

# Ms Grand Mumtaz Hotel And Resort Through ... vs Deputy Commissioner North East ... on 11 January, 2023

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

\$~2,7,17 to 19, 20,21,37,38,39,50,51,53,54 & 55

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 16588/2022 & CM APPLs.52144-45/2022

MS GRAND MUMTAZ HOTEL AND RESORT THROUGH ITS

MANAGING PARTNER MR WASIM MUSHTAQ ..... Petitioner

Through: Mr. Shekhar Dasi, Advocate (M  
9871655327).

versus

DEPUTY COMMISSIONER NORTH EAST GOVERNMENT OF

NCT OF DELHI & ORS.

..... Res

Through: Ms. Mehak Nakra, ASC with Mr.  
Karan Kapur, Advocate for R  
9871144582).

Dr. Farrukh Khan, Mr. Anup

Nagar, Mr. Aman Rai and Ms.

Shagun Sarohi, Advocates fo

9205029846).

7 WITH

+ W.P.(C) 13758/2021 & CM APPL.43444/2021

STERLITE POWER TRANSMISSION LIMITED ..... Petitioner

Through: Mr. Deepak Khurana and Mr.

Abhishek Bansal, Advocates

9811231287).

versus

M/S EPC SOLUTIONS LLP & ANR.

..... Res

Through: Mr. Dinesh Kr. Goswami, Sr.

Advocate with Mr. Rohit, Mr.

Prakash Kumar Sinha and Mr.

Kumar, Advocates for R-1.

Mr. Anuj Aggarwal, ASC with

Ayushi Bansal, Mr. Sanyam S

17 WITH

+ W.P.(C) 16891/2022 & CM APPL.53523/2022

MUNICIPAL CORPOATION OF DELHI

..... Pet

Through: Mr. Kunal Vajani, Mr. Kunal M

and Mr. Kartikey Bhatt, Adv

(M: 7042492840)

versus

Signature Not Verified

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By:DEVANSHU JOSHI

W.P.(C) 16588/2022 & connected matters

Signing Date:13.01.2023

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RAM PRAKASH ..... Res  
Through: None.  
18 WITH  
+ W.P.(C) 16894/2022 & CM APPL.53541/2022  
MUNICIPAL CORPORATION OF DELHI ..... Peti  
Through: Mr. Kunal Vajani, Mr. Kunal M  
and Mr. Kartikey Bhatt, Adv  
(M: 7042492840)  
versus  
TRIWENI ENTERPRISES ..... Resp  
Through: None.  
19 AND  
+ W.P.(C) 16895/2022 & CM APPL.53543/2022  
MUNICIPAL CORPORATION OF DELHI ..... Peti  
Through: Mr. Kunal Vajani, Mr. Kunal M  
and Mr. Kartikey Bhatt, Adv  
(M: 7042492840)  
versus  
M/S TRIWENI ENTERPRISES ..... Resp  
Through: Ms. Arshya Singh, Advocate fo  
20 WITH  
+ W.P.(C) 16942/2022 & CM APPL.53675/2022  
NBCC (INDIA) LTD. .... Peti  
Through: Mr. Kartik Nagarkatti and Ms.  
Prakriti Joshi, Advocates (9873368749).  
versus  
MICRO AND SMALL ENTERPRISES  
FACILITATION COUNCIL (SOUTH-EAST),  
GOVERNMENT OF NCT OF DELHI & ANR. .... Respondents  
Through: Mr. Avishkar Singhvi, Mr. Nav  
Ahmed and Mr. Vivek Kumar,  
Advocates (M: 9654847982).  
Ms. Krishna Parkhani, Advoc  
R-2 (M: 7709872128).  
21 WITH  
+ W.P.(C) 17725/2022 & CM APPL.56669/2022

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W.P.(C) 16588/2022 & connected matters

RAJA BAHADUR INTERNATIONAL LTD. ....  
Through: Mr. Shubhas Takia, Advocate.  
versus  
MICRO SMALL ENTERPRISES FACILITATION  
COUNCIL AND ORS ..... Responde  
Through: Mr. Ashish Verma, Advocate fo  
(M: 9717944394).

