

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2515 OF 2022**

DB Chaudhari & Sons & Anr ...Petitioners
Versus
Pradeep Kumar Sole Arbitrator & Anr ...Respondents

**WITH
WRIT PETITION NO. 2517 OF 2022**

Hari Om Travels Through Proprietor Arun D ...Petitioners
Naik & Anr
Versus
PS Devarajan Sole Arbitrator & Anr ...Respondents

**WITH
WRIT PETITION NO. 2518 OF 2022**

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DB Chaudhari & Sons & Anr ...Petitioners
Versus
Pradeep Kumar Sole Arbitrator & Anr ...Respondents

**WITH
WRIT PETITION NO. 2519 OF 2022**

Nilesh S Vichare & Anr ...Petitioners
Versus
S Rajeni Ramadass Sole Arbitrator & Anr ...Respondents

WITH

WRIT PETITION NO. 2520 OF 2022

Hari Om Travels Through Proprietor Arun D Naik & Anr ...Petitioners

Versus

PS Devarajan Sole Arbitrator & Anr ...Respondents

WITH

WRIT PETITION NO. 2522 OF 2022

DB Chaudhari & Sons & Anr ...Petitioners

Versus

Pradeep Kumar Sole Arbitrator & Anr ...Respondents

Ms Anita Castellino, i/b Sayed Zia, for the Petitioner.

Mr Anand Poojary, with Nikita Pawar & Bhushan Kanchan, i/b SI Joshi & Co, for Respondents Nos. 1 and 2.

**CORAM G.S. Patel &
Madhav J. Jamdar, JJ.**

DATED: 4th April 2022

PC:-

1. These Writ Petitions are filed against two private entities, an Arbitrator and a private company. First of all, the prefixes to the parties' names are to be removed. Amendment to be carried out without reverification.

2. Neither of these Respondents is State or an instrumentality of State within the meaning of Article 12 of the Constitution of India. Neither of these are amenable to our Writ jurisdiction.

3. The argument that is repeated again and again before us is that the Petitioner in an arbitration is left “remediless because a jurisdictional challenge under Section 16 has failed”. The purpose of the Arbitration and Conciliation Act and its avowed intent is to ensure a quick disposal of disputes and enforcement of arbitral awards. The purpose of narrowing and limiting the available grounds for challenge is not to expand the scope of interference under Article 226 of the Constitution of India.

4. The Petitioners are not remediless. It is only that their challenges under Section 16, having failed, require the Petitioners to take certain steps under the Arbitration Act. That is not a ground to invoke our Writ jurisdiction under Article 226 in what is purely a private contractual dispute before a private dispute redressal forum.

5. The decision of the Supreme Court being cited is consistently misunderstood and misread. Ms Castellino relies on a decision of the Supreme Court in *Magadh Sugar & Energy Ltd vs The State of Bihar*.¹ That decision was on the question of an alternative remedy and the correct approach of the writ court when an alternative remedy is available. That is not the issue before us. A more appropriate reference might have been to *Bhaven Construction vs Executive Engineer*.² But that also will not assist the Petitioners because it is concerned with a very narrowly defined set of circumstances, where a Petitioner has no remedy at all.

1 2021 SCC OnLine SC 801.

2 (2022) 1 SCC 75.

6. The Petitions are without merit and they are rejected. There will be no order as to costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)