
**TERMINATION IS NOT RE-APPOINTMENT - ANALYSING
THE MISUSE OF SECTION 14 & 15 OF THE ARBITRATION
AND CONCILIATION ACT, 1966**

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ABSTRACT

The Arbitration and Conciliation Act, 1996, is made to promote efficient, final, speedy, and minimal judicial intervention so that justice is secured to all. Presently, many litigants are invoking sections 14 and 15 for the revival of an arbitrator's mandate that has been terminated lawfully. While such applications blur out the distinction between substitution and reinstatement of arbitrator courts have often declared the difference between the terminologies. This article critically examines the legislative intent and framework behind sections 14 and 15, and 32 of the Act, emphasizing judicial interpretations of these provisions. This article stipulates that the Act does not talk about reinstatement of an arbitrator's mandate once lawfully ceased. It further states that while courts may examine the legality of termination under Section 14(2), such power does not extend to restoring arbitral mandates or proceedings. This article concludes by emphasizing the need for judicial restraint, limitation, and statutory fidelity to preserve arbitral autonomy and procedural finality.

INTRODUCTION

Sections 14 and 15 are among the most important sections that revolve around the arbitrator's mandate and its substitution. The main objective of Arbitration and Conciliation Act is to provide speedy, cost-efficient, minimal judicial interference and procedural justice to the people reducing burden on courts. But the problem arises when people start to misuse the rights given to them. Many cases are brought to the tribunals and courts having malicious intent, which deters the main objective of arbitration. The main cases are regarding sections 14 and 15.

Arbitrator's mandate plays a crucial role; it means the authority of an arbitrator to adjudicate upon the matters, and once it stands terminated through Suo-moto powers, it brings finality to the arbitral process and award unless substituted according to the provisions in law.

However, in recent practices, people are invoking section 14 and 15, which talk about termination and substitution for seeking reinstatement or revival of the mandate of an arbitrator whose already been terminated. This problem blurs the difference between termination, substitution, and reinstatement of the mandate.

The main contention lies when a proceeding is terminated under Section 32 of the Act and the petitioners approach the court for reinstatement of the mandate of the arbitrator under section 14 and 15. This led to confusion about the scope and intent of the sections once the mandate of the arbitrator is lawfully terminated.

This article seeks to understand statutory provisions and limits of the sections governing termination and substitution. It throws light upon the subject that these section's legislative framework does not mean reinstatement or revival of arbitrator's mandate, and any attempts to do so means to reduce the efficiency of the tribunals, misuse of these provisions.

STATUTORY FRAMEWORK

Section 14 of the Act tells us the grounds in which an arbitrator's mandate stands terminated due to failure or impossibility to Act further, if an arbitrator is terminated on any of the grounds stated in the section then the substitute arbitrator comes to surface under section 15 of the Act if he becomes de facto or de jure unable to perform his functions¹ or he withdraws from his office or the parties mutually agreed for his termination.

¹ Arbitration and Conciliation Act, No. 26 of 1996, § 14 (India)

The legislative intent behind the section is to provide grounds for challenging arbitrator ensuring fairness by questioning arbitrator's authority. Thus, protecting party interest and procedure of arbitration.

Section 15 of the Act talks about substitution after termination of arbitrator's mandate when the arbitrator on his own will withdraws from the office or by agreement between the parties so a substitute arbitrator can be appointment in the same process to the appointment of the arbitrator being replaced²

The statutory intent of section 15 means substitution not reinstatement or revival of the arbitrator. Interpretation of this section by the several litigants refers to the reappointment of the arbitration. It does not confer any power to the court for restoring an arbitrator's mandate. The emphasis is to provide justice and lawful procedure and substitution so that arbitral process can be continued

Section 32 refers of the termination of the arbitration proceedings by themselves mainly through arbitral award or order by the arbitral tribunal when there is withdrawal of claims, agreement of parties or it is impossible or unnecessary to continue the proceeding³

There is a large distinction between these sections and section 14 and 15 delves into continuity, grounds for termination and substitution while section 32 emphasis more on finality of the proceeding. The Act does talks about revival or reinstatement of the arbitrator under section 14 and 15 or 32, such interpretation of the sections would defeat the real intention and principle of the sections hampering the arbitration process and invoking them for the same before the court is impermissible expansion of the statutory text and would undermine the efficiency and finality that the Arbitration Act seeks to achieve.

