

Exh.O-2

**THE INDUSTRIAL COURT ( MAHARASHTRA)**  
**(BHANDARA BENCH), BHANDARA.**

**Complaint (ULP) No.109 of 2019**  
**(CNR NO.MHIC36-000238-2019)**

Pradip Antaram Karanjekar

..... versus .....

M. S. R. T. Corporation, Through its Divisional  
Controller, Bhandara + 1

**ORDER BELOW EXH.U-2**  
**(Passed on 23<sup>rd</sup> October , 2024)**

Complainant has filed this complaint under Section 28 read with Item 9 of Schedule IV of the Maharashtra Act No.1 of 1972 (hereinafter referred to as “Act”) challenged wherein the enquiry and show cause notice dated 13.12.2019 alongwith other consequential reliefs in which taken out this application for grant of temporary injunction restraining respondents to act upon show cause notice dated 12.12.2029 till final decision of the complaint.

2] Facts for the purposes of this application, in short, are as under:

Complainant is working with respondent department on the post of “driver” and attached to Sakoli Depot. It is alleged that on 21.06.2019 Depot Manager, Sakoli served upon him a charge-sheet under Clauses 11, 22, 26 and 28 of the Discipline and Appeal Procedure, alleged therein that, while discharging his duties on 08.06.2019, he questioned to Mr. Shankar Parvate, Traffic Controller as to why he allotted duty to complainant on Schedule No.78, Sakoli-Bhandara, Bhandara-Sakoli (Shuttle Service) and abused him with dire consequences. At that time, Shri Vikas Sapate, Assistant Traffic Inspector, Sakoli Depot tried to convince complainant, but he was also abused. Complainant behaved in indisciplined and in arrogant manner with the officers of the respondent and thereby obstructed them in administrative work of the respondent. The charge-sheet was issued by Depot Manager Gautam Shende who was not competent authority.

3] It is alleged before issuance of a charge-sheet respondent prepared a report by taking a complaint and statement of Shri Shankar Parvate and Vikas Sapate, so also driver, security guard etc. and Assistant Traffic Superintendent prepared report on 19.06.2019. On the basis of said report, charge-sheet came to be issued.

4] After receipt of the charge-sheet he gave reply on 24.06.2019. He denied all the charges and submitted that there was weekly off of complainant on 09.06.2019. As per monthly duty table, duty was not allotted to him and no such incident as alleged had taken place. However, respondents without considering his reply initiated enquiry against him. He submitted that entire enquiry was conducted without following principles of natural justice, charge-sheet has not been issued to him by competent authority, the witnesses examined by respondent during enquiry in their cross-examination they gave material admissions which are not taken into consideration by the enquiry officer while recording his findings. Thus, the sum and substance of the contention of the complainant is that, the enquiry conducted by respondent's officer is without settled preposition of law and findings recorded by the enquiry officer are perverse. Show cause notice whereby respondents called upon complainant as to why his basic pay should not be reduced permanently by three stages. The show cause notice is issued on the basis of improper enquiry. Therefore, respondents are not supposed to act upon the show cause notice.

5] He has a prima facie case, balance of convenience lies in his favour. He would suffer irreparable loss if injunction is refused. Thus, he prayed for the temporary injunction as stated above.

6] In response to the notice of complaint and this application, respondents appeared and resisted the claim by filing their reply at Exh.C-5. It is contention of the respondents that there is no provision under the Maharashtra Act No.1 of 1972 to challenge the show cause notice by which punishment is proposed on delinquent. Punishment is yet not imposed, therefore, the complaint is not maintainable. The respondents submit that on 08.06.2019 complainant questioned Traffic Controller and on account of that hurled filthy abuses and threatened him to kill. At that time, Assistant Traffic Controller Vikas Sapate intervened and tried to cool down, but complainant abused and threatened him also. The incident has been reported to Depot Manager by Traffic Controller and on the complaint of Traffic Controller, Depot Manager directed Assistant Traffic Superintendent to submit report. Accordingly, the Assistant Traffic Superintendent recorded the statements of Traffic Controller, Assistant Traffic Controller and other eye witnesses and submitted report which was prima facie showing misconduct on part of complainant. Therefore, charge-sheet came to be issued on 21.06.2019. The enquiry was conducted as per the principles of natural justice. Full and fair opportunity at every stage has been given to the complainant. The findings recorded by enquiry officer are as per the evidence and documents on record. The complainant hurled filthy abuses, obstructed in administration and thereby held responsible and on the basis of

