

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

WRIT PETITION NO. 2435 OF 2014

M/s. Tata Consultancy Services Ltd 7 Others. ..Petitioners.

Versus

Bharat Sharma & Another. ..Respondents.

Mr. Sujeet P. Salkar for the Petitioners.

CORAM : PRASANNA B. VARALE &
MADHAV J. JAMDAR, JJ.

Date : **October 25, 2021.**

P. C. :

1. Heard learned counsel for the Petitioner. The petition was circulated for withdrawal vide a *praecipe* dated 8th October 2021. Accordingly, the petition is listed before this Court today.
2. Our attention was invited to the communications in the form of two emails submitted to this Court at the instance of Respondent No.1 – Bharat Sharma. These emails are dated 21st October 2021 and 24th October 2021 respectively.
3. Respondent No.1 is opposing the prayer for withdrawal and submitted that the matter be decided on merits.
4. On going through order-sheet, we find that on 13th November 2014, the petition was adjourned to 18th November 2014 and it was clarified in the words :

"We clarify that no ad-interim order has been passed by us. The learned Labour Court may proceed with the hearing of the reference application."

5. On 18th November 2014, again the matter was listed before this Court and following order was passed :

1. *Heard the learned Senior Counsel appearing on behalf of the Petitioners and respondent No. 1. who is appearing in person. The Petitioners are aggrieved by an order passed by the Labour Court, who is proceeding on day-today basis exparte. The application filed by the Petitioner for appointment of an advocate has not been considered by the Labour Court. The Petitioners are challenging the constitutional validity of the provisions of section 36(4) of the Industrial Disputes Act, 1947.*

2. *We are of the view that the matter requires further consideration. The Respondent No.1 does not want to file any reply. The proceedings which are pending before the Labour Court are stayed. Stand over to 16.12.2014"*

6. Then the matter was listed before this Court on 16th December 2014. As the Petitioner has raised challenge to the constitutional validity of the provisions of the Industrial Disputes Act, 1947 and more particularly the provisions contained in section 36(4) of the said Act and the Petitioner has also raised challenge to the order impugned in the petition, namely the order dated 7th August 2014 passed by the 10th Labour Court at Mumbai in Reference (IDA) No. 89 of 2014 between the Petitioner v/s. Bharat Sharma. On the backdrop of challenge raised to the Act, notice to the learned Attorney General was issued. The division bench of this Court then was pleased to observe that

no case is made out for grant of stay to the proceedings which are going on before the lower Court and the stay which was granted earlier was vacated. The order dated 16th December 2014 further reads thus :

“3. Needless to state that the Petitioners have the right to challenge the said order, if any adverse order is passed.

4. All contentions raised by the Petitioners in this petition are kept open.

5. Liberty is granted to the parties to apply for a fixed date of hearing.”

7. Thus, now it is the will of Petitioner to withdraw petition. There is no interim order running or operating against Respondent No.1 since 16th December 2014. By the order dated 16th December 2014, this Court permitted the Petitioner to challenge if any adverse order is passed. But it seems that no such challenge is raised. Considering all these facts, we see no justifiable reason / ground or logic for an opposition being raised at the instance of Respondent No.1 for the prayer for withdrawal of petition at the instance of Petitioner himself. Accordingly, the Petitioner is allowed to withdraw petition. Petition is disposed of as withdrawn.

[Madhav J. Jamdar, J.]

[Prasanna B. Varale, J.]