

BEFORE SHRI S. Z. SONBHADRE
MEMBER INDUSTRIAL COURT AT THANE MAHARASHTRA



Presented On :- 24-12-2018

Registered On :- 24-12-2018

Decided On :- 24-01-2025

Duration :- 06 Y; 01 M; 00 D

Exhibit :- O - 16

Complaint (ULP) No.- 266 of 2018.

CNR No.- MH IC 04 000 644 2018.

- 01.** Jaywant Sarjerao Pisal, (70 Yrs.),
- 02.** Dagadu Sarjerao Pisal, (55 Yrs.),
- 03.** Pandurang Tukaram Dhumal, (48 Yrs.),
- 04.** Mahesh Jaywant Pisal, (35 Yrs.),
- 05.** Swapnil Dagdu Pisal, (27 Yrs.),
- 06.** Dilip Vitthal Ahirekar, (49 Yrs.),
- 07.** Rajaram Hanumant Jagtap, (46 Yrs.),
- 08.** Santosh Sakharam Ubhare, (35 Yrs.),
- 09.** Vipul Rajaram Jagtap, (19 Yrs.),
- 10.** Shubham Kalidas Pawar, (22 Yrs.)

All The Above Workmen Having
Address In Common As Below -
C/o. Shri. Kapad Bazar Maratha
Kamgar Mandal (Union),
42/48 Ramwadi, 6 Chintamani Bldg.,
First Floor, Kalbadevi Road,
Mumbai - 400 002.

- **Complainants**

: Versus :

1. M/s. Madura Coats Pvt. Ltd.,
C-5, Gala No. 1/5, Raj Rajeshwari Park,
Behind Mini Punjab Grill, Bhatala,
Bhivandi, Dist. Thane - 421 302.
Maharashtra (27).

2. Mr. Abbas Parekh (Consumer Manager),
C-5, Gala No. 1/5, Raj Rajeshwari Park,
Behind Mini Punjab Grill, Bhatala,
Bhivandi, Dist. Thane - 421 302.
Maharashtra (27).

3. The Chairman / Secretary,
Cloth Market and Shops Board
Kalachi Wadi,
94/96, Bhuleshwar Marg,
Bhuleshwar, Mumbai - 400 002.

- **Respondents**

Coram :- Shri. S. Z. Sonbhadre, Member Industrial Court.

Appearances :- Shri. S. S. Rane, And
 Shri. M. V. Joglekar, Ld. Adv. For Complainants.

 Shri. Lancy D'Souza, Ld. Adv. For O. P. No.- 1 & 2.

 Shri. B. S. Mahamulkar, Ld. Adv. For O. P. No.- 3.

- : J U D G M E N T : -

(Delivered On - 24-01-2025)

01. This is the Complaint under Section 28, R/w. Items
9 & 10 of Schedule - IV of the Maharashtra Recognition of
Trade Union and Prevention of Unfair Labour Practices Act,
1971 (Hereinafter Referred As The "MRTU & PULP Act"), filed
by the Total 10 Complainants, thereby claiming themselves to

be the Registered Mathadi Workers and praying for directions to the Respondents to provide the work to the Complainant Workmen in regard to Loading, Unloading, Stacking, Varai, Thapi, Delivery, Etc. at the premises of the Respondent No.- 1.

The Facts of the Complaint are as under -

02. The Complainants are claiming themselves to be the Members of the Union namely Shree Kapad Bazar Maratha Kamgar Mandal. The Complainants also claimed themselves to be the Registered Workmen of the Respondent No.- 3, Cloth Market and Shops Board. The Complainants claimed that, they are the Members of Toli No.- 74 and 74-A and were employed for the purposes of Loading and Unloading, Varai and Thapi on the Establishment of the Respondent No.- 1 at Goregaon Establishment. The Respondent No.- 2 is the Consumer Manager of the Respondent No.- 1.

03. Respondent No.- 3 is the Statutory Board under the Maharashtra Mathadi Hamal and Other Manual Workers (Regulations of Employment and Welfare) Act, 1969, (Hereinafter referred as "Mathadi Act). Respondent No.- 1 is

the Registered Employer under the Mathadi Act with the Respondent No.- 3 Mathadi Board. Complainants claimed that for last more than 20 Years, the Complainants performed the Work of Mathadi Nature in the Premises of the Respondent No.- 1 at Goregaon.

04. The Complainants stated that sometime in March - 2018, the Respondent No.- 1 started Shifting its Work from Goregaon Godown to Bhivandi Godown and ultimately Closed Down the Establishment at Goregaon and shifted its activities to Bhivandi. It is the case of the Complainants that, the Mathadi Nature of Work is being continued at Bhivandi. Complainants stated that, the Respondent No.- 1 have put up Notice for Closing their Godown in Goregaon and starting their activities from Bhivandi. Complainants stated that the Respondents No.- 1 and 2 with Local Politicians and Unregistered Workers prevented the Complainants from performing their Work at Bhivandi Godown.

05. Complainants stated that, the Mathadi Nature of Work was being performed by Unregistered Workers. Said Unregistered Workers along with the Respondent No.- 2

gathered Local Anti-Social Elements and threatened the Complainant Mathadi Workers of Toli No.- 74 and 74-A with Dire Consequences, if the Complainants demanded the Work at Bhivandi. The Complainants Meeting and Request to the Respondent No.- 1 could not yield any Positive Results. As such, the Complainants claiming themselves to be the Registered Mathadi Workers, with the Respondent No.- 3 Mathadi Board and the Members of Toli No.- 74 and 74-A have prayed for Directions to the Respondent No.- 1 to provide the Work of Mathadi Nature to the Complainants at the Establishment of the Respondent No.- 1.

06. The Respondent No.- 3 have filed its Reply to Interim Application at Exh.- CA-4. Said Reply is adopted as Written Statement by the Respondent No.- 3 vide Pursis dated 01-12-2022, at Exh.- CA-7. Respondent No.- 3 have stated that, it is the Board by name "Cloth Market and Shops Board", under the Mathadi Act. The Government have framed Scheme under Section 4(1) of the Mathadi Act, which is known as the Cloth Market or Shops Unprotected Workers (Regulations of Employment and Welfare) Scheme, 1971 (Hereinafter referred

as "Cloth Market Scheme"). Respondent No.- 3 stated that, the Complainants are Registered Workers of the Mathadi Board and are Members of the Toli No.- 74 and 74-A. Respondent No.- 3 stated that, the Toli No.- 74 and 74-A was allotted to the Goregaon Establishment of the Respondents No.- 1 and 2.

