



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7606/2018

M/s Priest Pharmaceuticals Amravati .Vs. Micro, Small Enterprises Facilitation
Council, Amravati through Director and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. P Bhandarkar, Advocate for petitioner.
Mr. Nirav Shah, Advocate for respondent No.2.

CORAM : ANIL L. PANSARE AND NIVEDITA P. MEHTA, JJ.

DATE : MARCH 26, 2026.

Heard.

2. Challenge is to order dated 07.09.2018 passed by respondent No.1 in Reference No.10/2016, thereby dismissing the claim made by petitioner.

3. Argument is that the order suffers from non compliance of the mandatory provisions viz. Section 18, then prevailing, which is amended by the Act 32 of 2023, of the Micro, Small and Medium Enterprises Development Act, 2006 ("MSME Act"), which reads thus:

"18. Reference to Micro and Small Enterprises Facilitation Council.—

(1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.

(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.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.”

4. Thus, Sub Section (1) provides for making reference to respondent No.1 – Council and reference is to be made in terms of Section 17, for recovery of amount due.

5. Sub Section (2) provides, on receipt of a reference under Sub Section (1), the Council shall itself conduct conciliation or seek assistance of any institution or centre providing alternate dispute resolution services and the provisions of Section 65 to 81 of the Arbitration and Conciliation Act, 1996 (“Act of 1996”) shall apply. Section 65 of the Act of 1996 provides for submission of statement to the conciliator who is required to make request to each party to submit to him a brief written statement describing the general nature of the dispute and the points at issue. Subsequent part of said section provide for other formalities, followed by other provisions of the Act of 1996, which include role of conciliator, settlement agreement, etc. amongst other such requirements.

6. In the present case, this process has been not followed. Instead, respondent No.1-Council has, in one line, concluded the dispute saying that due to the stand taken by both the parties, conciliation is not possible. Except for this one line, there is

absolutely nothing in the order to show as to why respondent No.1 has not processed the reference in terms of Section 18(2) of the MSME Act.

7. Counsel for respondent No.2 submits that the stand so taken was oral and, therefore, there is nothing in the form of documentary evidence or otherwise with the parties or at least to show that respondent No.2 had taken such a stand.

8. This submission is made to counter the contentions put forth by petitioner's counsel that respondent No.1 has failed to comply with the mandatory provisions under Section 18(2) of the MSME Act. In support, he has referred to judgment in the case of *Vijeta Construction .VS Indus Smelters Ltd. and anr.; [2021 SCC OnLine SC 3436]* wherein, the Court held that as per Section 18(2), on receipt of reference under Sub Section (1), the Council **shall** have to resolve dispute through conciliation either by Council itself by or seeking assistance of any institution.

9. That being so and since there is nothing on record to indicate that compliance of Section 18(2) was done by respondent No.1, order impugned is unsustainable.

10. The petition is accordingly partly allowed.

Impugned order dated 07.09.2018 is quashed and set aside. Reference No.10/2016 is restored to the file of respondent No.1 for processing the same in accordance with law, particularly Section 18 of the MSME Act.

The parties shall appear before respondent No.1 on 01.04.2026.

The writ petition is disposed of in the above terms. No order as to costs.

(JUDGE)

(JUDGE)