

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11448 of 2017

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ATC Telecom Infrastructure Pvt. Ltd., (Formerly Known as Viom Networks Ltd.) a company registered under the Companies Act, 1956, having its registered office at 404, Fourth Floor, Skyline Icon, Andheri Kurla Road, Andheri East, Mumbai- 400059 Maharashtra, India and Circle Office at Plot No.9, Patliputra Golambar, Beside UNICEF Building, Patliputra, Patna- 800013, through its Circle Head and Authorized Signatory Mr. Mandeep Singh Vij, son of Late Manmohan Singh Vij,

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Patna.
2. The Director cum Chairman of Micro and Small Enterprises Facilitation Council under MSMED Act, 2006, Directorate of Industries, 2nd Floor, New Secretariat, Patna, Department of Industries, Government of Bihar, Patna.
3. Micro and Small Enterprises Facilitation Council under MSMED Act, 2006, Directorate of Industries, 2nd Floor, New Secretariat, Patna, Department of Industries, Government of Bihar, Patna.
4. The Joint Director, Micro and Small Enterprises Facilitation Council under MSMED Act, 2006, Directorate of Industries, 2nd Floor, New Secretariat, Patna, Department of Industries, Government of Bihar, Patna.
5. M/s Best Towers Pvt. Ltd., through its Managing Director, having its office at 4/2 Industrial Area, P.S. Patliputra Colony, Patna- 800013.

.... Respondents

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Appearance :

For the Petitioner : Mr. Chittranjan Sinha, Sr. Advocate
Mr. Shakti Suman Kumar,
Mr. Rajesh Ranjan, Advocates
For the State : Mr. Kinkar Kumar, SC9
For the Respondents : Mr. Anuj Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

Heard learned senior counsel for the petitioner as well as
learned counsel for the respondents.

2. The writ petition has been filed for the following reliefs –

*(i) To issue a writ in the nature of Certiorari for quashing
the direction issued in meeting dated 02/06/17 as*



contained in minutes of meeting dated 02/06/17 and communicated vide letter number 2149 dated 13.07.2017 whereby the Micro and Small Enterprises Facilitation Council (hereinafter referred to as the Council) under Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as MSMED Act) directed the petitioner to pay the alleged principal amount of Rs. 1,00,34,854/- (Rs. One Crore Thirty Four Thousand Eight Hundred and Fifty Four only) to the respondent no. 5 within one month, as the same is wholly without jurisdiction, per se illegal, violative of principles of natural justice and contrary to the provisions of the Arbitration and Conciliation Act, 1996 and amendments made thereunder from time to time (hereinafter referred to as the Arbitration Act).

(ii) That consequent upon quashing of the above mentioned direction for payment of the alleged principal amount, the respondent Council may kindly be directed to give the petitioner proper, adequate and reasonable opportunity of hearing in the pending arbitration proceeding.

(iii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.”

3. Without going into the details of the merits of the matter, learned counsel for the parties are in agreement that the writ petition be disposed of in line with and on the same terms as the judgment dated 17.07.2017 passed by the Hon'ble Division Bench of this Court in the following terms –



“Finding statutory violation of Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006, the learned Writ Court has interfered into the matter. A detailed deliberation and consideration has been done by the learned Writ Court to say that there is violation of the statutory requirement of Section 18 of the Micro, Small and Medium Enterprises Development Act which contemplates reference by the Facilitation Council to the Arbitrator and thereafter certain procedures to be followed. That being so, we find no error in the order passed by the Writ Court.

It is a well settled principle that if a statutory provision is violated, the learned Writ Court can exercise jurisdiction even under Article 226 of the Constitution when even if an alternative remedy is available, this principle squarely applies to the present case. The appeals are, therefore, dismissed.

However, the Facilitation Council is directed to decide the issue within a period of 60 days from the date of receipt/production of a copy of this order.”

4. In the above view of the matter, the impugned order contained letter no. 2149 dated 13.07.2017 (Annexure-9) is hereby set aside and the Micro and Small Enterprises Facilitation Council is directed to proceed in the matter and decide the issue in accordance with law within a period of 60 days from the date of receipt/production of a copy of this judgment.

5. The writ petition stands allowed as above.



B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.02.2018
Transmission Date	N.A.

