

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15220 OF 2025

Krunal Acid Agency

..Petitioner

Versus

Ex Officio Chairman, Micro and Small
Enterprises Facilitation Council & Anr

...Respondents

Mr. Vinay Kadam, i/b Amanchi Legal & Co, for the Petitioner.
Ms. Archana U, for Respondent No.2.

CORAM: N. J. JAMADAR, J.

DATE : 15th DECEMBER 2025

ORDER:

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an Award dated 25th November 2024 passed by the Facilitation Council, under the Micro, Small and Medium Enterprises Development Act, 2006 (“the Act, 2006”).
3. The learned Counsel for the Petitioner submitted that the Facilitation Council has passed the Award without providing an effective opportunity of hearing to the Petitioner, and the Council did not follow the mandatory procedure for arbitration of the dispute.
4. Under Section 18(3) of the Act, 2006, where the conciliation initiated under sub-Section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either

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take up the dispute for arbitration or refer to any institution or center providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (“the Act, 1996”) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-Section (1) of the Section 7 of the Act, 1996. Under Section 19 of the Act, 2006, an Application for setting aside the award passed by the Council cannot be entertained by any Court unless the Appellant had deposited 75% of the amount in terms of the Award.

5. A conjoint reading of aforesaid provisions would indicate that, where the Council proceeds to arbitrate upon a dispute, the provisions of the Act, 1996 apply to the dispute, and the remedy provided under Section 34 of the Act, 1996 would govern an Award of the Council, with a rider that an Application for setting aside the Award can be entertained only upon the Appellant depositing with the Council 75% amount in terms of the Award.

6. Thus, there is an alternate statutory remedy against an Award passed by the Council under Section 18 of the Act, 2006.

7. In the case of **India Glycols Limited And Anr Vs Micro and Small Enterprises Facilitation Council, Medchal-Malkajgiri and Ors**¹ a three Judge Bench of the Supreme Court did not approve of taking recourse to the jurisdiction under Article 226/227 of the Constitution to avoid

1 (2025) 5 SCC 780.

mandatory pre-deposit. The observations in paragraphs 12 to 14 of the said judgment read as under:

“12. The appellant failed to avail of the remedy under Section 34. If it were to do so, it would have been required to deposit seventy-five per cent of the decretal amount. This obligation under the statute was sought to be obviated by taking recourse to the jurisdiction under Articles 226/227 of the Constitution. This was clearly impermissible. Indeed, the writ jurisdiction is plenary in nature. However, the object of the statutory provisions cannot permitted to be defeated by taking recourse to writ jurisdiction.

13. For the above reasons, we are in agreement with the view of the Division Bench of the High Court that the writ petition which was instituted by the appellant was not maintainable.

14. Mr Parag P Tripathi, senior counsel appearing on behalf of the appellant sought to urge that the view of the Facilitation Council to the effect that the provisions of the Limitation Act 1963 have no application, which has been affirmed by the Division Bench in the impugned judgment, suffers from a perversity, and hence a petition under Article 226 of the Constitution ought to have been entertained. We cannot accept this submission for the simple reason that Section 18 of the MSMED Act 2006 provides for recourse to a statutory remedy for challenging an award under the Act of 1996. However, recourse to the remedy is subject to the discipline of complying with the provisions of Section 19. The entertaining of a petition under Articles 226/227 of the Constitution, in order to obviate compliance with the requirement of pre-deposit under Section 19, would defeat

the object and purpose of the special enactment which has
been legislated upon by Parliament.”

(emphasis supplied)

8. The submission of Mr. Vinay Kadam, the learned Counsel for the Petitioner that, the Petitioner was not provided an effective opportunity of hearing is belied by the fact that after the Council decided to arbitrate the dispute and, held arbitration hearings, the Petitioner had appeared on 10th May 2024 and 31st May 2024 in the said arbitral proceedings before the Council. Thus, the submission premised on the failure to observe the fundamental principles of natural justice cannot be countenanced.

9. The Court does not find any justifiable reason to entertain the Petition in the face of the statutory mandate contained in Section 19 of the Act, 2006 and Section 34 of the Act, 1996.

10. Resultantly, the Petition stands dismissed.

[N. J. JAMADAR, J.]