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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 957 OF 2023**

M/s. Patil Construction,
Flat No-3, Building-Supushp,
Six Pearl Apartment, Gangapur Road,
Dsouza Colony, Block-1, Nashik
Email:patilco.nsk@gmail.com
Mobile:9823773231.

... Petitioner

vs.

1. Micro and Small Enterprises Facilitation
Council (MSEFC)
Office of Joint Director of Industries,
Nashik Region, Nashik Plot No. P-15,
MIDC, Near ITI Signal, Satpur,
Nashik-422 007, Maharashtra Pin-422 007.

2. Department of Military Affairs
Through Garrison Engineer Department
Garrison Engineer(Central), Kirki,
Pune – 411 003
Email:cepze8@gmail.com

... Respondents

Mr. Alankar Kirpekar a/w. Sagar Kasar, Ayush Tiwari, Chaitali
Bhogle i/b. Sagar Kasar, for Petitioner.

Mr. D.P. Singh, for Respondent No.2.

Mr. S.L. Babar, AGP for Respondent No.1.

CORAM : GAURI GODSE, J.

DATED : 12th APRIL 2024

ORAL ORDER:

1. Considering the grievance made by the petitioner and by

taking into consideration the submissions made by the parties, the petition is taken up for final disposal at admission stage. The grievance in the petition is regarding the rejection of the petitioner's application on the ground of limitation by sending a one-line e-mail. The application was filed by the petitioner for reference under Section 18(1) of Chapter V of the Micro, Small and Medium Enterprises Development Act, 2006. In response to the petitioner's grievance, respondent no.1 has filed an affidavit-in-reply. Paragraph No. 4 of the affidavit-in-reply reads as under:

"I say that before filing the present writ petition, if the Petitioner would have approached the Respondent No.1, the Petitioner would have been directed to make afresh application with all relevant documents on Samadhan Portal of Respondent No.1. I however say that, before filing the present writ petition, the Petitioner did not approach the Respondent No.1."

2. In view of the aforesaid response, learned counsel for the petitioner submits that he may be granted permission to file the online application in physical form. He submits that copy of the online application filed on 25th July 2022 is annexed as Exhibit-E to the present petition. Learned AGP submits that in view of the affidavit filed on behalf of respondent no.1, appropriate directions may be issued to decide the petitioner's application.

3. Learned counsel for the petitioner submits that this court had granted ad-interim protection on 13th February 2023. He submits that to enable the petitioner to make an appropriate application for interim relief in the reference application, the ad-interim protection granted by order dated 13th February 2023, be continued for a period of eight weeks from today.

4. I have perused the affidavit-in-reply filed on behalf of respondent no. 1. It is stated that the email rejecting the petitioner's application is an auto-generated email for want of various relevant documents. A perusal of the email indicates the rejection remark as 'under law of limitation'. However, the response on behalf of respondent no.1 shows that the application is not rejected as barred by limitation, but it appears that it is shown rejected for want of certain compliances. Hence, considering the response on behalf of respondent no. 1 that the email is an auto-generated email, I find it appropriate in the facts of the present case to permit the petitioner to submit the online application in physical form. Respondent No. 1 shall be at liberty to scrutinize the same and decide it in accordance with law.

5. In view of the aforesaid, the petition is disposed of by passing the following order:

I) The impugned communication by way of e-mail dated 3rd May 2022 is quashed and set aside.

II) The Petitioner is permitted to file the application dated 25th July 2022(Exhibit-E) in physical form before respondent no.1 within a period of four weeks from today.

III) Respondent no.1 is at liberty to scrutinize the application and shall decide it in accordance with law.

IV) Ad-interim protection granted by order dated 13th February 2023, is extended for eight weeks from today, subject to the petitioner filing an appropriate application within four weeks from today before respondent no.1 as permitted in clause (II) above.

6. It is clarified that I have not examined the rival contentions of the parties on merits. Hence, all contentions of all parties are kept open.

7. Writ Petition is partly allowed in the aforesaid terms.

(GAURI GODSE, J.)