



WEB COPY



Arb.O.P.(Com. Div.) No.461 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2025

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.461 of 2023

M/s.Madras Fertilizers Ltd.

Represented by its Company Secretary,
Manali, Chennai - 600 068.

... Petitioner

Vs.

1. The Micro & Small Enterprises

Facilitation Council,

Represented by its Chairman / Secretary,

Regional Joint Director,

Industries Commissioner and Director of Industries and Commerce,
Guindy, Chennai - 600 032.

2. Keerthana Enterprises,

No.52/10, Manali New Town,

Manali, Chennai - 600 103.

... Respondents

PRAYER: Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the impugned arbitral order of the 1st respondent dated 09.11.2022 and to direct the respondents to pay the costs.

For Petitioner : Jayesh Dolia
Senior Counsel
for M/s.Aiyar and Dolia



WEB COPY

Arb.O.P.(Com. Div.) No.461 of 2---



For Respondents : P. J. Sriganesh
for K. Karthik Jaganath

ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (in short “the Act”) challenging the impugned arbitral award passed by the Micro and Small Enterprises Facilitation Council (MSEFC) (in short “the Council”) on the following grounds:-

- (a) The principles of natural justice has been violated.
- (b) The impugned arbitral award has been passed on the second hearing date without granting an opportunity to the petitioner to submit a reply to the main arbitral claim made by the second respondent.
- (c) The impugned arbitral award is a non-speaking award with regard to the objections raised by the petitioner in the arbitration.
- (d) The award lacks judicial approach.

2. The learned senior counsel for the petitioner would submit that the claim made by the second respondent before the Council is an highly inflated claim. He would further submit that the second respondent is a canteen contractor for the petitioner and they have not produced evidence



before the Council to prove that they are entitled for the award amount.

According to him, as seen from the bio-metric reading, the number of employees of the petitioner, who had utilized the canteen of the second respondent, were less in number when compared to the data given by the second respondent (in the form of coupons) while making the arbitral claim.

3. The learned senior counsel for the petitioner would further submit that as seen from the impugned arbitral award, no opportunity of hearing was granted to the petitioner and the petitioner was also granted no opportunity to produce evidence to show that the second respondent's claim was an inflated claim. He would further submit that the impugned arbitral award is a non-speaking award as, according to him, no reasons whatsoever has been given by the Council to come to the conclusion that the sums determined by the Council are payable by the petitioner to the second respondent. The learned senior counsel for the petitioner, therefore, submits that the impugned arbitral award lacks judicial approach.



WEB COPY

4. The learned senior counsel for the petitioner also drew th attention of this Court to the bio-metric evidence placed on record before the Council and would submit that the Council had not considered the said evidence in the impugned arbitral award. According to the learned senior counsel for the petitioner, since the evidence produced by the petitioner in the form of bio-metric reading evidence, which is a vital evidence, has been ignored by the arbitrator, the impugned arbitral award has to be set aside by this Court.

5. The learned senior counsel for the petitioner also submits that the arbitral reference was made by the second respondent before the Council on 14.12.2020. But, whereas, the first respondent passed the impugned arbitral award only on 09.11.2022 beyond the prescribed time as fixed under Section 18 (5) of the Micro, Small and Medium Enterprises Development Act, 2006 (In short "MSMED Act").

6. The learned senior counsel for the petitioner would also submit that the conciliation proceedings before the Council commenced almost a year and a half after the reference was made by the second respondent to the Council with regard to the non payment of the sums of money claimed by



the second respondent.

WEB COPY

7. The learned senior counsel appearing for the petitioner also drew the attention of this Court to the ***Order dated 22.07.2021 passed by this Court in O.P. No.321 of 2021 and reported in Manu/TN/5432/2021*** in support of his contentions. The aforesaid decision was relied upon by the learned senior counsel for the petitioner for the proposition that the award, which has ignored vital documents, is patently illegal and therefore, has to be set aside by this Court.

8. On the other hand, the learned counsel for the second respondent, after drawing the attention of this Court to the impugned arbitral award, would submit as follows:-

(a) All the invoices were filed by the second respondent before the Council and the same were marked as exhibits.

(b) No contra evidence has been produced by the petitioner before the Council to dispute the invoices raised by the second respondent.

(c) There was no request made by the petitioner before the Council for producing bio-metric evidence with regard to the number of employees



of the petitioner, who had actually utilized the canteen of the second respondent.

WEB COPY

d) The contract entered into between the petitioner and the second respondent does not stipulate that only based on bio-metric evidence produced by the second respondent, the petitioner is liable to pay.

9. The learned counsel for the second respondent would submit that proper reasons have been given by the Council in the impugned arbitral award for coming to the conclusion that the second respondent is entitled for the determined amount, which is payable by the petitioner.