enquiry report, impugned show cause notice is issued. Thus, as per respondents, proper enquiry is conducted and therefore, complainant has no prima facie case, nor balance of convenience tilt in his favour. He would not suffer irreparable loss if injunction is refused.

7] In view of the rival pleadings of the parties, following points have arisen for the determination. I have recorded findings against each point for the reasons enumerated thereunder:

<u>POINTS</u>	<u>FINDINGS</u>
1] Does complainant prove that he has prima facie case in his favour?	: Yes.
2] Does he prove that balance of convenience tilt in his favour?	: Yes.
3] Does he further prove that he would suffer irreparable loss, if injunction is refused to him?	: Yes.
4] What order?	: As per final order.

## REASONS

8] As to Point no.1 to 4 :- Admittedly, by impugned show cause notice dated 13.12.2019 respondents called upon the complainant to show cause as to why his basic pay should not be reduced permanently by three stages. It is also not disputed that as per respondents, on 08.06.2019 there was hot altercation of words between complainant and Mr. Shankar Parvate, Traffic Controller on account of allocation of shuttle duty to the complainant. As per respondents, during said hot altercation complainant abused Traffic Controller Shankar Parvate in filthy language, so also, threatened him to kill. On his report, preliminary enquiry was carried out by Assistant Traffic Controller and on the basis of report charge-sheet came to be issued to the complainant.

During enquiry various witnesses were examined, however, as per complainant, those witnesses have given material admissions in their cross-examination, so also, refused to give answer to some of the questions. The enquiry officer has not taken into consideration the evidence elicited in cross-examination of the witnesses, nor considered the effect of silence of the witnesses to give answers to the specific questions.

Therefore, the findings recorded by enquiry officer is perverse and not as per the material available on record. In such state of affairs the show cause notice issued on the basis of said improper enquiry report is not supposed to act upon by the respondents. However, the disciplinary authority without considering the enquiry report and papers in detail issued impugned show cause notice.

9] On the other hand, as per respondents, due opportunity of hearing is given to the complainant at every stage of enquiry. Enquiry officer has properly recorded his findings considering the evidence on record. Therefore, there is no need to interfere at this stage or to grant stay to the show cause notice. The learned Advocates appearing for complainant and respondents have maintained their arguments on the same line.

10] It is not out of place to say that this is a interim stage wherein Court is not supposed to go in detail into the enquiry papers. But, on cursory going through the enquiry papers it seems that though the allegations are that after enquiry due F.I.R. is lodged in police station, however, the copy of F.I.R. was not given to the complainant. No specification of abuses. There are variations in the evidence of the witnesses regarding the words uttered in threat. It also prima facie appearing that there

is variations in the evidence of the witnesses about abuses. Its effect and consequences to be dealt with at the time of final hearing of the complaint. Thus, at this stage, I find there is a prima facie case in favour of complainant. Balance of convenience also tilt in his favour. If injunction is refused to him, he would suffer irreparable loss. In the result thereof, I answer Point no.1 to 3 in the affirmative and in answer to Point no.4, I proceed to pass following order.

## **ORDER**

- i] Application is allowed.
- ii] The show cause notice dated 13.12.2019 is hereby stayed till the final decision of complaint.
- iii] Parties to bear their own costs.

Bhandara.

Dated: 23.10.2024

Sd/-

( Atul K. Shah )

Member

Industrial Court, Bhandara.