



2026:DHC:1881



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 2631/2026 and CM APPL. 12784/2026**Date of decision: **25.02.2026.****IN THE MATTER OF:****M/S JINDAL HABITAT SOLUTIONS PVT. LTD.**

Through its Authorised Representative
Mr. Anil Kumar S/o Shri Kishan Lal,
General Manager
(Resort Jim Corbett Marriott Resort & Spa)
At village Dhikuli Ram Nagar,
District Nainital, Uttarakhand -244715

.....Petitioner

*(Through: Mr. Dr. Gyanendra Kumar Sharma and Ms. Manisha
Advocates.)*

versus

**1. MICRO AND SMALL ENTERPRISES FACILITATION
COUNCIL**

Through SO (Legal) Nodal Officer
District North-West, Kanjhawala, Delhi-110081,

.....Respondent no.1

2. M/S ANGAD CONSTRUCTIONS

Through Vikram Singh Bedi Sole Prop.
Office Address 578, Dr. Mukherjee Nagar,
Delhi-110009

... Respondent no.2

3. GOVT. OF NCT OF DELHI

Through Secretary
Office of Deputy Commissioner (North-West)
Kanjhawala, Delhi- 110081

.....Respondent no.3

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2026:DHC:1881



(Through: Mr Shashi Pratap Singh, Ms Shagun Sabharwal,
Ms.Anamika Tyagi and Ms Laqshyaa Saluja, Advocates.)

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

CM APPL. 12875/2026 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 12786/2026 (Condonation of delay)

1. For the reasons stated in the application, the same stands allowed. The delay of 23 days in re-filing the petition stands condoned.
2. The application stands disposed of.

W.P.(C) 2631/2026 and CM APPL. 12784/2026

1. The instant petition is for the following reliefs:-

“a. Issue an appropriate Writ of Certiorari or any other writ, order or direction, quashing the order dated 27.05.2025 passed by the Micro and Small Enterprises Facilitation Council, whereby Section 18(3) of the Micro, Small and Medium Enterprises Development Act, 2006 was invoked without first conducting the mandatory conciliation proceedings under Sections 18(1) and 18(2) of the Act;

b. Issue an appropriate writ, order or direction, directing Respondent No. 1 to ensure that Respondent No. 2 participates in fresh conciliation proceedings strictly in accordance with Section 18(1) of the MSMED Act, 2006, after affording a fair and effective opportunity of hearing to the Petitioner;

c. Pass such other and further orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case.”

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2. The sole grievance raised by the petitioner is with respect to not undertaking the conciliation proceedings as required under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (**'MSMED Act'**). The petitioner submits that without notice, respondent no.1 assumed failure of conciliation on the first date and referred the dispute for arbitration. The petitioner claims that it only became aware of the said referral upon notice from the Delhi International Arbitration Centre (**'DIAC'**) and accordingly, raised objection under Sections 12, 13 and 16(2), and filed applications under Section 61 and 62 of the Arbitration and Conciliation Act, 1996 (hereinafter "**the Act**") for amicable settlement, which were also dismissed. The petitioner, therefore, submits that even today, the petitioner is ready for amicable settlement.

3. Learned counsel appearing on behalf of respondent no.1 on advance instructions submits that the instant petition is wholly misconceived and is an abuse of process of law. According to him, sufficient opportunity was extended to the petitioner for conciliation and the Reference Letter dated 05.06.2025 issued by the Micro and Small Enterprises Facilitation Council (**'Facilitation Council'**) clearly indicated that on the Council's satisfaction of conciliation proceedings being not possible, the matter was referred to the DIAC.

4. Additionally, he contends that the controversy involved herein is squarely covered by the decision of the Division Bench of this Court in the case of **'Corrtech International Pvt. Ltd. v. Delhi International Arbitration**

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Center and Others.¹. According to him, the Courts under Article 226 of the Constitution should not routinely interdict arbitration proceedings and the application under Section 16 filed by the petitioner has already been dismissed by the sole arbitrator *vide* its order dated 13.10.2025. The said order has not been challenged by the petitioner.

5. I have considered the submissions made by learned counsel for the parties and also perused the record.

6. If the record is perused in its right perspective, it would indicate that pursuant to the Reference Letter dated 05.06.2025 issued by the MSEFC, the Arbitrator was appointed. It has come on record that in conciliation proceedings dated 27.05.2025, the authority had recorded that the petitioner herein does not seem to be interested in mediation/ conciliation towards the disputed amount. Under those circumstances, the reference was made.

7. Even otherwise, the petitioner raised a grievance under Section 16 of the Act and the Arbitrator *vide* its order dated 13.10.2025 did not find any substance in the submissions made by the petitioner, and accordingly, rejected the same. Paragraph nos.8 to 10 of the said order are extracted as under:-

“8. Furthermore, non-appearance after proper notice does not invalidate conciliation proceedings but rather triggers the statutory mechanism for termination and subsequent arbitration referral.

