2026:AHC:207484

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 13427 of 2026

M/S Steel Authority Of India Limited

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Archit Mishra, Narendra Mohan, Ramesh Chandra Tiwari
Counsel for Respondent(s)	:	C.S.C.

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Narendra Mohan along with Sri Ramesh Chandra Tiwari, learned counsel for the petitioner and Sri Rishabh Agarwal, learned State Law Officer for the respondent no. 1.

2. In view of the order which is being proposed to be passed, notices are not being issued to respondent nos. 2 and 3.

3. The case of the writ petitioner is that the Steel Authority of India, the writ petitioner, is a Union of India undertaking company incorporated under the provisions of the Companies Act.

4. The respondent no. 3 happens to be a limited company governed by the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as “the Act”).

5. Work orders came to be issued by the writ petitioner to respondent No. 3 for the supply of refractories and allied items. Certain disputes and differences arose on account of non-payment of the admitted dues and the interest thereon. Thereafter, the matter travelled to the Uttar Pradesh State Micro and Small Enterprises Facilitation Council, Industries & Entrepreneur Promotion Directorate, Uttar Pradesh, Lucknow. Thereafter, an award came to be passed on 20.02.2015 and signed on 24.04.2015, allowing the claim of the third respondent and entitling it to receive from the writ petitioner herein the balance principal amount of Rs. 11,25,544/-, interest amounting to Rs. 20,50,915/-, totalling Rs. 31,76,459/- up to the date of the award, and thereafter compound interest with monthly rests in

accordance with the Act, till the entire amount along with interest is paid by the respondent. Thereafter, on 03.02.2026 and 05.06.2026, orders came to be passed for attaching the property of the writ petitioner in Execution Petition No. 313/19 of 2016. According to the writ petitioner, the entire amount stands deposited.

6. Aggrieved by the award of the Facilitation Council dated 20.02.2015, signed on 24.04.2015, as well as the orders passed by the Commercial Court, Kanpur Nagar, in Execution Petition No. 313/19 of 2016 dated 03.02.2026 and 05.06.2026, the present petition has been preferred with a further direction restraining the respondents herein from taking any steps to recover the amount of Rs. 2,70,89,801/-.

7. Learned counsel for the writ petitioner sought to argue that the entire proceedings before the Uttar Pradesh State Micro and Small Enterprises Facilitation Council, Industries & Entrepreneur Promotion Directorate, Uttar Pradesh, Lucknow, G.T. Road, Sarvodya Nagar, Kanpur Nagar, cannot be sustained even for a single moment. Elaborating upon the said submission, it is contended that, as per the provisions contained in the Micro, Small and Medium Enterprises Development Act, 2006, Section 18 provides for reference to the Micro and Small Enterprises Facilitation Council, according to which, notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to the amount due under Section 17, make a reference to the Facilitation Council, and upon receipt of the same, the Council shall either conduct mediation itself or refer the matter to a mediation service provider as provided under the Mediation Act, 2023, and the conduct of the mediation shall be in accordance with the provisions of the Act, 2023. Where the mediation initiated under sub-section (3) 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 alternative dispute resolution services for such arbitration, and the provisions of the Arbitration and Conciliation Act shall apply.

8. The submission is that here in the present case there had been no initiative taken by the counsel for mediation and the matter was directly

referred for arbitration and the award came to be passed. Further submission is that in view of the provisions contained under Section 19 the award can be challenged under the Provisions of Section 34 of the Arbitration and Cancellation Act, 1996 subject to deposit of 75% of the total amount, however, the said alternative efficacious remedy of preferring an application u/s 34 would not arise particularly when the order of the facilitation council itself is a nullity as there was no mediation conducted. He thus submits that directly a writ under Article 226/227 of the constitution of India would be maintainable while relying upon a judgment of Hon'ble Apex Court in **Jharkhand Urja Vikas Nigam Limited Vs. State of Rajasthan and others (2021) 19 SCC**. Further submission is that the entire amount is deposited thus the pre-requisite condition of deposit of 75% also stands complied with.

