



C.R.P.No.4206 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

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THE HON'BLE MR.JUSTICE **V.LAKSHMINARAYANAN**

C.R.P.No.4206 of 2024 &
CMP.No.23311 of 2024

Chennai Petroleum Corporation Limited : Petitioner

versus

1. Micro and Small Enterprises Facilitation Council,
Chennai Region,
Represented by its Secretary / Regional Joint Director
of Industries and Commerce,
A-30, Thiru Vi Ka Industrial Estate, Guindy,
Chennai – 600 032.

2. M/s. M. Govindaraj Contractor & Earth Movers,
Plot No. C-1, Flat No. F2,
Jansi Aishwariyam Apartments,
Thiruvallur Nagar, MKN Road,
Alandur, Chennai – 600 016. : Respondents

Prayer: Petition filed under Article 227 of the Constitution of India seeking to set aside the order dated 29.08.2024 bearing reference number RC.No.5907/A3/2022 passed by the Micro and Small Enterprises Facilitation Council, Chennai Region thereby consequently, strike down the



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proceedings bearing reference number MSEFC/CR/423/2022 pending on the file of the first respondent, Micro and Small Enterprises Facilitation Council, Chennai Region.

For Petitioner : Mr.Om Prakash, Senior Counsel,
for Mr.Raghavendra Ross Divakar

For Respondent 2 : Mr.K.Krishnan

ORDER

I have heard Mr.Om Prakash, learned senior counsel for Mr.Raghavendra Ross Divakar appearing for the civil revision petitioner and Mr.K.Krishnan for the second respondent.

2. The civil revision petition seeks to strike off the proceedings in R.C.No.5907/A3/2022 dated 29.08.2024.

3. The civil revision petitioner is the respondent before the Micro and Small Enterprises Facilitation Council (hereinafter referred to as “MSEFC.)



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4. The simple case of the civil revision petitioner is that the second respondent had entered into a works' contract with it and hence, a proceeding under MSME Act is not maintainable. The second respondent, pleading that the civil revision petitioner has defaulted in payment, had initiated proceedings invoking the provisions of Micro, Small and Medium Enterprises Development Act of 2006. The civil revision petitioner took an objection before the MSEFC that, being a works contract, it is not covered under the provisions of this Act. Thereafter, he filed a writ petition before this Court in W.P.No.4861 of 2024 sought for quashing of the proceedings initiated by the first respondent.

5. This Court did not agree with the plea of the petitioner that the proceedings need not be quashed. After referring to the judgment in ***Gujarat State Civil Supplies Corpn. Ltd. v. Mahakali Foods (P) Ltd., (2023) 6 SCC 401***, it passed the following directions:

“5. Having regard to the aforesaid submissions made, this Court without expressing any view on the merits of the controversy involved, passes the following order:-



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(i) before passing any final order in the Proceedings No. MSEFC/ CR/423/2022, the concerned authority shall immediately examine the petition filed by the Petitioner under Section 16 of the A & C Act on 27.02.2024 regarding the jurisdiction of the First Respondent to entertain the claim of the Second Respondent;

(ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the persons concerned requiring the same to be furnished within a specified time frame for the same;

(iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard; and

(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the



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decision taken communicated under written acknowledgment.”

6. Mr.Om Prakash submits despite a specific direction of this Court that the first respondent should examine the petition that has been filed by the civil revision petitioner under Section 16 of the Arbitration and Conciliation act and thereafter pass a reasoned order, the first respondent has failed to do so and has passed the impugned order.

7. A perusal of the impugned order shows that the first respondent has merely extracted the directions that have been given by this Court in WP.No.4861 of 2024 dated 27.02.2024 and disposed the petition filed under Section 16 of the Arbitration and Conciliation Act and in a laconic manner.

8. The directions given by this Court are clear and categorical. Honourable Mr.Justice P.D.Audikesavalu has specifically directed the first respondent to pass a reasoned order dealing with each and every contention that has been raised by the civil revision petitioner and the respondent on the merits of the petition.



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9. I did not find anywhere in the impugned order that the exercise carried on by it in accordance with the aforesaid directions.

10. Mr.K.Krishnan appearing for the second respondent agrees that he has received the written submission that was filed by the civil revision petitioner on 21.06.2024. In the written submission, it has been specifically pleaded in paragraph 4 that the contract between the parties is in the nature of the “works contract” and by virtue of judgment of this Court, the MSEFC does not have jurisdiction.

11. As the first respondent has not performed the exercise required to determine its jurisdiction in terms of Section 16 of the Arbitration and Conciliation Act, I am constrained to interfere with the same.

12. Accordingly, the order dated 29.08.2024 passed in RC.No.5907/A3/2022 is set aside. The first respondent is directed to re-do the exercise directed by this Court in W.P.No.4861 of 2024 dated 27.02.2024. It shall pass a reasoned order as directed by this Court. The



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exercise should be completed within a period of eight weeks from the date of receipt of a copy of this Order. The first respondent shall act on the web copy of this order that may be produced either by the civil revision petitioner or by the second respondent.

13. With the above directions, this civil revision petition is allowed.

No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation : Yes/No

To

1.The Micro and Small Enterprises Facilitation Council, Chennai Region



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V.LAKSHMINARAYANAN, J.
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