

**QUESTIONS FOR WORKSHOP TO BE HELD ON  
16TH NOVEMBER, 2014.**

**: Subject - 1(A) :**

Preliminary issue regarding fairness of enquiry and perversity of finding. How to deal and whether it is mandatory to be tried as preliminary issue.

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- Que-1 : Whether it is mandatory to frame preliminary issues of fairness of enquiry and perversity of finding ?
- Que-2 : What are the parameters to hold that enquiry conducted by the employer is fair, proper and in accordance with the principles of natural justice ?
- Que-3 : What is the scope of Labour Court and Industrial Court to interfere with the finding recorded by the Enquiry Officer ?
- Que-4 : Whether revision under Section 44 of the MRTU & PULP Act is maintainable before the Industrial Court against the order passed by the Labour Court on preliminary issues of fairness of enquiry and finding of Enquiry Officer ?
- Que-5 : Whether permission can be granted to the employer to prove misconduct before the Court when fairness of enquiry and/or finding of Enquiry Officer is declared unfair and/or is declared as perverse ?
- Que-6 : When case of dismissal/discharge of an employee is referred for industrial adjudication, whether it is necessary for the Labour Court to decide preliminary issues regarding fairness of enquiry and/or finding of

Enquiry Officer ?

- Que-7 : When employer does not plead in his written statement that if enquiry is held to be defective and/or no enquiry is held then permission be granted to prove misconduct before the Court, in that event, whether it is necessary for the Labour Court to decide the issues of fairness of enquiry and finding of Enquiry Officer as preliminary issues ?
- Que-8 : Whether Enquiry Officer is empowered to suggest punishment at the time of giving his finding in enquiry report ?
- Que-9 : Whether finding of Inquiry Officer can said to be perverse when there being no oral evidence adduced before the Labour Court or Industrial Court ?
- Que-10 : Whether preliminary issues are required to be framed when there being no pleadings in the complaint that enquiry is unfair and/or findings of Enquiry Officer are perverse ?
- Que-11 : Whether it is mandatory to call upon the parties to lead evidence to prove fairness of enquiry ?
- Que-12 : Whether finding recorded by the Enquiry Officer can said to be perverse when it is possible to take a different view of the same evidence ?
- Que-13 : Where an employee admits the fairness of enquiry, is it necessary to frame preliminary issues regarding perversity of finding ?
- Que-14 : In an application under Section 101 of Maharashtra Industrial Relations Act, 1946 being preferred by the

employer seeking permission to dismiss the protected employee after enquiry, in written statement employee disputed about fairness of enquiry and perversity of finding of Enquiry Officer, whether preliminary issues of fairness of enquiry and perversity of finding can be framed while deciding the said application ?

- Que-15 : In an enquiry, management representative was not appointed, Enquiry Officer alone conducted enquiry by putting questions to the witnesses of the management without appointing representative of the management, whether enquiry can be held as fair and proper ?
- Que-16 : Whether Reporting Officer himself can act as an Enquiry Officer ?
- Que-17 : Whether issuance of chargesheet is necessary before conducting departmental enquiry ?
- Que-18 : Whether passengers' witnesses are necessary to be examined during enquiry ?
- Que-19 : What is the effect, if the issues regarding fairness of enquiry and perversity of finding are not tried together ?
- Que-20 : When enquiry is declared illegal, whether Court can read the evidence led in enquiry or material on record, in addition to fresh evidence led by the employer to prove the charges independently before the Court ?

**: Subject- B (I) :**

Scope of Section 32 of the MRTU & PULP Act, 1971 and limitations to jurisdiction while deciding the incidental or connected matters.

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- Que-21 : Whether powers conferred under Section 32 of the MRTU & PULP Act, 1971 are wider than the powers conferred under Section 30 of the said Act ?
- Que-22 : Whether Industrial Court can enlarge its jurisdiction and powers under Section 32 of the MRTU & PULP Act are conferred upon it by other provisions of the Act i.e. Section 5A to 5G in order to consider the incidental or connected matters ?
- Que-23 : Whether Labour Court had jurisdiction to decide the issue of employer-employee relationship as incidental issue under Section 32 of the MRTU & PULP Act ?
- Que-24 : Whether the issue as to who can represent the union

can be decided as incidental issue under Section 32 of the MRTU & PULP Act ?

Que-25 : Whether Industrial Court can deal with the matter pertaining to unfair labour practices falling under Item-1 of Schedule-IV of the MRTYU & PULP Act by co-jointly reading Section 32 of the Act ?

**: Subject - B(II) :**

Procedure for dealing with the criminal complaints under Section 48 of the MRTU & PULP Act, 1971.

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Que-26 : Whether sanction from the competent authority is necessary under Section 197 of Cr. P.C. in a complaint filed against any public servant under Section 48 of the MRTU & PULP Act ?

Que-27 : Whether provisions of Section 468 of Cr. P.C. Are applicable while filing complaint under Section 48 of the MRTU & PULP Act, 1971 ?

Que-28 : Whether complaint under Section 48(1) of the MRTU & PULP Act, 1971 is maintainable against the person who was not party to the original complaint and whether such new person can be impleaded as an accused in the complaint ?

Que-29 : What is the procedure to be adopted in dealing with the complaint under Section 48 of the MRTU & PULP Act, 1971 ?

Que-30 : Whether it is mandatory to issue show cause notice

before passing the order of 'issue process' to the accused under Section 48 of the MRTU & PULP Act, 1971 ?

