

The Hon'ble Bombay High Court in the matter of *Hindustan Petroleum Corporation Limited vs. Om Construction and ors.* has held that a Petition under Article 226 and 227 of the Constitution of India, 1950 can be entertained only in exceptionally rare circumstances.

In the present case, the Petitioner had challenged (i) an Order dated December 12, 2022, passed by the Hon'ble Bombay High Court appointing an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996, and (ii) an Order dated September 16, 2023, passed by the Ld. Arbitrator, wherein the Ld. Arbitrator rejected the Petitioner's application under Section 16 of the Arbitration and Conciliation Act, 1996 and held that the Ld. Arbitrator had the jurisdiction to decide the matter. The Hon'ble Bombay High Court, relying upon the case of S.B.P. and Co. vs Patel Engineering Ltd., held that:

- ❖ The Petition was not maintainable as the remedy by way of a Writ under Section 226 and 227 of the Constitution of India was a discretionary remedy, and the Court should not exercise such discretion if an alternate remedy is available to the Petitioner. In the present case, the Petitioner had a remedy to challenge the said Order dated December 12, 2022, by filing a Special Leave Petition before the Hon'ble Supreme Court.
- ❖ As far as the order passed by the Ld. Arbitrator was concerned, the Hon'ble Court observed that a Writ Court, exercising its jurisdiction under Articles 226 and 227, can entertain a Petition challenging an Order passed by the Ld. Arbitrator, under Section 16 of the Act, only in exceptionally rare cases, viz. (i) "bad faith" shown by one of the parties; (ii) if the aggrieved person has no effective alternate remedy; or (iii) the Order is so perverse that it is patently lacking inherent jurisdiction. The Hon'ble Court observed the Petitioner's case was not one of the exceptionally rare cases where interference was justified under Articles 226 and 227.

With these findings, the Hon'ble Court proceeded to dismiss the Petition on the ground that the same was not maintainable.

The judgment of the Bombay High Court dated October 17, 2023, can be accessed [here](#).

Whether a writ petition under Article 226 and 227 is maintainable for challenging Orders of Arbitral Tribunals?

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