

OD-19

ORDER SHEET
APO/66/2023
IA NO: GA/1/2023
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

ANUPAM INDUSTRIES LIMITED
-VS-
WEST BENGAL MICRO SMALL ENTERPRISE FACILITATION COUNCIL AND ANR

BEFORE:
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

DATE: 23RD FEBRUARY 2024.

Mr. S. Dasgupta, Adv.; Mr. A. Dutta, Adv.; Ms. P. Choudhury, Adv.
Mr. M. Bose, Adv.

The Court: This intra-court appeal is directed against the order dated 25.04.2023, passed in WPO/293/2023.

In the aforesaid writ petition, the appellant had sought for quashing of the arbitration case registered by the West Bengal Micro and Small Enterprises Facilitation Council (hereinafter referred to as "the Council").

The main ground on which the challenge was made to the proceeding registered by the Council was by contending that the claimant before the Council, namely the private respondent herein, was not a registered unit under the provisions of the MSMED Act.

The private respondent/claimant raised a preliminary objection before the learned Writ Court objecting to the maintainability of the writ petition on the ground that the appellant cannot seek for a writ of mandamus to quash the arbitration proceeding pending before the Council since the appellant had an alternative and adequate remedy under the provisions of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the 1996 Act”). It was further contended by the private respondent/claimant that it will be well open to the appellant to initiate proceedings under section 37 of the 1996 Act and question the jurisdiction of the Council under section 16 of the 1996 Act. In this regard, reliance was placed on section 18(3) of the MSMED Act.

The learned Writ Court, after elaborately considering the factual position, sustained the preliminary objection raised by the private respondent/claimant and held that it cannot interdict the ongoing arbitration proceeding by the Council.

We are in full agreement with the view expressed by the learned Single Judge as we find no reason to interfere with the said order of the learned Single Judge.

The learned counsel for the appellant strenuously contends that an application has been filed before the Council under section 16 of the 1996 Act objecting to its jurisdiction.

It is not clear to us whether the said application has been taken up by the Council.

Learned Advocate appearing for the private respondent/claimant submits that the arbitration proceeding has been concluded and the award has been reserved by the Council.

In any event, it will be open to the appellant to move the Council if such application had been filed and the same is still pending before it.

This appeal accordingly stands dismissed along with the connected application.

(T.S. SIVAGNANAM, CJ.)

(HIRANMAY BHATTACHARYYA, J.)

tk