



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5757 OF 2024

Mrs. Anuradha Barve,
Age: 65 years, Occ: Business,
Proprietor, Parashuram Printers,
Having Office at Plot No.A17,
Railway Station MIDC, Aurangabad.

.....PETITIONER

VERSUS

1. Kavayitri Bahinibai Chaudhari
North Maharashtra University, Jalgaon,
Through its Vice Chancellor
2. Kavayitri Bahinibai Chaudhari
North Maharashtra University, Jalgaon,
Through its Registrar

.....RESPONDENTS

Mr. S. V. Adwant, Advocate for the Petitioner
Mr. Anand Bangar i/b Mr. A. G. Talhar, Advocate for
Respondent nos.1 and 2

CORAM : ROHIT W. JOSHI, J.

DATED : 14TH JULY, 2025

ORAL JUDGMENT :-

. The present petitioner has filed a proceeding under
Section 18 of the The Micro, Small And Medium Enterprises
Development Act, 2006 (hereinafter referred to as MSMED
Act), before the MSE Facilitation Council, Aurangabad, being

application no.UDYAM-MH-04-0018006/S/00001. The said application is filed on 22.04.2024. Prior to filing of the application, an intimation notice dated 25.02.2024 was issued by the MSE facilitation Council to both the parties.

2. In this backdrop, vide claim petition dated 26.02.2024, the respondent/University raised a claim before the Vice Chancellor of the University invoking Clause 1.8 of the agreement dated 27.11.2020.

3. The petitioner raised an objection under Section 7 and 12(5) read Schedule 7 of the Arbitration and Conciliation Act, 1996 before the Vice Chancellor. The said objection is rejected by the Vice Chancellor (acting as Arbitrator), vide order dated 18.04.2024. The said order is challenged by the petitioner before this Court in the present Petition.

4. The contention of Mr. Adwant, learned Advocate for the petitioner is that the Clause 1.8 of the agreement cannot be interpreted to mean an arbitration Clause. He further, contends that in view of Section 18 of the MSMED Act, the petitioner will have a right to agitate his cause before the MSE Facilitation Council despite any contractual clause for

arbitration. Apart from this, and strictly by way of an alternate submission, Mr. Adwant submits that the Vice Chancellor cannot act as an Arbitrator in the matter in view of Section 12(5) read with Entry 12 in the VII Schedule relating to arbitrators relationship with the parties or counsel.

5. Mr. Adwant has placed reliance on judgment of the Hon'ble Supreme Court in the matter of ***Harcharan Dass Gupta Vs. Union of India***, reported in ***2025 SCC Online 1111*** and as also on judgment of this Court in the matter of ***Gammon Engineers and Contractors Private Limited Vs. Rohit Sood***, reported in ***2024 SCC Online Bombay 3304***, to contend that the arbitration claim will not have the effect of ousting jurisdiction of the MSE Facilitation Council.

6. Per Contra, Mr. Talhar, learned Advocate for the respondent nos. 1 and 2 contends that the scheme of the MSMED Act does not have the effect of over riding arbitration clause in a private agreement between the parties. In support of this contention, he has placed reliance on Division Bench judgment of this Court in Writ Petition No.2145 of 2010 dated 27.08.2010 in the matter of ***M/s Steel Authority of India Ltd.***

Vs. The Micro, Small Enterprise Facilitation Council, Nagpur.

As regards Section 12(5), Mr. Talhar states that the Registrar of the respondent/University has issued a written communication dated 12.07.2025, intimating that the University is agreeable for appointment of an independent Arbitrator, meaning thereby that the University agrees that the arbitration can be conducted in terms of Clause 1.8 of the agreement by any independent arbitrator other than the Vice Chancellor of the University.

7. It is not necessary in the facts of the present case to determine as to whether Clause 1.8 of the agreement constitutes an arbitration agreement. Even if, the said clause is interpreted to mean a clause for reference of dispute between the parties to arbitration in view of law laid down by the Hon'ble Supreme Court in the matter of ***Gujarat State Civil Supplies Corporation Ltd. Vs. V. Mahakali Foods Pvt. Ltd.***, which is followed in the case of ***Harcharan Dass Gupta***, there cannot be any quarrel with the proposition that the provisions of MSMED Act will overwrite the provision of Arbitration Act, 1996, and consequently, irrespective of the arbitration agreement between the parties, MSE Facilitation Council will

have jurisdiction to decide the dispute under Section 18 of the MSMED Act. The Division Bench judgment of this Court in the matter of *Steel Authority of India Ltd.*, is expressly overruled in appeal preferred by the respondent in the said case. The judgment in appeal is reported in *(2023) 6 SCC 401*.

8. Apart from this, the Vice Chancellor of the University will also not be competent to conduct the Arbitration in view of Section 12(5) read with Entry 12 in Schedule 7 of the Arbitration and Conciliation Act. The Vice Chancellor is clearly ineligible to function as an Arbitrator in view of the said provision. The impugned order dated 18.04.2024 passed by the Vice Chancellor of respondent no.1/University as an Arbitrator is clearly unsustainable and is liable to be quashed and set aside.

9. The Writ Petition is **allowed** by quashing and setting aside the order passed by the Vice Chancellor of respondent no.1/University and upholding the objection dated 07.05.2024, raised by the petitioner.

10. At this stage, Mr. Adwant informs that in view of filing of present petition challenging the arbitration proceeding

initiated by the Vice Chancellor, MSE Facilitation Council has vide order dated 17.05.2024 closed the proceedings without adjudication. In view of the fact that the petition is now disposed of, MSE Facilitation Council is directed to continue with the proceedings.

11. Mr. Talhar, the learned Advocate for the respondents states that the proceedings before MSMED are not maintainable. He has made submissions with respect to certain jurisdictional aspects of the council vis a vis the dispute involved between the party. The respondents are at liberty to raise appropriate objections pertaining to jurisdiction of the MSE Facilitation Council, which if raised, will be decided in accordance with law.

12. Civil Application, if any, stands **disposed** of.

(ROHIT W. JOSHI, J.)