

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.9230 OF 2018**

Pragzna Pujara

...Petitioner

vs

J.P. Morgan Services India Pvt. Ltd.

...Respondent

.....

Ms. Pragzna Pujara, Petitioner present in person.

Mr. Cyrus Bharucha, a/w. Ms. Shaneen Parikh, Ms. Shalaka Patil and Mr. Purav Shah, i/b. Cyril Amarchand Mangaldas, for the Respondent.

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CORAM : S.C. GUPTE, J.**DATED: 6 MARCH, 2020****P.C. :**

. This application is moved for speaking to the minutes of an order passed by this Court on 14 January 2020. In the order of 14 January 2020, this Court recorded a statement on the part of the Respondent to the petition, who is the first party before the reference court, that it had kept its written statement in the reference ready and was agreeable to go before the Labour Court through an employee of the first party, who was not an advocate, and make a request to the Labour Court to take its written statement on record after condoning delay, if any. The controversy in the petition concerned the representation of the first party by one Abhishek Thanvi, who was said to be an employee of the first party, but who, according to the second party, was an advocate. Since the first party did not insist on going before the Court with Thanvi and offered to appoint another employee, not an advocate, for making a request to the Labour Court to take its written statement on record, the

statement was noted and accepted and keeping all rights and contentions of the parties on any such request open, the writ petition was disposed of. The present praecipe has been moved for speaking to the minutes by the Respondent first party on the ground that though in pursuance of the order passed by this Court on 14 January 2020, it actually deputed its employee, one Itharkar, as its representative for making its request to the Labour Court to take its written statement on record, the statement recorded in the order of 14 January 2020 should not be read as its having given up its right to appoint a representative under Section 36 of the Industrial Disputes Act ("Act"). Accordingly, the Respondent seeks a clarification that other than for the purpose of filing its application, which was referred to in the order of 14 January 2020, it should be at liberty to be represented before the Labour Court in accordance with the provisions of Section 36 of the Act. This application is opposed by the Petitioner second party, who appears in person. Besides contesting the status of Itharkar as an employee, it is submitted by her that if the clarification, as sought, were to be included now in the order, it would prejudice her submissions in the case and, in particular, vis-a-vis the Respondent first party's engagement of Thanvi.

2. The Petitioner's apprehensions can certainly be allayed, if this Court were to make a clarification, in addition to including the sentence as suggested by the Respondent, that as and when any representation is claimed under Section 36 of the Act by the Respondent first party, it would be open to the Petitioner second party to challenge such representation and that the sentence added in the order at the instance of the Respondent shall not prejudice her case, if she were to so object.

3. Accordingly, the following order is passed:-

The following sentences shall be added after the sentences beginning with the words “All rights and contentions” and ending with the words “after hearing both parties.” in paragraph 2 of the order dated 14 January 2020 :

“The statement made by the Respondent herein, which is noted and accepted as above, shall not prejudice the Respondent's right, if any, to be represented before the Labour Court in future in the matter in accordance with the provisions of Section 36 of the Act. It is, however, clarified that as and when any such representation is proposed by the Respondent, it will be open to the Petitioner to oppose such representation. The observations made in this order shall not come in the way of the Petitioner in opposing any such representation.”

Smita
Gonsalves

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Smita Gonsalves
Date: 2020.03.11
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(S.C. GUPTE, J.)