

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

WA. No. 04/2025

SWADHI HEALTH MANAGEMENT LLP AND ANR. APPELLANT (S)

VERSUS

STATE OF SIKKIM AND ORS. RESPONDENT (S)

For Appellants : Mr. Harish Gaur, Ms. Namrata Mohapatra and Mr. Bhusan Nepal, Advocates.

For Respondents : Mr. Thinlay Dorjee Bhutia, Government Advocate with Ms. Pema Bhutia, Asst. Govt. Advocate.

Date: 28/10/2025

CORAM:
HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

...

JUDGMENT : (per the Hon'ble, the Chief Justice)

The instant Intra-Court Mandamus Appeal arises in respect of a judgment and order dated 29th August, 2025, passed by a learned Single Judge in *WP. (C) No. 04 of 2023*. By the impugned judgment and order, the First Court disposed of the matter in the following manner:-

".....

11. From the foregoing discussions it emanates that factual aspects are in dispute. The claims on the merits of the dispute in my considered view are to be addressed by Arbitration, as admittedly such clause finds place in the documents referred to hereinabove. The question framed by this Court is thus soundly answered.

12. Consequently, this Writ Petition is disposed of with liberty to the Petitioners to take recourse to the remedy of Arbitration."

Before us the learned Advocate representing the appellant submits that the learned Single Judge had misdirected herself by holding that the judgment of the Hon'ble Supreme Court in the case of ***Smt. Gunwant Kaur and Ors. Vs. Municipal Committee, Bhatinda and Ors.*** reported at ***AIR 1970 SC 802***

(Page 53) was not applicable by stating that the facts therein are distinguishable from the case before her. We requested the learned Advocate for the appellant to place the relevant paragraph which he intended to rely upon in order to submit that the judgment of the Hon'ble Supreme Court was factually akin to the case which is now before this Court.

In this regard, he placed paragraph 14 of the said judgment. We have perused the paragraph 14 of the judgment and we have also read the Hon'ble Supreme Court's judgment rendered in **Smt. Gunwant Kaur** case in its entirety. We have no hesitation to hold that the matter before the Hon'ble Supreme is fully distinguishable on facts as well as law from the case before us. There was no existence of any arbitration clause which governed the parties in **Smt. Gunwant Kaur's** case, whereas it is undisputed that there exists an arbitration clause which governs the parties before us. That apart and in any event, in **Gunwant Kaur's** case, the High Court had proceeded to dismiss the writ petition *in limine* where as in the facts of this case, the learned Single Judge has delivered an exhaustive judgment running into 19 pages while giving her reasons as to why the writ Court was loathed to entertain the writ petition on merit while giving liberty to the writ petitioners to take recourse to the remedy of the arbitration.

While the extraordinary jurisdiction of High Court under Article 226 of the Constitution of India is broad and expansive and technically untouched by fetters provided by the statutory laws, it should be extremely circumspect in interfering in a contractual matter where the parties are governed by a mutually agreed arbitration clause, especially in the absence of mala fides. This has been reiterated time and again by the Hon'ble Supreme Court in the plethora of decisions; one such being the case of **Bhaven Construction v. Executive Engineer, Sardar Sarovar Narmada Nigam Ltd.**, reported at **(2022) 1 SCC 75**.

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In an Intra-Court Mandamus Appeal, interference is usually warranted when palpable infirmities of reasoning or perversities are noticed on a plain reading of the impugning judgment and order. In the facts of the instant case, on a plain reading of the impugned judgment and order, we do not notice any palpable infirmity or perversity which would warrant an interference by this Court of Appeal. The judgment is supported with cogent and justifiable reasons.

The appeal is, therefore, liable to be dismissed and stands accordingly dismissed.

(Bhaskar Raj Pradhan)
Judge

(Biswanath Somadder)
Chief Justice

jk/bp/ami