

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 94 OF 2024

M/s. Bella Vista Drycleaners

.. Applicant

Versus

Vishwanath Kanojia,

Akhil Bhartiya General Kamgar Union & Anr.

.. Respondents

.....

- Mr. Sunil Rajaram More, Advocate for Applicant.

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CORAM : MILIND N. JADHAV, J.**DATE : SEPTEMBER 15, 2025****P. C.:**

1. Heard, Mr. More learned Advocate for Applicant - Employer.
2. Reference (IDA) No. 158-D of 2021 is heard by 7th Labour Court, Bandra, Mumbai. A preliminary issue as to whether the Applicant employer can be allowed to be represented by Advocate in the Reference is the question which is decided in the negative, agitated before me. Applicant is a small time laundry employing 4-5 persons. In Reference (IDA), Revision Applicant being the First Party – employer filed Application below Exh. C-5 seeking a direction and permission from Labour Court to engage / appoint Advocate to represent its case in the present matter and conduct cross-examination. That Application is comprehensively rejected by virtue of the impugned order appended at page Nos. 38-49 of the Revision Application.

3. Mr. More would draw my attention to the impugned order and submit that in view of the extant decisions, passed by the Delhi High Court in the case of *M/s. Bhagat Brothers v. Paras Nath Upadhyay*¹, and the impugned order is bad in law. He would submit that Applicant is a small time laundry in Mumbai and its proprietor has no knowledge of law so as to cross-examine the Union's witness in the present proceedings before the Labour Court. He would submit that substantive right of prosecuting the case by the employer therefore stands denied.

4. After hearing Mr. More and going through the aforesaid decision in my opinion *prima facie* an arguable case is made out by Mr. More for immediate stay of order dated 01.12.2023 and issuance of notice to Respondent. Hence order dated 01.12.2023 is stayed in the meanwhile.

5. In view of the above issue notice to the Respondents made returnable on 29.09.2025. Humdast permitted. In addition to Court's notice, Applicant is directed to serve copy of the CRA along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

¹ Order dated 13.08.2008 passed in LPA No. 212/2008

6. In view of the controversy which has arisen, I have sought assistance of Mr. Shailesh Pathak learned Advocate appearing regularly in this Court in Labour Law matters to appear in the present case to assist the Court to decide the aforesaid question of representation by Advocate in Reference proceedings. I hereby direct High Court Legal Services Committee to appoint Mr. Pathak, learned Advocate to appear in the present case to assist the Court to decide the aforesaid question of representation by Advocate in Reference proceedings. High Court Legal Services Committee shall give the appointment letter to him to that effect.

7. Mr. Pathak in his opening remark informs the Court that the present issue has been decided by various High Courts including this Court also and according to his opinion, the core issue is now pending in the Supreme Court. He would submit that depending upon the exigency of the case, there are arguments and cross-arguments made whereby Courts have either allowed appointment of Advocate to represent the parties in the proceedings or denied in some cases. He would submit that challenge before the Supreme Court, *inter alia*, pertains to the provisions of Section 36(4) of the Industrial Disputes Act, 1947. He would submit that coupled with the said provisions Section 30 of the Advocates Act has also been invoked.

8. A copy of the CRA is directed to be given to Mr. Pathak forthwith. Mr. More in presence of Court has handed over copy of CRA to Mr. Pathak. He shall prepare his submissions and accordingly file the same to assist the Court in the aforesaid case.

9. Stand over to **29th September, 2025** under the caption "**for Directions**".

Amberkar

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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AMBERKAR
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2025.09.30
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