37 WITH  
+ W.P.(C) 16567/2022 & CM APPLs.52091-92/2022  
JKS INFRASTRUCTURE PRIVATE LIMITED ..... Petitioner  
Through: Mr. Dheeraj Sharma and Mr. Bh  
Gupta, Advocates (M: 956043  
versus  
MSME FACILITATION COUNCIL AND ORS ..... Respondents  
Through: None.  
38 WITH  
+ W.P.(C) 16702/2022  
M/S ASN ENGINEERS AND ERECTORS ..... P  
Through: None.  
versus  
UNION OF INDIA & ORS. .... R  
Through: Mr. Ravi Prakash CGSC with Mr  
Amit Acharya, GP, Mr. Farma  
and Mr. Usha, Advocates for  
(M: 8744956276).  
39 WITH  
+ W.P.(C) 16720/2022  
JENENDRA MEDICOS PRIVATE LIMITED ..... P  
Through: Mr. Pramod Bhardwaj, Advocate  
versus  
UNION OF INDIA & ORS. .... R  
Through: Mr. Ajay Digpaul, CGSC with M  
Swati and Mr. Kamal Digpaul  
Advocates for UOI (M: 98111  
Mr. Avishkar Singhvi, Mr. N  
Ahmed and Mr. Vivek Kumar,  
Advocates (M: 9654847982).  
50 WITH

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W.P.(C) 16588/2022 & connected matters  
+ W.P.(C) 276/2023 & CM APPL.1107/2023  
MUNICIPAL CORPORATION OF DELHI ..... Petiti  
Through: Mr. Kunal Vajani, Mr. Kunal M  
and Mr. Kartikey Bhatt, Advo  
(M: 7042492840)  
versus  
M/S NATRAJ CONSTRUCTION CO. .... Respo  
Through: None.  
51 WITH  
+ W.P.(C) 277/2023 & CM APPL.1108/2023  
MUNICIPAL CORPORATION OF DELHI ..... Petiti  
Through: Mr. Kunal Vajani, Mr. Kunal M  
and Mr. Kartikey Bhatt, Advo  
(M: 7042492840)  
versus

53 M/S RAM PRAKASH ..... Respo  
Through: None.  
WITH  
+ W.P.(C) 294/2023 & CM APPLs.1166-67/2023  
MUNICIPAL CORPORATION OF DELHI ..... Petit  
Through: Mr. Kunal Vajani, Mr. Kunal M  
and Mr. Kartikey Bhatt, Advo  
(M: 7042492840)  
versus  
54 M/S RAM PRAKASH ..... Respo  
Through: None.  
WITH  
+ W.P.(C) 300/2023 & CM APPLs.1184-85/2023  
SATYA NARAYAN SHARMA ..... Petit  
Through: None.  
versus  
VARISCON ENGINEERING SERVICES PVT. LTD..... Responde  
Through: Mr. Kailash Chandra, Advocate  
9810675135).  
55 WITH  
+ W.P.(C) 302/2023 & CM APPLs.1188-89/2023  
MUNICIPAL CORPORATION OF DELHI ..... Petit  
Through: Mr. Kunal Vajani, Mr. Kunal M

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W.P.(C) 16588/2022 & connected matters ..... Pag

and Mr. Kartikey B  
(M: 7042492840)

versus

SH. CHHATER PAL ..... .

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH  
ORDER

% 11.01.2023

1. This hearing has been done through hybrid mode.
2. All these petitions raise important issues arising out of the Micro Small and Medium Enterprises Development Act, 2006 (hereinafter 'MSME Act').
3. The Id. Counsel for the Micro & Small Enterprises Facilitation Council shall obtain data relating to the number of references received by the Council since its establishment, the number of matters where conciliation has been successful, and the number of matters wherein disputes have been referred to arbitration. The same shall be filed in the form a chart within one week.