07. Respondent No.- 3 further stated that the Workers Toli No.- 74 & 74-A had informed the Board that the Respondent No.- 1 has shifted its Business Activities from Goregaon to Bhivandi and are engaging Unregistered Workers for Mathadi Works. As such the Respondent No.3, vide Letter dated 13-03-2018, have informed the Respondent No.- 1 to get all the Mathadi type of Work done by the Registered Workers allotted to it by the Respondent No.- 1 Board. However, the Respondent No.-1 continued to engage Unregistered Workers. As such, the Respondent Board again vide Letter dated 26-06-2018 informed the Respondent No.- 1 to get the work done from the Workers allotted to it. Respondent No.- 3 further stated that, Inspection on 04-08-2018 Mrs. Prema Mukherjee, Manager of Respondent No.- 1

was present and she informed the Respondent No.- 1 that the work was so far not shifted to Bhivandi. As such, the Inspector informed said Mrs. Prema Mukherjee that, the Workers of Toli No.- 74 and 74-A should be engaged for Mathadi type of work, when the work is shifted to Bhivandi. Respondent No.- 1 vide Letter dated 05-09-2018 informed the Respondent No.- 1 to attend the Meeting in the office of the Respondent Board on 07-09-2018, but nobody attended the Meeting from the Respondent No.- 1. On 07-09-2018 again informed the Respondent No.- 1 to attend the Meeting on 12-09-2018, but nobody attended the Meeting on 12-09-2018 also. As such, vide Letter dated 12-09-2018, the Respondent No.- 3 informed the Respondent No.- 1 that work at Bhivandi Godown be provided to the Workers of Toli No.- 74 and 74-A. Accordingly, the Respondent No.- 1 vide Letter dated 15-09-2018 have informed the Respondent No.- 3 Board that, the operations at Goregaon have been Closed w.e.f. 10-09-2018. Respondent No.- 1 further requested for Cancellation of its Registration and to Withdraw the Workers of Toli No.- 74 and 74-A. Respondent No.- 3 Board stated that, vide Letter dated 25-09-2018, the Respondent No.- 1 was informed that their Request

for Cancellation cannot be accepted and Bhivandi is within the jurisdiction of Respondent Board and therefore, the Respondent No.- 1 should engage only the Workers of Toli No.- 74 and 74-A for Mathadi types of Works. The Respondent No.- 1 through Mrs. Prema Mukherjee attended the Meeting on 05-10-2018 and informed that the Respondent No.- 1 have appointed M/s. K. P. Transport as its Contractor and Loading and Unloading Mathadi Work is being done by the Workers of M/s. K. P. Transport. Respondent No.- 3 further stated that, the Respondent No.- 1 vide its Letter dated 10-10-2018 informed the Respondent Board that, the Respondent No.- 1 have Closed their Operations at Goregaon Establishment and the said Registration would not apply to Bhivandi Establishment and therefore, Toli No.- 74 and 74-A cannot be considered to be allotted to their Bhivandi Establishment.

08. Respondent No.- 3 further stated that, on 17-10-2018 Bhivandi Establishment was inspected where Mrs. Prema Mukherjee was present. In the said inspection It was found that, the Respondent No.- 1 have Closed Goregaon Establishment and have shifted activities at Bhivandi since

September – 2018. it is further stated that the inspector found Unregistered Workers were engaged by the Respondent No.- 1 through M/s. K. P. Transport. As such, it is the case of the Respondent No.- 3, that the Respondent No.- 1 is not allowing the Workers of the Toli No.- 74 and 74-A to carry out Mathadi types of Work at Bhivandi Establishment of the Respondent No.- 1. It is stated by the Respondent No.- 3 that, it is the contravention of the Scheme. As such, the Respondent No.- 3 stated that, the Reliefs as prayed by the Complainants be grated against the Respondents No.- 1 and 2.

09. Respondents No.- 1 and 2 have filed their Written Statement at Exh.- C-12 and have opposed the claim of the Complainants. Respondents No.- 1 and 2 have opposed the Maintainability of the Complaint on the ground that, there is No Employer - Employee Relationship of the Complainants and the Respondent No.- 1 Company. The Complainants are said to be the Employees of the Respondent No.- 3 Board under the Complete Administrative, Supervisory and Disciplinary Control of the Respondent No.- 3 Board. As such, the Respondents No.- 1 and 2 have Disputed the Maintainability of

the Complaint for want of Employer - Employee Relationship. It is further case of the Respondents No.- 1 and 2 that in case of Dispute on Employer - Employee Relationship, Complaint under Unfair Labour Practices is Not Maintainable, unless the said Issue is adjudicated under the provisions of the Industrial Disputes Act.

10. Respondents No.- 1 and 2 admitted that the Complainants were allotted by the Respondent No.- 3 to the Respondent No.- 1 for its office at Goregaon and therefore, it is the case of the Respondent No.- 1 that, there is No Employer - Employee Relationship between the Complainants and the Respondents No.- 1 and 2. As such, the Respondents No.- 1 and 2 prayed for Dismissal of Complaint.

11. It is the further case of the Respondents No.- 1 and 2 that, they have Closed their Operations at Goregaon and have surrendered License under Maharashtra Shops & Establishment Act, 1948. It is further stated that, Toli No.- 74 and 74-A was allotted for the Establishment at Goregaon and said Establishment was registered with the Respondent No.- 3 Board. It is stated that, vide Letter dated 15-09-2018, the

Respondents No.- 1 and 2 have informed the Respondent No.- 3 about Closure of Goregaon Office and prayed for Withdrawal of Toli allotted to Goregaon Office. It is the case of the Respondents No.- 1 and 2 that, the Registration of Goregaon office would not apply to Bhivandi Establishment and therefore, denied the Entitlement of the Complainants Toli No.- 74 and 74-A, to have right of work at Bhivandi Location.

12. It is further case of the Respondents No.- 1 and 2 that, the operations at Bhivandi are being carried out by M/s. K. P. Transport, who is appointed as C & FA. Respondents No.- 1 and 2 have claimed to have right to Re-Organize its Business and appointment of Specialist Agency namely M/s. K. P. Transport as its C & FA (Carrying and Forwarding Agent) at Bhivandi, for taking care of the entire Depot Operations w.e.f. 01-09-2018. As such, it is the case of the Respondents No.- 1 and 2 that, it is not engaged in Unfair Labour Practices. Respondents No.- 1 and 2 further denied the allegations of the Complainants and prayed for the Dismissal of Complaint.

