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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-26607-2025
Date of Decision: 03.12.2025**

Ipro Sugar Engineering Private Limited

.... Petitioner

Versus

Arbitral Tribunal and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anand Chhibbar, Senior Advocate assisted by
Mr. Yash Pal Gupta, Advocate &
Ms. Swati Vashisth, Advocate,
for the petitioner.

Mr. Himanshu Gupta, Advocate,
Mr. Ritvik, Advocate &
Ms. Vashita Sharma, Advocate,
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of an appropriate writ, order or direction for quashing the majority order dated 31.07.2025 (Annexure P-19) passed by respondent No.1-Arbitral Tribunal in Arbitration Case No.61 of 2022, whereby the arbitral proceedings were illegally terminated under Section 32(2)(c) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act').
2. The brief facts of the present case are that both the petitioner and respondent No.2 are the companies incorporated under the Companies Act, 1956. When a dispute arose between the parties, the petitioner invoked

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the alternate dispute mechanism but the same failed and thereafter, an application was filed by the petitioner under Section 11 of the Act for appointment of an Arbitrator and vide order dated 17.11.2023 (Annexure P-2) a Co-ordinate Bench of this Court had appointed an Arbitral Tribunal. Thereafter, the arbitral proceedings commenced. When learned Arbitral Tribunal was proceeding with the case after an extended tenure, an application was moved by respondent No.2 under Section 32(2)(c) of the Act for seeking termination of the arbitral proceedings on the ground that their continuation has become *de jure* and *de facto* impossible. The petitioner, who was the claimant, also filed a reply to the aforesaid application and opposed the application filed by respondent No.2 before learned Arbitral Tribunal.

3. Learned Arbitral Tribunal had allowed the aforesaid application under Section 32(2)(c) of the Act and observed in Para 24 of the order dated 31.07.2025 (Annexure P-19) that the aforesaid application was allowed in principle. However, the Tribunal stayed the operative consequence of termination and granted the claimant 45 days' time to cure the defect and unless the defect is cured earlier, for which an application could be moved to continue with the arbitration proceedings and in default of such compliance, unless extended for good cause shown, the proceedings shall stand terminated automatically under Section 32(2)(c) of the Act without any further order. In this way, learned Arbitral Tribunal by way of the impugned order dated 31.07.2025 (Annexure P-19) granted 45 days' time to the claimant, who is the petitioner, to cure the defect and after the expiry of 45 days, it would be automatically terminated under Section 32(2)(c) of the Act.

The aforesaid period of 45 days has already expired.



4. The present writ petition has been filed under Article 226/227 of the Constitution of India challenging the aforesaid order passed by learned Arbitral Tribunal under Section 32(2)(c) of the Act by which it was observed that it has become impossible for the Tribunal to further act.

5. Mr. Anand Chhibbar, learned Senior Counsel appearing on behalf of the petitioner assisted by Mr. Yash Pal Gupta, Advocate & Ms. Swati Vashisth, Advocate, submitted that although the impugned order dated 31.07.2025 passed by learned Arbitral Tribunal is an order under Section 32(2)(c) of the Act but the petitioner can always invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India when the circumstances so warrant. In this regard, he submitted that the impugned order (Annexure P-19) is based upon the ground that the petitioner/claimant had no capacity to sue because of the reasons which have been mentioned in the order. He further submitted that broadly the reason was that as per the Articles of Association, there had to be equal representations of both the parties, but the claim had been filed by the claimant without any adequate quorum and affirmative vote of respondent No.2 and in this way, the claimant did not have legal capacity to claim for want of quorum etc. and the claimant was non-suited because of the aforesaid reason and therefore, learned Arbitral Tribunal had come to the conclusion that because of the aforesaid want of capacity to sue to file a claim, it is impossible for the Tribunal to further process with the claim.

6. Learned Senior Counsel further submitted that the reasoning given by learned Arbitral Tribunal pertaining to incapacity to sue was contrary to the statutory provisions of Sections 174 and 6 of the Companies Act, 1956, which mandates that the Companies Act will override the



Articles of Association. Furthermore, as per Section 174 of the Companies Act, minimum two directors are required for passing a resolution and therefore, there was no question of the resolution being invalid and the claimants could not have been non-suited only because of the aforesaid reason.

