

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2155 OF 2019

(M/S. CREATIVE ENTREPRENEURS LLP...VS.. M/S. SND LIMITED.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.S.Dewani, Advocate for Petitioner.
Shri Arjun Baghel, Advocate for Respondent.

CORAM : Z.A.HAQ, J.

DATED : AUGUST 20, 2019.

Heard.

By the impugned order, the Commercial Court has stayed the effect and operation of the award dated 31st May 2016 after being satisfied that the present non-applicant has complied with the mandatory requirement of Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006. Being aggrieved by the interim order passed by the Commercial Court, the applicant in whose favour award stands has filed this petition.

Initially, one of the contention of the petitioner was that the present non-applicant has not complied with the mandatory requirement of Section 19 of the Act of 2006 and it has not deposited 75% of the amount.

Considering the nature of controversy, an order was passed on 16th July 2019 referring the parties to learned Registrar (Judicial) of this Court who was directed to hear the parties and ascertain the liability of the present respondent as per the award dated 31st May 2016 and to ascertain whether

the compliance is made by the present respondent as per the order passed by the Commercial Court on 16th November 2017 and the judgment delivered by this Court in Writ Petition No. 837 of 2018. Accordingly, the learned Registrar (Judicial) has submitted report dated 16th July 2019 pointing out that the liability of the present respondent comes to Rs.1,10,24,506/- and undisputedly this amount is deposited by the present respondent before the Commercial Court.

Other contention of the petitioner is that the respondent is liable to deposit further amount of Rs.69,00,000/- to safeguard the interest of the petitioner as per the impugned award. I find that the Commercial Court has applied its mind to this aspect and has exercised its discretion judiciously. It cannot be said that the Commercial Court has committed any illegality or error of jurisdiction which necessitates interference with the interlocutory order passed by the Commercial Court.

Hence, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

At this stage, a grievance is made by the petitioner that the application filed by it seeking permission to withdraw the amount deposited by the respondent is still pending, and it is prayed that directions be given for expeditious disposal of the application.

Considering the facts of the case, the Commercial Court is directed to decide the application filed by the petitioner seeking permission to withdraw the amount deposited by the respondent, within two months from today.

The amount of Rs.Ten Thousand each deposited by the petitioner and the respondent as per the order dated 15th July 2019 be refunded to the petitioner and the respondent.

JUDGE

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