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# **PUBLIC POLICY AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS IN INDIA: A CASE NOTE ON RENUSAGAR POWER CO. LTD V. GENERAL ELECTRIC CO.**

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## **1. INTRODUCTION**

The enforcement of foreign arbitral awards has historically posed complex challenges for domestic courts, particularly in jurisdictions where public policy considerations intersect with national sovereignty, economic regulation, and judicial control.

In India, this tension was significantly addressed by the Supreme Court in *Renusagar Power Co. Ltd v. General Electric Co.*<sup>1</sup>, a landmark judgement that laid the foundational contour of the “public policy” exception in the context of enforcement of foreign arbitral awards. The Supreme Court adopted a narrow and intentionally aligned judicial restraints and pro-enforcement bias at a time when India was still evolving as an arbitration-friendly jurisdiction.

Section 7 (1)(b)(ii) of the Act permitted refusal of enforcement if the awards was “*contrary to the public policy in India.*” However, the Act did not define public policy, leaving the term open to judicial interpretation. In India, the notion of public policy historically suffered from conceptual vagueness and judicial elasticity, creating apprehension that courts might employ it as tool for excessive intervention.

Such an expansive understanding posed a serious challenge to India’s obligation under New York Convention, 1958 which mandates a pro -enforcement bias and restrict judicial scrutiny at the enforcement stage. The absence of a precise definition of public policy in early legislative framework further heightened concerns that enforcement proceedings could degenerate into a re-examination of the merits of the dispute, thereby eroding the core principles of arbitration.

This case note traces the factual background and legal issues in *Renusagar*, analyses the

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<sup>1</sup> *Renusagar Power Co. Ltd. v. Gen. Electric Co.*, 1994 Supp (1) SCC 644 (India)

Supreme Court's reasoning, situates the judgement within the evolving jurisprudence on public policy, and evaluates its long – term implications on Indian arbitration law, particularly in light of later decisions such as *ONGC v. Saw Pipes*, and the Arbitration & Conciliation Act, 1996. The judgement assumes critical importance as it marked India's first authoritative judicial exposition on the scope and limits of public policy in international commercial arbitration.

## 2. FACTUAL BACKGROUND

*Renusagar*, an Indian company, entered into a contract with General Electric Company, United States based corporation, for the supply of equipment and technical services required for the setting up of a power plant in India. The contract contained an arbitration clause providing for arbitration under the rules of ICC, with the seat of arbitration outside India. Despite arose between the parties regarding payment obligations, particularly in relation to escalation of price and foreign exchange rates. The matter was referred to arbitration, and the arbitral tribunal rendered an award in favour of GE. *Renusagar* resisted enforcement, contending that the award was contrary to Indian public policy on multiple grounds, including violations of foreign exchange regulations and alleged errors of law.<sup>2</sup>

## 3. LEGAL ISSUES BEFORE THE COURT

The principle issued before the Supreme Court was; *What is the scope of the "public policy" exception under Section 7(1)(b)(ii) of the Foreign Awards Act, 1961 and whether the enforcement of the foreign arbitral awards in question would be contrary to Indian public policy?*

## 4. STATUTORY FRAMEWORK

The Foreign Awards (Recognition and Enforcement) Act, 1961 was enacted to give effect to the New York Convention, 1958. The Convention obligates contracting states to recognize and enforce foreign arbitral awards, subject only to narrowly defined exception.

Article V(2)(b) of the Convention permits refusal of enforcement if the award is contrary to the public policy of that country. Importantly, the Convention envisages public policy as an

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<sup>2</sup> Ibid

exceptional ground, to be applied restrictively, so as not to defeat the object of uniform and effective enforcement of arbitral awards.

The 1961 Act was later repealed and replaced by the Arbitration and Conciliation Act, 1966 which consolidated and modernised Indian Arbitration Laws in line with the UNICTRAL Model Law. Section 48(2)(b) retains the public policy exception, providing that enforcement of a foreign award may be refused if it is contrary to the public policy of India. The explanation excludes “patent illegality” from the scope of public policy for foreign awards, thereby statutorily reaffirming the narrow doctrine.