9. Countering the said submissions made by the learned counsel for the writ petitioner, Sri Rishabh Agarwal, learned State Law Officer, on the other hand, submits that none of the contentions so raised by the writ petitioner has any legs to stand, particularly when the award of the Facilitation Council came to be passed on 20.02.2015 and signed on 24.04.2015, whereas the present petition has been presented before this Court in the month of September, 2026 i.e. on 13.09.2026.

10. The submission is that even otherwise, as per the award of the Facilitation Council, there is a recital contained therein that notices were served upon the petitioners and the petitioners, who were respondents therein, sought time on several occasions to file their objections, but no reply was filed. Thus, it is submitted that, even otherwise, it is not open to the respondents to take the said plea in this regard.

11. I have heard the submissions so made across the bar and perused the record carefully.

12. Plainly and simply, the bone of contention between the parties is whether the writ petitioner is to be relegated to filing an objection under Section 34 of the Arbitration and Conciliation Act, 1996, or whether the writ petition would directly be maintainable on the ground that the statutory mandate contained under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006, had been violated by not

referring the matter to mediation and in the event of failure, for arbitration. The statute mandates mediation and in the present case it is the allegation of the writ petitioner that mediation was not conducted and the matter was referred for arbitration. In order to address the said issue, what would be relevant would be the sequence and chronology of events in that regard. Indisputably, as per the award dated 20.02.2015 signed on 24.04.2015 of the Facilitation Council, there happens to be a recital which reads as under:-

"The notices were issued to Respondent which were served on it. Respondent took date from time to time for objection and reply but no reply was filed. On order of Council the Claimant file audited Balance Sheet for Year 2013-14 with debtors list certified by Chartered Accountant."

13. A bare perusal of the same would reveal that the writ petitioners herein, who were the respondents therein, were served with notices of the proceedings pending before the Facilitation Council and the writ petitioners herein, who were respondents therein, sought time to file their objections and reply, but no reply was filed. There is nothing on record to show that the said recital is incorrect or false.

14. Now, another question arises regarding the element of delay. The award came to be passed on 20.02.2015 and signed on 24.04.2015 and thereafter, execution proceedings came to be filed. In paragraph 23 of the writ petition, the following has been asserted:-

"That after the impugned order, the respondent no. 3 filed an execution case which was registered as Execution Petition No. 313/19 of 2016 before the learned District Judge, Kanpur Nagar."

15. Paragraph 23 of the writ petition shows that execution proceedings came to be filed, being Execution Petition No. 313/19 of 2016, before the District Judge, Kanpur Nagar, which, consequent to the creation of the Commercial Court, came to be transferred to the Commercial Court.

16. In execution, orders of attachment came to be passed on 03.02.2026 and 05.06.2026. However, in the relief clause now the award is being

questioned dated 20.02.2015 signed on 24.04.2015 relief whereof is extracted hereinbelow:-

"The impugned order dated 20.02.2015 passed by respondent no. 2 which was signed on 24.04.2015 and order dated 03.02.2026& 05.06.2026 passed by Commercial Court, Kanpur Nagar. Annexure No. 3,4 & 4-A respectively to this petition."

17. The award is of the year 2015 and the present petition has been presented before this Court on 13.09.2026, after a period of more than 11 years. It is not the case of the writ petitioners that they were not aware of the award or the factum of the arbitration proceedings before the Facilitation Council. Thus, it is not open to the writ petitioners to take the said objection, particularly in view of the fact that the present proceedings have been filed after an inordinate delay and are barred by laches.

18. So far as the judgment in the case of **Jharkhand Urja Vikas Nigam Limited (supra)**, which has been heavily relied upon, is concerned, there is no quarrel with the proposition of law that in a given case, where the award passed by the MSMED is a nullity, a writ petition would be maintainable. However, bearing in mind the fact that there is an inordinate delay of 11 years and further the writ petitioners, for reasons best known to them, did not join the proceedings before the Facilitation Council, this Court in the present proceedings, does not find the present case to be a fit case for interference.

19. Resultantly, the writ petition is **dismissed**.

(Vikas Budhwar,J.)

October 5, 2026
Nisha