

BEFORE THE JUDGE, LABOUR COURT, BHANDARA

(Shri. F. K. Shaikh, Judge, Labour Court, Bhandara)

COMPLAINT ULP No.03/2026

CNR No. MHLC-36000 1192022

Ramkrushna Ghanshyam Nikhade
Age 31-years, Occ. Service,
R/o Hanuman Nagar Ward,
in front of Panchayat Samiti, Khapa
Tahsil Tumsar, District- Bhandara.

..... **Complainant.**

V/s

Maharashtra State Road, Transport
Corporation, through its
Divisional Traffic Officer,
Bhandara Division, Bhandara

..... **Respondent.**

**Application under Section 30(2) of Maharashtra Recognition of Trade
Unions and Prevention of Unfair Labour Practices Act, 1971**

Appearances : For Complainant- Ld. Adv. Shri. S. A. Raghorte
For respondent - Ld. Adv. Shri. S.G. Chopkar

ORDER BELOW EXHIBIT U-2

(Dated 06/03/2026)

This is an application filed by the complainant under Section 30(2) of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (herein after referred to as the “M.R.T.U. & P.U.L.P. Act”) for granting interim order in favour of the complainant and stay the effect, operation and implementation of the impugned show cause notice dated 05/02/2026 till the decision of main complaint.

2. It is the case of complainant that he was in employment of the

respondent as a conductor at Gondia Depot. He was appointed on compassionate ground. His service record is clean and unblemished. The complainant was served with chargesheet on 16/10/2024. It is alleged in the chargesheet that the complainant was discharging his duty as a conductor on Bus bearing No. MH 07-C-9094 plying from Devri to Gondia. The said bus was checked at Lohara while alighting the passengers by the members of checking staff. There were 39 passengers in the bus out of which 1 female passenger was found travelling without ticket, who was travelling from Devri to Lohara. It is further alleged in the chargesheet that the complainant has recovered the fare amount, but, not issued the ticket to 1 female passenger within a reasonable time. As such the complainant has committed serious misconduct of dishonesty and misappropriation of Rs. 10/-.

3. It is further submitted by the complainant that the respondent has issued chargesheet dated 16/10/2024 to him and levelled the charges under clause 62(1), 62(3), 62(4) and 63(b) of the Discipline and Appeal Procedure (in short D & A Procedure) of the respondent. The respondent proceeded with the departmental enquiry against the complainant. After conducting enquiry, show cause notice of dismissal was issued dated 05/02/2026 thereby deciding to dismiss the complainant from service. The enquiry conducted by the respondent is not as per the principles of natural justice. The chargesheet is vague and bogus. The respondent has not examined material witness during the enquiry. The alleged without ticket passenger was seating near the front side door and the complainant has issued tickets to back side passengers of the bus. The alleged passenger alighted the bus at Lohara without taking ticket from the complainant. There is no fault on part of the complainant.

4. It is further submitted by the complainant that the respondent has not considered past service record of the complainant. The documents placed on record clearly show that the complainant has not committed any act of misconduct. The respondent proceeded with the enquiry without considering the reply submitted by the complainant to the chargesheet. The complainant is having prima facie case and balance of convenience lies in favour of complainant. The complainant will suffer irreparable loss, if, the operation of the impugned show cause notice is not stayed. With these submissions, the complainant prayed to grant an interim stay on the show cause notice dated 05/02/2026 till final disposal of the main complaint.

5. In response to the notice, respondent appeared and filed reply to the application under section 30(2) below Exhibit-C-3. The respondent denied all allegations made against it. It is submitted from the respondent's side that there is no prima facie case and balance of convenience is not in favour of the complainant. No irreparable loss will be caused to the complainant, if this application is rejected. It is submitted that the complainant can not seek indirect protection to his own act of misappropriating money and causing monetary loss to the corporation.

6. It is submitted that the enquiry conducted by the respondent by following principles of natural justice. The complainant also appeared in the enquiry and defended the enquiry. The findings of enquiry officer are based on cogent and documentary evidence, therefore, findings of enquiry officer are not perverse. Therefore, it can not be said that there is unfair labour practice on the part of the respondent. The misconduct committed by the complainant is grave in nature. The proposed punishment of

dismissal is not highly and shockingly disproportionate. The complainant instead of filing the reply to show cause notice approached to Court. There is no prima facie case and balance of convenience does not lie in favour of the complainant. With these submissions, respondent prayed that this application may kindly be rejected.

7. On the basis of rival submissions of both the parties, following points arose for my determination and I have recorded the findings with reasons as under :

Sr. No.	POINTS	FINDINGS
1.	Does the complainant prove that there is strong prima facie case in his favour ?	In the negative
2.	Does the complainant prove the balance of convenience lies in his favour ?	In the negative
3.	Does the complainant prove that he will suffer irreparable loss, if the interim relief prayed is not granted ?	In the negative
4.	What order ?	: The application is rejected.

REASONS

8. The complainant filed documents below Exhibit U-3. The respondent filed documents below Exhibit-C-4. The points are to be considered on the basis of available documents.

AS TO POINT NO. 1 TO 3 :-

9. I have discussed point Nos. 1 to 3 at once as these points are

interlinked with each other. I have heard learned Advocate Shri. S. A. Raghorte for the complainant and learned Advocate Shri. S. G. Chopkar for the respondent at length. I have also perused the pleadings of both the parties as well as the documents placed on record below Exhibit U-3 and Exhibit C-4.