## 5. DECISION BY THE SUPREME COURT

The Supreme Court upheld the enforcement of the arbitral awards in the favour of GE. In doing so, it adopted a restrictive and international consistent interpretation of public policy, holding that enforcement of a foreign award may be refused on public policy grounds only if it is contrary to

- *The fundamental policy of Indian law*
- *The interest of India or*
- *Justice or morality*

The court categorically rejected a broad interpretation of public policy and held that mere violation of a statute or an error of law is insufficient to invoke the public policy exception.

## 6. ANALYSIS OF JUDICIAL REASONING

The court drew a clear distinction between domestic awards and foreign awards, emphasizing that a more restrictive standards must apply to the latter in line with international practice and India’s treaty obligations under the New York Convention.

By doing so, the Court aligned Indian law with global arbitration norms, recognizing that excessive judicial intervention would undermine the finality and credibility of international arbitration. The judgment restored doctrinal clarity and reinforced India’s commitment.

The Supreme Court firmly held that Indian courts cannot sit in appeals over a foreign arbitral

award. It clarified that; “*The court cannot re-appreciate evidence or correct errors of law or fact committed by the arbitrator.*” This principle becomes a cornerstone for subsequent arbitration jurisprudence and reinforced the doctrine of minimal judicial interference. *Renusagar* argued that the award violated Indian foreign exchange laws. The court rejected this contention, holding that every statutory violation does not amount to violation of public policy unless it strikes at the core values or fundamental framework of Indian law. This reasoning prevented the misuse of regulatory laws as a pretext to resist enforcement of foreign awards.

The framework governing enforcement of foreign arbitral awards in India reflects a progressive evolution from ambiguity to clarity. Beginning with 1961 Act, undefined public policy exception, the Supreme Court’s interpretation provided much needed judicial discipline. This approach was later codified and reinforced under the Arbitration & Conciliation Act, 1996 and its subsequent amendments.

## 7. LEGISLATIVE IMPACT AND THE EVOLUTION

The principle laid down in *Renusagar* found legislative recognition in the Arbitration and Conciliation Act, 1996. Subsequent amendments in 2015 and 2021 further narrowed the public policy grounds for resisting enforcement of foreign awards, largely codifying the *Renusagar* standards.

Section 48 of the act, 1996 now reflects a restrained approach, emphasizing that contravention of Indian laws alone is insufficient unless it violates fundamental policy or basic notions of morality or justice.

## 8. CONCLUSION

*Rensusagar Power Co. Ltd v. General Electric Co.*, stands as a seminal judgment that shaped the trajectory of arbitration laws in India. By adopting a narrow and principled interpretation of public policy, the Supreme Court balanced national interests with international commercial realities. The judgement enduring influence is evident in subsequent case law and legislative reforms that have reaffirmed India’s commitment to arbitration as an effective mechanism for dispute resolution. In an era where India seeks to position itself as a global arbitration hub, the jurisprudential wisdom of *Renusagar* continues to guide, lawmakers and practitioners alike. While the case set a pro-enforcement precedent, its narrow approach was later diluted in *ONGC*

*v. Saw Pipes Ltd.*,<sup>3</sup> where the Supreme Court expanded the scope of public policy for domestic awards to include “patent illegality.” In *Shri Lal Mahal v. Progetto Grano Spa*<sup>4</sup>, the court held that the expanded public policy test does not apply to foreign awards. The scheme ensures that public policy remains narrowly safeguard rather than a broad weapon, thereby preserving the sanctity, finality, and enforceability of foreign arbitral awards in India.

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<sup>3</sup> *ONGC v. Saw Pipes Ltd.*, (2003) 5 SCC 705 (India)

<sup>4</sup> *Shri Lal Mahal v. Progetto Grano Spa*<sup>4</sup>