

JPP

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

WRIT PETITION NO. 1415 OF 2015

Madhura Coats Pvt. Ltd.

... Petitioner.

V/s.

Madhura Coats Employees Union and Anr. ... Respondents.

Mr. Shailesh Kashinath More for the Petitioner.

Mr. P. N. Kode, Secretary of Respondent – Union appear in Court for the Respondents.

CORAM : N.M. JAMDAR, J.

DATE : 05 OCTOBER, 2015.

P.C. :-

By this Petition the Petitioner challenges the order passed by the Presiding Officer, Industrial Tribunal dated 13 November 2014 below Exhibit UW-1.

2. The Industrial Tribunal is hearing a reference for adjudicating industrial dispute between the Petitioner and its employees. Reference was made by the Labour Commissioner by its letter dated 22 July 2008. In this reference the Petitioner

appeared and filed Vakalatnama of a legal practitioner. The Respondent – Union objected to the same by filing formal objection on 20 October 2010. To this formal objection, the Petitioner filed a reply on 13 September 2011.

3. The Industrial Court, by the impugned order, has found that the Petitioner has not made out case for appointment of a legal practitioner and rejected the application. It has been pointed out by the representative of the Respondent that thereafter, the matter has proceeded further as there is no stay to the proceedings in the reference, and the representative of the Petitioner has also taken cross-examination of the Secretary of the Union.

4. Section 36(2) of the Industrial Disputes Act, 1947 which is relevant reads as under :-

“36(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by -

(a) an officer of an association of employers of which he is a member;

(b) an officer of a federation of associations of employers to which the association referred to in Clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any

association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorized in such manner as may be prescribed.”

5. Proceeding on the basis that the Industrial Court has power to entertain an application for appointment of a Legal Practitioner inspite of the objection of the other side, even that case is not made out by the Petitioner. In view of the objection filed by the Respondent, it is clear that the appointment of a Legal Practitioner in the matter will not be by consent. The Respondent – Union has chosen to represent itself through its office bearer and not through a Legal Practitioner. Assuming the Industrial Court ought to exercise its discretionary power to over-ride the objection of the Respondent, the Petitioner should have placed cogent material as to why it requires an assistance of a Legal Practitioner. In the reply nothing is stated except that the Petitioner will have difficulties. During the arguments the learned Counsel for the Petitioner mentioned that the Petitioner has a full-fledged legal department. Nothing is placed on record as to why its dedicated legal department cannot proceed with the matter except orally stating that the matter is complicated.

6. Having not placed any material before the Industrial Court, even assuming that the Industrial Court had the discretion, the order of the Industrial Court refusing representation to the

Petitioner through a Legal Practitioner, cannot be faulted with. In any case, even after the impugned order is passed, the matter has substantially proceeded with.

7. In the circumstances, no interference is warranted in the Writ Jurisdiction. The Writ Petition is accordingly rejected.

(N.M. JAMDAR, J.)

C E R T I F I C A T E

Certified to be true and correct copy
of the original signed Order.