

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2814 OF 2022

Pfizer Ltd ...Petitioner
Versus
Micro and Small Enterprises Facilitation Council ...Respondents
& Anr

Mr Janak Dwarkadas, Senior Advocate, with Sharan Jagtiani,
Senior Advocate, Kunal Dwarkadas, Rahul Dwarkadas,
Neveille Mukerji & Juhi Bahirwani, i/b Veritas Legal, for the
Petitioner.

Mr Yuvraj Narvankar, for Respondent No. 2.

CORAM G.S. Patel &
Vinay Joshi, JJ.
DATED: 11th March 2022

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1. On 14th February 2022, we passed an order in Writ Petition No. 1388 of 2022 in paragraph 3 of that order, reproduced at page 75 of the present Petition, we said:

“We dispose of the Petition with a direction to the MSE Facilitation Council to decide the application by the Petitioner on the question of jurisdiction by a reasoned order before proceeding with any other claim or matter before it between the parties. If that decision on

jurisdiction is against the Petitioner, the Council will not proceed further in the main matter before it for a period of one week after that order is served on the Petitioners or their Advocates.”

2. Now we are informed that the MSME Council did make an order on the jurisdictional question raised by the Petitioner. The Petitioner filed a Writ Petition (L) No. 5565 of 2022 which is assigned to a learned Single Judge (Mr Justice AS Gadkari) as per the present roster. Circulation was sought in that Court. After hearing the Petitioner on the question of urgency, that Court granted circulation for 1st April 2022.

3. When the MSME Council was told that this jurisdictional order was under challenge before AS Gadkari J and the matter was listed on 1st April 2022, and the Petitioner for that reason requested an adjournment of the arbitration proceedings till after 1st April 2022, the MSME Council instead said it was not concerned with any filing of any Writ Petition and would proceed with the arbitration on merits. It fixed 15th March 2022 as the date on which the Petitioner was supposed to produce its evidence, arguments were to be heard and the matter was scheduled to be closed.

4. We do not appreciate this conduct of the MSME Council at all. Mr Narvankar for the 2nd Respondent and the Claimant that before the MSME, does not dispute the fact that the Writ Petition has been filed before and has been circulated before Gadkari J for 1st April 2022. He states on instructions that the Claimant (the 2nd

Respondent) has no objection to a postponement of the arbitration proceedings after 1st April 2022. This statement is noted.

5. However, the question is not of what the 2nd Respondent is willing or agreeable to do or say, or even whether it is agreeable to make a joint request to MSME Council along with the Petitioner for an adjournment. The question is what the MSME Council proposes to do.

6. On this presentation of facts, we have no option but to direct the MSME Council not to proceed with the arbitration proceeding before it in any shape, fashion or form until 2nd April 2022.

7. Any further extensions of this order will obviously have to be made before Gadkari J.

8. The Petition is actually disposed of with these limited directions. There will be no order as to costs.

9. The Petition to be finally numbered for statistical purposes.

(Vinay Joshi, J)

(G. S. Patel, J)