

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 6436 of 2021**

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M/S SANGANER ENVIRO PROJECT DEVELOPMENT

Versus

STATE OF GUJARAT

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Appearance:

MR PANKAJ GHIYA with MR KUNTAL A PARIKH(7757) for the Petitioner(s)
No. 1

for the Respondent(s) No. 2

MR DHARMESH DEVNANI, ASSTT. GOVERNMENT PLEADER/PP(99) for the
Respondent(s) No. 1

MR ARJUN R SHETH(7589) with MS RHEA SEVAK for the Respondent(s)
No.3

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CORAM: HONOURABLE MR. JUSTICE A.J.DESAI

Date : 09/04/2021

ORAL ORDER

[1.0] By way of present petition under Articles 226, 227 and 14 of the Constitution of India, petitioner has prayed for the following reliefs:

“(A) That the Hon’ble Court be pleased to issue a writ of or in the nature of certiorari or any other appropriate writ, order or direction, quashing and setting aside the order dated 23.11.2020 passed by Respondent No.2 under Section 18(2) of the MSMED Act (Annexure-5);

(B) To hold that the Arbitration proceedings would be conducted as per the Arbitration clause in the contract agreement / Tender Document;

(C) That pending the hearing and final disposal of this petition this Hon’ble Court be pleased to stay the operation and implementation of order dated 23.11.2020 passed by Respondent No.2 under Section 18(2) of the

MSMED Act (Annexure-5);”

[2.0] Heard learned advocate Mr. Pankaj Ghiya for Mr. Kuntal Parikh appearing for the petitioner, learned AGP for the respondent No.1 and Mr. Arjun Sheth with Ms. Rhea Sevak appearing for the respondent No.3.

[3.0] Having gone through the order dated 25.11.2020, which is under challenge through the present petition and considering the fact that pleadings are completed before the respondent No.2 and the arguments advanced by both the parties relying upon different decisions of different High Courts, without expressing any opinion with regard to the contention raised by the petitioner about powers of respondent No.2 as an arbitrator, I am of the opinion that the following order would meet the ends of justice.

“Respondent No.2, after giving opportunity of hearing to all concerned, shall decide the following preliminary issue.

Whether the respondent No.2 i.e. Micro and Small Enterprises Facilitation Council is empowered to act as an Arbitrator since the Council itself has acted as a Conciliator?”

[4.0] Whether the above observation, present petition is disposed of.

(A.J.DESAI, J)

Ajay