

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17131-2018

Date of decision: 18.07.2018

Reliance Retail Limited

...Petitioner

V/s.

Haryana Micro and Small Enterprises Facilitation
Council and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Pankaj Jain, Advocate for the petitioner.

RITU BAHRI, J. (Oral).

The petitioner is seeking a writ of certiorari for quashing the order dated 30.05.2018 (Annexure P-6) passed by respondent No. 1 in case No. 496 of 2018 whereby the Chairman, Haryana Micro and Small Enterprises Facilitation Council-cum-Director of Industries & Commerce, Haryana has referred the application of respondent No. 2 to the Arbitrator.

The only grouse of the petitioner is that in the application, a prayer was made for grant of Rs. 1 Crore over and above the amount claimed i.e. 30 lacs plus interest which comes to Rs. 43 lacs from the present petitioner.

Learned counsel for the petitioner states that as per notification dated 20.04.2007 issued by Haryana Government Industries and Commerce Department and as per Sections 17 and 18 of the Micro Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'the Act'), the buyer is liable to pay the amount of goods with interest thereon and even reference can be made with regard to any amount due under Section 17.

There is no provision under the above said Act to assess or grant the

compensation. This Court is of the view that since the matter has already been referred, the Arbitrator will be bound by giving the award as per Sections 17 and 18 of the above said Act. A reference at this stage has been made to a judgment passed by Madras High Court in ***R.Natesan V/s. R. Padmanaban, 2016 (5) MLJ 614*** in which it was held that the Arbitrator could not grant compensation over and above the amount sought as per the terms of the contract.

In the present case since the matter has already been referred to the Arbitrator by the impugned order (Annexure P-6), this petition is being disposed of by giving liberty to the petitioner to take its plea before the Arbitrator with regard to provisions of Sections 17 and 18 of the Act which provide only for grant of payment along with interest.

18.07.2018

Divyanshi

**(RITU BAHRI)
JUDGE****Whether speaking/reasoned**

:

Yes/No**Whether reportable**

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Yes/No