7. Learned Senior Counsel also submitted that since the impugned order is patently illegal and suffers from perversity, the extraordinary jurisdiction of this Court under Article 226/227 of the Constitution of India can be invoked considering the aforesaid facts and circumstances. He further submitted that the present case falls within the category of exceptional rarity and bad faith and in this regard, he referred to the judgment of Hon'ble Supreme Court passed in "*M/s Deep Industries Limited Vs. Oil and Natural Gas Corporation Limited and another*", 2020(15) SCC 706 and "*Bhaven Construction through Authorized Signatory Premji Bhai K. Shah Vs. Executive Engineers, Sardar Sarovar Narmada Nigam Limited and another*" (2022) 1 SCC 75 wherein it was held that even if there is a statutory provision barring any procedure or providing of any alternate remedy, the provisions of Article 226/227 of the Constitution of India remain untouched and submitted that this Court can always invoke its extraordinary power considering the aforesaid facts and circumstances and therefore, the impugned order is liable to be set aside. He also submitted that the present case falls within the category of bad faith of learned Arbitral Tribunal, who is respondent No.1, because during the proceedings a contempt notice was issued to the petitioner.

8. On the other hand, Mr. Himanshu Gupta, learned counsel appearing on behalf of respondent No.2 submitted that the present writ



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petition is not maintainable since there is a remedy available with the petitioner to file an appropriate application under Section 14(2) of the Act. In this regard, he submitted that the impugned order has been passed on an application moved by respondent No.2 under Section 32(2)(c) of the Act whereby learned Arbitral Tribunal was of the view that it is impossible to continue with the arbitral proceedings and against the aforesaid impugned order, which is undisputedly under Section 32(2)(c) of the Act, the only remedy available with the petitioner was to move an appropriate application before an appropriate Court under Section 14(2) of the Act and the petitioner ought not to have invoked the extraordinary powers of this Court straight away by bypassing the aforesaid statutory remedy available to it in accordance with law.

9. Learned counsel for respondent No.2 has referred to a judgment passed by Hon'ble Supreme Court in "*Lalit Kumar V. Sanghvi Vs. Dharamdas V. Sanghvi*", (2014) 7 SCC 255 to contend that the law in this regard has already been settled by Hon'ble Supreme Court whereby it was held that in an order which is passed under Section 32(2)(c) of the Act, the remedy lies under Section 14(2) of the Act before the appropriate Court. He further submitted that the meaning of 'Court' under the aforesaid provision is defined under Section 2(1)(e) of the Act and therefore, the petitioner instead of invoking the aforesaid remedy has wrongfully filed the present writ petition under Article 226 of the Constitution of India and therefore, the same is liable to be dismissed.

10. I have heard learned counsels for the parties.

11. This Court would first consider the issue of maintainability and entertainability of the present petition. Before proceeding further, the relevant



portion of the impugned order passed by learned Arbitral Tribunal is reproduced as under:-

“24. Consequently, while the respondent's application is allowed in principle, the Tribunal stays the operative consequence of termination and grants the claimant 45 (forty-five) days from today to cure the defect, unless the defect is cured earlier, for which an application can be moved to continue with the arbitration proceedings. In default of such compliance, unless extended for good cause shown, the proceedings shall stand terminated automatically under section 32(2)(c) without further order.

25. In the event of satisfactory and sufficient cure of the jurisdictional defect in initiating the arbitration identified in this order, and on continuation of proceedings, the period of 45 days granted (or less, as the case may be) shall be excluded from the period of extension of mandate of the Arbitral Tribunal of 6 months agreed to by the parties under section 29A (3) of the Arbitration & Conciliation Act, 1996, and during which extended period the arbitration proceedings presently stand.”

12. The statutory provisions contained under Section 14 and Section 32 of Act are also reproduced as under:-

“14. Failure or impossibility to act.- (1) [The mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if-]

(a) he becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay: and

(b) he withdraws from his office or the parties agree to the termination of his mandate.

