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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 3179 OF 2015
IN RAST/6703/2015.

WITH
REVIEW APPLICATION (STAMP) NO.6703 OF 2015
IN
WRIT PETITION NO.1378 OF 1991.

M/S JAVAHAR ENGINEERS PVT LTD, AHMEDNAGAR AND ANOTHER
VERSUS
SERVA UDYOG KAMGAR SANGH, AHMEDNAGAR

...

Advocate for Applicants : Shri Shah Subodh P

Advocate for Respondents : Mrs. Ujwal Agrawal.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 17th November, 2015

Per Court:

(a) Civil Application No.3179/2015:-

1 I have heard Mr.Shah, learned Advocate for the Applicant/
Management and Mrs.Agrawal, learned Advocate for the Non-Applicant/
Union.

2 Shri Shah prays for condonation of delay of 92 days in filing
the review petition for seeking review of the order dated 31.10.2014
passed by this Court in Civil Application No.16776/2010.

3 Mrs.Agrawal has opposed the Civil Application for
condonation of delay.

4 For the reasons set out in Civil Application No.3179/2015, the
same is allowed and the delay of 92 days is condoned.

(b) Review Application (stamp) No.6703/2015:-

5 With the consent of the parties, the review petition is take up
for hearing.

6 Shri Shah, learned Advocate for the Review Applicant,
submits that this Court has observed in paragraphs 12 and 15 of the order
under review dated 31.10.2014 as under:-

“12. Nevertheless, there cannot be an embargo
on the applicant Union in questioning these
subsequent events under the Industrial Disputes Act,
1947. This Court is, therefore, not required to go into
that aspect.”

“15. The rejection of this Civil Application and,
consequently, upholding the order dated 20th
February, 2004 of disposing of the writ petition, shall
not be an impediment to the applicant union, if it so
desires, to raise an industrial dispute as regards the
subsequent events as may be permissible in law.”

7 He submits that the said observations would virtually permit

the Non Applicant/ Union to raise an industrial dispute on behalf of it's members. He seeks review of the said observation since the Applicant contends that the Non Applicant/ Union no longer represents any worker and none of the erstwhile workers of the Applicant/ Management continue to be it's members. He further submits that the said Union has not been furnishing it's annual returns and hence, it's registration cannot be sustained.

8 Mrs.Agrawal submits that this issue was never before this Court either in the Writ Petition or in the Civil Application. The issue before this Court was in between the Applicant/ Management and the Non Applicant/ Union herein. The Union has been espousing the cause of it's workers for a long time and it needs to be left to the said Union whether, it desires to continue to espouse the said cause and whether, it could leave it's members at liberty to individually raise an industrial dispute.

9 The litigation between the Management and the Union dates back to 1987 when the Management declared a lock-out vide notice dated 31.07.1987 w.e.f. 15.08.1987. Ever since, these two parties have been litigating. So also, there cannot be an embargo on the Union from espousing the cause of it's members subject to fulfillment of the requirements under the Trade Unions Act, 1926.

10 I find that the issue before this Court was not as regards, whether, the Union could continue it's battle on behalf of it's members. It was in this backdrop, that the observations as reproduced above were made by this Court and also in paragraph 15 of the order dated 31.10.2014.

11 Needless to state, if any party raises an industrial dispute, it can put forth all it's grounds and the Respondent in such an industrial dispute can also put forth all it's objections.

12 As such, the order under review has not created any embargo on the Applicant/ Management by limiting it's contention to a particular subject or issue.

13 In the light of the above, since no error apparent on the face of record has been made out by the Applicant, this Review Application is rejected.

(RAVINDRA V. GHUGE, J.)