

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.7759 OF 2013 WITH CIVIL APPLICATION
NO.2131 OF 2015**

Force Motors Ltd .. Petitioner
vs
The State of Maharashtra & ors .. Respondents
with

WRIT PETITION NO.8526 OF 2013

Bhartiya Kamgar Sena .. Petitioner
vs
State of Maharashtra & ors .. Respondents

Mr.S.K.Talsania Sr.Advocate a/w Mr.Vishal Talsania
Ms.Radha Ved, Mr.Netaji Gawade i/b M/s Sanjay
Udeshi & Co for Petitioner in W.P.No.7759/2013
and for Applicant in C.A.No.2131/2015

Mr.K.S.Bapat a/w Mr.T.R.Yadav i/b A.H.Fatangare
for Petitioner in W.P.No.8526/2013

Mr.V.N.Sagare Asst.Govt.Pleader for State
Ms.Gayatri Singh Sr.Advocate a/w Mr.Zomon Ali and
Mr.Utkarsh Mishra for Respondent nos.5 to 13 in
W.P.No.7759/2013 and for Respondent no.3
in W.P.No.8526/2013

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CORAM: **ANOOP V.MOHTA AND**
G.S.KULKARNI, JJ
DATE: **24th FEBRUARY 2016**

ORDER:

1. At the instance of Respondent nos.5 to 13 in Writ Petition No.7759 of 2013 and Respondent no.3 in Writ Petition No.8526 of 2013, working with the Petitioner-M/s Force Motors Ltd, filed an Application for

reference to be made to the Industrial Tribunal and by an order dated 8 February 2013 the dispute was referred to the Industrial Tribunal.

2. The Petitioner Management-Force Motors Ltd has filed present Writ Petition No.7759 of 2013, challenging the reference order and other connected orders by subsequent amendments. In Writ Petition No.8526 of 2013 filed by Bhartiya Kamgar Sena stated to be a recognized Union has also objected the said Reference order by filing Writ Petition No.8526 of 2013.

3. In both the matters, considering the situation and submissions so raised including the issue about recognition of Bhartiya Kamgar Sena the matter were adjourned from time to time, as the same was pending before the Supreme Court as one Poona Employees Union had filed a Civil Appeal in the Supreme Court against the Judgment and order dated 2 February 2009 passed by this Court in Writ Petition No.2907 of 2006 and 2878 of 2006, at the instance of the Management and as well as other Union namely Bhartiya Kamgar Sena.

4. Learned counsel appearing for the parties has placed on record the Judgment of the Supreme Court dated December 1, 2015 in Civil Appeal Nos. 10130-10131 of 2010 (**Poona Employees Union vs Force Motors Limited & anr**) thereby apart from other issues, the recognition of Bhartiya Kamgar Sena as a recognized union is continued and maintained in view of the order passed by this Court on 2 February 2009.

5. After hearing both the parties, we are inclined to dispose of both the Writ Petitions by permitting the parties to approach the Tribunal in the pending Reference. We are also informed that the Application dated 10 December 2014 is at Exhibit U-41 is already filed by Bhartiya Kamgar Sena and the same is pending. The Tribunal therefore, is required to hear these Applications in view of the averments so raised in the said application and the subsequent developments, by hearing all the parties. In this regard, all contentions are kept open.

6. It is also made clear that the learned Tribunal shall proceed with the matters denovo/afresh without being influenced by earlier

observations made in order dated 6 August 2013 and 4 September 2013. It is also expressly made clear that in this regard we have not expressed any opinion on the merits and the rival contentions of the parties on law and facts.

7. Both Writ Petitions are disposed of. All contentions of the parties are expressly kept open.

G.S.KULKARNI, J

ANOOP V.MOHTA J

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