

**BEFORE THE JUDGE, LABOUR COURT, AKOLA.**

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

**Exh.O-2**

**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.

**CORAM :- S. K. Bangad, Judge.**

**APPEARANCES :- Shri. R. R. Rathi, Adv. for Complainant.**  
**Shri. V.V.Gawande, Adv. for Respondents.**

**: Order on Preliminary Issues :**  
**(Delivered on 05/10/2024)**

**01]** This is a complaint under Section 28 read with Item 1 of Scheduled IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (In short, “The MRTU & PULP Act”) to challenge the show-cause notice dated 20/02/2024 issued to the complainant on the basis of domestic inquiry. The complainant claims that the inquiry conducted against him is illegal, unfair and against the principle of natural justice and the findings of the inquiry are also perverse.

**In short, the case of the complainant is as under:**

**02]** 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.

**03]** 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.

**04]** Respondent has filed it reply and stated that the complainant has not disputed the departmental proceeding. Further, they have stated that the complainant has not replied 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. Hence they have stated that the action taken by the respondents on the basis of departmental enquiry is admitted to the complainant.

**05]** Considering the pleadings on record, the following issues are to be answered as preliminary issues. I have recorded my findings to those issues along-with reasons as follows :-

| <b>Sr. No</b> | <b>Preliminary Issues</b>   | <b>Findings</b> |
|---------------|---|-----------------|
| 1             | Whether complainant proves that enquiry conducted by the respondent is not fair and proper and against the principles of natural justice? | <b>Yes.</b>     |
| 2             | Whether the complainant proves that findings of the enquiry Officer are perverse?   | <b>Yes.</b>     |

### **REASONS**

#### **AS TO PRELIMINARY ISSUES NO. 1 AND 2:-**

**06]** Heard the Id. Advocates for the complainant Shri. Rathi and Shri. Gawande for the respondents. They both have argued as per the contentions in the complaint and the written statement respectively. I have carefully gone through the record of inquiry.

**07]** Respondents have produced the entire record of departmental inquiry conducted by the inquiry officer. Charge-sheet was issued to the

complainant on alleged charges. Copy of charge-sheet was provided to the complainant. The complainant has participated in the departmental enquiry. Respondents have examined the witnesses on behalf of management. Respondents have given opportunity to the complainant to cross-examine the witnesses.

**08]** Considering the charges leveled against the complainant, the material witnesses have not been examined by the respondents during enquiry. Further the enquiry officer has submitted his report stating that the charges leveled against the complainant are not proved. Even though the respondents have issued show-cause notice of dismissal on the charge which is not proved against the complainant. This shows that the respondents have not followed the principle of natural justice. Hence the complainant has proved that enquiry conducted by the respondent is not fair and proper and against the principles of natural justice. The report of enquiry officer is not perverse but the respondents have issued show-cause notice of dismissal to the complainant on the basis of his report and hence it has to be held as perverse. Hence, both the issues are answered accordingly. Hence, I proceed to pass following order :-

**: O R D E R :**

**01]** It is held and declared that the inquiry conducted by the respondent is not fair and proper and not is in accordance with the principles of natural justice.

**02]** The findings given by the inquiry officer are perverse.

**Akola.**

**(S. K. Bangad)**  
**Judge,**

**Date :- 05/10/2024.**

**Labour Court, Akola.**

