

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11064 OF 2017

Anand Khandagale .. Petitioner.
Vs.
M/s.Padarsh Pharmaceuticals
Pvt. Ltd. & Anr. .. Respondents.

Ms. Reshma Kakade for the petitioner.
Mr. Kiran A. Waikar for Respondent No.1.
Mr. J.A. Madane AGP for Respondent No.2.

CORAM : A.K. MENON, J.

DATED : 26TH FEBRUARY, 2018

P.C. :

1. By this writ petition, the petitioner assails the order dated 1st March, 2017 passed by the First Labour Court on application Exhibit U-2 by which the petitioner took objection to appearance of an Advocate on behalf of the first party. The impugned order records that the Advocate appearing for the first party was a member of "Forum for Management, Development and Legal Assistance" and that by virtue of membership he was an office bearer of the forum.

2. The learned Advocate for the petitioner points out that the Court did not consider the fact that the only documents produced before the Court

were a receipt evidencing payment of membership fees which was unsigned and unauthenticated and copies of annual returns filed on behalf of the first party which also does not disclose the name of Mr.Waikar. Even otherwise there was no authority to to represent the forum. She therefore submitted that the impugned order is not sustainable and calls for interference.

3. On behalf of the respondent no.1, Mr.Waikar appears today and relies upon the affidavit in reply dated 18th December, 2017 in which he relies upon a letter dated 12th April, 2016 which the aforesaid forum is stated to have accepted application of Mr.Waikar. Nothing in the impugned order shows that the association had empowered him to appear in the Labour Court. In the case at hand, although Mr.Waikar submitted that necessary authority was filed, the impugned order does not record any document other than receipt for membership fee and that he was a member of "Forum for Management, Development and Legal Assistance". He submitted that he had filed the documents listed as Exhibit C-9 page nos.1 to 26 and at Exhibit C-12 page nos.1 to 3.

4. The impugned order has proceeded to record as follows : *"It appears that he is being office bearer of the company"*. In my view, there was nothing before the Court to come to this conclusion and in any event rejection of the application is therefore unsustainable. In the circumstances considering narrow scope of this petition, the same is disposed of finally at the stage of admission. Hence I pass the following order :

- (a) The impugned order is set aside.
- (b) All contentions are kept open.
- (c) The Labour Court shall decide the application Exhibit U-2 afresh by considering all the documents filed by the parties and in accordance with law.
- (d) All parties concerned to act on a copy of this order duly authenticated by the Registry of this Court.

(A.K. MENON,J.)