

BEFORE THE JUDGE, LABOUR COURT, AKOLA.

Comp. (ULP) No. 04 of 2024
(CNR No. MHLC30-000106-2024)

Sandip Gangadhar Jadhav,
Aged about 52 years, Occ. Service,
R/o. Mothi Umari, Mate Complex,
Akola, Tq. Dist. Akola.

Versus

- 1] Akola Municipal Corporation,**
through its Commissioner, Akola,
Tq. Dist. Akola.
- 2] Deputy Commissioner,**
Akola Municipal Corporation,
Akola, Tq. & Dist. Akola.

: ORDER BELOW EXH. U-2:
(Passed on 04/03/2024)

01] This is an application for grant of interim relief to stay the effect and operation of the show cause notice dated 20th February, 2024 for dismissal issued to the complainant by the respondent.

02] On perusal of application, reply and documents placed on record, after hearing both the parties following points arise for my determination to which I have recorded my findings along-with reasons as follows :

Sr. No.	Points	Findings
1	Whether the complainant proves his case to be prima facie?	Yes.
2	In whose favour balance of convenience lies?	Complainant.
3	Who would suffer irreparable loss by the order?	Complainant.
4	What order?	As per the final order.

REASONS

AS TO POINTS NO. 1 To 4 :-

03] It is the case of the complainant that he is in service with the respondent since 24/01/1991. He is working as Assistant Clerk in the tax department. It is alleged by the respondent that the complainant has demanded bribe of Rs. 25,000/- from Mr. Harish Manoharlal Chawala for reducing the amount of tax to be levied upon his property. Accordingly, Mr. Chawala filed complaint with Anti Corruption Bureau. So, the A.C.B. has laid trap as per the complaint of Mr. Chawala and they have prepared panchnama regarding acceptance of amount of Rs. 20,000/- as bribe from Mr. Chawala. Thereafter, F.I.R. is lodged against the complainant.

04] Concerned Police Station has informed the respondent regarding registration of FIR against the complainant. On the basis of said letter, respondent initiated departmental inquiry against the complainant. After examining the witnesses, inquiry officer has submitted his report and stated

that charges leveled against the complainant are not proved. Thereafter, the respondent has issued show cause notice alleging that the reputation of respondent is being affected due to the act of the complainant and why his services should not be terminated.

05] Respondent has filed its reply and stated that the complainant has not disputed the departmental proceeding. Further, they have stated that the complainant has not replied to the charge-sheet and hence, that amount to admitting the charges leveled against him. They have further stated that the complainant has demanded the bribe of Rs. 30,000/- from Mr. Chawala and thereafter it was settled to Rs. 25,000/-. Accordingly, Mr. Chawala has filed complaint and A.C.B. has laid trap. When Mr. Chawala has given the amount of bribe to the complainant, he was caught by the officers of A.C.B. and panchnama was prepared. Complainant has admitted the registration of F.I.R. and the departmental proceedings. No prejudice is going to cause to the complainant if the application is rejected. On the contrary, serious offence has been committed by the complainant and the respondent would prove the charges leveled against the complainant by evidence before the court. Hence, they have prayed for rejection of the application.

06] It is admitted fact that F.I.R. has been registered against the complainant and accordingly departmental inquiry was conducted by the respondent. Respondent has stated that though the inquiry officer has mentioned in report that the charges leveled against the complainant are not proved but, it is held that the F.I.R. is registered against the complainant. So, the advocate for respondent has placed his reliance upon the ratio laid down in the case of, **Ajab S/o Chintamanrao Multaikar V/s. Vasantrao Naik**

Vimukta Jati and Nomadic Tribes Development Corporation Ltd., Nagpur, 2010 I CLR 354, wherein it is held that, in departmental proceedings, preponderance of probabilities is the standard while in criminal matter charges are required to be proved by prosecution beyond all reasonable doubts.

07] In the present case, the respondent has examined four witnesses during the inquiry and they have not proved any of the charges leveled against the complainant. The inquiry officer has held that, none of the charges are proved by the respondent. Even though show cause notice of dismissal is issued to the complainant on the ground that due to registration of F.I.R. against the complainant the reputation of respondent has damaged. Considering the contents of show cause notice, no such charge was leveled against the complainant during departmental inquiry. The very purpose of holding the departmental inquiry is to give opportunity to the delinquent employee to know the charges leveled against him and to answer them. But, in the present case, the ground upon which the show cause notice of dismissal is issued is not charge against the complainant during departmental inquiry.

08] Respondent are having every opportunity to prove the charges before this court by leading proper evidence. But till then giving effect to the show cause notice of dismissal would be unfair on the part of complainant. Leveling of charges is different thing then its proof. Though charges leveled against the complainant are serious but those have to be proved by the respondent. Hence, at this stage, prima facie case has been made out by the complainant for granting any interim relief. If, the operation of the show cause notice is not stayed, then the purpose of filing the present complaint

would be frustrated. Hence, I answer point No. 1 to 3 accordingly and pass following order in answer to point No. 4.

: O R D E R :

- 01] Application is allowed.
- 02] The effect and operation of show cause notice dated 20th February, 2024 stayed till decision of the complaint.
- 03] Costs in cause.

Akola.

Date :- 04/03/2024.

**(S. K. Bangad)
Judge,
Labour Court, Akola.**