IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2026

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arb.O.P(Com.Div.)No.286 of 2023

M/s.Glo Life Care Equipments Pvt. Ltd.,
Represented by the J.Govindaraj, Director,
No.16/3, Vidhyodaya First Cross Street,
T.Nagar, Chennai – 600 017. .... Petitioner

Vs.

Tamil Nadu Text Books and Education Services Corporation,
No.68, DPI Campus, College Road,
EVK Sampath Maaligai,
Chennai – 600 006. .... Respondent

PRAYER

Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the Award dated 28.07.2022 passed by the learned MSE Facilitation Council in the matter of MSEFC/CR/266/2020.

For Applicant : Mr.P.V.Balasubramanian

For Respondent : Mr.J.Ravindran,
Additional Advocate General
assisted by Ms.S.Varsha

ORDER

This petition has been filed challenging the award passed by the first respondent dated 28.07.2022.

2. The case of the petitioner is that, the respondent issued a tender advertisement on 06.03.2018 for supply and installation of 4,161 of Automatic Electrical Sanitary Napkin Incinerators in 3334 Government High Schools and Higher Secondary Schools. The petitioner participated in the said tender and was declared the successful bidder. The parties entered into agreement dated 03.08.2018 for procurement and installation of the sanitary napkin incinerators. The purchase order was placed on 07.09.2018.

3. The entire supply and installation was supposed to be completed in 3334 Government High Schools and Higher Secondary Schools within a period of 120 days from the date of the purchase order. Thus, this process should have been completed within 120 days from 07.09.2018.

4. The petitioner claims that they were not able to complete this process within the time stipulated due to various reasons viz., the Gaja cyclone and Jacto-Geo strike by the members of the Joint Action Council of Teachers' Organizations. It was further contended that the delay was also due to unavailability and unpreparedness of the school authorities. Ultimately, the petitioner was able to complete the task only on 06.04.2019 instead of 05.01.2019 with a delay of nearly 3 months.

5. The grievance of the petitioner was that the respondent failed to make the payment of the principle amount of Rs.58,88,575/- along with interest. The repeated request and demands made by the petitioner also did not evoke any response.

6. It is under these circumstances, the petitioner approached the Council under Section 18(1) of the Micro, Small and Medium Enterprises Development Act, 2006 to recover the amount. Ultimately, the Council through award dated 28.07.2022 rejected the claim made by the petitioner. Aggrieved by the same, the present petition has been filed before this Court.

7. When the petition came up for final hearing on 21.01.2026, this Court passed the following order:

> "*Heard the learned Senior Counsel appearing on behalf of the petitioner and carefully perused the materials available on record.*
>
> *2.The sum and substance of the grievance expressed by the learned Senior Counsel is that, the award passed by the Council is bereft of reasons and it falls foul of the judgment of the Apex Court in Dyna Technologies Pvt. Ltd. v. Crompton Greaves Ltd. reported in (2019) 20 SCC 1. The*

learned Senior Counsel by relying upon Clause 10 of the tender terms and conditions, submitted that, it provided for a particular methodology for imposing penalty, whereby a penalty of 1% will be imposed of the value of the delayed supply for every week of delay or part thereof after the due date of delivery for a period of two weeks. For the delay beyond two weeks, it will be at the rate of 3% of the value of the delayed supply and installation for each week of delay or part thereof till completion and the maximum penalty was limited to 10% of the total contract value.

3.The learned Senior Counsel, by pointing out to the proceedings of the respondent dated 29.05.2020, submitted that, what was payable to the petitioner after the completion of the entire supply was paid to the extent of 80% and the dispute was regarding the balance 20%. The balance 20% amount worked out to Rs.1,29,49,887/-. Out of this amount, the respondent recovered a sum of Rs.58,88,575/-. While computing this amount, the respondent has imposed an additional 5% penalty and there is also no breakup on the number of days delay and the percentage of penalty that was imposed while arriving at the total amount of Rs.58,88,575/-. What was ultimately paid to the petitioner was only a sum of Rs.70,61,312/-. The learned Senior Counsel, by pointing out to the award, submitted that, there is absolutely no discussion on the part of the Council or application of mind, in the manner in which the Council was satisfied with the deduction of the penalty amount made *by the respondent.*

4.The learned counsel appearing on behalf of the respondent Corporation submitted that the entire calculation that was placed before the Council and which was relied upon by the Council, will also be placed before this Court. 5.On a careful reading of the award, it is seen that conciliation proceedings were going on from September 2021 and ultimately, the conciliation proceedings failed and the Council decided to conduct the arbitration proceedings under Section 18(3) of the Micro Small and Medium Enterprises Development Act, 2006. Accordingly, the hearing was conducted on 28.07.2022 and the award was also passed on the very same day. Two issues arises for consideration on the face of the award and they are :

(a) Whether the Council after having conducted the conciliation proceedings between the parties, should have referred the matter for arbitration to a different Arbitral Tribunal; and

(b)The Council having decided to conduct the arbitration proceedings, should have followed some procedure and should have assigned reasons reflecting the application of mind and the same is absent, due to the fact that the award itself came to be passed on the very same day, when the proceedings were conducted.

6.The learned counsel appearing on behalf of the respondent Corporation submitted that she is led by the learned Additional Advocate General and seeks for some more time to take instructions and to place relevant materials before this Court. 7.Post this petition under the caption "Part Heard Cases" on 22.01.2026."

8. This Court heard the learned Senior Counsel appearing for the petitioner and the learned Additional Advocate General appearing on behalf of the respondent and carefully perused the materials available on record.

9. This Court also carefully perused the award passed by the Council.

10. In the considered view of this Court, the conciliation proceedings were going on before the Council from the year 2021 till 15.06.2022.

11. Thereafter, the Council had decided to proceed further with the arbitration proceedings and the matter was listed on 28.07.2022. As was stated in the earlier order, the proceedings itself was completed on that

date and the final award was passed on the same date.

12. There were disputed questions of facts and the Council ought to have been followed the minimum procedure of affording opportunity to the parties and give its reasons for rejecting the claim made by the petitioner.

13. The Council has acted in a hasty manner and has passed an award on the same date when the arbitration proceedings were commenced. Therefore, there is clearly violation of principles of natural justice. Therefore, such an award passed by the Council goes against the public policy of India and the same is liable to be interfered by this Court.

14. In the light of the above discussion, without going into the merits of the case, the award is liable to be set aside for the illegal procedure that was followed by the Council without affording an opportunity to the parties. Accordingly, the award passed in MSEFC/CR/266/2020 dated 28.07.2022 is hereby set aside.

N.ANAND VENKATESH, J.

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15. It will be left open to the petitioner to take steps to initiate fresh arbitration proceedings in the manner known to law.

In the result, this petition is allowed in the above terms.

23.01.2026

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