



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CWP-18803-2023 (O&M)  
Date of decision: 21.05.2024

Inder Singh and another ...Petitioners

VERSUS

State of Haryana and others ...Respondents

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CWP-18801-2023 (O&M)  
Date of decision: 21.05.2024

M/s Friends Auto (India) Limited and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present :- Mr. R.K. Saini, Advocate for the petitioners.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Mr. Rahul Vohra, Advocate for respondent No.5.

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**VINOD S. BHARDWAJ, J. (Oral)**

1. Both these petitions raise identical issues and thus are being decided by a common order. The facts are however being extracted from CWP-18803-2023 titled as 'Inder Singh and another Vs. State of Haryana and others'.

2. Challenge in the above petition is to the recovery certificate dated 01.06.2023 as well as notice dated 16.06.2023 and summons dated



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20.06.2023 (Annexure P-3 to P-6) issued to the petitioners, on the ground that the same are unconstitutional and contrary to the provisions of the Arbitration and Conciliation Act, 1996.

3. Learned counsel for the petitioner argues that respondent No.5 is a proprietorship concern and had approached the **Haryana Micro and Small Enterprises Facilitation Council (HMSEFC)**, hereinafter referred to as '**the Council**', with a claim application alleging that the company i.e. M/s Friends Auto (India) Ltd. had approached respondent No.5 for purchasing paints material, which is being supplied since 2006. Running account was accordingly being maintained. It was contended that after December 2019, respondent No.5 had been supplying the material to the Company on payment basis only, but after duly crediting the amount paid by the Company and amount of Rs.1,16,83,376/- was due and payable. The said amount was not remitted despite repeated requests. Consequently the proceedings were initiated before the Council. On culmination of the proceedings, an award was passed by the Council directing the petitioner to pay the amount of Rs.1,16,83,376/- along with interest as per Section 16 of the **Micro, Small and Medium Enterprises Development (MSMED) Act, 2006**, hereinafter referred to as '**the Act of 2006**', and costs vide award dated 14.12.2022. It is not disputed that the petitioner has not challenged the above said award, however, he approached this Court against the notice issued by the District Magistrate in Execution of the said award by averring that as per the provisions of the Arbitration and Conciliation Act, 1996, an award passed in arbitration proceedings is to be executed before a Civil



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Court and not by way of proceedings before the Collector. Notice was accordingly issued.

4. Respondent No.5 entered appearance and filed its reply. Learned counsel for respondent No.5 contends that the award had been passed by the Council on 14.12.2022 in accordance with the MSMED Act, 2006, and the said award was never challenged. The institution of the present petition is only an attempt to stall the recovery proceedings. He submits that the Government of Haryana had notified the Haryana Micro, and Small Enterprises Facilitation Council Rules, 2021 on 09.11.2021 and that as per Rule 10 thereof, if a buyer does not file any appeal under Section 19 of the Act 2006 to set aside any award or other order either made by the Council itself or by any Institution or if such appeal filed by the buyer is dismissed, in that case such decree/award or other order passed by the Council or Institution shall be executed by Collector of the District concerned where the property of the buyer is located and the amount shall be recovered as an arrear of land revenue. It is thus submitted that in view of the above said Rule notified by the State of Haryana, the institution of the proceedings before the Collector was valid and that the issuance of notice and further proceedings initiated were lawful.

5. Learned counsel for the petitioner does not dispute the aforesaid submissions. A feeble attempt was made to make a reference to the provisions of the Arbitration and Conciliation Act, however, he could not controvert the fact that the Act of 2006 deals with the recovery of dues of micro and small enterprises and that the provisions of the Arbitration and



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Conciliation Act, 1996, cannot be transposed to be read into the Act of 2006 and the Rules notified thereunder. The interpretation of statutory Rules is to be done on the basis of the statutory provisions as well as the Rules Notified thereunder and not by transposing the procedure provided under separate Act.

6. Faced with above, counsel for the petitioner does not want to press the instant petition so as to take all pleas before a competent Court in accordance with law.

7. **Disposed of as not pressed with the liberty as aforesaid.**

(VINOD S. BHARDWAJ)  
JUDGE

21.05.2024  
Mangal Singh

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No