IN THE HIGH COURT OF JHARKHAND AT RANCHI

Civil Review No. 34 of 2025

State Project Director, Jharkhand Education Project Council, having its registered office at Near JSCA Stadium, Jagarnathpur, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi (Jharkhand).

... Respondent/Review Petitioner

Versus

M/s Deepak Printers & Publishers, Bareily Road, Haldwani, Janpat, P.O. & P.S. Mukhani, District Nainital (Uttarakhand) and having its present address as Bareilly Road, Haldwani, P.O. & P.S. Mangal Parao, District Nainital (Uttarakhand)- 263139; through its Proprietor Sri Deepak Kumar Agarwal, aged about 52 years, son of Late Pooranmal Agarwal, resident of Kaladungi Road, Haldwani, P.O. & P.S. Mukhani, District Nainital (Uttarakhand).

... C.M.P. Petitioner/Respondent

WITH

Civil Review No. 38 of 2025

State Project Director, Jharkhand Education Project Council, having its registered office at Near JSCA Stadium, Jagarnathpur, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi (Jharkhand).

... Respondent/Review Petitioner

Versus

M/s Raj Enterprises, Kaladungi Road, Haldwani, P.O. Jail Road, Mukhani, P.S. Mukhani, District Nainital (Uttarakhand) having present address as 3, PCF Godown, near Abdullah Building, Bareilly Road, Haldwani, P.O. Abdullah Building, P.S. Bareilly Road, Haldwani, District Nainital- 263139 (Uttarakhand) through its Proprietor Sri Hari Mohan Agarwal aged about 54 years son of Late Chhote Lal Agarwal, resident of CGIC, Kaladungi Road, Haldwani, P.O. Jail Road, Mukhani, P.S. Mukhani, District Nainital (Uttarakhand) having present address at House No.44, Ganpati Vihar, Phase-1, Dhariya, Haldwani, P.O. Pilikothi, P.S. Mukhani, District Nainital (Uttarakhand)- 263139.

... C.M.P. Petitioner/Respondent

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioner: Mr Anil Kumar, Sr. Advocate
Mr Krishna Murari, Advocate
Mr Raj Vardhan, Advocate

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Mr Ritesh Kumar Pathak, Advocate
For the Respondents: Mr Jog Singh, Advocate
Mr Pandey Neeraj Rai, Advocate
Mr Arpit Kahndelwal, Advocate
Mr Rohit Ranjan Sinha, Advocate
Ms Pooja Pandey, Advocate

02/Dated: 12.10.2026

***Per* M. S. Sonak, C.J.**

1. IA No. 4321 of 2025 (in Civil Review No. 34 of 2025) and IA No. 4381 of 2025 (in Civil Review No. 38 of 2025) seek condonation of delay of 06/08 days in filing these review petitions.

2. We have perused the averments in the IAs, and we are satisfied that sufficient cause has been shown. Even otherwise, the delay is not inordinate.

3. Accordingly, the delay is condoned, and both the IAs are disposed of.

4. At the request of and with the consent of the learned counsel for the parties, these review petitions are taken up for final disposal.

5. Heard Mr Anil Kumar, learned Senior Advocate appearing along with Mr Krishna Murari for the review petitioners, and Mr Jog Singh, who appears along with Mr Pandey Neeraj Rai for the respondents

6. These two civil review petitions seek review of the common judgment and order dated 24.01.2025 passed by the Coordinate Bench dismissing C.M.P. Nos. 836 of 2022 and 837 of 2022 instituted by the respondents herein against the order dated 19.08.2019 passed by the Commercial Court, Ranchi, by which the

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arbitral award dated 11.07.2016 published by the MSME Facilitation Council (Council) was declared a nullity and refused to be executed by the Executing Court.

7. The Coordinate Bench, by its common judgment and order dated 24.01.2025, noted that the present review petitioners, at whose behest the Council's award dated 11.07.2016 was refused to be executed, had not even filed any petition under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside such award. Instead, in breach of the Hon'ble Supreme Court's decision, the review petitioners, perhaps to avoid compliance with the deposit requirement under the MSME Act, indulged in the misadventure of challenging the award by filing a writ petition before the High Court.

8. The Coordinate Bench further noted that it dismissed the writ petition and that no further challenge was raised against the impugned award. After the award was put into execution, on the specious plea that only two of the three Arbitrators had signed it, a plea that the award was a nullity was raised before the Executing Court.

9. The Executing Court accepted the plea and declared the award a nullity or, in any event, refused to execute or enforce it. This Executing Court's order dated 19.08.2019 was set aside by the Coordinate Bench as being an exercise in excess of jurisdiction.

