

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 WRIT PETITION NO. 12921 OF 2017

HAMAL MATHADI KAMGAR SEVA SANSTHA MARYADIT
THROUGH ITS CHAIRMAN G C SANGALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Sapkal V.D.
AGP for Respondent Nos. 1 to 4 : Mr. S. N. Morampalle
Advocate for Respondent No. 5 : Mr. B. G. Sagade

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CORAM : V. K. JADHAV, J.
DATED : 12th MARCH, 2018

PER COURT:-

1. The learned counsel for respondent no.5 has raised a preliminary objection that in view of the provisions of Section 34 of the Arbitration and Conciliation Act, 1996 (for short, “the Act of 1996”), this Writ Petition is not maintainable as an alternate remedy is available to the petitioner.

2 I have also heard learned counsel for the petitioner. He submits that in terms of clause 21 of an agreement, the petitioner has approached the Commissioner and the

Commissioner has accordingly passed an order in the arbitration proceedings. The learned counsel submits that in view of the earlier order passed by this Court, the matter was again taken up by the Commissioner and as such, the petitioner has approached this Court by filing the present Writ Petition.

3. It appears that in terms of the provisions of Section 34 of the Act of 1996, recourse to a court against an arbitral award may be made only by an application for setting aside such award in accordance with Sub-section (2) and Sub-section (3). It thus appears that an alternate remedy is available to the petitioner to challenge the arbitral award before the court. The petitioner has chosen the wrong forum and as such, in view of the provisions of Section 14 of the Limitation Act, the petitioner may seek for condonation of delay if approached to the court in terms of the provisions of Section 34 of the Act of 1996.

4. The Writ Petition is accordingly disposed of.

(V. K. JADHAV, J.)