

STEEL AUTHORITY OF INDIA LIMITED v. DISTRICT LEVEL MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL, FATEHGARH SAHIB,(2022-1)205 PLR 441

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice G.S. Sandhawalia.

STEEL AUTHORITY OF INDIA LIMITED – Petitioner,

Versus

DISTRICT LEVEL MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL, FATEHGARH SAHIB And Another – Respondents.

CWP-15290 & 15772-2021

Micro Small and Medium Enterprises Development Act, 2006 (27 of 2006) – Award – Principles of natural justice -Petitioner as such was never given an adequate opportunity to present its case before the Council and has been burdened with substantial liability – Principles of natural justice have to be followed, specially where financial interests are involved – Specially due to the fact that Covid-19 pandemic was raging in the country, it was not possible for the petitioner-Authority who as such is based at West Bengal, to have its official present on the date of hearing – MSMED Act, 2006.

Mr. A.R. Takkar, for petitioner. Mr. P.S. Rana, for respondents. (through VC.)

G.S. Sandhawalia , J. (Oral) – (7th October, 2021) – The present order shall dispose off two writ petitions i.e. CWP 15290 & 15772-2021, since common issues are involved. The facts are being taken from CWP No.15290 of 2021.

2. The challenge is to the Award dated 28.01.2021 (Annexure P-18) passed by respondent No.1-Council, which is under the MSMED Act, 2006.

3. It is not disputed that the petitioner was not present when the order was passed and liability as such was assessed as under:-

“a) The claimant’s claim for the recovery of the amount of Rs.4,84,30,412/- as principal, Rs.6,05,72,493/- as interest w.e.f. 30.06.2016 to 28.01.2021 upto 28.01.2021 total Rs.10,90,02,905/- allowed and this amount is awarded in favour of the claimant and against the respondents under claim No.1 to 5.

b) The total amount awarded upto 28.01.2021 in favour of the claimant and against the

respondent shall be Rs.10,90,02,905/- Calculation Sheet attached as Annexure-AB/15 containing Page No.01 to 08, which shall form part of this award. The respondent shall be further liable to pay future interest on delayed payments as per provisions of the MSMED Act to the claimant till realization of the awarded amount from 28.01.2021 till realization with no costs.”

3. This matter came up before this Court and the following contention was noted on 16.08.2021:-

“Inter-alia contends that vide letter dated 12.11.2020 (Annexure P-9), the petitioner was put to notice regarding the claim made by respondent No.2 through video link. Another notice was issued on 04.12.2020 (Annexure P-12) for 14.12.2020 and the petitioner had objected to the hearing during the prevailing conditions of COVID19 vide letter dated 12.12.2020 (Annexure P-13) and also submitted that the matter could be reconciled. Another notice dated 18.01.2021 (page 207) was also served for 28.01.2021. The petitioners had responded that they would submit the reply to the claim petition and be given a chance to attend the hearing via any online platform and submitted the reply to the claim petition dated 27.10.2020. But without considering the stand of the petitioner, impugned award of Rs.10,90,02,905/- along with future interest has been passed on 28.01.2021. It is, thus, submitted that principles of natural justice have been totally violated. Notice of motion for 07.10.2021. In the meantime, impugned award dated 28.01.2021 shall remain stayed.”

4. Counsels are ad-idem that the matter be heard afresh by respondent No.1 keeping in view the fact that the petitioner as such was never given an adequate opportunity to present its case before the Council and has been burdened with substantial liability as noticed above.

5. It is settled principle that principles of natural justice have to be followed, specially where financial interests are involved to the extent which has been already noted above. Specially due to the fact that Covid-19 pandemic was raging in the country, it was not possible for the petitioner-Authority who as such is based at West Bengal, to have its official present on the date of hearing.

6. Accordingly, keeping in view the above the said Award dated 28.01.2021 (Annexure P-18) is set aside. Respondent No.1-Council shall decide the proceedings afresh expeditiously preferably within a period of two months from 25.10.2021, after giving due opportunity to the petitioner.

7. Let, the parties be put in appearance on 25.10.2021 at 10:00 AM before respondent No.1.

8. The writ petitions are allowed in the abovesaid terms.

R.M.S.

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Petition allowed.