



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NO.26365 OF 2021 AND
W.M.P.NO.27835 OF 2021

M/s. HLL Biotech Limited,
Rep. by its Chief Executive Officer,
Vijay Kumar Sistla,
S.No.192, 195, Meleripakkam (Post),
Thirumani Village, Thirukazhukundram,
Chengalpattu, Kanchipuram - 603 003.

.. Petitioner

Vs.

1. The Chairman,
Micro and Small Enterprises Facilitation Council,
Chennai Region,
Guindy, Chennai - 600 032,
Tamilnadu.

2. M/s. Metec Design and Construction
Engineers India Private Limited,
No.1/460, Multi Industrial Estate,
Gerugambakkam, Porur,
Chennai - 600 128.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the First Respondent relating to the order dated 23.02.2021 in MSEFC/CR/422/2019, passed by the First Respondent Council and quash the same and consequently direct the First Respondent Council to initiate and conduct fresh proceedings in consonance with the provision of MSMED Act.

For Petitioner : Mr.V.Kamala Kumar

For R1 : Mr.R.Kumaravel
Additional Government Pleader

For R2 : Dr.P.Vasudevan



considered the application filed by the 2nd respondent and passed order. There is no illegality in following the statutory provisions by the 1st respondent. The impugned order is legal, valid, enforceable and prayed for dismissal of the Writ Petition.

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5. The learned counsel appearing for the 2nd respondent contended that the Writ Petition is not maintainable as the petitioner failed to deposit 75% of the amount ordered as per Section 19 of the Act. The petitioner agreed to pay a sum of Rs.4,51,00,000/- in installment and therefore impugned order passed by the 1st respondent is valid and legal and prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the 1st respondent as well as the learned counsel appearing for the 2nd respondent and perused the entire materials on record.

7. From the materials on record, it is seen that the 2nd respondent has made an application before the 1st respondent under Section 18(1) of the Act. When such an application is made, the 1st respondent must initiate conciliation proceedings either itself or refer the dispute to any institution or centre for conducting conciliation proceedings. When a supplier makes a reference under Section 18(1) of the Act to the Micro Small Enterprises Facilitation Council, the Council as per Section 18 (2) of the Act must conduct conciliation either by itself or seek the assistance of any Institution or Centre providing Alternate Dispute Resolution services by making a reference to such an Institution or Centre. Sections 65 to 81 of the Arbitration and Conciliation Act, 1996 are applicable to such conciliation. If settlement is arrived at in the conciliation proceedings, the 1st respondent has to pass orders as per settlement. If no settlement is arrived at in the conciliation proceedings, the 1st respondent has to close the conciliation proceedings and the 1st respondent itself has to take up the dispute for Arbitration or refer the dispute to any Institution or Centre providing Alternate Dispute Resolution services for arbitration. Such reference shall be made as if such arbitration is in pursuance to arbitration agreement, referred to in Section 7(1) of the Arbitration and Conciliation Act, 1996. Such arbitration has to be conducted as per the provisions of the said Act.

8. A perusal of the impugned order clearly shows that the 1st respondent after terminating the conciliation proceedings, as no settlement is arrived, failed to conduct arbitration proceeding itself or refer the dispute to any other Institution to conduct Arbitration. The 1st respondent failed to comply with Section 18 (3) of Micro, Small and Medium Enterprises Development Act, 2006



and therefore, the impugned order passed by the 1st respondent is not a decree, an Award or order. In view of the same, the impugned order is liable to be set aside.

9.The contention of the learned counsel appearing for the 2nd respondent that the Writ Petition is not maintainable as petitioner failed to deposit 75% of the amount as per Section 19 of the Act is not acceptable as the order impugned in this Writ Petition is not an order passed as per Section 18(3) of Micro, Small and Medium Enterprises Development Act, 2006.

10.The procedure contemplated under Section 18(2) & (3) of the Act is mandatory and the 1st respondent is bound to follow the procedure. The 1st respondent has failed to follow the procedure contemplated in Section 18 of the Act and hence, the impugned order is invalid and illegal.

11.For the above reasons, the impugned order of the 1st respondent is set aside and the 1st respondent is directed to conduct fresh proceedings as per Section 18 of the Act.

12.With the above observations, the Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

krk

To

The Chairman,
Micro and Small Enterprises Facilitation Council,
Chennai Region,
Guindy, Chennai - 600 032,
Tamilnadu.

+1cc to Dr.P.Vasudevan, Advocate, S.R.No.20561
+1cc to Mr.V.Kamala Kumar, Advocate, S.R.No.21456
+1cc to the Government Pleader, S.R.No.21036

W.P.No.26365 of 2021

SV(CO)
PM/26/04/2022