



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

245

(1) CWP-10283-2024
Date of Decision: 02.09.2025

General Manager Telecom, BSNL
VersusPetitioner

State of Punjab and others
....Respondents

(2) CWP-15327-2024

General Manager Telecom, BSNL
VersusPetitioner

State of Punjab and others
....Respondents

(3) CWP-15349-2024

General Manager Telecom, BSNL
VersusPetitioner

State of Punjab and others
....Respondents

(4) CWP-15378-2024

General Manager Telecom, BSNL
VersusPetitioner

State of Punjab and others
....Respondents

(5) CWP-15392-2024

General Manager Telecom, BSNL
VersusPetitioner

State of Punjab and others
....Respondents



*CWPs No. 10283, 15327, 15349, 15378,
15392, 12700, 15716 and
15812 of 2024*

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- (6)

CWP-12700-2024

General Manager Telecom, BSNL

Versus

State of Punjab and others

....Petitioner

....Respondents
- (7)

CWP-15716-2024

General Manager Telecom, BSNL

Versus

State of Punjab and others

....Petitioner

....Respondents
- (8)

CWP-15812-2024

General Manager Telecom, BSNL

Versus

State of Punjab and others

....Petitioner

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Rajesh Gupta, Advocate
Mr. Sanjeev Kaushik, Advocate and
Ms. Manreet Kaur, Advocate
for the petitioners.

Mr. Rahul Rampal, Additional Advocate General, Punjab.

Mr. Jagdeep Singh Rana, Advocate
for respondent No.2 (in CWP-12700-2024)

Mr. Puneet Kansal, Advocate (through V.C)
for respondent No.2 (in all petitions except CWP-12700-2024).



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Harsimran Singh Sethi, J. (Oral)

1. All the petitions are being disposed of through a common order as common question of law is involved in all the cases.
2. In the present bunch of petitions, the challenge is to the Rule 11 of the Punjab Micro and Small Enterprises Facilitation Council Rules, 2021 (hereinafter to be referred as “the 2021 Rules”), on the ground that the same is contrary to Section 18(3) of the Micro Small and Medium Enterprises Development Act, 2006 (hereinafter to be referred as “the 2006 Act”).
3. Learned counsel for the petitioners argues that as per Rule 11 of the 2021 Rules, which deals with the appointment of the Arbitrator, a panel of arbitrators has been prepared by respondent No.3 – The Micro and Small Enterprises Facilitation Council Ludhiana, which comes into play in case the process of conciliation fails as, the Arbitrator is to be appointed from the said empanelled arbitrators, which is incorrect as the appropriate procedure in such a case would be to get the issue adjudicated by sending it to the Arbitration Centre to be arbitrated by an arbitrator who is on the panel of such arbitration centre.
4. Learned counsel for respondent No.2 submits that the intention of the 2021 Rules which have been framed under the 2006 Act is that the dispute persisting between the parties could be resolved through conciliation or arbitration, as the case may be, at the earliest keeping in view the process envisaged.



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5. Learned counsel for the respondent-State submits that the process of appointing an Arbitrator from the panel formed by Council as per Rule 11 of the 2021 Rules or sending them directly to the Arbitration Centre, there exists no difference between both these process, as ultimately, the object is to get the issue resolved through arbitration. Whether the said process is to be done by an Arbitrator who may be either selected from the panel made by the Council as framed under Rule 11 of the 2011 Rules or from an arbitrator who is empanelled by a respondent the Arbitration Centre makes no difference hence, the view of the petitioners that Rule 11 of the 2011 Rules is not in consonance with Section 18(3) of the 2006 Act, is incorrect.

6. We have heard the learned counsel for the parties and have gone through the record with their able assistance.

7. The only assertion raised to challenge the Rule 11 of the 2021 Rules, is that in case the conciliation proceedings do not materialize, the arbitration proceedings are to be undertaken by the empanelled arbitrator by respondent No.3 keeping in view the Rule 11 of the 2011 Rules or through an arbitration centre. It shall be noted that the appointment of Arbitrator either from the Arbitration Centre or from a list prepared by the council under Rule 11 of the 2021 Rules, makes no difference. Rather, both the provisions of the 2021 Rules or the 2006 Act, which are alleged by the petitioner not being in consonance lead the way to arbitration, though the ways to reach to arbitration are different in Rule 11 of 2021 Rules and Section 18(3) of the 2006 Act, but they both cannot be termed as ultra-vires to one another. Rule 11 of the 2021



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Rules as well as Section 18(3) of the 2006 Act are as under for ready reference:

“Rule 11. Appointment of Arbitrator :-

- (1) The Government, if it finds necessary, may be form a panel of expert of Arbitrators from amongst the names of retired Judicial Officers (i.e District and Sessions Judges) and retired Group-‘A’ Government Officers having minimum three years experience of dealing with such cases, as it may consider necessary. A panel of Arbitrators for each district shall be drawn by the Chairman of each Council from amongst these empanelled Arbitrators.*
- (2) The Arbitrator so empanelled shall provide an alternate dispute resolution services, as per sub-section (3) of section-18 and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 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 section 7 of the Arbitration and Conciliation Act, 1996.*
- (3) The Arbitrator shall have jurisdiction to act as Arbitrator or Conciliator under subsection (4) of section 18 of the Act in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.*
- (4) Every reference made under section 18 of the Act shall be decided within a period of ninety days from the date of making such reference.*
- (5) The Arbitration fee to be levied by the Arbitrator shall be at such rates as may be approved/notified by the Government and shall be shared by both the applicant*



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and the respondent. (6) The Arbitrator shall recommend the report to the Council for consideration and passing of Award.

Section 18. Reference to Micro and Small Enterprises Facilitation Council.

(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any 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 and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 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 section 7 of that Act.”

8. A bare perusal of the above, would lead to the conclusion that both these provision pave way for settling the dispute by way of arbitration, once the process of arbitration is to be conducted even at an Arbitration Centre by an Arbitrator, who has been enlisted in the said Arbitration Centre or the arbitration being done by an arbitrator appointed from a panel of Arbitrators prepared under Rule 11 of the 2021 Rules by the Council, makes no difference.

9. On being asked to point out any prejudice by Rule 11 of the 2021 Rules and how, the same contravenes Section 18(3) of the 2006 Act, learned counsel for the petitioners has not been able to point out either any prejudice

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caused by said Rule or how the said Rule 11 of the 2021 Rules is ultravirus of Section 18(3) of the 2006 Act.

10. In the absence of any such prejudice or illegality pointed out or the procedural difficulties pointed out by the disputed provision, merely that the Arbitrator has been appointed from a panel prepared by Council as per Rule 11 of the 2021 Rules, will not vitiate any proceedings much less being declared as ultravirus of Section 18(3) of the 2006 Act, no ground is made out for any interference by this Court in the facts and circumstances of the present cases.

11 Accordingly, the petitions are dismissed.

12. Pending application(s), if any, stands disposed of.

13. Photocopy of this order be placed on the files of other connected cases.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 02, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No