13. In view of the Rival Submissions of the Parties, the Issues are framed at Exh.- O-10. The said Issues are Reproduced hereunder and I have recorded my Findings against each of them, for the Reasons to be followed-

	<u>Issues</u>		<u>Findings</u>
1.	Whether the Complaint is Maintainable, before this Court ?	----	Negative
2.	Whether there is Employer - Employee Relationship between the Complainants and the Respondents No.- 1 and 2 ?	----	Negative
3.	Whether the Complainants prove that the Respondents have committed Unfair Labour Practices under Items 9 and 10 of Schedule - IV of the MRTU & PULP Act, 1971 ?	----	Negative
4.	Whether the Complainants are entitled to Reliefs, as prayed for ?	----	Negative
5.	What Order ?	----	As per Final Order

-: REASONS :-

14. Heard Both Sides. Perused Record. Complainants in support of their case have adduced the Evidence of Rajaram Jagtap at Exh.- UW-1. Complainant Witness was Cross examined by the Respondent No.- 1 & 2. Cross Examination of

the Complainant Witness by Respondent No.- 3 was Closed vide Order dated 03-02-2024 at Exh.- UW-1. The Respondent No.- 3, thereafter did not take any Steps to Cross Examine the Complainant Witness at Exh.- UW-1. The Complainants Closed their Evidence vide Pursis at Exh.- U-23.

15. Respondent No.- 3 Mathadi Board have adduced the Evidence of Shri Suryakant Beloshe at Exh.- CAW-1. Respondent No.- 3 Board have Closed its Evidence vide Pursis at Exh.- CA-19.

16. Respondent No.- 1 and 2 have adduced the Evidence of Shri Sachindra at Exh.- CW-1 and also adduced the Evidence of Suhas Khadilkar at Exh.- CW-2. Respondents No.- 1 and 2 have Closed their Evidence vide Pursis at Exh.- C-60.

17. Brief history of the matter is that, my Ld. Predecessor vide Ad Interim Order dated 08-01-2019 restrained the Respondent No.- 1 & 2 from providing work of Mathadi Nature in their Establishment to Unregistered Workers and further directed the Respondent No.- 1 & 2 to provide work to Mathadi Workers of Toli No.- 74 & 74 A. Latter

vide Order dated 20-02-2019, the Application Exh.- U-2 was allowed and directed Respondents No.- 1 & 2 to provide work of Mathadi Nature to the Complainants, who are the Members of Toli No.- 74 and 74-A till the decision of this Complaint.

18. The Order dated 20-02-2019 passed by this Court was challenged by the Respondent No.- 1 before Hon'ble Bombay High Court vide Writ Petition No.- 3592/2019. Hon'ble Bombay High Court vide Judgment dated 25-03-2019 (Which was Latter corrected vide Order dated 04-04-2019) in the Writ Petition No.- 3592/2019, observed in Para 7 that there are no reasons in support of Employer Employee Relationship. As such Hon'ble High Court remitted back the Application (Exh.- U-2) for fresh hearing.

19. Thereafter, vide Order dated 10-05-2019, my Ld. Predecessor decided the Application Exh.- U-2 and restrained the Respondents No.- 1 and 2 from providing the Mathadi work to any other workers except the Complainants No.- 1 to 10, who are the workers of Toli No.- 74 and 74-A till the decision of this Complaint.

20. Order dated 10-05-2019 was challenged before Hon'ble Bombay High Court vide Writ Petition No.- 6827/2019. Hon'ble Bombay High Court vide Judgment dated 31-10-2023, kept upon the Issue of Maintainability of the Complaint and directed this Court to decide the Complaint expeditiously within the stipulated time.

21. The Respondent No.- 1 filed Petition for Special Leave to Appeal No.- 26741/2023 before the Hon'ble Supreme Court. Hon'ble Supreme Court vide Order dated 11-12-2023 directed to continue the Interim Order dated 20-06-2019, granted by Hon'ble High Court. Hon'ble Supreme Court further directed to continue the directions of Hon'ble High Court to hear this Complaint. It is further made clear that the proceedings in this Complaint are not stayed. As such, the Complaint is taken up for final disposal as per the directions of Hon'ble Bombay High Court and Hon'ble Supreme Court.

22. As To Issue No.- 1 & 2.- The Complainants in support of their case relied on Authorities as per List Exh. U-52. The Complainants relied on the Law laid down by the Hon'ble Bombay High Court in the case of ***M/s. Conex***

Terminal Pvt. Ltd. -V/s- Akhil Bharatiya Mathadi, Suraksha Rakshak Shramajivi And General Kamgar Union, Writ Petition No.- 5360 of 2023, decided vide Order Reserved on 13-06-2023 and Pronounced on 05-10-2023. Perusal of said Authority reveals that Interim Order passed by the Industrial Court was challenged before the Hon'ble High Court. The Hon'ble High Court in Para 45 observed to keep open the aspect of tenability and directed to try the issue along with all other issues. As such, it is clear that the issue of Maintainability of Complaint is not finally decided by the Hon'ble Bombay High Court in the case of ***M/s. Conex Terminal Pvt. Ltd.*** As such, with due respect to the ratio in the case of ***M/s. Conex Terminal Pvt. Ltd.***, I am of the view that the same cannot be made applicable in the case in hand in the manner as is sought by the Complainant.

23. Ld. Counsel for Complainant to justify the Maintainability of the Complaint, have relied on the Law laid down by the Hon'ble Bombay High Court in the case of ***Maharashtra State Warehousing Corporation -V/s- Goods Transport Labour Board for Greater Mumbai & Ors.***, reported

in **2007 I CLR 356**. Perusal of said Authority reveals that in this Authority, the Petitioner have challenged Notice issued by the Board and Notice issued by Inspector and Notice issued in Complaint before the Ld. Labour Court at Thane. Hon'ble Bombay High Court in this Authority held that the Petitioner Warehousing Corporation is covered by Section 2 (3) of the Mathadi Act and further held that it cannot avoid registration of its Warehousing at Talaja. However, with due respect to the ratio in the case of *Maharashtra State Warehousing Corporation*, it cannot be said that the Complaint at the instance of Mathadi Workers under the MRTU & PULP Act, 1971 is Maintainable before this Court.