- Que-31 : When Court can take cognizance of an offence under Section 48 of the MRTU & PULP Act, 1971 ?
- Que-32 : When alternate remedy is available to recover the amount ordered by the Court, whether complaint under Section 48 of the MRTU & PULP Act, 1971 is maintainable ?
- Que-33 : What is the difference between the provisions of Clauses (1) and (2) of Section 48 of the MRTU & PULP Act and Clauses (3) & (4) of Section 48 of the MRTU & PULP Act ?
- Que-34 : Whether the principles of de-novo trial is applicable to the complaint under Section 48(1) of the MRTU & PULP Act, 1971 ?
- Que-35 : Whether the objections can be raised in complaint under Section 48(1) of the MRTU & PULP Act before recording plea of the accused ?
- Que-36 : Whether evidence of the complainant can be recorded on affidavit in the complaint under Section 48(1) of the MRTU & PULP Act ?
- Que-37 : Whether the complaint under Section 48 of the MRTU & PULP Act is maintainable against the respondent/ accused for non-compliance of ex-parte ad-interim order ?

Que-38 : When an industry has gone into liquidation after passing of judgment/award and Liquidator has been appointed, then, whether Liquidator can be prosecuted under Section 48(1) of the MRTU & PULP Act for non-compliance of order ?

**: Subject - B(III) :**

Powers vested in the Labour Court and Industrial Court for granting interim relief under Section 30(2) of the MRTU & PULP Act, 1971 as well as under Section 119 (d) of Maharashtra

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Industrial Relations Act, 1946.

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- Que-39 : What are the parameters for grant of interim relief under Section 30(2) of the MRTU & PULP Act, 1971 ?
- Que-40 : Whether application under Section 30(2) of the MRTU & PULP Act can be decided without deciding the preliminary objection in respect of jurisdiction of the Court ?
- Que-41 : Whether the respondent can maintain the application for interim relief under Section 30(2) of the MRTU & PULP Act, 1971 against the complainant ?
- Que-42 : Whether the complainant can file an application for seeking the documents from other side while deciding the application under Section 30(2) of the MRTU & PULP Act ?
- Que-43 : Whether an employee can be ordered to be reinstated by interim order under Section 30(2) of the MRTU & PULP Act, who has been dismissed from service after holding enquiry ?
- Que-44 : Whether interim relief amounting to grant of final relief can be granted?
- Que-45 : Whether Court can restrain the employee from proceeding on strike without declaration of strike illegal or lift lock-out by way of interim relief under Section 30(2) of the MRTU & PULP Act ?
- Que-46 : Whether Labour Court or Industrial Court can waive the notice as required under Rule 75 of Labour Court Rules,



1975 and under Regulation 115 of Industrial Court Regulations, 1975 ?

If yes, in what circumstances ?

- Que-47 : Whether the provisions of Section 30(2) of the MRTU & PULP Act authorizes the Labour Court or Industrial Court to keep the order rejecting the interim relief in abeyance or to grant status-quo till the same is challenged before the higher Court ?
- Que-48 : Whether interim relief of stay to show cause notice of dismissal can be granted under Section 30(2) of the MRTU & PULP Act without availing departmental remedy of appeal ?
- Que-49 : Under what circumstances Court can review its own order while exercising powers conferred under Section 30(2) of the MRTU & PULP Act ?
- Que-50 : Whether in an application for interim relief under Section 119(d) of Maharashtra Industrial Relations Act, 1946 read with Section 78(1) of Maharashtra Industrial Relations Act, 1946 can be entertained for the relief of reinstatement/ promotion/ classification/ transfer etc. during the pendency of main proceeding before the Labour Court or Industrial Court ?
- Que-51 : Whether an employee can claim subsistence allowance under Section 119(d) of Maharashtra Industrial Relations Act, 1946 before the Labour Court, if he is dismissed without enquiry ?
- Que-52 : In what circumstances the Court can record evidence while deciding interim relief application under Section

30(2) of the MRTU & PULP Act or under Section 119(d) of Maharashtra Industrial Relations Act, 1946 ?

Que-53 : Whether Labour Court can stay the effect of show cause notice of dismissal by way of interim relief under Section 30(2) of the MRTU & PULP Act ?

If yes, under what circumstances ?

Que-54 : Whether Court can grant interim relief under Section 30(2) of the MRTU & PULP Act. where the dispute regarding status of workman and industry is to be decided ?

Que-55 : Whether orders regarding stay or postponement of enquiry can be passed while deciding the application under Section 30(2) of the MRTU & PULP Act ?

Que-56 : whether interim relief can be granted without deciding preliminary issues of fairness of enquiry and perversity of finding of Enquiry Officer ?

Que-57 : Whether interim relief can be granted to the employee under Section 119(d) of Maharashtra Industrial Relations Act, 1946 if there is dispute of relationship between employer-employee ?

Que-58 : When complaint proceeding is filed together with delay condonation application, then, whether applicant can move an application for grant of interim relief under Section 30(2) of the MRTU & PULP Act ?

Que-59 : Whether revision is tenable in Industrial Court against the ex-parte interim order passed by the Labour Court ?

Que-60 : Whether interim order passed by the Labour Court under Section 78(1)(c)(a) of the Maharashtra Industrial

Relations Act,1946 can be termed as decision to challenge the same in appeal under Section 84 or revisional jurisdiction under Section 85 of the Maharashtra Industrial Relations Act, 1946 ?

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