

BEFORE THE JUDGE, LABOUR COURT, BHANDARA

(F.K. Shaikh, Judge, Labour Court, Bhandara_

COMPLAINT ULP No. 09/2024

CNR No. MHLC-360001292024

Vivek s/o Purushottam Bhivgade
Age 32-years, Occ. Nil.
R/o Indira Gandhi Chowk,
Rajendra Ward, Tal. Mohadi,
District- Bhandara.

..... Complainant**V/s**

Bhandara-Gondia Zilla Parishad
Madhyamik/ Uccha Madhayamik
Shikshak Sahakari Pat Sanstha Marya.,
Situated at Bus Stand Chowk, Mohadi,
Tal. Mohadi, District Bhandara,
Through its President.

..... Respondent.

Appearances : For Complainant- Adv. Shri.R. V. Bhanarkar
For respondent - Adv. Shri. V. L. Bhure

ORDER ON PRE-ISSUES

(Dated 26/06/2025)

1. This is a complaint under section 28 read with of Schedule IV of The Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 ('M.R.T.U. & P.U.L.P. Act' in short).

2. It the case of complainant that he is the permanent employee of respondent. He was appointed on the post of senior clerk on 2/7/2018 on the pay scale of 5200-1900-20200. His service was regularised vide resolution dated 12/06/2019. His service record is clean and unblemished. It is submitted that false allegations was levelled against the complainant. He is

forced to accept the said allegations, on the pretext of threat of terminating his service. It is submitted that the respondent society registered under the provisions of Maharashtra Co-operative Societies Act, 1960. The respondent society is an industry within the meaning of Section 2(j) and he is workman withing the meaning of Section 2(s) of the I. D. Act.

3. It is submitted that on 30/11/2023, respondent is issued show cause notice to him along with 3 documents. In the said show cause notice, no allegation was stated levelled against the complainant as well as no detail explanation of misconduct was given. After issuance of show cause notice, respondent pressurized him to accept the allegations as levelled against him but he refused to accept the same. He has not given any reply to show cause notice. Respondent suspended him by letter dated 18/12/2023. Without issuing any charge sheet, respondent has issued letter to him for hearing dated 26/12/2023. The enquiry was fixed on 30/12/2023. Without giving any opportunity for hearing, enquiry was concluded and posted for enquiry report.

4. It is submitted that respondent issued show cause notice on 10/02/2024 along with enquiry report to complainant thereby proposing punishment of dismissal from service. He has given reply to show cause notice dated 10/02/2024, But, respondent vide order dated 28/2/2014, dismissed services of complainant which is illegal and bad in law. Respondent issued dismissal order without following principles of natural justice and violation of principles of natural justice as such by issuing the impugned dismissal order, respondent committed unfair labour practice.

This act of respondent is bad in law and with pre-determined mind. Therefore, enquiry proceeding liable to be quashed and set aside.

5. It is submitted that as per provision of Rule 47(c) of Service rules without giving any show cause notice and chargesheet which mentioned the details incident of alleged misconduct, the employee can not be dismissed from service. It is submitted that along with show cause notice dated 10/2/2024, enquiry report was supplied to complaint. The said enquiry report shows that enquiry was conducted on the past charges of misconduct which was already closed down after accepting the same by him on the say of respondent. Complainant has given reply to show cause notice. But, respondent has not considered the said reply and imposed punishment of dismissal from service which is illegal and bad in law. Complainant prayed for reliefs as per prayer clause.

6. In response to the notice, respondent filed written statement at Exhibit—C-4 and denied all allegations made against it. It is submitted that complainant has not approached before the court in clean hands. It is submitted that respondent society was appointed the complainant as clerk on 2/7/2018 on probation period at branch office, Gondia. Thereafter, the completion of probation period, the respondent regularized the service of complainant on 2/7/2019. During this period, the complainant performed his duty properly. But, after few months, he threatened to Chief Manager and other. They gave written complaint against the complainant to respondent society. Respondent society suspended to the complainant on

21/12/2019. Thereafter, complainant filed an application before the respondent and prayed for reinstate him on the post of clerk. After meeting of executive committee, passed resolution regarding the reinstatement of the complainant. But, the complainant has not performed his duty properly as per the undertaking. Respondent gave so many chance to complainant for improving his behaviour but he failed to do the same. During the service tenure, complainant has not performed his duty in regular manner and without any complaint. Respondent society had suspended the complainant twice and started the departmental enquiry. The enquiry committee recorded the statements of employees and submitted final enquiry report before the executive committee. The Committee decided to terminate the service of complainant. Therefore the decision of committee is just and proper under the provisions of law. Hence, complainant filed the false complaint against the respondent society is liable to be dismissed.

7. From the rival contentions of both the parties, issues are framed below Exhibit- O-2 The issues regarding enquiry are taken as pre-issues. The pre-issues are as under and I have recorded my findings on them for the reasons below.

Sr. No.	ISSUES	FINDINGS
1	Whether the enquiry conducted by the Enquiry Officer is fair and proper ?	Yes
2	Whether the findings recorded by enquiry officer are perverse ?	No

REASONS

AS TO ISSUE NO. 1 & 2 :-

8. Heard both the sides. It is argued on behalf of the complainant that the complainant was regular in his duties and the notices were given without any reason. During the enquiry, he was not given any opportunity to defend himself. The enquiry was not conducted as per principles of natural justice. The findings are perverse and issue No. 1 and 2 be decided in favour of the complainant.

9. To counter these arguments, it is the argument from the side of respondent that the complainant was working as a clerk and many complaint filed against him by the office staff. The notices were given to explain his side and thereafter the enquiry was conducted as per rules. He was terminated as found guilty and no illegal act was done against him. The respondent prayed for deciding the issues in favour of respondent society.

10. The complainant filed on record documents with list Exhibit U-2. Amongst these documents, there is show cause notice, suspension order, intimation letter of enquiry, enquiry report, dismissal order and relevant extract of service rules. The respondent filed documents with list Exhibit- C-6. Amongst these documents, there is appointment order of complainant, show cause notice, report of enquiry committee, resolution, letter dated 26/12/2023 regarding present to enquiry proceeding. letter dated 10/02/2014 regarding reply to show casue notice, letter dated 10/02/2014 and resolution dated 17/12/2023.

11. Perused record and documents, it appears that the

complainant had been given opportunity to put up his side. After the proper opportunity the enquiry was concluded and findings were given. As the complainant was given due opportunity to explain his side during the course of enquiry, it can not be said that the enquiry is against the principles of natural justice. It appears that respondent conducted the enquiry by following the principles natural justice.

12. The enquiry officer given the findings regarding guilt of the complainant. The findings appear to be given on the basis of available documents and the statements of witnesses. Accordingly, the findings given by the enquiry officer do not appear perverse. Hence, Issue No. 1 is answered in the affirmative and Issue No. 2 is answered in the negative. Accordingly, I pass the following order.

ORDER

- 1 It is declared that enquiry conducted by respondent against the complainant is fair and in accordance with the principles of natural justice.
- 2 The findings of enquiry officer are not perverse.

Place : Bhandara
Dated : 26/06/2025

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