24. Complainant further relied on the Law laid down by the **Hon'ble Bombay High Court** in the case of ***Krantikari Suraksha Rakshak Sanghatna, Thane -V/s- A. L. Alaspurkar & Ors.***, reported in **1996 II CLR 76**. Said Authority is under the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act and the Scheme framed thereunder. The issue involved before the Hon'ble Bombay High Court was in respect of power of Board to withdraw the

Security Guard from One Establishment and to post them to any other Establishment. However, no such issue involved in the present Complaint. As such, ratio in the case of ***Krantikari Suraksha Rakshak Sanghatna, Thane***, cannot be made applicable to the case in hand.

25. I further find that ***Hon'ble Bombay High Court (Division Bench)*** in the case of ***The Dyes and Chemical Workers Union, Mumbai -V/s. Bombay Oil Industries And Another***, reported in ***2001 (2) L.L.N. 679.***, considered the above said authority in the case of *A. L. Alaspurkar*. It is held in Para 8 it is now well settled Law that in order to fall within the Definition of Workman in S. 2(s), there must be a Legal Relationship of Employer – Employee or Master and Servant. Unless a Person is thus employed, there is no question of his being a Workman within the definition of S. 2(s) of the Industrial Disputes Act, 1947. It is further held that every Person who works for another, does not become a Workman. He will become a Workman only if there is a Legal Relationship of Employer – Employee or Master Servant between them. In absence of such Relationship, the Working Person would not

be a Workman as understood in S. 2(s) of the Act. Further the authority in the case of *A. L. Alaspurkar*, is considered in Para 14, and in para 23 and it is held that only Persons who answer the Definition of 'Workman' as contained in Section 2(s) of the Industrial Disputes Act, are liable to be included for the purpose of computing the Number of Workers under Section 25-K (1) of the Industrial Disputes Act. Hon'ble Bombay High Court further held that Mathadi Workmen and Contractor Workers cannot be computed any such number. As such, with due respect to the ratio in the case of *A. L. Alaspurkar*, it cannot be said that the Mathadi Workmen are the 'Workman' under Section 2(s) of Industrial Disputes Act and 'Employee' under Section 3(5) of the MRTU & PULP Act.

26. The Complainant further relied on the law laid down by the Hon'ble Bombay High Court in the case of *Krantikari Surakseva Rakshak Sanghatana, Thane -V/s- Security Guards Board for Greater Bombay and Thane & Ors.*, reported in **1997 II CLR 81**. Said Authority also is in respect of powers of Board to withdraw the Security and to deploy the said Security Guards to any other Establishment. No such

point is involved in this Complaint. As such, with due respect, the ratio in ***Krantikari Surakseva Rakshak Sanghatana, Thane (1997 II CLR 81)*** cannot be made applicable to the case in hand.

27. Complainants further relied on the Law laid down by Hon'ble Bombay High Court in the case of ***International Airports Authority Employees Union -V/s- International Airports Authority of India and Others***, reported in ***2002 III LLJ 277***. This Authority is again in respect of Security Guards. In this Authority, the registered Security Guards were seeking Parity with Regular Security Guards as regards the Conditions of Service and Wages. In view the Disputed Questions of facts, the Hon'ble High Court was pleased to Dismiss the Petition with liberty to pursue the remedy before the Appropriate Forum. In this Authority, in Para 49, the Hon'ble Bombay High Court held that it is not possible to accept extreme contention that the Registered Employer would be the Employer for all purposes including Conditions of Service. As such, with due respect to the ratio laid down by the ***Hon'ble Bombay High Court*** in ***International Airports Authority***

Employees Union, it cannot be said that Complaint by Mathadi Workers would be maintainable under the MRTU & PULP Act.

28. The Complainant further relied on the law laid down by the Hon'ble Bombay High Court in the case of ***Sirsat Lodge, Rep. By its partner, Shri Suhas Jayram Sirsat, Goa - V/s- Mashnu Gawade***, reported in ***2015 II CLR 39, Judgment delivered by Hon'ble Justice Shri. S. B. Shukre on 24-04-2014.***

This Authority is in respect of Retirement Age. In this Authority, the Hon'ble Bombay High Court considered the entitlement of Worker, who worked beyond the age of 60 years till such worker is physically and mentally fit to work. With due respect to the ratio, in this Authority, I am of the view that it is on different facts and circumstances and cannot be made applicable to the case in hand.

29. Respondent No.- 1 and 2 have relied on the Authorities as per List Exh.- C-62. Respondent No. 1 relied on the Law laid down by the Hon'ble Supreme Court in the case of

- i.** Cipla Ltd. -V/s-
Maharashtra General Kamgar Union and Others,
(2001) 3 Supreme Court Cases 101,

- ii. Vividh Kamgar Sabha -V/s-
Kalyani Steels Ltd. and Another,
(2001) 2 Supreme Court Cases 381, and
- iii. Sarva Shramik Sangh -V/s-
Indian Smelting & Refining Co. Ltd. and Others,
(2003) 10 Supreme Court Cases 455.

30. Above Three Authorities are cited by the Respondent No.- 1 and 2 to say that this Court does not have Jurisdiction to deal with the matter, so long there is Indisputable Employer Employee Relationship. It is the case of the Respondent No.- 1 and 2 that the Member Employees of the Complainant Union are not its Employees, and therefore, Complaint at the instance of Complainant Union, cannot be filed before this Court.

31. The Respondent No. 1 and 2 have relied on the Law laid down by the **Hon'ble Bombay High Court** in the case of **Krantikari Suraksha Rakshak Sanghatna -V/s- S. V. Naik and Others**, reported in **1993 SCC OnLine Bom 791 = (1993) 2 LLJ 1145 = (1993) 1 CLR 1003 (Bom.H.C. DB)**. In this Authority, Hon'ble Bombay High Court in Para 5 held as under

5. There is no merit in the said contention of Mr. Singhavi on behalf of the appellants. Schedule IV to the said Act, 1971 deals with Unfair Labour Practices on the part of the employers. Item No. 5 of the said Schedule deals with the situation where employer shows partiality to one set of workers against the other set of workers regardless of merits whereas item No. 9 deals with the employer failing to implement award, settlement or agreement with his workers. The entire argument on behalf of the appellants proceeds on the basis that the relationship of employer and employee existed between the appellants on the one hand and respondent No. 2 - company on the other hand. We cannot agree with the said submission in view of the fact that such a relationship between employer and employee cannot be presumed. Further, the Industrial Court under the ULP Act, 1971 has no jurisdiction to abolish the contract system and treat the above mentioned security as direct employees of respondent No. 2. Respondent No. 2 in their written statement categorically denied the relationship of employer and employee between the appellants and respondent No. 2. In the circumstance, the ULP Court had no jurisdiction to proceed on a presumption and come to the conclusion that respondent No. 2 was guilty of Unfair Labour Practices. The complaint proceeds principally on the footing that as respondent No. 3 - agency had no obtained a license under the Contract Labour Act, the said security guards automatically became workmen of respondent No.