(2) If a controversy remains concerning any of the



grounds referred to in clause (a) of sub-section (1), a party may, unless otherwise agreed by the parties, apply to the court to decide on the termination of the mandate.

(3) If, under this section or sub-section (3) of section 13, an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, it shall not imply acceptance of the validity of any ground referred to in this section or sub-section (3) of section 12.

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32. Termination of proceedings.-(1) *The arbitral proceedings shall be terminated by the final arbitral award or by an order of the arbitral tribunal under sub-section (2).*

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where-

(a) the claimant withdraws his claim, unless the respondent objects to the order and the Arbitral Tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute,

(b) the parties agree on the termination of the proceedings, or

(c) the Arbitral Tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) Subject to Section 33 and sub-section (4) of Section 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings."

13. The relevant portion of the judgment of Hon'ble Supreme Court passed in ***Lalit Kumar V. Sanghavi's case (Supra)*** is also reproduced as under:-



12. *On the facts of the present case, the applicability of clauses (a) and (b) of Section 32(2) is clearly ruled out and we are of the opinion that the order dated 29-10-2007 by which the Tribunal terminated the arbitral proceedings could only fall within the scope of Section 32, sub-section (2), clause (c) i.e. the continuation of the proceedings has become impossible. By virtue of Section 32(3), on the termination of the arbitral proceedings, the mandate of the Arbitral Tribunal also comes to an end. Having regard to the scheme of the Act and more particularly on a cumulative reading of Section 32 and Section 14, the question whether the mandate of the arbitrator stood legally terminated or not can be examined by the court "as provided under Section 14(2)"*

13. *The expression "court" is a defined expression under Section 2(1)(e) which reads as follows:*

"2. (1)(e) 'Court' means the Principal Civil Court of Original Jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration if the same had been the subject matter of a suit, but does not include any civil court of a grade inferior to such Principal Civil Court, or any Court of Small Causes;"

14. The provisions of Section 2(1)(e) of the Act is also reproduced as under:-

"2. Definitions.-(1) In this Part, unless the context otherwise requires,-

(a) to (d) xx xx xx xx

(e) "Court" means-

(i) in the case of an arbitration other than international commercial arbitration, the Principal Civil Court of



original jurisdiction in a district, and includes the High Court in exercise of its ordinary, ordinary original civil jurisdiction, having jurisdiction to decide questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes

(ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court;

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15. Now coming to the facts and circumstances of the present case, an application under Section 32(2)(c) of the Act was moved by respondent No.2, who was the respondent before learned Arbitral Tribunal, which was allowed by learned Arbitral Tribunal by way of the impugned order (Annexure P-19) by observing that it was impossible for the Tribunal to further act. As per the learned counsels for the parties, the reasons for the same so recorded were that of incapacity of the claimant/petitioner to sue respondent No.2 and to continue with the arbitral proceedings because of lack of quorum and because of non-authorization by two Directors which was in accordance with the Articles of Association. However, it was the case of learned Senior Counsel for the petitioner that the aforesaid cannot become a ground for non-suiting the petitioner in view of the provisions of Section 174 of the Companies Act which has an overriding effect upon the Articles of Association in terms of Section 6 of the Companies Act. It was an argument of learned Senior Counsel for the petitioner that since the facts and

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circumstances of the present case fall in the category of exceptional rarity and bad faith, the writ jurisdiction of this Court can always be invoked in the facts and circumstances of each and every case.

