
BALANCING JUDICIAL INTERFERENCE IN ARBITRAL AWARDS VIS-À-VIS' EASE OF BUSINESS: PERSPECTIVES IN VIEW OF MP ROAD DEVELOPMENT CORPORATION V. JABALPUR CORRIDOR PVT. LTD.

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INTRODUCTION

In the era of modernization, recourse to arbitration has become the most sought after exercises undertaken for the purpose of resolution of a multitude of disputes arising out of commercial transactions that involve complex questions of financial and legal implications. Since the inception of the Arbitration Act, 1940, to the reforms/amendments made in view of the Arbitration and Conciliation Act, 1996, further amended in 2015, India has been at the cornerstone of a robust jurisprudence and overhauling of judicial precedents in this widely sought after area of law, in terms of domestic arbitration and international commercial arbitration.¹ However, despite of a comprehensive and extensive legal framework of arbitration, India still occupies a relatively lesser position in the Ease of Business rankings, primarily due to the extensive judicial process and the technicalities involved in the enforcement of judicial awards which are akin to enforcing decrees of civil courts.²

The debate over the scope/extent of judicial interference vis-à-vis', was further re-ignited and re-evaluated by the Hon'ble Apex Court in the decision of *MP Road Development Corporation Ltd v. Jabalpur Corridor Pvt. Ltd.*³, wherein the Hon'ble Court while examining the principles under Sections 34 and 37 of the Arbitration Act, held that, by placing reliance upon prior precedents arbitral awards ought not to be interfered ordinarily and further made a detailed observation regarding the fact that inordinate delay/lengthy procedures in enforcement essentially frustrates the purpose of the arbitration and therefore renders it nugatory.⁴ The concept of arbitration which is intended to aide and facilitate resolution of disputes, and to

¹ The Arbitration and Conciliation (Amendment) Act, 2015, 3 of 2016, § 29-A (Ind).

² Ayushi Singh, 'Arbitration Framework and Ease of Doing Business in India', 7, IJLLR, 309, [2025].

³ *MP Road Development Corporation Ltd v. Jabalpur Corridor Private Ltd.*, 2026 INSC 590. (Ind).

⁴ *Lion Engineering Consultants v. State of Madhya Pradesh*, [2018] 16 SCC 758, (Ind).

provide an efficacious relief to the concerned party whose rights/obligations under the contractual arrangement are jeopardized, however, when the process of arbitration and finalization of the arbitral award itself undergoes an ardent path due to the judicial hierarchy of courts, in such cases, the recourse to arbitration often raises dilemmas, wherein certain parties prefer initiating criminal/civil prosecutions as a substitute to the same, thereby also leading to abuse of legal processes.⁵ Therefore, a negative/cascading effect of the same is with regards to the fact that, apart from arbitration there are multiplicity of litigations, which has a detrimental effect on the business relations between the parties and also becomes a cumbersome process due to the costs involved in the legal processes.⁶ The verdict of the Hon'ble Apex Court in the above mentioned decision, has once again laid down the factum of minimal judicial intervention in the arbitral processes and awards, however, while the decision lays down the above, it is essential to consider that since the Indian judicial landscape functions on the cardinal principle of hierarchy of judicial forums from the commencement of the proceedings under the Arbitration Act before the Tribunal to Section 34 and 37 applications and one final resort to Article 136 of the Constitution of India, therefore, the practical realities in efficacious enforcement of the arbitral awards have to be considered and observed to facilitate the effectiveness of the same as a mechanism of alternative dispute resolution.⁷ By virtue of the present paper, the author intends to undertake a concise examination of the recent decision in MP Road Development Corporation Ltd, reiterating the need for minimalized judicial interference in the arbitral process, in order to improve ease of doing business in India, and also undertake a coherent exercise as to how restrictive judicial discourse can improve the viability of arbitration, in similar footing like the jurisdictions under Vienna, Singapore and Hong Kong etc., in the prevailing circumstances⁸, in consonance with the legislative intent of the Act.

BRIEF OVERVIEW OF THE DECISION AND PREVAILING JUDICIAL DISCOURSE IN INDIA

In the decision of MP Road Development Corporation v. Jabalpur Corridor Pvt. Ltd.⁹, the dispute arose between the appellant- MP Road Development Corporation and respondent-

⁵ Dr. Gigimon V.S., '*Judicial Interference in an Arbitration Proceeding- International Position*', 5, JEITR, 551, [2019].

⁶ Leksmi S. Kumar, '*A Study On Judicial Intervention In Arbitration*', 4, IJIRL, 13, [2023].

⁷ Dr. Liny Jose K., '*Judicial Intervention In Granting Interim Relief In Arbitration*', 12, IJLMS 142, [2025].

⁸ Dr. Daniel Mathew, '*Emergency Arbitrations In India: Gaps, Gains And Goals*', 16 NLUJLR 29, [2025].

⁹ *Supra*, note 4.