2. The facts mentioned in the complaint clearly proceeds on the presumption of relationship of employer and employee, which the Industrial Court found do not exist. In the absence of any adjudication, it is not open to the ULP Court to abolish the contract system and treat the security guards as direct employees of respondent No. 2 - company. In the circumstances, the Industrial Court rightly dismissed the complaint filed under the ULP Act, 1971. As regards the breach of provisions of the Security Guards Act, the industrial Court was right in coming to the conclusion that the Security Guards Act, 1981 was a complete Code and if there was any alleged breach, it was open to the appellants to move the Security Guards Board under the said Act, 1981. In the circumstances, we do not find any merit in this appeal and the same stands dismissed. However, it is made clear that the appellants are entitled to move the appropriate competent Court / authority for the purpose of adjudication of their rights and the dismissal of this Appeal will no preclude the appellants from such adjudication.

32. The Perusal of Para 5 above reveals that Hon'ble Bombay high Court held that as regards the breach of provisions of Private Security Guards Act, the Industrial Court was right in coming to the conclusion that the *Security Guards Act, 1981 was a complete code and if there was any alleged*

breach, it was open to the Appellants to move the Security Guards Board under the said Act, 1981. As such, Hon'ble Bombay High Court not found any merit in Appeal and same was dismissed. It is the case of Respondents that Mathadi Act is also a complete code and provides remedy for the breach of Act and the Scheme framed thereunder. As such, it is the case of Respondents that the Complaint of Unfair Labour Practice at the instance of Mathadi Workers is not Maintainable.

33. Respondents further relied on the Law laid down by the Hon'ble Supreme Court in the case of ***Krantikari Suraksha Rakshak Sanghatana -V/s- Bharat Sanchar Nigam Limited and Others***, reported in ***(2008) 10 Supreme Court Cases 166***, wherein in Para 24 held as under -

24. Apart from the fact that in several earlier petitions the appellant Union had unsuccessfully come up with very same pleas and the orders had attained finality, the issue cannot be permitted to be indirectly raised in the manner done. The Act and the schemes make it clear that they apply only to security guards who are "pool security guards". As stated earlier the Act and the scheme clearly constitute a complete and self-contained code which covers private security guards. Section 1 (4)

of the Act and various provisions of the 1981 and 2002 Scheme make it clear that the arguments that the guard once allotted with the principal employer he becomes the direct and regular employee of the principal employer, is without any substance.

34. Perusal of Para 24 reveals that on allotment the Security Guards or Mathadi Workers in this Case does not become the direct or regular employees of the Principal Employer. As such also, there is No Employer Employee Relationship and the Complaint cannot be maintainable under the MRTU & PULP Act, 1971.

35. Ld. Counsel for Respondents further relied on the Authorities as under -

- i.** State of Bombay -V/s-
Pandurang Vinayak Chaphalkar and Others,
(1953) 1 Supreme Court Cases 425,
- ii.** Sudha Rani Garg (Smt) -V/s-
Jagdish Kumar (Dead) and Others,
(2004) 8 Supreme Court Cases 329,
- iii.** Ali M. K. and Others -V/s- State of Kerala and Others,
(2003) 11 Supreme Court Cases 632, and

iv. Malchand Agarwala -V/s- Santolal Agarwalla,

1953 SCC Online Gau 43 = AIR 1954 Assam 177,

- to say that the deeming provisions under the Mathadi Act and the Scheme framed thereunder have to be given effect.

36. For elaborating the deeming provisions, the Ld. Counsel for Respondent No.- 1 & 2 have invited my attention to some of the provisions under the Cloth Markets Or Shops Unprotected Workers (Regulation of Employment and Welfare) Scheme, 1971 (Hereinafter referred as "Cloth Market Scheme"), which reads as under :-

4. Interpretation :

- (e)** "Monthly Worker" means a Worker who is employed by an employer or a group of employers on contract on monthly basis;
- (f)** "Pool Worker" means a registered worker in the pool who is not a monthly worker ;
- (g)** "Pool" means a list of workers maintained by the Board but which does not include monthly workers ;
- (h)** "Registered Worker" means a worker whose name is for the time being entered in the registered of pool workers or in the register of monthly workers ;

37. Ld. Counsel for Respondents further invited my attention to Clause 29 (2) of the Cloths Market Scheme, which reads as under -

29. Obligations of Registered Workers :

(1)

(2) A registered worker in the pool who is available for work shall be deemed to be in the employment of the Board.

38. In view of the definition of Monthly Worker, Pool Worker, Pool, Registered Worker, I am of the view that the Complainants are the Workers in the Pool, registered with the Respondent Mathadi Board and are not the Monthly Workers because Monthly Worker is defined to mean a Worker employed by Employer or Group of Employer on Contract on Monthly basis. However, the Complainants are not employed by the Employer, but the Complainant themselves claimed to be the Members of Toli No.- 74 and 74A and the said Toli is said to have been allotted to the Respondent No.- 1 and 2 for the purpose of performing the Work of Mathadi Nature. As such, I am of the view that the Complainants at the most can best be said to be the Pool Worker, thereby meaning the

Registered Worker in the Pool and the Pool means the List of Workers maintained by the Respondent Board, and does not include the Monthly Workers. So also, as per Clause 29 (2) of the Cloth Market Scheme, a Registered Worker in the Pool, who is available for Work shall be deemed to be in the employment of the Board. As such, by virtue of Clause 29 (2) of the Cloth Market Scheme, the Complainants are deemed to be in employment of Respondent Mathadi Board. So also, in view of the authorities mentioned hereinabove in Para 33, as relied upon by the Ld. Counsel for Respondents, vide list Exh.- C-62, this deeming provisions has to be given effect in its Literal Sense. As such, for all purpose, as per Clause 29 (2) of the Cloths Market Scheme, Complainants become Employees of Respondent Mathadi Board and Not the Employees of Respondent No. 1. As such, I find No Employer Employee Relationship in between Respondent Madura Coats and the Complainants. As such, I am of the view that the Complaint before this Court will Not be Maintainable at the instance of Complainant Mathadi Workers. Accordingly, the Complaint cannot be said to be Maintainable before this Court.