Discussion:

10. The scope for challenge under Section 34 of the Act, is very limited. This Court cannot re-appreciate the evidence, when the arbitrator under the impugned arbitral award has arrived at the conclusion only based on the evidence placed on record by both the parties to the dispute.



WEB COPY



11. The following are the undisputed facts:

a) In support of the second respondent's claim, the second respondent had filed invoices before the Council, which were marked as exhibits and only based on the same, the arbitral award came to be passed in favour of the second respondent against the petitioner;

b) In the contract, entered into between the petitioner and the second respondent, the terms and conditions of the said contract, does not stipulate that only based on bio-metric reading, payments will have to be made by the petitioner to the second respondent;

c) Admittedly, there was no request made by the petitioner before the Council for producing bio-metric evidence with regard to the number of employees of the petitioner, who would have actually utilized the canteen of the second respondent. The second respondent has produced coupons received from the respective employees of the petitioner for the utilizations of the second respondent's canteen. The contract entered into between the petitioner and the second respondent only stipulates that the second respondent will have to produce coupons received from the respective employees of the petitioner in support of their respective invoices.



WEB COPY

12. The Council under the impugned arbitral award has taken into consideration the aforesaid factors as well as the aforesaid documents and only, thereafter, has come to the conclusion that the determined amount under the impugned arbitral award is payable by the petitioner to the second respondent. If the contention of the learned senior counsel for the petitioner that bio-metric evidence produced by the petitioner before the Council ought to have been taken into consideration by the Council is to be accepted, it will amount to going beyond the scope of the contract entered into between the petitioner and the second respondent and also amount to rewriting the contract. The contract has stipulated the obligations of the respective parties. Only in accordance with the terms and conditions of the contract, the second respondent has raised invoices on the petitioner, which are supported by canteen tokens received from the respective employees of the petitioner, which have also been marked as exhibits before the Council.

13. The arbitrator has given proper reasons, which are supported by documentary evidence for coming to the conclusion that the second respondent is entitled for the determined amount. The learned senior counsel appearing for the petitioner had submitted that vital documents viz.,

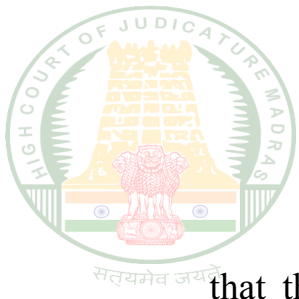


WEB COPY

bio-metric evidence produced by the petitioner before the Council were ignored by the Council. As observed earlier, if the same was accepted to be a piece of evidence to support the stand of the petitioner, it would amount to going beyond the scope of the contract and also would amount to rewriting the contract.

14. This Court, cannot re-appreciate the evidence, when only based on the evidence available on record, the Council has passed the impugned arbitral award. Sufficient opportunity was also granted by the Council to both the parties to place all the relevant evidence in support of their contentions. Therefore, it is clear that principles of natural justice has not been violated by the Council.

15. With regard to the delay in the pronouncement of the award by the Council, which according to the learned senior counsel for the petitioner is violative of Section 18 (5) of the MSMED Act is concerned, the petitioner never objected before the Council for the delay in the pronouncement of the arbitral award during the pendency of the arbitration.



WEB COPY

16. The learned counsel for the second respondent would also submit that the provisions of Section 18 (5) stipulate that the time period fixed under the MSMED Act is only directory in nature and is not mandatory and in support of his contention, he has also placed on record a Judgment rendered by a learned Single Judge of the Bombay High Court in the case of ***Maharashtra Public Service Commission Vs. Vast India Pvt. Ltd. rendered in Commercial Arbitration Petition (L) No.7555 of 2023***. This Court is in agreement with the view taken by the Bombay High Court in the aforesaid decision by holding that Section 18 (5) is only directory and not mandatory. As rightly pointed out by the Bombay High Court, once the Council takes up arbitration because of failure of conciliation, arguably, the provisions of the Arbitration Act would take over and therefore, Section 29A would run its course. Under Section 29A of the Act, this Court is empowered to extend the time for the arbitrator to pronounce the arbitral award.

17. For the foregoing reasons, this Court does not find any infirmity in the impugned arbitral award passed by the Council and therefore, the grounds available for challenge under Section 34 of the Act does not get



attracted.

WEB COPY

Arb.O.P.(Com. Div.) No.461 of 2025



18. In the result, there is no merit in this petition. Accordingly, this petition is dismissed. No Costs.

13.08.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
ab



WEB COPY



Arb.O.P.(Com. Div.) No.461 of 2023

ABDUL QUDDHOSE. J.,

ab

Arb.O.P.(Com. Div.) No.461 of 2023

13.08.2025