10. The complainant has approached this Court under Section 30(2) of the M.R.T.U. & P.U.L.P. Act seeking interim relief by way of stay to the operation, effect and implementation of the show cause notice dated 05/02/2026 issued by the respondent proposing dismissal from service.

11. The learned Advocate Shri.S.A. Raghorte on behalf of the complainant argued that the complainant is working as a conductor with the respondent at Gondia Depot and he was appointed on compassionate ground. According to the complainant, his past service record is clean and unblemished. It is the contention of the complainant that though the chargesheet dated 16/10/2024 alleges that one female passenger was found travelling without ticket and that the complainant had recovered fare but failed to issue ticket, the said allegation is false and baseless. The complainant contends that the said passenger was seating near the front door and the complainant was in the process of issuing tickets to passengers seating at the rear side of the bus and before he could issue ticket to the said passenger, she alighted at Lohara stop.

12. It is further argued by the complainant that the departmental enquiry conducted by the respondent is not fair and proper and is contrary to the principles of natural justice. According to him, the respondent has not examined the alleged passenger who was travelling without ticket and

therefore the material witness has been withheld. The complainant submits that the findings recorded by the Enquiry Officer are perverse and without proper evidence.

13. The learned advocate for the complainant argued that the enquiry is vitiated as material witnesses were not examined and that the issuance of tickets is a continuous process. However, at this stage, this Court is not required to conduct a detailed scrutiny of the evidence led in the departmental enquiry. The scope of enquiry under Section 30(2) of the M.R.T.U. & P.U.L.P. Act is limited to examining whether a strong prima facie case, balance of convenience, and irreparable loss are made out.

14. On the other hand, the learned advocate Shri.S.G. Chopkar on behalf for the respondent that the departmental enquiry has been conducted strictly in accordance with the principles of natural justice and the complainant was given full opportunity to defend himself. It is submitted that the checking staff detected that one female passenger was travelling without ticket though the complainant had already recovered fare from her. The said act amounts to misconduct of dishonesty and misappropriation of the corporation's money. It is further submitted that the findings recorded by the Enquiry Officer are based on oral as well as documentary evidence and therefore there is no perversity in the findings.

15. In the present matter, the complainant has challenged the fairness of the departmental enquiry and the findings recorded therein. The record shows that the respondent has conducted a departmental enquiry pursuant to the chargesheet dated 16/10/2024. The documents placed on record

show that the complainant participated in the enquiry proceedings and cross-examined the management witnesses. Thus, prima facie it appears that opportunity of hearing was granted to the complainant.

16. The allegation against the complainant is that he has recovered fare from a passenger but did not issue ticket within a reasonable time. Such allegations relate to misappropriation of the corporation's money. It is well settled that in cases involving misappropriation, the amount involved may be small but the misconduct is considered serious because it involves breach of trust.

17. At this stage, this Court is not required to examine the evidence in detail as the issue regarding fairness of enquiry and correctness of findings can be decided only after full trial of the complaint. From the material available on record, it cannot be said at this stage that the enquiry is illegal or that the findings are perverse. Therefore, it cannot be held that the complainant has established a strong prima facie case for grant of interim relief.

18. The complainant has prayed to stay the operation of the show cause notice proposing dismissal. However, it is pertinent to note that the show cause notice is only a step in the disciplinary process and the complainant was having an opportunity to submit his explanation to the said notice. If the operation of the show cause notice is stayed at this stage, it would amount to interfering with the disciplinary proceedings of the employer. On the other hand, the complainant had an adequate opportunity to submit his explanation before the disciplinary authority.

Therefore, considering the facts and circumstances of the case, the balance of convenience does not lie in favour of the complainant.

19. As regards irreparable loss, it is well-settled that loss of employment by itself does not constitute irreparable loss, as the complainant can be reinstated with back wages if he succeeds in the main complaint. Therefore, no irreparable loss is shown to be caused if interim relief is not allowed. The complainant has an effective alternative remedy of submitting reply to the show cause notice and contesting the matter on merits in the main complaint. Granting interim relief at this stage would amount to granting final relief, which is impermissible in law.

20. As discussed earlier, the complainant was given sufficient opportunity while conducting enquiry against him. It is clear from the record that prima facie principles of natural justice were followed while conducting enquiry. In the light of above discussion, it is clear that there was sufficient evidence on record to come to the conclusion that act of the complainant on the particular date amounts to misconduct under under clause 62(1), 62(3), 62(4) and 63(b) of the D & A Procedure of the respondent. Therefore, prima facie, it can not be said that the findings of enquiry officer are perverse. The complainant has not pointed out to anything to show that he has strong prima facie case in his favour to intercept the enquiry at the fag end. There is no balance of convenience in his favour. He will not suffer irreparable loss if the application is not allowed.

21. In view of the discussion in earlier paragraphs, I found no prima facie case in favour of the complainant, no balance of convenience

lies in favour of the complainant and no irreparable loss will be caused to the complainant, if the interim relief is not granted in his favour. Therefore, in the light of above discussion **I have answered the points No. 1 to 3 in the negative.**

AS TO POINT NO. 4 :

22. The complainant has failed to establish essential ingredients for grant of interim relief in his favour. In view of negative findings to points no. 1 to 3, the application deserves to be rejected. Hence **in answer to point No. 4**, I pass following order.

ORDER

1. Application Exhibit No. U-2 is hereby rejected.
2. Parties to bear their own costs.

B H A N D A R A.
Date : 06/03/2026

sd/-
(F. K. Shaikh)
Judge,
Labour Court, Bhandara.