39. Furthermore, as per Cloths Market Scheme, the Wages are to be paid by the Respondent Board. Disciplinary Action has to be taken by the Respondent Board. Bonus and P. F. has also to be paid by Respondent Mathadi Board. Disciplinary Action, if any is to be taken by Respondent Mathadi Board. As such, the Respondent No.- 1 Madura Coats, cannot be said to be the Employer of the Complainant Mathadi Workers.

40. Further, perusal of Cloth Market Scheme reveals that the Wages are to be paid by the Respondent Board. P. F. and Bonus is to be paid by Respondent Board. Disciplinary action is to be taken by Respondent Board. No powers are vested with the Employer to take any disciplinary action against the Mathadi Workers allotted to the Respondent No. 1. As such also, I am of the view that the Respondent No. 1 cannot be said to be the Employer within the meaning of Section 3 (6) of MRTU & PULP Act, 1971 and the Complainants cannot be said the Employee of the Respondent within the meaning of Section 3 (5) of the MRTU & PULP Act, 1971.

41. It is settled legal position in view of the ratio in the case of (i) *Cipla Ltd. -V/s- Maharashtra General Kamgar Union and Others*, (ii) *Vividh Kamgar Sabha -V/s- Kalyani Steels Ltd. and Another*, and (iii) *Sarva Shramik Sangh -V/s- Indian Smelting & Refining Co. Ltd. and Others*, etc. that the Complaint before this Court is not Maintainable unless and until there is admitted Employer Employee Relationship, which is not there in the present case. As such, this Complaint cannot be said to be Maintainable before this Court.

42. Ld. Counsel for Respondent No.- 1 & 2 further pointed out that, in sum and substance, it is the case of Complainants that they are denied work of Mathadi Nature. It is further pointed out that the Complainants have prayed for their reinstatement, in the form of directions to respondent to provide work to the Complainant Workmen. As such, it is stated that, Complainants case is of Termination from Service and the Complainants are praying for their reinstatement in service. I find substance in the submissions. Accordingly the Complainants case should lie before the Ld. Labour Court, under item – I, Schedule - IV of the MRTU & PULP Act.

43. In this regard, the Respondent No.- 1, relied upon the Authorities as under -

- i.** Manoj Amdas Ingle And Others -V/s-
Member, Industrial Court, Nagpur And Another
2004 SCC Online Bom 246 = (2004) 3 Mah LJ 41.
- ii.** Dilip S/o Indrabhanji Wawande -V/s-
Industrial Court, Nagpur, And Others.
1995 SCC Online Bom 427 = (1996) 72 FLR 166 (Bom).
- iii.** Pepsico India Holdings Pvt. Ltd. -V/s-
Noshir Elavia And Another
2002 (2) Mh.L.J. 744.

- Perusal of the Authorities cited above, reveals that, in the matter of challenge to the Termination of Services, the Jurisdiction lies with the Ld. Labour Court, under item – I of Schedule – IV of the MRTU & PULP Act. As such also the Complaint filed by the Complainants cannot be said to be maintainable before this Court.

44. In view of above Discussion, the Issue No.- 1 & 2 are answered in the Negative, thereby holding that the Complaint is Not Maintainable and further holding that there is No

Employer – Employee Relationship in between the Complainants and the Respondent No.- 1 & 2.

45. As To Issue No.- 3:- The Complaint is filed by Total 10 Complainants. Complainant have adduced Evidence of Shri. Rajaram Hanumant Jagtap, the Complainant No.- 7, at Exh.- UW-1. Complainant Witness at Exh.- UW-1 in Para 21 have admitted that Complainant No.- 8 Shri. Santosh Ubhare was included in Toli No.- 74-A in the Year 2013. It is further admitted that, Complainant No.- 9 Shri. Vipul Rajaram Jagtap and Complainant No.- 10 Shri. Shubham Kalidas Pawar were included in Toli No.- 74-A in the Year 2019. As such, it is clear that on the date of filing of Complaint, Complainant No.- 9 & 10 were not the members of Toli No.- 74-A.

46. The Complainant Witness in Para 23 of his Cross-Examination have admitted that some of the Complainants are Relatives of each other. Complainant No.- 1 and 2 are the Real Brothers. Complainant No.- 4 is the Son of Complainant No.- 1. Complainant No.- 5 is the Son of Complainant No.- 2. Complainant No.- 9 Shri. Vipul Jagtap is the Son of Complainant No. 7 Shri. Rajaram Jagtap. As such, I find that

the Complainants are relatives of each other and have filed this Complaint in collusion with each other, even though some of the Complainants were not the Registered Workers of the Mathadi Board and were not the Members of Toli No.- 74 and the Toli No.- 74-A.

47. Complainant No.- 1 Shri. Jaywant Pisal is said to be the Secretary of the Union and his age is 78 Years. Age of Complainant No.- 2 is said to be 72 years. The age of Complainants is mentioned without verification. It is further admitted in Cross-Examination in Para 23 that on the date of filing of the Complaint, all the Complainants were not present and only Two Complainants i.e. Complainant No.- 1 and Complainant No.- 7 were present in the Court.

48. Respondent in the Cross-Examination of the Complainant Witness at Exh.- UW-1, have strongly objected the Signatures at Ex.- U-40 (Page No.- 13, of Document No.- 6, with List Exh.- U-15). However, the Complainant did not take any steps to prove said Signatures. Complainant Witness have admitted that the Signatures on Exh.- U-40 are not put in by the respective Signatories in his presence. Yet, the

Complainant did not take any steps to prove the Signatures of the respective Complainants at Exh.- U-40. Complainant in Para 25 of his Cross-Examination have also admitted that he has not verified with Shri. Mahesh Pisal, whether he has himself put in his Signature. As such the Document at Exh.- U-40 cannot be said to have been proved.