CASE LAWS

Under *Sai Babu vs M/S Clariya Steels Pvt Ltd*⁴ in this case the arbitrator terminated the proceedings because he believed continuation was "not possible and unnecessary" later he tried to recall his own arbitration but it was held that once a arbitrator is terminated under sec 32, it becomes *functus officio* meaning "of no further authority". Thus, arbitrator cannot reopen or recall its termination.

² Arbitration and Conciliation Act, No. 26 of 1996, § 15 (India).

³ Arbitration and Conciliation Act, No. 26 of 1996, § 32 (India).

⁴ *Sai Babu v. Clariya Steels (P) Ltd.*, 2019 SCC OnLine SC 2448 (India).

In *Lalitkumar vs Sanghavi*⁵ it was held that the termination of the arbitrator's mandate can only be examined by a court under section 2(1)(e) by an application under Section 14 of the Act. And rejected the argument that under section 11 or article 226 can be invoked for reinstatement of the arbitrator. Highest adjudicating authority clarifies Section 14(2) only allows the court to decide whether termination was valid. It does not empower the court to restore the arbitrator. Thus sections 14 and 15 are being misused for revival of the arbitrator.

CRITICAL ANALYSIS

Sections 14, 15 and 32 of Arbitration and Conciliation Act, 1996 tells us that the statute does not explain anything about revival of arbitrator's mandate which has been lawfully terminated. Section 14 emphasizes upon end of mandate under some grounds like incapacity or in action by the parties while section 15 provides a procedure for substitution of the arbitrator so that proceedings are continued. None of the provisions talk or imply about reinstatement of arbitrator's mandate of which has been ended lawfully.

Supreme court judgments further make distinction between the sections and their scope and limits and differentiates termination and revival under these sections. While court held that section 14(2) can be used to determine whether the termination was justified or not but this power does not interpret into reinstatement. The power remains corrective and not restorative.

Recurring cases of seeking revival of arbitrator's mandate reflect procedural misuse by the litigants. These practices only defy the objectives of Arbitration and Conciliation Act, 1966. Allowing something which is not interpreted by the state would defeat the aim of the Act and would be a dangerous precedent providing people a gateway to misuse the arbitral proceedings and sections by filing repeated judicial interventions.

Thus, courts should exercise strict limitation and restraint while strictly adhering to the legislative framework and its interpretation. The integrity of arbitration as an alternative dispute resolution mechanism depends on statutory limits rather than discretionary expansion. Any attempts by the parties will only mean misuse or misinterpretation of the sections. Permitting any attempts under broad interpretation would only hamper the principle of the statute.

CONCLUSION

The statute which governs arbitration clearly differentiates between termination, substitution

⁵ Lalitkumar V. Sanghavi v. Dharamdas V. Sanghavi, (2014) 7 S.C.C. 255 (India)

and revival. Section 14 and 15 are narrow provisions made for substitution of arbitrator when its mandate is terminated and any other interpretation of the same is undermining the efficiency of the arbitration. Many courts have denied this interpretation by not allowing parties to invoke sections for revival or reinstatement of the arbitrator. Judicial precedents have consistently rejected attempts by parties to invoke these provisions as mechanisms for revival or reinstatement of arbitrators. The courts have power to determine the validity of the termination it does not pose the power to direct termination or revival of an arbitrator's mandate. To uphold aim and objective of arbitration courts need to limit the statutory intervention and broad interpretation which dilutes the core principle of these sections.