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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 215/2017**

**CONTAINER CORPORATION OF INDIA LTD AND ANR**

..... Petitioner

Through: Ms.Meera Mathur, Advocate

versus

**UNION OF INDIA AND ANR**

..... Respondent

Through: Mr.Rajesh Gogna, CGSC for  
respondent

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**

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**31.07.2018**

The petitioner's (Container Corporation of India Ltd.) challenge in these proceedings is to the order of the Central Government Industrial Tribunal passed on 18.10.2016, in an industrial dispute referred to it. The second respondent – workman had objected to the participation of an enrolled advocate in the proceedings, contending that without permission under Section 36(4) of the Industrial Disputes Act, 1947 (the Act hereafter) his appearance could not be permitted.

The Tribunal accepted the workman's contention and ruled against the petitioner Corporation Management holding that Section 36(3) constitutes a bar and in the circumstances, the absence of consent by the respondent – workman, prevented legal participation by the legal practitioner.

Though the petitioner has impugned the vires of Section 36(4) of the Industrial Disputes Act on diverse account, but this court is of the opinion that it would be unnecessary to explore the merits of such contentions. The larger social purpose to achieve having been analysed by some judgments of the court, learned counsel for the Corporation endeavoured to urge that the observations in those judgments later have not been consistently followed. Given the statutory imperative, the appropriate course, in this court's opinion, would be to direct the petitioner to bear the costs of legal representation by the workman, who would be free to engage a counsel of his choice and in such event, the Container Corporation shall bear all the necessary expenses for this purpose. The second respondent /workman shall indicate the choice of the counsel in a letter directly to the Corporation within a week from today. Further, the letter shall also contain the numbers and details of the concerned advocate and the terms and conditions for payment of fees at various stages of the case (stage wise etc.), as the case may be.

The writ petition is disposed of in the above terms.

**S. RAVINDRA BHAT, J**

**A. K. CHAWLA, J**

**JULY 31, 2018**

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