

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4372 OF 2025

Pune Mahanagar Parivahan

Mahamandal Ltd.

... Petitioner

Versus

Vasant Sadasiv Samgir

... Respondent

Ms. Madhavi M. Tavanandi *for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATE : 1 APRIL 2025.

P.C. :

1) The Petition challenges judgment and order dated 16 January 2025 passed by the Member, Industrial Court, Pune allowing Complaint (ULP) No. 306 of 2019 and setting aside show cause notice dated 30 October 2019 issued by the Petitioner to the Respondent, by which penalty of permanent stoppage of one increment and recovery of loss of Rs.18,000/- was sought to be imposed on him.

2) I have heard Ms. Tavanandi, the learned counsel appearing for the Petitioner and have considered submissions canvassed by her. I have also gone through the reasons recorded by the Member, Industrial Court while allowing the complaint. I have

also gone through the records of domestic enquiry conducted against the Respondent, which is filed along with the petition.

3) At the outset, it must be observed that this Court does not appreciate the approach on the part of the Industrial Court in entertaining a complaint of unfair labour practice against a mere show cause notice issued to the Respondent. In ordinary course the Industrial Court ought to have permitted the employer to take the domestic enquiry to its logical end and it is only after punishment was imposed and all the departmental remedies are exhausted that the Industrial Court ought to have entertained the complaint of unfair labour practice. In the present case, Respondent was not even facing any extreme penalty resulting in loss of job. The show cause notice was only for stoppage of one increment and recovery amount of Rs.18,000/-. In such circumstances, in ordinary course, the Industrial Court ought to have permitted the Petitioner-Employer to impose appropriate punishment in pursuance of the show cause notice dated 30 October 2019. Mere issuance of show cause notice does not mean that the employer is bound to impose the punishment suggested in the show cause notice. The employee has a right to make representation against show cause notice and convince the employer that the proposed penalty should not be imposed. It is therefore too premature for an Industrial adjudicator to entertain complaint of unfair labour practice merely against a show cause notice.

4) Therefore, this Court would have been justified in setting aside the order passed by the Industrial Court only on the ground that entertainment of complaint of unfair labour practice against a mere show cause notice. However after going through the

findings recorded by the Enquiry Officer, I am of the view that imposition of any punishment on the Respondent was not really warranted.

5) Respondent faced charge in the domestic enquiry of causing an accident to the bus driven by him, which resulted in damage to the bus as well as injuries to the passengers. During the course of enquiry, Respondent took a defence that the brakes of the bus were not functioning properly, which was the cause for the accident. The Enquiry Officer has assessed the entire evidence on record and has recorded following findings in his report:

बसचे ब्रेकचे तांत्रिक दोषाबाबत आरोपित सेवकाचे म्हणणे प्रस्तुत आहे असे मान्य केलेतरी बसचे ब्रेक व्यवस्थित लागत नसल्याचे निदर्शनास आलेनंतर आरोपित बस चालकाने त्याचवेळी बसमधील प्रवाशी तसेच रस्त्यावरील इतर वाहन चालक व सांगवीला जातानाचे रस्त्याची परिस्थिती या सर्व बाबांचा सुरक्षिततेच्या दृष्टीने विचार करून बस बाजूला घेवून वाहकास प्रवाशी अन्य बसमध्ये बसवून देणेस सांगून वायरलेस विभागास याबाबत कळविणे आवश्यक होते एकूणच घटनाक्रम विचारात घेता आरोपित बस चालकाने बसचे ब्रेकचे काम करूनही पुन्हा मार्गावर जाताना बसचे ब्रेकचे दोषाबाबत त्यांचे निदर्शनास आलेले असतानाही निष्काळजीपणे ते ट्रिप घेवून सांगवीकडे जात होते ही बाब दुर्लक्षित करता येणार नाही हे सर्व विचारात घेता आरोपित सेवकाचे सादर खुलाशामधील बसचे ब्रेकचे तांत्रिक दोषामुळे घटनाप्रकार घडल्याबाबतचे म्हणणे प्रस्तुत ठरत असलेतरी स्टॅंड फिटरकडून ब्रेकचे काम करून घेतल्यानंतर ब्रेक ओके असल्याची खात्री करून मार्गावर जाताना पुनः ब्रेक व्यवस्थित लागत नसल्याची बाब निदर्शनास आलेली असताना बसमधील प्रवाशी व रस्त्यावरील इतर वाहन चालक नागरिक यांची कोणतीही सुरक्षा विचारात न घेता असुरक्षितपणे बस पुढे घेवून जाण्याची आरोपित बस चालकाची कृती अप्रस्तुत ठरत आहे हे विचारात घेता रिपोर्टमधील गैरवर्तनासंदर्भातील नमूद म्हणणेमध्ये तथ्य असल्याची बाब नाकारता येत नाही.

6) Thus, the Enquiry Officer has accepted the defence of the Respondent that the brakes of the bus were not operating at the time of cause of accident. Once this defence of the Respondent is accepted, the Enquiry Officer could not have held him guilty of the charge on a mere surmise that the Respondent ought to have stopped the bus immediately after learning about improper functioning of the brakes.

7) Considering the specific finding recorded by the Enquiry Officer in favour of Respondent-Employee that the accident was caused on account of improper functioning of brakes of the bus, I am of the view that imposition of penalty on the Respondent was clearly unwarranted. It is in the light of these unique facts and circumstances of the case, I am not inclined to interfere in the impugned order passed by the Industrial Court. Petition is devoid of merits and it is accordingly **rejected**.

[SANDEEP V. MARNE, J.]