

**BEFORE THE MEMBER, INDUSTRIAL COURT MAHARASHTRA  
AT AKOLA.**

**Complaint. (ULP) No.10/2012**

(CNR No.MHIC30-000027-2012)

Santosh Devendra Banokar

- V e r s u s -

The Registrar, Maharashtra Animal and Fisheries Science University, Nagpur  
and others

**Order below Exhibit 61**

(Passed on 03.01.2026)

1. The Respondent has preferred present application with prayer to decide question of maintainability as preliminary issue. It is contended that the Complainant has preferred present proceeding towards his claim of permanency. During pendency of the Complaint, the Complainant came to be terminated. He challenged the said termination order before the learned Labour Court. It was directed to reinstate the Complainant without back wages. The Respondent challenged the said order by filing Revision Application before this Court and in the said proceeding the Respondent is directed to pay retrenchment compensation. The Complainant challenged the said direction before the Hon'ble Bombay High Court by filing Writ Petition and the same is pending.

2. It is contended that due to dismissal of the Complainant, there is no employer-employee relationship and the complaint has become infructuous. No stay order is granted by Hon'ble Bombay High Court. Thus, it is urged to decide question of maintainability as preliminary issue.

3. The application is contested by the Complainant by filing reply. The Complainant denied adverse contentions of the Respondent. It is contended that the present application is filed with a view to prolonging the matter. The Complainant was in service, on the day present proceeding was filed. In spite of illegal termination order issued by the Respondent, the employer-employee relationship remains intact. Due to passing of such illegal order, the proceeding does not become infructuous. The question of employer-employee relationship is a mixed question of law and facts and cannot be decided as preliminary issue. It is a settled proposition that all issues need to be tried together. Thus, it is urged to reject the application.

4. The learned Counsels for the litigating parties canvassed oral arguments in support of their contentions. The Respondent relied upon case law of **Ramchandar and others Vs. Additional District Magistrate and others [1998 II LLJ 1088]**. The Hon'ble Supreme Court of India was pleased to opine that the employees therein had been terminated and therefore not eligible for regularization. It is held that those who are not in service cannot be regularized and so far as order of termination stand, they cannot get the benefit of regularization.

5. The learned Counsel for the Complainant relied upon the case law between **Municipal Council, Pulgaon Vs. Sau. Manu W/o Sudesh Malik and another [2007 (4) Mh.L.J. 446]**, wherein it is held that the Industrial Court is required to declare unfair labour practice on the date of filing the Complaint. The cause of action for filing the Complaint does not come to an end merely because the employer played trickery and terminated the services after filing of complaint for permanency.

6. It needs to be mentioned that at this juncture, the question of maintainability of the complaint is not being decided. The only question that requires adjudication is, whether the issue of maintainability needs to be decided as preliminary issue, or not ? Considering the facts of the case that the complaint is pending since 2012, it would not be proper to decide one of the issues as preliminary issue at this juncture. The question of maintainability of the complaint is already framed and can be decided prior to the other issues by affording the litigating parties an opportunity to lead evidence on all issues. No prejudice shall be caused to the either of the parties in case such a recourse is adopted. Under such circumstances, this Court finds that the application is devoid of merits and liable to be rejected. Hence, following order is passed:-

### **ORDER**

- (1) The application is rejected.
- (2) Considering the old pendency of the complaint, the litigating parties are directed not to seek adjournments and co-operate for expeditious disposal of the matter.

Place:- Akola.  
Date:- 03.01.2026.

*ATB/-*

**( S. S. Khandekar )**  
Member,  
Industrial Court, Akola.