

IN THE INDUSTRIAL COURT AT AURANGABAD
(Presided over by S. S. MAUDEKAR, Member)

COMPLAINT (ULP) NO. 125/ 2014
[CNR NO.MHIC20-000-290-2014]

Savitribai Chandrabhan Waghmare... **COMPLAINANT**

Versus

[1] Maharshi Shikshan Prasarak Mandal
Sanchalit, Kilbil Balak Mandir and
Primary School (Through Secretary)
& Ors.

... **RESPONDENTS**

Appearance:

1. Smt. S.P. Malode , the learned Advocate for the complainant.
2. Shri. P.L.Shahane, the learned Advocate for the respondents.

ORDER BELOW EXH.U-24

[Passed on this 13th day of February,, 2024]

This is an application for directing the respondent to produce original documents.

2] According to the complainant, the case is fixed for cross-examination of the complainant. But before that, some documents i.e. payment registers from 1996 till the

date, application dt.30-04-2005, 19/12/2010 as well as explanation dt.22-07-2021, roster of school, are required to be placed on record. Hence, it is prayed to direct the respondent to produce the said documents.

3] The respondent has filed say at Exh. C-10. It has claimed that the application has been filed at a wrong stage , as the matter is kept for cross-examination of the complainant. Moreover, there is no explanation about relevancy of the documents and application is not supported by affidavit. So, it is defective, illegal and untenable. It is also claimed that the complainant is trying to engage in roving and fishing enquiry. So also, the document dt.9-10-2022 which is sought to be filed by the applicant is already on record and other documents are said to be not relevant and necessary for the adjudication of the case. Hence, it is prayed to reject the application.

4] Heard the learned counsel for the respective parties. Perused the record. Present complaint is filed under Section 28 r/w Items 5,6,9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971 (In short the Act). The complainant has claimed various reliefs mainly grant of permanency benefits since 1996 and protection of service. Application Exh.U-2 was allowed by my learned Predecessor on 26-04-2022. Issues were framed at Exh.O-7 and the burden has been cast on the complainant. Even efforts to settle the matter through mediation were made. In the mean time, the

complainant has filed affidavit Exh.U-22 and further examination-in-chief and cross-examination are yet to be recorded.

5] The respondent in its written statement has taken several objections including preliminary objections and on merit also, it has disputed the claim of the complainant. At para (12), it has stated that the complainant was engaged as a Part time Attendant to do incidental work in pre-primary section of the respondent school. It has admitted working hours and payments made to her. So, relationship is not in dispute .

6] If the documents sought to be produced from the respondent are concerned, it is found that the complainant is seeking production of register from 1996 , application dt.30-04-2005 and reply of the respondent to the letter of Education Office and roster etc. The nature of the job done by the applicant, her attendance, conditions of service, eligibility to get benefits etc. can be decided on that basis . The respondent can also claim or express its inability to produce on affidavit those documents sought by the complainant or that the same are not maintained by it. But it has not denied existence of documents. Copy of one document has been placed on record and even the respondent was asked to furnish the explanation about grievance of the complainant. So, the respondent has received the said letter and it is necessary to gather whether any reply was furnished by it to the Education Office. Therefore, all the documents seem to be relevant and necessary for proper adjudication of the matter in dispute and it cannot be said that

any roving and fishing enquiry is being conducted by the complainant.

7] Similarly, merely because the application is not supported by affidavit, relevancy of documents sought to be furnished will not be diminished . At the most, it can produce the documents if available or as pointed out earlier, otherwise it may file affidavit of responsible officer that the documents sought by the complainant are not available or destroyed or disposed of in any other manner. Thereafter, the complainant can take appropriate steps like leading of secondary evidence or notice to admit documents. Even if some delay has been caused and present application sould have been filed on earlier occasion , it cannot be said that it has been filed to prolong the matter or to cause any prejudice to the respondent. Therefore, I pass the following Order :

ORDER

1.	The application is allowed.
3.	The respondent shall make compliance of the order within 30 days from today.
4.	Costs in cause.

**Place: Aurangabad.
Date 13-02-2024**

**Sd/-xx
(S.S. Maudekar)
Member,
Industrial Court, Aurangabad**

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