respondent moved application (Exh.C-22) raising preliminary objection on the ground of bar of limitation and the said application was rejected on 10.01.2023. The respondent No.2 had also raised preliminary objection as regards maintainability of the complaint and the said objection was turned down on 4.5.2022. It is also material to note that, the complainant is a senior citizen and the complaint is of the year 2019. My learned predecessor was pleased to frame issues on 17.3.2023 and thereafter, the complainant filed affidavit of evidence on 10.07.2023. Since then, the matter was for cross examination however, cross examination could not be commenced for a long time and on many occasions, it was due to adjournment sought by the respondent. It is only on 28.2.2024, the complainant was partly cross examined and thereafter on 14.8.2024, application (Exh.C-25) for amendment to the written statement came to be moved by the respondent No.1. Said application was rejected by my learned predecessor observing that, the written statement was filed by the respondent almost after three years from the date of filing of the complaint and the respondent had taken its own time to file written statement. My learned predecessor also noted that, the complainant has filed affidavit of evidence and the respondent has cross examined him and thus, trial is already commenced.

7. It is material to note that, the said order was

challenged by the respondent no.1 and the Hon'ble High Court was pleased to dismiss the group of writ petitions (W.P. No.206, 240, 731, 241, 244, 212, 213 ,729 , 728, 727, 726, 725 and 724 of 2025) observing that, none of the events sought to be added in the written statement by amendment application are subsequent events. The Hon'ble High Court has also observed that, it is vaguely pleaded in the amendment application that, the sugar factory was taken in possession by a financial institution in the year 2017 and given in auction for running on lease and therefore, most of the staff of the factory had left the services. The Hon'ble High Court has also noted that, the industrial Court (this Court) has rightly observed that, the petitioner took period of three long years to file its written statement and no specific event is pleaded in the amendment application on occurrence of which, the petitioner was allegedly to trace out the missing documents. The Hon'ble High Court has also noted that, the justification sought to be pleaded in the amendment application for not incorporating the necessary pleadings in the original written statement is unacceptable. After dismissal of the said Writ Petition, the respondent No.1 has again moved this application for amendment.

8. The proposed amendments are mainly relating to how the respondent Karkhana went into financial crisis, how the employees were laid off and how agreements were entered into between the Union and the Karkhana on 3.07.2004 as well as 11.12.2007 regarding payment of wages, reduction in wages etc.

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As observed by the Hon'ble High Court, all those events are the past events. The reason assigned by the respondents that, some of the documents are now traced while searching the old disposed of cases is vague and unacceptable. The respondent No.1 has placed on record various documents with list Exh.C-31. It is to be borne in mind that, pleadings are not to be tailored as per the evidence. The respondent No.1 is seeking amendment only because certain documents are traced. No cogent explanation is given as to why the respondent did not search for the relevant records earlier. The case is more than five years old and I do not find it just and proper to allow the amendment at this stage when the trial is already commenced. The application is not diligently moved and the same is liable to be rejected. Hence, I pass the following order :

ORDER

Application is rejected.

(R.V. Utpat)

Member,

Industrial Court, Sangli

Dated : 11/07/2025

nsp/-