

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4901 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 5023 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 5070 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 5079 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 5085 of 2025**

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TOTO INDIA INDUSTRIES PRIVATE LIMITED**Versus****PRESIDENT/SECRETARY CHEMICAL MAZDOOR PANCHAYAT**

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Appearance:**MR SACHIN D VASAVADA(3342) for the Petitioner(s) No. 1****THAKKAR AND PAHWA ADVOCATES(1357) for the Respondent(s) No. 1**

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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER**Date : 25/04/2025****ORAL ORDER**

1. Learned advocate Mr.Vasavada for the petitioner has submitted that the application filed by the employer below Exh.9 seeking permission to appear through an advocate, came to be rejected. Learned advocate Mr.Vasavada submits that on 29.04.2024, the petitioner company appeared through an advocate and has filed the Vakalatnama, at that point of time though appeared and filed the statement of claim did not raise any

objection as per section 36(4) of the ID Act, either on the Vakalatnama or on appearance of the advocate.

1.1. Learned advocate Mr.Vasavada submits that thereafter, on 20.05.2024 the matter was transferred from Industrial Tribunal 2 to Industrial Tribunal 1 and on that day also, no objections were raised by the employees. Learned advocate Mr.Vasavada submits that thereafter, on 21.06.2024, the respondent has objected the appearance of advocate and the learned labour court has rejected the application seeking permission to appear through an advocate. Learned advocate Mr.Vasavada submits that the representative of the Union is appearing in the learned labour court since last 25 years and is well versed with the procedure before the learned labour court. Learned advocate Mr.Vasavada submits that in absence of representation through advocate, great injustice would be caused and therefore, impugned order deserves to be interfered with.

2. As against the same, learned advocate Ms.Pahwa submits that after considering the decision rendered by the Apex Court in **Paradip Port Trust, Paradip vs Their Workmen** reported in **(1977) 2 SCC 339**

learned labour court has rejected the application filed by the present petitioner. Learned advocate Ms.Pahwa submits that in an identical situation, the Bombay High Court has held that in absence of two requisite conditions i.e. (1)consent of the opposite party, (2) leave of the concerned labour court, the right which was claimed by the petitioner under section 36(4) of the ID Act cannot be granted.

- 2.1. Learned advocate Ms.Pahwa submits that if interim relief would be granted staying the impugned order passed below Exh.9, then the advocate would continue with the reference and till the final disposal of the petition, reference might be concluded, which would amount to granting the main relief setting aside the impugned order at interim stage.
3. In view of the above, this Court is of the view that matter requires consideration, hence Rule. Proceedings before the learned reference court, Vadodara, in reference (T) No.17 of 2024 is hereby stayed till the final disposal of the petition.

(M. K. THAKKER,J)

NIVYA A. NAIR

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: NIVYA ABHAY NAIR(HC01901), PRIVATE SECRETARY, at High Court of Gujarat on 25/04/2025 18:24:57