4. All these matters shall be treated as part heard.

5. The Registry to list these matters on top of board, under the category of MSME matters.

W.P.(C) 16588/2022 & CM APPLs.52144-45/2022 W.P.(C) 13758/2021 & CM APPL.43444/2021

6. Submissions heard.

7. List on 16th March, 2023.

W.P.(C) 16942/2022 & CM APPL.53675/2022

8. The first issue raised in this petition relate to the fact that the supplier was not registered under the MSME Act when the contract between the parties was entered and services were provided. Further, the second issue is that the MSME Act would not apply as the same would apply only in respect of works contracts. The Respondent disputes this position.

9. Respondents are permitted to file counter affidavit/ written submissions on the legal issues raised at least one week before the next date of hearing.

10. Parties shall seek an adjournment before the ld. Arbitrator.

11. List for hearing on 16th March, 2023.

W.P.(C) 17725/2022 & CM APPL.56669/2022

12. List on 16th March, 2023 along with other MSME matters.

13. Interim order to continue till the next date of hearing. W.P.(C) 16567/2022 & CM APPLs.52091-92/2022

14. The issues raised in this petition are being considered in a batch of matters. Accordingly, list this matter along with other MSME matters.

15. It is clarified that no arbitral tribunal shall be constituted till the next date of hearing.

16. List on 16th March, 2023 W.P.(C) 16702/2022

17. Written submissions/counter affidavit on the legal issues raised may be filed by both the parties be filed, at least one week before the next date of hearing.

18. List on 16th March, 2023 along with all other MSME matters.

19. Interim order to continue till the next date of hearing. W.P.(C) 16720/2022

20. According to Id. Counsel appearing for the MSEFC, as per the order dated 3rd November, 2022 passed by this Court in W.P.(C) 13653/2022 titled M/s STUP Consultants Pvt. Ltd. v. MSEFC & Ors. the question as to whether a final settlement has been arrived at or not would be an issue which the arbitral tribunal would have to decide.

21. It is noticed that the Process Fee is not filed and the Respondents have not been served.

22. Issue fresh notice. Registry to also give intimation to all the Respondents on the email addresses mentioned in the memo of parties.

23. The interim order passed on 6th December, 2022 shall continue. Parties to file their counter affidavits/ written submissions on the legal issues raised by the next date of hearing.

24. List before the Registrar on 6th February, 2023.

25. List on 16th March, 2023.

W.P.(C) 300/2023 & CM APPLs.1184-85/2023

26. The issue raised in this petition is that works contracts are not amenable to the jurisdiction of the MSEFC.

27. Id. counsel for the Petitioner relies upon the recent judgment of the Andhra Pradesh High Court dated 26th April, 2022 passed in WP Nos. 27670/ 2022 titled Rashtriya Ispat Nigam Ltd. v. Union of India. These very issues are also being considered by this Court in various other MSME matters.

28. Issue notice.

29. Mr. Kailash Chandra, Id. Counsel appearing for the Respondent submits that the Petitioner has not taken any objection before the MSEFC as to the maintainability of the claims and accordingly cannot claim such an objection today.

30. It is made clear that the arbitration proceedings shall continue and shall be subject to the outcome of this writ petition.

31. List on 16th March, 2023.

W.P.(C) 16891/2022 & CM APPL.53523/2022 W.P.(C) 16894/2022 & CM APPL.53541/2022 W.P.(C) 16895/2022 & CM APPL.53543/2022 W.P.(C) 276/2023 & CM APPL.1107/2023 W.P.(C) 277/2023 & CM APPL.1108/2023 W.P.(C) 294/2023 & CM APPLs.1166-67/2023 W.P.(C) 302/2023 & CM APPLs.1188-89/2023

32. None appears for the suppliers.

33. These petitions are connected with similar matters raising objections against the reference made by MSEFC.

34. Let notice be served of these petitions upon the suppliers by Id. Counsel for the Petitioner. If the said suppliers wish to file their reply, they are free to do so within two weeks.

35. In the meantime, in W.P.(C) 276/2023, W.P.(C) 277/2023, W.P.(C) 294/2023 and W.P.(C) 302/2023 arbitral tribunal shall not be constituted by the DIAC.

36. List on 16th March, 2023 along with other MSME matters.

37. Dasti.

PRATHIBA M. SINGH, J.

JANUARY 11, 2023 MR/kt