16. A perusal of the impugned order (Annexure P-19) would show that the application filed by respondent No.2 under Section 32(2)(c) of the Act has been allowed because of the aforesaid reasons. Hon'ble Supreme Court in the aforesaid judgment of *Lalit Kumar V. Sanghavi's case (Supra)* while dealing with the aforesaid issue pertaining to remedy available in case an order is passed under Section 32(2)(c) of the Act would be Section 14(2) of the Act only. It was so observed by Hon'ble Supreme Court that having regard to the scheme of the Act and more particularly on a cumulative reading of Section 32 and Section 14, the question whether the mandate of the arbitrator stood legally terminated or not can be examined by the Court "as provided under Section 14(2)". The aforesaid expression "Court" is defined under Section 2(1)(e) of the Act which means the Principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary, ordinary original civil jurisdiction, having jurisdiction to decide questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such Principal Civil Court, or any Court of Small Causes. So far as the jurisdiction of this Court is concerned, this Court does not exercise original jurisdiction in the Civil Court under the Punjab Courts Act and it is only under Section 24 of the Punjab Courts Act, 1918, the District Judge has jurisdiction. The relevant portion of the aforesaid Section 24 of the Punjab Courts Act is reproduced as under:-



“24. District Court to be principal Civil Court of original jurisdiction—The Court of the District Judges shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the district.”

17. Therefore, as per the aforesaid judgment of Hon’ble Supreme Court in ***Lalit Kumar V. Sanghavi’s case (Supra)***, the remedy against an order passed under Section 32(2)(c) of the Act is only to file appropriate application before the appropriate Court under the provisions of Section 14(2) of the Act.

18. So far as the argument raised by learned Senior Counsel for the petitioner with regard to the fact that the case of the present petitioner in the facts and circumstances falls in the category of exceptional rarity and bad faith is concerned, these two arguments are also required to be considered. In ***M/s Deep Industries Limited’s case (Supra)*** which was referred to by learned Senior Counsel for the petitioner, it was a case of an order being passed under Section 17 of the Act by learned Arbitral Tribunal against which an appeal was filed under Section 37 of the Act and that order under Section 37 of the Act was challenged under Article 227 of the Constitution of India which was allowed by the High Court and the order of the City Civil Court was set aside. It was held by Hon’ble Supreme Court that Article 227 of the Constitution of India remained untouched by Section 5 of the Arbitration Act but the provision of Article 227 of the Constitution of India can be invoked only when there is patent lack of inherent jurisdiction. Similarly, in the judgment passed by Hon’ble Supreme Court in ***Bhaven Construction’s case (Supra)*** as also referred by learned Senior Counsel for the petitioner, again it was so held that it is only in exceptional rarity that the



party is left remediless or there is clear bad faith only then intervention can be done under Article 227 of the Constitution of India.

19. However, in the present case, the facts and circumstances, suggest that there is no lack of patent inherent jurisdiction with learned Arbitral Tribunal. The mere fact that even if assumingly any erroneous order is passed by learned Arbitral Tribunal would not mean that the order is lacking patent inherent jurisdiction. Learned Arbitral Tribunal was appointed by a Co-ordinate Bench of this Court under Section 11 of the Act vide order dated 17.11.2023 (Annexure P-2) and as per the learned counsels for the parties, they submitted to the jurisdiction of learned Arbitral Tribunal and rather as per learned Senior Counsel for the petitioner, the tenure of learned Arbitral Tribunal was also extended. Therefore, it cannot be said that there was any lack of inherent jurisdiction. So far as the ground raised by learned Senior Counsel for the petitioner that the present case falls under the exceptional rarity is concerned, this Court is of the considered view that it is not a case where the petitioner is left remediless whereas on the other hand, there is a statutory remedy available with the petitioner and the facts and circumstances of the present case by no stretch of imagination suggest that this case falls under the category of exceptional rarity. So far as the ground taken by learned Senior Counsel for the petitioner that this case falls under the category of bad faith is concerned, the same is also unsustainable in view of the fact that the mere fact that at one stage learned Arbitral Tribunal had issued notice of contempt to the petitioner would not mean that it is a case of bad faith. This Court is satisfied that facts and circumstances of the present case do not fall in any of the exceptional cases as so taken up by learned Senior Counsel for the petitioner.

20. In view of the aforesaid facts and circumstances, the present writ petition is hereby dismissed. Petitioner shall be at liberty to invoke alternate remedy available in accordance with law. However, there shall be no order as to costs.

03.12.2025

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

1. Whether speaking/reasoned:

Yes/No

2. Whether reportable:

Yes/No