49. Document Exh.- U-40 is the Representation dated 19-11-2022 made by the Complainants to the Respondent No.- 3, Board, for directions to the Respondent No.- 1, for grant of Work to the Registered Workers of the Board. The Signatories to the said Representation at Exh.- U-40, Shri Omkar Pisal, is not the Registered Worker of Toli No.- 74 and is not even the Registered Mathadi Worker. Another Signatory Shri Sampat Jadhav is said to have been included in the Toli No.- 74-A, in the year 2019. It means that on the date of filing of the Complaint said Signatories to Exh.- U-40, Shri Omkar Pisal and Sampat jadhav were not the Members of Toli allotted to the Respondent No.- 1. As such, I find that the Complainants along with Unregistered Workers have been claiming right of Work with the Respondent No.- 1.

50. The Complainants in their Complaint have stated that they were working as Mathadi Kamagar of Toli No.- 74 and 74-A at Goregaon Establishment of the Respondent No.- 1 and 2. Complainants in Para 3 (b) at Page No.- 4 of the Complaint have stated that sometime in March - 2018, the Respondent started shifting of its work from Goregaon to Bhiwandi Godown. It is the case of the Complainants that work of Mathadi nature was continued at Bhiwandi also. It is the case of Complainants that Respondent No.- 1 and 2 with Local Politicians and Unregistered Workers have prevented the Complainants from doing any work. Complainants stated that Mathadi Work was being done by the Unregistered Workers.

51. Complainants in Para 3 (d) of the Complaint have stated that Complainants were informed that the Respondent No.- 1 have entered into Contract in respect of their entire activities with C & F Agent including the activities of Mathadi nature. It is further stated that Respondents have entered into contract with M/s. K. P. Transporters as its C & F Agent. As such, Complainants are denied the Work. Representation of

the Complainants to Respondent Mathadi Board and also request to the Respondent No.-1 & 2, did not yield any result.

52. Respondent No.- 1 & 2 in their Written Statement at Exh.- C-12 have stated that on shifting from Goregaon to Bhiwandi, Respondents have Reorganized their Business and have entrusted the Business activities to its Carrying & Forwarding Agent. Complainants have also stated in their Complaint that the Respondents have appointed M/s. K. P. Transport as C & F Agent. As such, it is clear that on the date of filing of Complaint, Complainants were aware that Respondents have engaged C & F Agent for its Business activities at Bhiwandi. It has come in the Evidence of Respondent No.- 1 and 2 that the Respondent No.- 1 have entrusted its Business activities at Bhiwandi on Principal to Principal basis and all the Mathadi Operations are being carried out by M/s. K. P. Transport, which is also registered under the Mathadi Act and is having Mathadi Workers.

53. The Complainants inspite of being aware that C & F Agent M/s. K. P. Transport is engaged, and is performing work of Mathadi Nature, the Complainants did not implead said M/s.

K. P. Transport as Party Respondent. Respondent is Not Disputing its Registration under the Mathadi Act and is Not Disputing allotment of Toli No.- 74 and 74-A to its Goregaon Establishment. Respondent being registered as Employer under the Mathadi Act is duty bound to engage Mathadi Workers, for performing the work of Mathadi Nature at its Establishment, so long as it is performing and controlling the Mathadi Activities. However, at the same time, the entitlement of Respondent to organize its Business Activities cannot be disputed. Respondent No.- 1 have organized its Business Activities and have engaged the Services of C & F Agent for performing the work of Mathadi Nature. As such, even if the Respondent No.- 1 is Registered Employer in respect of its Goregaon Establishment, however Respondent No.- 1 is not carrying out personally the work of Mathadi Nature, at its Bhiwandi Establishment and the same is entrusted to M/s. K. P. Transport on Principal to Principal basis.

54. Respondent No.- 1 have adduced the Evidence of Shri. Suhas Khadilkar at Exh.- CW-2, who is Signatory to the Agreement dated 13-09-2018, which is marked as Exh.- C-57.

All the activities of Mathadi Nature are entrusted to C & F Agent on Principal to Principal basis and said C & F Agent is carrying out the Mathadi Activities through the Mathadi Workers. As such, I am of the view that the Complainants have failed to make out any case of Unfair Labour Practices on the part of Respondent No.- 1 & 2.

55. Further, I find that the Complainant No.- 1 and 2 have crossed the age of 60 years. It has come in the Evidence of Respondent No.- 3, Board, that the Employees of Board have to retire the Age of 58 Years. Further, even as per Model Standing Orders the Retirement Age is of 60 Years. I am of the view that when the Statute does not provide the Age of Retirement, same shall be determined as per Model Standing Orders, which is 60 Years. As such, Complainant No.- 1 and 2 have no any right to claim work against the Respondents. As such the Complaint needs to be dismissed in respect of the Complainant No.- 1 & 2. Complainant No.- 9 and 10 are Not the Registered Workers on the date of filing of the Complaint. As such, Complainant No.- 9 and 10 are also not entitled to claim any relief against the Respondents.

56. It is the case of the Complainants that the Mathadi Act, does not provide Age of Retirement and as such the Workers are entitled to work, so long as they are physically fit to work. However the Complainants have not adduced the Evidence of the Complainant No.- 1 & 2, and have also brought nothing on record, to demonstrate that the Complainant No.- 1 & 2 are physically fit to perform the work of Mathadi nature. As such the Complainant No.- 1 & 2 are not entitled for any relief.

57. It has come in the Cross-Examination of the Complainant Witness in Para 13 at Exh.- UW-1 that as a Mukadam, his Responsibility is to Supervise the Work of Toli. As such, Complainant No.- 1, who is Mukadam of Toli No.- 74 and Complainant No.- 7, who is Mukdam of Toli No.- 74-A cannot be said to be the Workman, within the meaning of Section 2 (s) of the I. D. Act, and therefore, the Complainants' Complaint for and on behalf of Complainant No.- 1 and 7, cannot be said to be Maintainable.

58. Complainant Witness in Para 33 at Exh.- UW-1 have admitted that the Complainant No.- 9 Shri. Vipul Jagtap is the

Son of Complainant No.- 7, Shri. Rajaram Jagtap and has completed his Diploma in Engineering from the Government College at Bandra in the Year 2020 and has further completed his Degree Education in Civil Engineering from MGM College of Engineering and Technology at Navi Mumbai in the Year 2021-22 and is in employment in Private Company. As such, by no stretch of imagination, it can be said that the Complainant No.- 9 have been working as Mathadi Worker with the Respondents. Complainant have not adduced the Evidence of Complainant No.- 9.

