



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

253-A

CWP-29014-2023 (O&M)

Date of decision: 10.12.2024

Bharat Sanchar Nigam Limited

...Petitioner

VERSUS

District Level Micro and Small Facilitation Council, Ludhiana and another

...Respondents

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

Present :- Mr. Anil Rathee, Advocate for the petitioner.

Mr. Babbar Bhan, Advocate for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the award dated 04.09.2023 passed by respondent No.1-District Level Micro and Small Facilitation Council, Ludhiana on the ground that the work allotted to respondent No.2 was in the nature of a works contract and as such, the Facilitation Council constituted under the Micro, Small and Medium Enterprises Development Act, 2006 did not have the competence to adjudicate the same.

Learned counsel for respondent No.2-Contractor on the other hand contends that the aforesaid aspect has already been dealt with by this Court in its **judgment dated 01.08.2023** passed in **CWP-12338-2019** titled as '**Indian Oil Corporation Limited Vs. Haryana Micro and Small Enterprises Facilitation Council, Chandigarh, Haryana and another**'



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and other connected matters. While dealing with the issue of maintainability of proceedings before the Facilitation Council regarding a work contract, this Court held that the said issue has to be examined by the Facilitation Council in the light of the judgment of the Hon'ble Supreme Court and that a writ petition would not ordinarily be the remedy against an award passed by the Council more so when Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 specifically prescribes for a statutory remedy of appeal. He contends that the instant writ petition has been filed only to avoid the statutory provision requiring a mandatory pre-deposit before preferring an appeal. He contends that the petitioner-Bharat Sanchar Nigam Limited cannot be said to be incapacitated in making a pre-deposit and there is no impediment against the appellate authority in adjudicating and considering the objections raised by the petitioner and to take an appropriate decision thereupon.

Learned counsel appearing on behalf of the petitioner places emphatic reliance on the judgment in the matter of '**P.L. Adke Vs. Wardha Municipal Corporation/Council Through Chief Officer Nagar Parishad Wardha**' passed by a Single Bench of Bombay High Court in Arbitration appeal (ST) No.30508 of 2019 as well as '**Rashtriya Ispat Nigam Limited-Visakhapatnam Steel Plant and Ors. Vs. The Union of India and Ors.**' reported as **2022 (3) ALT 648**, however, the said judgments are only to the extent that the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 do not apply to the works contract and apply only to the contract for supply of goods and rendering of services. The said position



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in law is well settled and is not disputed by this Court, however, the question before this Court is not just about the validity of an award and rather is about whether a writ petition is the only remedy available to a party aggrieved of an award passed by the Facilitation Council.

This Court was specifically seized of the above said issue at the time of adjudication in the cases of **Indian Oil Corporation Limited (Supra)** and specifically observed that such issues can be duly examined by the Facilitation Council as well as before the appellate authority under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006. Merely because it is alleged that there is some error/mistake committed by the Facilitation Council (even if arguments of the petitioner are accepted and have merit) the same would not be the grounds sufficient to hold that only the writ Court is the available remedy to examine such issue.

The present writ petition is accordingly disposed of with liberty to the petitioner to take recourse to the alternate statutory remedies available to it in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

10.12.2024
Mangal Singh

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