Jabalpur Corridor Private Ltd, with regards to the payment of dues for early termination of the agreement by the appellant- MP Road Development Corporation and the fact that a works contract that had been executed on a Build to Operate Basis, (BOT Basis), and accordingly, for delay in handover, the respondent demanded payment of interest rate. The Jabalpur Corridor Pvt. Ltd. (Respondent) which was the “*special purpose vehicle*” created by TDM Constructions, the Malaysian Company that had entered into an arrangement with MP Road Development Corporation, filed an application praying for payment of interest due to delay in handover of the project and also damages for delay. The award of the arbitral tribunal, was challenged by invoking the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983 and accordingly since the aforesaid arrangement between the parties amounted to a works contract, recourse could not be undertaken to the 1996 Arbitration and Conciliation Act. Negating all the contentions, the Hon’ble Apex Court held that when the contract specifies an arbitration clause for resolution of disputes, recourse to the provisions of the Arbitration and Conciliation Act can always be undertaken and if the reasoning given by the tribunal was one which was one which would amount to drawing of reasonable interference in terms of the statement of claims and evidences adduced before it, recourse to challenge the same could not be undertaken either under the provisions of Section 34 on grounds of violation of public policy/patent illegality or Section 37 wherein limited scope of interference persists to see if the principles of Section 34 have been followed while deciding an application against the award passed by the Arbitral Tribunal.

That, the Hon’ble Apex Court and various high courts of the country have been pleased to give special emphasis and impetus to the arbitrability of disputes and have consistently held that prevalence of special statutory frameworks/alternative avenues of dispute resolution/litigation, cannot itself curtail the rights of the parties to seek recourse to arbitration for the purpose of resolution of disputes invoking the provisions of the Arbitration and Conciliation, Act, 1996.¹⁰ However, the consistent view undertaken in terms of Sections 34 and 37 of the Arbitration and Conciliation, Act, 1996, has been that, once a view is undertaken by the tribunal and the court adjudicating claims under Section 34, the recourse to Section 37 could not be undertaken in the usual or regular course of business.¹¹ In addition to the same, the Hon’ble Apex Court has propounded a view that the term “public policy”¹² in terms of its interpretation, cannot be

¹⁰ Vidya Drolia and Ors v. Durga Trading Corporation, [2021] 1 SCC 21, 28. (Ind).

¹¹ Somdatt Builders- NCC- NEC (JV) v. National Highways Authority of India, [2025] 6 SCC 757, 777.

¹² The Arbitration and Conciliation,(Amendment) Act, 2015, § 34(2)(ii)(b), (Ind).

expanded in an indefinite manner in order to curtail the ambit of the arbitral award and further delay the process of arbitration and enforcement of claims, considering the fact that the intent behind the provisions of the Act, is to provide for an efficacious remedy to the parties who seek recourse to the same, because of which the Hon'ble Apex Court has vociferously stated that the endeavor should be made for minimal judicial interference in the prevailing circumstances.¹³ However, despite the laying down of judicial principles for minimizing interference in the enforcement of arbitral awards, there lies a stark contrast/distinction between the practical realities of expeditious enforcement of arbitral awards and the prevailing academic/judicial discourse, which the author shall aim to analyze in the next sub-topic and further try to provide suggestions/way forward in undertaking the prevailing academic exercise in consonance with the practical realisms and realities of arbitration.¹⁴

NAVIGATING JUDICIAL INTERFERENCE VIS-À-VIS' INTENT BEHIND EXPEDITIOUS ARBITRATION

That, a necessary precursor to the topic and the academic/judicial discourse is the very fact that, the ease of arbitration is also a direct consequence to the ease of business/viability of business, and therefore both the aspects are interlinked in some way or the other, considering that the ease of dispute resolution is a major criterion for Foreign Direct Investment in countries having huge investment potential as well as viability and growth of domestic businesses.¹⁵ In the present facts and circumstances, it is further necessary to consider and understand here that, in the present circumstances, India ranks currently at 63rd in the list of 190 countries with regards to the Ease of Business Index and a major drawback in such ranking is the long drawn judicial process and inordinate delay in finalization of the findings of Arbitral tribunals by invocation of various provisions of law.¹⁶

It is undoubtedly true that while reiterating the scope of inapplicability of Part-I to foreign arbitrations in the famous judgments of “*Balco*”¹⁷ as well as “*Reliance Industries Limited v. Union of India*”¹⁸, the Hon'ble Apex Court had held that, the scope of judicial interference

¹³ MMTC Ltd v. Vedanta Ltd., [2019] 4 SCC 163, 179. (Ind).

¹⁴ Krishnaja Olappamana, Swarlata Pandey, ‘Court's Intervention In Arbitration Proceedings: A Maneuvre Between Courts And Arbitral Tribunals’, 2 IJSDR 760, [2023].

