

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.20964 OF 2021

AND

W.M.P.NO.22226 AND 22229 OF 2021

M/s.Super Steam Boilers Engineers Pvt Ltd.
Rep.by its Director Mr.Nazeer A.Kazi
Plot No.A.402, TTC Industrial Area
MIDC Village, Mahape
Navi Mumbai-400 701.

...Petitioner

-Vs-

1. The Micro, Small Enterprises Facilitation Council
Coimbatore Region, Rep.by its Chairperson
Office of the Industries Commissioner and
Director of Industries and Commerce
Guindy, Chennai - 600 032.

2. M/s.Unicon Engineers
Rep.by its Managing Partner P.Ponram
613-A/6, Bharathi Road
Chinnavedampatti Post
Coimbatore-6.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus alling for the records relating to the proceedings in Case No.MSEFC / CBER / 219 / 2019 dated 10.12.2020 issued by the 1st respondent quash the same and consequently direct the 1st respondent to conduct the proceedings in accordance with Section 18 of the MSME Act 2006 and pass an order after affording sufficient opportunity to the Petitioner.

For Petitioner : Mr.R.Bharath Kumar

ORDER

This writ petition has been filed challenging the orders passed by the first respondent dated 10.12.2020 and for a consequential direction to the first respondent to conduct the proceedings in accordance with Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'MSME Act'). The learned counsel submitted that even when the conciliation proceedings were pending, the first respondent went ahead to decide the dispute between the parties and the said procedure is in direct violation of Section 18(3) of the MSME Act. It was further submitted that the petitioner was not given sufficient opportunity to put forth his case since the first respondent came to a conclusion that the parties are not able to come to a settlement in the conciliation proceedings and in the very next hearing on 10.12.2020, the proceedings were concluded and the impugned order was passed. This according to the petitioner is in direct violation of the provisions of the MSME Act. The learned counsel, while substantiating his submissions, relied upon the judgment of this Court reported in *Ramesh Conductors Pvt Ltd., -vs- M&SE Facilitation Council (Micro & Small Enterprises)* reported in 2016(1) C.T.C.403.

2. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record.

3. This Court carefully went through the order passed by the first respondent. It is seen from the said order that the petitioner had participated in the proceedings right through both during the stage when it was referred for conciliation and at the stage when it was taken up for arbitration, after the conciliation failed. The petitioner having participated in the entire proceedings have put forth their defence and the learned counsel for the petitioner was allowed to make his submissions on the defence taken by the petitioner and hence, this Court is not satisfied with the stand taken by the petitioner to the effect that the first respondent did not follow the procedure under Section 18 of the MSME Act. The first respondent has taken

into consideration the claim made by the second respondent and the defence raised by the petitioner and has come to the conclusion on the merits of the case based on the materials placed before the first respondent. After having participated in the proceedings right through, the petitioner cannot be allowed to turn back and question the order passed by the first respondent by pointing out some procedural irregularity.

4. It is true that this Court had interfered with the orders passed by the Council whenever it was found that there was a gross violation of Section 18 of the Act. There is absolutely no quarrel with the law that was discussed in the judgment that was relied upon by the learned counsel for the petitioner. In the present case, the order passed by the first respondent clearly shows that the petitioner was given sufficient opportunity and the petitioner had also put forth their defence. Thereafter, this Court exercising its jurisdiction under Article 226 of the Constitution of India, cannot interfere with the order on the ground of some procedural irregularity which does not go to the root of the matter. The petitioner ought to have challenged the award passed by the first respondent under the Arbitration and Conciliation Act and having failed to do so, the petitioner is only making an attempt to question the order passed by the first respondent after nearly nine months, by way of filing the present writ petition.

5. This Court is not convinced with the grounds raised by the learned counsel for the petitioner and this Court does not find any merits to entertain this writ petition.

6. In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

KST

To

The Chairperson,
Micro, Small Enterprises Facilitation Council
Coimbatore Region,
Office of the Industries Commissioner and
Director of Industries and Commerce
Guindy, Chennai - 600 032.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.52291

W.P.No.20964 of 2021

RLD(CO)
RLP(08/10/2021)