



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.210 OF 2024

Apex Iron (India) Pvt. Ltd.

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Abhishek Rastogi (through VC) a/w Mr. Manish Rastogi and
Ms. Meenal Songire for Petitioner.

Ms. S. D. Vyas, Addl. G. P a/w Ms. P. N. Diwan, AGP for Respondent-
State.

Mr. Karan Adik a/w Mr. S. D. Deshpande for Respondent No.3.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 9 December 2024

PC.:-

1. Heard learned counsel for the parties.
2. The learned counsel for the Petitioner had already made it clear on 8 October 2024 that the Petitioner would not press for any relief in terms of prayer clauses (a) and (b) of this petition. Accordingly, Mr. Rastogi has made no submissions on prayer clauses (a) and (b) and the reliefs in those prayers are therefore rejected.
3. Regarding prayer clause (c), the challenge is to an Order-in-Original dated 12 January 2023.
4. Against the impugned order, the Petitioner has an alternate remedy of an appeal. However, Mr. Rastogi submits that since there is a violation of principles of natural justice, this Court should entertain the petition rather than relegate the Petitioner to the alternate remedy.

5. Paragraph 35 of the petition reads as follows: -

“35. The Petitioner states that it has no other efficacious remedy available against the actions of Respondent No.2 and 3 which are completely illegal, arbitrary, unreasonable and violative of Articles 14, 19(1)(g) and 300A of the Constitution of India. The filing of the present Petition is the only remedy available to the Petitioner.”

6. The averments in the above paragraph are blissfully vague and general. In the amended paragraphs, there is a reference to the failure of natural justice. We have heard Mr. Rastogi, and we are not satisfied that this is a matter where we should depart from the usual rules / practice of exhaustion of alternate remedies. The allegations about non-supply of documents or the order being beyond the scope of show cause notice or the order being non-speaking as to the details of the vendors are vague, and the Appellate Authority can best address all such issues.

7. The Petitioner has alleged that the Petitioner has not colluded with the vendor. Such allegations would involve an investigation into facts which are, again, best addressed by the Appellate Authority.

8. Recently, this Court, in the case of ***Oberoi Constructions Ltd. Vs. The Union of India & Ors.*** in Writ Petition (L) No.33260 of 2023 has surveyed several decisions of this Court and the Hon’ble Supreme Court on the issue of non-exhaustion of alternate remedies. By following the reasoning in the said decision and applying the same to the facts of the present case, we decline to entertain this petition. This is not a case of no notice or no opportunity but at the highest, if the allegations made are to be accepted as correct, this is a case of inadequate notice and inadequate opportunity.

9. This petition was filed almost a year after the impugned orders were made, i.e. much after the statutory period of appeal provided had expired. There is no explanation why this petition was not

filed earlier, i.e. within the limitation period prescribed for instituting an appeal. While there can be no limitation for filing a petition under Article 226 of the Constitution of India, such petitions must be instituted within a reasonable period. In any case, the delay is to be explained. Here, there is no explanation for the delay.

10. When this Petition was originally filed, there was no challenge to the Order-in-Original dated 12 January 2023. Mr. Rastogi states that these orders were never served upon the Petitioner. We do not wish to go into this dispute, and it will be open to the Petitioner to satisfy the Appellate Authority if the Petitioner institutes an appeal.

11. We have, however noted that no case is made out in this matter to depart from the usual rule of exhaustion of alternate remedies. Besides, we note that the prayer clauses in this petition are vague, and even the amendments that were made to the petition are very confusing. Though these are not grounds on which we are declining to entertain this petition, we must note that the petitions must contain proper details. The prayer clause must refer to the precise orders which are being impugned. The date of such orders and the authorities who make such orders should also be referred in the prayer clauses. Otherwise, it becomes extremely difficult to deal with such petitions. Ultimately, these petitions are filed by or with the assistance of professionals and therefore, they should comply with these basic minimum requirements. For all the above reasons, we dismiss this petition.

12. Interim order, if any, stands vacated. Interim Application, if any, does not survive and is disposed of.

(Jitendra S. Jain, J.)

(M. S. Sonak, J.)