

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, (AMRAVATI BENCH), A M R A V A T I.**

**COMPLAINT (ULP) No.85/2023.**  
**CNR No.MHIC27000126-2023.**

Vijay Pundlikrao Kavitkar

----- Versus -----

Chief Executive Officer, Zilla Parishad, Amravati.

**ORDER BELOW EXH.C-3**  
**(Delivered on 17-01-2024)**

01] The intervenor namely Yamunatai Bhimrao Bagade has filed this application requesting to add her as respondent no.2 in this case. The complainant and the respondent Zilla Parishad have filed reply.

02] Heard both sides. Ld. Advocate appearing on behalf of intervenor submitted that the intervenor is working in Zilla Parishad, Amravati as Junior Clerk. The complainant in this case has always used to assault and use criminal force against the present intervenor to outrage her modesty. It is further submitted that, the complainant threatened this intervenor to suspend and dismiss her from the services. The criminal case is registered against him u/ 354 of I.P.C. The complainant harassed this intervenor and, therefore, she is necessary party to this case. On the other hand Ld. Advocate for respondent Zilla Parishad submitted that, suitable order may kindly be passed. The complainant filed reply vide Exh.U-14 and it is submitted on behalf of him that, such type of application

is not maintainable in this case. The intervenor is not affected by passing of any order by this court. It is submitted that the case relates to the challenge of transfer order of complainant and the intervenor has no *locus-standi* to participate in the case. In entire application it is not mentioned that how she is necessary party. It is submitted that, the complainant being *dominus litus* cannot be forced to join a party who is not at all a necessary party.

03]                   The complainant has challenged transfer order dated 19.07.2023 by which he was transferred from Zilla Parishad Amravati to Panchayat Samiti Nandgaon Khandeshwar. The record prima facie indicates that, on the basis of enquiry conducted against the complainant by Womens Grievance Cell, one increment of complainant was withheld and accordingly he was transferred to other place. It is to be noted here that, the intervenor is not affected person by the said impugned order of Zilla Parishad by which the complainant is transferred. On certain allegations disciplinary action is taken against the complainant and he is transferred. The said transfer order is challenged by him alleging that the respondent Zilla Parishad is indulged in unfair labour practice. The intervenor failed to explain that how she is necessary party in this case. It is not established that, whether she is having *locus-standi* to add as party respondent no.2.

04] It is seen from the record that the enquiry was conducted against the complainant and punishment was proposed as well he is transferred from the present station. Now challenging the transfer order itself is in between complainant and Zilla Parishad, at the same time there is no any role of this intervenor in such transfer order. During argument it is submitted by Ld. Advocate for complainant that, the intervenor is also transferred from the present place. I do not find sufficient grounds to add the intervenor as party respondent.

05] Ld. Advocate for complainant relied on the observations of Hon'ble Bombay High Court in the case of **Sulbha Devendra Kokate Vs. Surekha Kokate and others, 2021 DGLS(Bom.) 2127**. In this case it is observed that, "*Plaintiff who is dominus litus cannot be forced to add any person as party to suit unless person sought to be impleaded is necessary party and without his presence, neither suit can proceed, nor relief can be granted*". He further relied on the observations of Hon'ble Apex Court in the case of **Mohamed Hussain Gulam Shariffi Vs. Municipal Corporation of Greater Bombay (2017) 1 REC CIV R 727**. The cited case relates to Section 351 of Mumbai Municipal Corporation Act. There was a suit for injunction restraining Municipal Corporation from demolition of building. It was pleaded by the plaintiff that two persons to be impleaded as they have claimed ownership rights. It is

observed by the Hon'ble Apex Court that, "*Basic question to be considered is legality of notice issued u/s 351 of the Act. Considering nature of plaint, only necessary party is defendant no.1 who has issued notice. Presence of two persons to be impleaded as defendant Nos.1 and 2 not necessary to decide legality and validity of notice. Persons cannot be arrayed as party-defendants*". Though the case relates to Municipal Corporation Act, the ratio laid down in the above cited case regarding addition of party is required to be considered. In the case in hand, the complainant has challenged particular transfer order of respondent Zilla Parishad and only question before this court is whether such order is valid or not. This court has to decide only the legality of the impugned order passed by the Zilla Parishad, therefore, the necessary party is Zilla Parishad who has passed transfer order of complainant. Considering the same, the presence of present intervenor is not required at all. Both the above observations are squarely applicable to the case in hand and, therefore, it can be certainly said that, the application filed by the intervenor is filed without any *locus-standi*. Considering the specific nature of this case the application is not tenable and, therefore, I am not inclined to grant the same. In the result I hold that, the application deserves to be rejected. Hence following order.

... 5 ...

**ORDER**

- 1] Application Exh.C-3 is hereby rejected.
- 2] Parties to note.

Sd/-

Amravati  
Date :- 17.01.2024.

(D. N. Surwase)  
Member,  
Industrial Court, Amravati.

... ..