9. The present arbitration is a direct consequence of the failed conciliation proceedings undertaken in compliance with Section 18(2) of the MSMED Act, pursuant to which the matter was duly referred to the Delhi Arbitration Centre, which appointed the undersigned as the

¹ 2024 SCC OnLine Del 7029



2026:DHC:1881



Sole Arbitrator. Therefore, any challenge to the validity or propriety of the conciliation stage after due termination of section 18(2) proceedings is not maintainable.

10. Even on merits, the objection raised by the respondent is not on the ground that he is willing to settle the matter through conciliation with the claimant and that the present arbitration proceedings have been unnecessarily imposed upon him. The respondent has remained completely silent on this aspect. It is pertinent to note that the proceedings under Section 18(2) of the MSMED Act, 2006 are in the nature of mediation proceedings, and the Tribunal, even at this preliminary stage, is within its rights to afford an opportunity to the parties to record a settlement, if so desired by both. The present application, however, appears to have been filed only with a view to delay the proceedings, without disclosing any bona fide intention on the part of the respondent to settle the dispute.

Accordingly, the application u/s 16 filed by the respondent stands dismissed.”

8. The Division Bench of this Court in ***Corrtech International Pvt. Ltd.*** has observed that an Arbitral Tribunal is well within its power to adjudicate upon its own jurisdiction. Paragraph no. 15 of the said decision is extracted as under:

“15. It is also clear that under section 16 of the Act, the Arbitral Tribunal is empowered to consider issues of its own jurisdiction and other legal objections that the appellant possibly may have. The framework envisaged under the Act confers independent power upon the Tribunal to independently assess the merits of the claims and legal issues too. Thus, the grievances of the appellant can suitably be redressed within the provisions of the Act, which is a complete code in itself. To a specific query put by this Court on approaching the Arbitral Tribunal under section 16 of the Act, the learned senior counsel for the appellant submitted that once the application under section 16 is dismissed, no appeal is provided in the statute and the challenge to section 16 application being dismissed must await the passing of a final award to file an appeal under section 34 of the Act. It must be noted that section 16 of the Act mandates that the issue of jurisdiction must be dealt first by the Arbitral Tribunal, before the Court examines the same under section 34 of the Act. Therefore, the appellant is not left remediless as the statute provides him a chance of appeal. Under section 34 of the Act, the

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aggrieved party has an avenue for adjudicating its grievances against the award including any orders that might have been passed by the Arbitral Tribunal acting under section 16 of the Act. This Court is fortified in its view taken by the Supreme Court in Deep Industries Ltd. v. Oil and Natural Gas Corporation Ltd., (2020) 15 SCC 706. The same is extracted hereunder: —

“22. One other feature of this case is of some importance. As stated hereinabove, on 9-5-2018, a Section 16 application had been dismissed by the learned arbitrator in which substantially the same contention which found favour with the High Court was taken up. The drill of Section 16 of the Act is that where a Section 16 application is dismissed, no appeal is provided and the challenge to the Section 16 application being dismissed must await the passing of a final award at which stage it may be raised under Section 34.”

9. In view of the aforesaid legal position, the Court finds that there is no substance in the instant writ petition. Even otherwise, the jurisdiction under Article 226 of the Constitution of India to interdict the arbitration proceedings is to be exercised sparingly and only in exceptional circumstances.

10. The aforesaid position is settled by the Supreme Court in ***Bhaven Construction Vs Executive Engineer, Sardar Sarovar Narmada Nigam Ltd. & Anr.***,² wherein it has been held that the Arbitration and Conciliation Act, 1996 is a self-contained and comprehensive code providing for a complete mechanism for redressal of grievances arising out of arbitral proceedings. It has further been held that the High Courts, in exercise of their jurisdiction under Articles 226 and 227 of the Constitution of India, ought not to interfere with the arbitral process except in rare and exceptional circumstances, such as where there is a patent lack of jurisdiction, manifest

² (2022) 1 SCC 75.



2026:DHC:1881



bad faith, or where no efficacious alternative remedy is available. The Supreme Court has emphasized the principle of minimal judicial interference, observing that all objections, including those relating to jurisdiction, are required to be raised before the Arbitral Tribunal and thereafter in accordance with the statutory remedies provided under the Act.

11. In view of the aforesaid, this Court is of the considered view that no ground is made out warranting interference in the present matter, and it does not find it appropriate to interdict the arbitral proceedings. However, liberty is granted to the petitioner to agitate all issues pertaining to, *inter alia*, jurisdiction of the arbitral tribunal at a subsequent and appropriate stage.

12. Accordingly, the instant petition stands dismissed along with the pending application.

PURUSHAINdra KUMAR KAURAV, J

FEBRUARY 25, 2026

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