

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 15366 OF 2024

RCC Infraventures Ltd.

...Petitioner

Versus

Micro And Small Enterprises Facilitation

Council, Pune And Anr.

...Respondents

Mr. Kanishk Aggrawal (Thr. VC) a/w Pooja Dalvi i/b.
Rajanikanojia for Petitioner.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 28 November 2025

P.C.:-

1. Heard Mr Kanishk Aggrawal, learned counsel who appears with Ms Pooja Dalvi, learned counsel for the Petitioner.

2. By this Petition, the Petitioner challenges the Award under Section 18(2) of the Micro, Small and Medium Enterprises Development Act, 2006 ("**MSMED Act**") made on 29 December 2021.

3. At the outset, since we were doubtful about the entertainability of this Petition, we had adjourned the matter from time to time to enable the learned counsel for the Petitioner to address us on the issue of maintainability.

4. Mr Aggrawal has relied upon *Jharkhand Urja Vikas Nigam Limited vs. State of Rajasthan and Ors.*¹ to submit that this Petition is maintainable. He has very fairly placed on record the subsequent decision in the case of *M/s. Tamil Nadu Cements Corporation Limited v. Micro and Small Enterprises Facilitation Council and Anr.*², in which the decision of *Jharkhand Urja Vikas Nigam Limited* (supra) has been referred to a Larger Bench for reconsideration.

5. We have examined the decision in *Jharkhand Urja Vikas Nigam Limited* (supra), and we are of the opinion that the factual situation in the said matter is not comparable to the facts of the present case. There, only on the ground that the Appellant had not appeared in the proceedings for conciliation, on the very first date of appearance, the Facilitation Council made an order directing the Appellant and/or its predecessor to pay the principal claim as well as the interest without even bother to initiate any arbitration proceedings in accordance with the relevant provisions of the Arbitration and Conciliation Act, 1996.

6. Therefore, the Hon'ble Supreme Court observed that there was no Arbitral Award in the eyes of law, and without there being any Arbitral Award, there was no question of relegating the parties to question such Award under Section 34 of the Arbitration and Conciliation Act, 1996 ("1996 Act"). The Court held that only an Arbitral Award can be questioned

¹ (2021) 19 SCC 206

² (2025) 1 S.C.R. 880

by way of application under Section 34 of the 1996 Act.

7. In the present case, the facts are entirely different. Here, the facilitation counsel first attempted mediation, for which notices were issued to the Petitioner. Mr Aggrawal fairly admitted that the Petitioner did not respond to such notices or appear before the Council. After mediation or conciliation failed due to the Petitioner's complete non-cooperation, the Council proceeded to arbitrate the matter. Mr Aggrawal agreed that the Facilitation Council has the power to arbitrate in the matter itself.

8. Section 18(4) of the MSMED Act provides that where mediation initiated under Sub-Section (3) is not successful and stands terminated without settlement between the parties, *“the Council shall either itself take up the dispute for arbitration or refer it to any institution or Centre providing alternate dispute resolution services for such arbitration....”*.

9. From the above provision, it is quite clear, and in fact, it is not even disputed that the Council, upon failure of conciliation or mediation, was competent to hold arbitration proceedings and make an award. This is precisely what the Council has done in this matter. Again, the award notes that several opportunities were granted to the Petitioner. Paragraph 4 of the Award refers to the details of the notices issued to the Petitioner and how the notices were addressed to the Petitioner's correct address. Besides, the Council has made an award in this matter, and the Petitioner is only

interested in creating hurdles for its execution.

10. Thus, the facts in this case are not comparable to those in *Jharkhand Urja Vikas Nigam Limited* (supra). Here is a Petitioner who is bent on not cooperating in the mediation/conciliation or arbitration proceedings. The petitioner's sole aim is to lay the groundwork for eventually urging a failure of natural justice. The extraordinary and equitable jurisdiction of this Court under Article 226 of the Constitution of India cannot be exercised to assist this kind of Petitioner who is bent upon defeating the claims of small and medium enterprises or to frustrate the claims of small and medium enterprises.

11. Even though this Petition was filed only to create hurdles in the execution of the Awards, there is no explanation forthcoming as to why, despite service of notice, the Petitioner did not even attend the mediation/conciliation or arbitration proceedings. There is nothing like a technical breach of the principles of natural justice. Attendant prejudice must be shown. Here, it is apparent that the Petitioner is only interested in frustrating the claims of small enterprises and seeks the assistance of this Court to do so. As noted earlier, the extraordinary and equitable jurisdiction of this Court cannot be invoked to assist such parties.

12. We are satisfied that this Petition is an abuse of the Court process and there is no ground whatsoever made out to interfere with the impugned Award. We, therefore, dismiss

this Petition with costs of Rs . 50,000/-.

13. Upon giving the learned counsel for the Petitioner an opportunity to argue on the costs, he fairly stated that the Petitioner had gone into insolvency, but now, he corrects himself to say that the Petitioner has come out of the insolvency. Be that as it may, it is evident that the Petitioner is bent upon unduly frustrating the execution of the award and wants this Court to assist it in its misadventure.

We direct the Petitioner to pay the cost of Rs. 50,000/- to Grant Medical College and Sir JJ Group of Hospitals, Mumbai. Such costs must be paid within 4 weeks from today, and the Petitioner must file a compliance report.

14. The Petition is Dismissed/Disposed of in the above terms.

(Advait M. Sethna, J)

(M.S. Sonak, J.)