

OD-4

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/74/2025
IA NO: GA/1/2025

P. S. PRIMARC PROJECTS LLP & ANR.
VS.
THE STATE OF WEST BENGAL & ORS.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Dated : 4TH APRIL, 2025

Appearance:

Mr. Abhrajit Mitra, Sr. Adv.
Mr. Satadeep Bhattacharya, Adv.
Mr. Zulfiqar-ali-al-Quaderi, Adv.
Ms. Akshita Bohra, Adv.
..for appellants
Mr. Debangshu Dinda, Adv.
Mr. Sirsanya Bandopadhyay, Adv.
...for Council
Mr. Aniruddha Chatterjee, Sr. Adv.
Ms. Sanjukta Gupta, Adv.
Mr. Deepak Biswas, Adv.
Mr. Arnab Sardar, Adv.
Mr. Abir Lal Chakravorti, Adv.
...for respondent no.3

THE COURT: This intra-court appeal by the writ petitioner is directed against the order dated 18th February, 2022, by which the Learned Single Bench thought fit not to grant any interim order but directed affidavit-in-opposition to be filed within a timeframe. The Facilitation Council has filed their affidavit-in-opposition and it appears that the private party is yet to file their affidavit.

Learned Single Bench has also kept the issue of maintainability of the writ petition open which will be decided at the time when the writ petition is being heard.

Learned Senior Advocate appearing for the appellant submitted that two issues are involved in the matter, firstly, whether the buyer unit/appellant had an MSME registration at the time of issuance of the Letter of Intent/Work Order and whether the Works contract is amenable to the provisions of the MSMED Act. This very objection has been raised before the Facilitation Council in Case No.1 of 2023, as could be seen from the proceedings dated 23rd December, 2024 before the Council.

Before the Council the above two points have been raised and prayer was made to file an appropriate application for which six weeks time was sought for. Council granted the prayer of the buyer unit/appellant but granted four weeks time to file such application. Though the appellant took such a stand before the Council, no such application was filed based on the leave granted by the Council but a writ petition was filed.

Therefore, the learned Single Bench was right in keeping the issue relating to the maintainability of the writ petition open, to be decided when the writ petition is heard.

The Facilitation Council having been apprised of the two objections raised by the appellant and the appellant having consciously agreed to file such an application for which leave was granted and time was also granted, in our view, the appellant should pursue such remedy and should not bypass the proceedings before the Council.

Therefore, we dispose of this appeal by directing the appellant to file appropriate application within one week from the date of receipt of the server copy of this order after which the respondent in the said application should be granted reasonable time to file their affidavit-in-opposition and thereafter the Council shall take a decision on the two issues which the appellant proposes to raise in the application to be filed.

In the event the order is against the interest of the appellant, it will be well open to the appellant to question the same in the manner known to law.

The application IA No: GA/1/2025 also stands disposed of.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)