



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

Writ Petition (WP) No. 6149 of 2022

Municipal Council Wadi, through its Chief Officer, Nagpur

Versus

Micro and Small Facilitation Council through its Secretary and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S.Tiwari, Advocate for the petitioner.

Shri A.S.Ambatkar, Advocate for the respondent no.2.

CORAM : ANIL S. KILOR, J.

DATED : 4th OCTOBER, 2023.

Heard.

2. The impugned order dated 14th September, 2022 passed by the learned Micro and Small Enterprises Facilitation Council, Nagpur rejecting the application moved by the petitioner for grant of permission to lead evidence, is under challenge in this writ petition.

3. The impugned order reads thus :

Adv. Ankit Ambatkar appeared for applicant.
Adv. Tiwari appeared for Non-Applicant. NA further requested for production personal evidence before the council. This request was already overruled by the council on 29.9.2021. Council rejected the request for production of personal

evidence as this is MSME council for delayed payment. NA asked to produce the documentary evidence for false document of completion of work. Matter will be decided in next hearing for final order.

4. It is evident from the above referred order that the application filed by the petitioner to permit the petitioner to lead evidence came to be rejected on the ground that the earlier similar prayer was overruled by the council on 29.9.2021. The order dated 29.9.2021 reads thus:

Adv. Ambatkar appeared physically for the applicant, Adv. Tiwari appeared for the NA on VC. The application of the NA regarding dismissal of the present petition on the ground that “there are disputed questions of facts & needs evidence to be taken”. As this Council is statutory one, with the conferred jurisdiction to decide the dispute pertaining to delayed payment to MSME, the objection raised by the NA has no merit and hence overruled. The NA has already placed reply on merit on record, both the parties directed to suggest the issues to be decided in resolving the present dispute. Post for next dt.

5. In the above referred facts, it is also necessary to refer to the prayer clause of the application for dismissal of petition, which was rejected on 29th September, 2021, which reads thus:

“It is therefore most humbly prayed that the Petition cum Reference should be dismissed in the interest of justice.”

6. Whereas, the prayer clause in the application for grant to lead evidence which came to be rejected on 14th September, 2022, reads thus:

“It is therefore most humbly prayed that the permission may be granted to respondent to lead evidence and further Hon’ble Court may allow the present application in the interest of justice.”

7. From both the prayer clauses and the contents of the applications, it is evident that the purpose and the prayer in both the applications were different and even on facts the reasons recorded in the impugned order dated 14th September, 2022 while rejecting the application for permission to lead evidence filed by the petitioner, are contrary to the record.

8. The learned counsel for the respondent submits that such application which came to be rejected by the Council is not maintainable under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006.

9. However, it is evident that no such reason was recorded by the Council but the reasons which are recorded, are contrary to the record. Hence, I am of the opinion that the application needs to be remanded back to the learned Micro and Small Enterprises Facilitation

Council, Nagpur for fresh consideration. Accordingly, I pass the following order.

- i. The writ petition is partly allowed;
- ii. The order dated 14th September, 2022 passed by the learned Micro and Small Enterprises Facilitation Council, Nagpur is hereby quashed and set aside;
- iii. The matter is remanded back to the learned Micro and Small Enterprises Facilitation Council, Nagpur to decide the application moved by the petitioner afresh after hearing both the parties.

[ANIL S. KILOR, J.]