10. Learned counsel for the review petitioners submitted that the Coordinate Bench failed to consider Section 21 of the MSME Act.

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He has submitted that since the council was to comprise of three members, but the award was signed by only two out of three members, and further, there was no reason assigned for the 3rd member for not signing the award, such an award was a nullity, incapable of being executed.

11. Mr Anil Kumar relied on the decision of the Hon'ble Supreme Court in **Sarwan Kumar v. Mandan Lal Aggarwal,** (2003) 4 SCC 147, to submit that an order that is a nullity can be challenged at any stage, including in the executing proceedings. He submitted that the non-consideration of these aspects gives rise to an error apparent on the face of the record, warranting the exercise of the review jurisdiction. He also relied on **Electrosteel Steel Limited v. Ispat Carrier Private Limited,** (2025) 7 SCC 773, to submit that an objection to the execution of an award under Section 47 of the CPC is not dependent or contingent upon filing a petition under Section 34 of the 1996 Act.

12. The learned Counsel for the respondents submitted that the Coordinate Bench's view was correct and did not warrant the exercise of review jurisdiction. They submitted that the petitioner was bent upon defeating the provisions of the MSME Act and delaying the execution of an award which was not even challenged by the petitioner in terms of the Arbitration and Conciliation Act.

13. We have considered the rival contentions and the record, but we are not satisfied that any case is made out for the exercise of our review jurisdiction. Our brief reasons follow.

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14. Firstly, review is not taking a chance to reargue the matter. The argument now advanced was precisely the argument advanced before the Coordinate Bench. It is incorrect to state that the Coordinate Bench failed to consider Section 21 of the MSME Act.

15. On perusal of the common judgment and order dated 24.01.2025, the argument now urged was considered in its entirety. The Coordinate Bench found this argument untenable on the merits and also because the Arbitration and Conciliation Act, 1996 is a complete Code in itself, and, in this case, the validity of the arbitral award was never challenged by invoking the mechanism provided under the 1996 Act.

16. To defeat the salutary provisions of the MSME Act and avoid a pre-deposit, the petitioner instituted a Writ Petition to challenge the award, urging the ground now urged. The Coordinate Bench also noted that challenging this award by filing a writ petition was entirely misconceived and possibly intended to avoid compliance with the deposit of 70% of the awarded amount. In any event, the writ petition was also dismissed, and no further proceedings to challenge the award were taken thereafter.

17. The review petitioners also failed to challenge the order dismissing the Writ Petition before the Hon'ble Supreme Court, either by filing a review or otherwise. Thus, it is apparent that the review petitioners are taking risks at every stage by repeating the same contention, solely to deprive or unreasonably delay the award holders from securing the fruits of the award.

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18. At the execution stage, the same point was urged, and though the Executing Court found favour with it, the Coordinate Bench, for cogent reasons, disagreed with the Executing Court. Considering the scope of the 1996 Act and the limited scope of review jurisdiction, we do not think that any case of an error apparent on the face of the record has been made out by the review petitioners to resist the execution of the award.

19. The decision in **Sarwan Kumar (supra)** offers no comparison whatsoever. That was a case where a court lacking inherent jurisdiction ordered the eviction of a protected tenant. On such gross facts, the Hon'ble Supreme Court reiterated the principle that an order issued by a Court or Tribunal that lacked inherent jurisdiction cannot be enforced in execution, as it is a nullity. No such case has been made out in the present matter.

20. The facts in **Electrosteel Steel Limited (supra)** are quite different. In this case, the non-filing of a petition under Section 34 is not the sole ground for non-suiting the review petition. After considering the provisions of both enactments, the Court held that the ground urged on behalf of the review petitioners does not render the award a nullity or unenforceable. Accordingly, based on **Electrosteel Steel Limited (supra),** no case is made out for reviewing the Coordinate Bench's order dated 24.01.2025.

21. Incidentally, the Hon'ble Supreme Court delivered the decision in **Electrosteel Steel Limited (supra)** on 21st April 2025, whereas the order for which the review is applied was pronounced on

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24.01.2025. If **Electrosteel Steel Limited (supra)** represents a departure from earlier decisions, then Order 47 Rule 1 of the CPC may apply, though in this case, we need not rely on the said provision.

22. Accordingly, we find no merit in these review petitions and dismiss them without any order as to costs. IAs, if any, pending in these petitions will not survive and are disposed of.

(M. S. Sonak, C.J.)

(Arun Kumar Rai, J.)

October 12, 2026
N.A.F.R.
Manoj/Sharda/Cp.2
Uploaded on 15.10.2026

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