

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

**REVIEW PETITION NO.25 OF 2019
IN
WRIT PETITION NO.1808 OF 2018**

Bombay Chamber of Commerce

& Industry

... Petitioner

Versus

Pragzna Pujara

And Another

... Respondents

.....

Mr. Sudhir Talsania, Senior Advocate a/w Mr.V.M. Parkar for the Petitioner.

Mr. Pragzna Pujara, Respondent No.1 in-person.

Mr. Cyrus Bharucha with Shalaka Patil i/b Cyril Amarchand Mangaldas for Respondent No.2.

Mr. Subramanian, Intervenor in person.

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CORAM : S.C. GUPTE, J.

DATE : 14 JANUARY 2020

P. C. :

. Heard learned Counsel for the review-Petitioner and Respondent No.2, and Respondent No.1, who appears in person. This petition seeks review of an order passed by this court on 25 July 2018 in Writ Petition No.1808 of 2018.

2 The subject matter of the controversy in the writ petition concerned the application made by the Petitioner, who was the original second party workman before the Labour Court, under Section

36(4) of the Industrial Disputes Act 1947 (“Act”), objecting to the right of Respondent No.2 herein, as an employer of the second party, to be represented under Section 36 of the Act. The respondent, as an employer, sought to be represented by four named individuals, who were said to be legal advisers to Bombay Chamber of Commerce and Industry (for short, hereinafter referred to as “BCCI”), which was claimed to be an association of employers of whom the respondent was a member. The writ-Petitioner objected to this engagement on four different grounds, each of which was discussed in the order under review. One of the main objections discussed by this court, which went to the root of the matter, pertained to the membership of the Respondent-BCCI, as an association of employers, both for its legal and factual aspects and also, the meaning of the expression “officer” used in clause (a) of sub-section (2) of Section 36 and the capacity of the four named individuals as “officers” within that meaning. This court *inter alia* held that a mere adviser of an association, who had no role to play in the management of the association, could not be termed as “offier” or “office bearer” of the association. In the light of the discussion in the order under review in this behalf, the labour court was found to have clearly erred, both as a matter of law as well as jurisdiction, in allowing the four individuals as representatives of the Respondent employer and that the impugned order, in the premises, was quashed and set aside.

3 The present review petition is filed by BCCI as an effected party. It is submitted that the order does not take into account

submissions, which are currently advanced before this court by its Counsel, and also, does not consider documents relevant to the controversy, which were neither before the labour court nor before this court when it decided the writ petition.

4 In the first place, the order passed by this court on the writ petition does not call for review on any permissible ground under Order 47 Rule 1 of the Code of Civil Procedure, 1908. Additional submissions in support of the original Respondent's case cannot be taken into account for review of the judgment.

5 Mr. Talsania, learned Senior Counsel appearing on behalf of the review-Petitioner, however, submits that the order under review would bind the review-Petitioner in its other matters. So far as a judgment delivered by a court of law, in its effect as regards rights of third parties, who were not parties to the *lis*, is concerned, its only effect is from the standpoint of the law of precedents. It is only the ratio of the decision, which operates as such precedent, and which has a bearing on the rights of other parties. So far as individual determination made in the order or the decision of the court itself is concerned, it has no implication for third parties. For example, if the review-Petitioner engages anyone, even if such other person is termed as a legal adviser, on the basis of terms of engagement, which are either different from, or which were not disclosed in the writ petition, in which the order under review came to be passed, it will be for the concerned court to consider whether or not to accept such other

person as ‘officer’ or ‘office bearer’ of the review-Petitioner association. On that particular point, the judgment under review cannot be said to bind the review-Petitioner.

6 In the light of the above observations and in view of the clarifications, as above, the review petition need not be entertained and is disposed of.

(S.C. GUPTE, J.)

Rajesh V. Chittewan

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