

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.295 OF 2015

M/s TATA Consultancy Services Limited Petitioner
TCS House, Rave Line Street,
Fort, Mumbai – 400 001

Vs.

Mr. Bharat Sharma Respondent
40, Kanti Nagar, Near Loco Shed,
Tansen Road, Gwalior – 474 002
(Madhya Pradesh).

Mr. K.M. Naik, Senior Advocate alongwith Mr. Sujeet Salkar, for the
Petitioner.

Mr. Bharat Sharma, the Respondent - in person.

Coram : Smt. R.P. SondurBaldota, J.

Date : 15th June, 2015.

P.C.

1 By the order dtd. 9th June, 2015, this petition was
adjourned to today with an understanding that it would be disposed
off finally at the stage of admission. Accordingly, extensive submissions
by both the sides, particularly of the respondent, have been heard.

2 Respondent no.1 was a trainee of the petitioner-company, whose trainee-ship was terminated by the petitioner on 5th June, 2013. He raised a dispute about his termination. When conciliation in respect of the dispute failed, it was referred for adjudication to the Labour Court vide Reference Order dtd.29th April, 2014. The reference is numbered as Reference (IDA) No.89 of 2014. On receipt of notice dtd. 13th May, 2014 to file written statement, the petitioner appeared before the Labour Court and vide application dtd. 25th June, 2014 sought permission for being represented by a lawyer. The respondent contested the application and the Labour Court by it's order dtd. 7th August, 2014 rejected the application. The petitioner has challenged the order in this court by filing Writ Petition No.2435 of 2014.

3 The application for representation through a lawyer was signed on behalf of the petitioner as it's authorised representative by one A.N. Hardikar, a junior officer. During the pendency of that application, the respondent had filed application for expeditious disposal of the reference. In view of the contest to the application for representation through lawyer and filing of other applications, the petitioner authorised it's Senior General Manager (H.R.), Shalini Gupta alias Shalini Golas to represent it in the proceedings. She filed two affidavits-in-reply dtd. 7th July, 2014 and 18th July, 2014. The respondent then filed two separate applications both dtd. 31st July, 2014 taking objection to appearance by Shalini Gupta as well as A.N. Hardikar. As regards Shalini Gupta, he complained that she had filed

the replies without submitting either authority or power of attorney from the petitioner. It was contended by him that filing of either authority or power of attorney being mandatory requirement to be fulfilled as per law, the court should restrain Shalini Gupta from filing replies on behalf of the Company. His objection to the appearance of A.N. Hardikar was on the ground that the court has not granted him permission to appear. On 31st July, 2014, A.N. Hardikar was present in the court and had presented the application seeking permission to produce authority of Shalini Gupta.

4 The petitioner endorsed its reply to the application contending that the objection taken by the respondent was an afterthought and that the petitioner would be filing power of attorney in the name of Shalini Gupta, if directed by the court on the next date. The petitioner also pointed out that when the reply by the Company to the application for being represented by the lawyer was filed by Shalini Gupta, no objection had been raised by the respondent. By the order impugned herein, the Labour Court allowed the application of the respondent for the reasons stated at paras 5 and 6, which read as follows :

“5 This is a reference proceedings. The first party is M/s Tata Consultancy Services Limited through Manager, Shri. Natrajan Chandrashekharan and Mr. Sanket Paralkar. The second party is Mr. Bharat Sharma. Vide Exh. C-1, the first party sought permission for appearance through Advocates and representative. The

second party objected and vide order Exh. 0-8, the application seeking permission to be represented was rejected. Said order is under challenge before the Hon'ble Bombay High Court.

6 As the first party is not allowed to be represented through Advocate and till date the order passed vide Exh. 0-8 is not set aside. Said Shalini Gupta alias Shalini Golas is not a party to the proceedings nor she is authorised to represent the first party. The Court has not granted permission to said Shalini Gupta for appearing on behalf of the first party and to file say on behalf of the first party.”

5 Mr. Naik, the learned Senior Advocate appearing for the petitioner submits that Shalini Gupta alias Shalini Golas is working as Senior Manager, H.R. with the Petitioner-Company and the petitioner desires to be represented through her and there cannot be any objection on the part of the respondent in the choice of the representative of the petitioner. In fact the respondent can have no say whatsoever in such matter. Therefore, no other order could have been passed by the Labour Court except for directing the petitioner to file power of attorney or letter of authority. Since the petitioner is a corporate body, it can be represented by its employee, irrespective of fact whether the employee is a party to the proceedings or not.

6 The respondent, who appears in person has passionately argued that it is not known whether Shalini Gupta and Shalini Golas is

one and the same person. His objection as regards Mr. Hardikar is on the same lines i.e. the identity of the person. He expresses an apprehension that in the event the petitioner loses in the proceedings before the Labour Court, it may throw its hands up and dis-own Shalini Gupta alias Shalini Golas. Therefore, according to him, there should be no permission granted to Shalini Gupta alias Shalini Golas to represent the Company. His next objection is to the two names carried by the lady. According to him, if there is a change in her name after marriage, she cannot be permitted to use her maiden name.

7 There can be no substance whatsoever in any of the objections raised by the respondent. It is the petitioner's case that Shalini Gupta alias Shalini Golas is working with it as Senior Manager, H.R. and it desires that it be represented through her. It is the petitioner's prerogative to choose its representative. The only say that the respondent can have in the choice is to ensure that there is authorisation on record. It is unfortunate that the Labour Court failed to consider this aspect of the matter and rejected the application on the ground that Shalini Gupta alias Shalini Golas is not a party to the proceedings. Mr. Naik states that Shalini Gupta alias Shalini Golas has been given power of attorney by the Company. The power of attorney has been filed in this court and the same will also be filed in the Labour Court on the next date of the matter. As regards the name of the representative, Mr. Naik states that Shalini Gupta is her nee name and on marriage, her surname is changed to Golas. Since she has not

changed her signature, the affidavits included both the names. The explanation is perfectly plausible and puts any anxiety on the part of the respondent about her identity at rest. Considering the circumstances, the order impugned in the petition cannot be sustained. The petitioner had unsuccessfully sought review of the order. The Labour Court dismissed the review application.

8 For the reasons stated above, the petition is allowed in terms of prayer clause (a). It is made clear that the replies dtd. 7th July, 2014 and 18th July, 2014 of Ms. Shalini Gupta alias Shalini Golas and any document filed by her till date shall be treated as properly filed in the proceedings.

(Smt. R.P. SondurBaldota, J.)