59. Complainant Witness at Exh.- UW-1, in Para 34 admitted that the Complainant No.- 10, Shri. Shubham Kalidas Pawar is gainfully employed. Complainant No.- 10, Shri. Shubham Kalidas Pawar is said to have been completed his Engineering Degree. Complainants did not not even examine the said Complainant No.- 10. As such, it cannot be said that Complainant No.- 10 was at any time in the employment of Respondent No.- 1.

60. It has come in Para 35 of Cross Examination, at Exh.- UW-1, that the Complainant No. 4, Shri. Mahesh Jaywant

Pisal have completed his Graduation from Mumbai University. Complainant Witness have denied that the Complainant No.- 4 is in gainful employment. However, I am of the view that the Complainant No.- 4 could have been the best person to deny or admit the factum of his Employment or Unemployment. Complainant did not take steps to adduce evidence of Complainant No.- 4. However the Person taking Graduation Education from Mumbai University, cannot be presumed to the Mathadi Workman, on mere uncorroborated Testimony of the Complainant No.- 7 at Exh.- UW-1.

61. Perusal of Deposition in Para 36 of Exh.- UW-1, reveals that the Complainant No.- 5, Shri. Swapnil Dagdu Pisal have completed his Graduation Degree from College at Satara. Complainant Witness have shown his ignorance about employment of Complainant No.- 5. However, Complainants did not examine Complainant No.- 5. Person pursuing his Graduation Degree Education, that also at Satara, cannot be presumed to be working as Mathadi Worker, specially so when it is admitted that he has not been to this Court, even for purposes of filing of this Complaint.

62. Complainant Witness in Para 40 at Exh.- UW-1 have admitted that Workers of Toli No.- 74-A were performing Loading Activities in Transport Vehicle and were required to Unload the Vehicle at Delivery Point. The Goods Cartoon were kept ready in Dispatch Bay for being loaded in Transport Vehicle. It is also admitted that in case the Delivery Point of Goods is outside area of Mumbai, then the Complainants do not undertake the work of Unloading the Goods at Delivery Point. It is further stated that Unloading of Goods is done by Mathadi Toli, only if the Delivery Point is within the City Limits of Mumbai. As such, it is the case of Respondent No.- 1 & 2, that to Consolidate Work of Loading, Unloading and the Work of Transportation, the Respondent have organized its Business and have entrusted the work to its C & F Agent. In such circumstances, Nothing wrong can be found on the part of Respondent in organizing its Business. As such, it cannot be said that the Respondent No.- 1 & 2 are engaged in Unfair Labour Practices in denying the work to the Complainants. Accordingly the Issue No.- 3 needs to be answered in the Negative.

63. Complaint is held to be Not Maintainable. No Employer Employee Relationship is found in between the Complainant and the Respondent No.- 1. So also, No Unfair Labour Practice is made out against the Respondent No.- 1. As such, Complainants cannot be entitled for any relief. Apart from negating the entitlement of Complainants because of Complaint being Not Maintainable and for want of Unfair Labour Practices, I find that the Complainants have not approached this Court with Clean Hands. Complainants have wrongly claimed that the Complainant No.- 9 and 10 are the Registered Workers and claimed to be Members of Mathadi Toli allotted to the Respondent No.- 1. Whereas, the Complainant Witness himself in Cross-Examination have admitted that the Complainant No.- 9 and 10 were registered as Mathadi Workers after filing of this Complaint.

64. The Complainants on the basis of Unregistered Workers have also obtained Interim Orders from this Court. As such, since the Complainants have not approached this Court with Clean Hands, the Complainants are Not Entitled for any relief. Complainants have used the Names of Unregistered

Workers in their Representation at Exh.- U-40. As such, the Complainant's conduct do not appear to be bonafide.

65. Furthermore, the Complainants appear to be using the Names of Registered Workers for obtaining the work of Mathadi Nature. I have arrived at this conclusion because the Complainants Witness in his Cross-Examination himself have admitted that the Complainant No.- 4, 5, 9 & 10 were taking their Education and as such, they cannot presumed to be the Mathadi Workers or performing the Mathadi Work, specially so, when the Complainants for the reasons best known to them, did not take any pains to examine these Doubtful Complainants. As such, I am of the view that the Complainant No.- 4, 5, 9 & 10, must not have worked as Mathadi Worker. Yet the Complainant have obtained the Wages and Levy in the name of said Complainant No.- 4, 5, 9 & 10, by using their names. As such, Complainants have not approached this Court with Clean Hands.

66. Respondents have relied on Authorities as under -

- i. S. P. Chengalvaraya Naidu (Dead) by Lrs. -V/s-
Jagannath (Dead) By Lrs. And Others,
(1994) 1 Supreme Court Cases 1
- ii. Dalip Singh -V/s- State of Uttar Pradesh and Ors.,
(2010) 2 Supreme Court Cases 114.
- iii. Major Gen. Darshan Singh (D) By Legal Representative & Anr.
-V/s- Brij Bhushan Chaudhary (D) by Legal Representative.
(2024) 3 Supreme Court Cases 489.
- iv. V. Chandrasekaran and Another -V/s-
Administrative Officer and Others,
(2012) 12 Supreme Court Cases 133.

- to say that, the persons not approaching the Court of Law with clean hands, are not entitled for any relief.

67. In view of the facts and circumstances narrated hereinabove and also in view of the ratio in the authorities cited above, the Complainants are not entitled for any relief. As such, the Issue No.- 4 is answered in Negative, thereby holding that the Complainants are not entitled for any relief. Accordingly, the Complaint needs to be Dismissed. However, there shall be No Orders as to Costs. As such, in answer to Issue No. 5, I proceed to pass the following Order -

CNR No.- MH IC 04 000 644 2018 -: **47** :- Complaint (ULP) No.- 266/2018
Judgment, Exh.- O - 16

-: O R D E R :-

- i.** Complaint (ULP) No.- 266 of 2018, is hereby Dismissed.
- ii.** No Orders as to Costs.

Date :-
24-01-2025.
Place :- Thane.

(S. Z. Sonbhadre)
Member
Industrial Court, Thane

Argued On :- 23-12-2024.
Dictated On :- 24-01-2025.
Typed On :- 29-01-2025.
Checked & Signed On :- 04-02-2025.

SPC/-.