



WEB COPY



W.P.No.20580 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.20580 of 2022

and

W.M.P.Nos.19697 & 19708 of 2022

The Tamil Nadu Cements Corporation Limited,
Aavin Illam - 5th Floor,
No.3A, Pasumpon Muthramalinganar Salai,
Nandanam, Chennai – 600 035.
Rep., by its Manager (Materials) in Charge.

... Petitioner

Vs.

1.Micro and Small Enterprises Facilitation Council,
Coimbatore Region,
District Industries Centre / Zonal Office,
Rep., by its General Manager

2.M/s. Union Engineers,
No.513-A/6 Bharathi Road,
Chinnavedampatty,
Coimbatore – 641 049.
Rep., by Managing Partner, P.Ponram

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of 1st respondent in Case No.M&SEFC/CBER/30/2016 dated 04.06.2016 and the consequential order in RC.No.13341/D3/2014 dated 25.10.2016 and quash the same.



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For Petitioner : Mr.A.Edwin Prabakar

For Respondents : Mr.B.Manoharan, for R2

ORDER

The Writ Petition has been filed challenging the order dated 04.06.2016 and the consequential order dated 25.10.2016 of the first respondent, mainly on the ground that after conciliation failed, conciliator has passed an order and it is not an award, therefore, the entire order has been vitiated. Though the various other grounds have been raised, this Court is of the view that the writ petition is not maintainable.

2. It is relevant to note that the same order was the subject matter of challenge under Section 34 of Arbitration and Conciliation Act. The two O.Ps., were filed challenging the different order in O.P.Nos.692 & 1030 of 2019. The present writ petition related to the order, which was challenged before the original side under Section 34 of the Arbitration and Conciliation Act, in O.P.No.1030 of 2019. This Court by order dated 09.09.2021, dismissed the O.P., mainly on the ground of limitation. Besides, this Court also noted that the amount claimed by the respondent has not been disputed even before the M.S.M.E.D Council. That apart, the application filed under Section 33 of the Act was also the subject matter of the



Original Petition and the issue went up to Hon'ble Supreme Court in S.L.P.No.19980-19981 of 2016 as against the order passed by this Court in O.S.A.No.184 of 2019. The Hon'ble Apex Court by order dated 12.02.2021 has in fact permitted the petitioner to deposit the amount and then prefer the O.P. Thereafter O.P., has been filed and the same was dismissed. Though the O.P., was dismissed mainly on the ground of limitation, the discussion in the entire final order indicates that it not only confined to the limitation but also the facts of the case.

3. Learned counsel for respondents now submits that as against the dismissal of the O.P., O.S.A.No.55 of 2022 was filed. As against the O.P.No.692 of 2019, O.S.A., was filed and it was dismissed as withdrawn. As against the order passed in O.P.No.1030 of 2019, the petitioner also preferred an O.S.A., but not prosecuted it. Such being the position, when the original side has already decided the O.P., it has almost reached the finality.

4. The orders of the M&SME Council has reached the finality. Now, the same cannot be challenged under Article 226 on different grounds. If such writ petitions are entertained, there will be no end to the litigation and no orders will reach its logical conclusion. In this view of the matter, I do not find any merit in this writ petition.



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5. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

03.02.2023

Index :Yes/No

Neutral Citation: Yes / No

AT

To
The General Manager
Micro and Small Enterprises Facilitation Council,
Coimbatore Region,
District Industries Centre / Zonal Office,



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N.SATHISH KUMAR, J.

AT

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