¹⁵ Manu Thadikkaran, ‘Judicial Intervention in International Commercial Arbitration: Implications and Recent Developments from the Indian Perspective’, 3, JIA, 763 [2012]

¹⁶ K Makkar, ‘Half a Step Forward: Has the Supreme Court of India Really Propelled towards a More Arbitration Friendly Regime- following the Reliance Cases’, 7 Int'l Trade & Business Law Review, 142 [2018].

¹⁷ Bharat Aluminum Co. Ltd v. Kaiser Aluminum Services Pvt. Ltd, [2012] 9 SCC 512. (Ind).

¹⁸ Reliance Industries Pvt. Ltd v. Union of India, [2014] 7 SCC 603. (Ind).

could not be extended to every arbitration irrespective of its “Seat” being inside or outside of India, yet the fact that before attaining finality the hierarchy of courts is to be followed, causing inexplicable delays remains the biggest drawbacks of the judicial intervention process in arbitration, considering that the Indian legal system functions in a manner wherein the hierarchy of courts despite of the time being taken has to be followed and adhered to by the contesting parties in a scrupulous manner in adherence to the statutory frameworks.¹⁹ That, it is further humbly submitted here that, in the present matter i.e. MP Road Development Corporation, the contract was executed in the year 2002 between the parties, which stood subsequently terminated in the year 2010, wherein commencement of arbitration proceedings happened in the year 2011, finally leading to the culmination of proceedings before the Hon’ble Apex Court in 2026, wherein there were two rounds of litigations, since the proceedings stood terminated by the District Court, in one round of litigations leading to subsequent challenges, thereby leading to the dispute being unduly prolonged to a period of nearly two decades before the finalization of the award by the Arbitral Tribunal. It is inherently essential to take into consideration here that, commercial contracts/transactions, function on the cardinal principles of “time is of essence to the contract” since prolongation of the tenure as well as subsequent litigations, unduly jeopardizes the commercial viability, thereby having commercial/economic ramifications, which is a major reason why India is yet to be recognized as a forum for arbitration, unlike the Hong-Kong or Singapore institutes of arbitration or even London as a seat of arbitration, and therefore the greater challenge lies in further simplifying effectuating the implementation of arbitral awards, especially the ones which are seated in India to give effect to the essence of arbitration.²⁰ Though, judicial interference is intended to be minimalized in terms of arbitration as a mechanism for alternative dispute resolution, yet considering the fact that many subordinate forums intend to misunderstand the effect of the terms public policy and the need to uphold the intent behind the essence of arbitration, the same acts a major obstruction in minimizing the judicial interference, and therefore, while a deliberation is made for minimizing the scope and extent of interference of the judicial forums, yet the ground realities of the strictures of the legal processes cannot be overlooked, which remains the biggest drawback/hindrane in this arena of law.²¹ Though measures such as the initiation of the Commercial Courts Act, 2015 along with dedicated Commercial Appellate

¹⁹ R Verma, N Dongrey, ‘*The Future of International Commercial Arbitration in India*’, 8 IJLMHS 131, [2022].

²⁰ Vasudha Sharma & Pankhuri Agarwal, ‘*Rendering India Into An Arbitration Friendly Jurisdiction- Analysis of the Proposed Amendments to the Arbitration and Conciliation Act, 1996*’, 9, Nujs Law Rev. 533, [2010].

²¹ U Vaishnav, ‘*Judicial Intervention in Arbitration in relation to BALCO judgment*’, 16, IJLMHS, 71 [2023].

Division Benches in High Courts have been set up to increase the expeditious nature and viability of arbitrations, yet making the same viable in a country with lengthy judicial strictures and tenements remains a challenge which requires consideration on a recurring basis in the prevailing facts and circumstances.²²

Therefore, to expedite the essence of arbitral awards and to prevent frustration of the intent behind the same, the author intends to make the following suggestions/suggest the following legal measures/way forward in addressing the anomaly of reduction of judicial interference and give positive effect to the enforcement of arbitral awards.

1. Laying down effective timelines for decision making by the arbitral tribunals.
2. Directing the arbitral tribunals to give specific findings justifying the application/non-application of the cardinal principles of public policy, appreciation of claims and reasonable inference drawn by adducing of claims in order to remove confusion in the minds of the higher forums under Sections 34 and 37 of the Arbitration and Conciliation Act.
3. Dedicated assignments/benches should be set up in the District Courts/High Courts for expeditious adjudication of the arbitration related disputes.
4. Special training by specialized arbitrators should be given to prospective arbitrators and judicial workshops should be organized dealing specifically with ADR and completion of timely arbitration proceedings.
5. Expedited hearings to be given to arbitral proceedings pertaining high valuations/public-private partnerships such as road construction projects/disputes involving the completion of the projects.
6. Exhaustive guidelines/SOP should be released by the Hon'ble Apex Court, in order to deal with matters pertaining to arbitration, for effective/expeditious and timely adjudication of disputes.

²² A Kumar, 'Evolution and Development of the Law of Arbitration in India', 12 IJLR 58, [2023].