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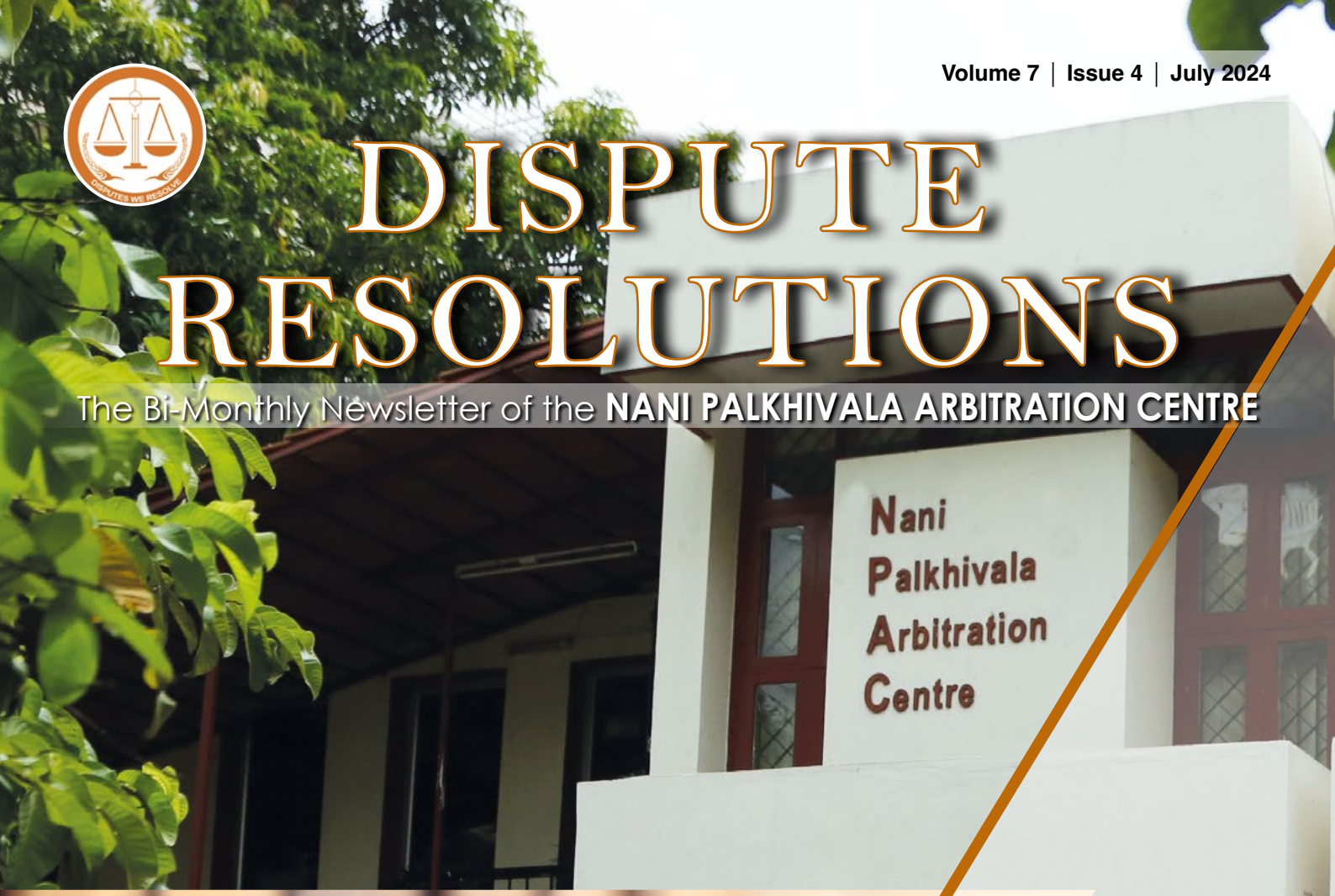
DISPUTE RESOLUTIONS

The Bi-Monthly Newsletter of the **NANI PALKHIVALA ARBITRATION CENTRE**



MESSAGE to the READERS

Importance of timelines under the Arbitration and Conciliation Act, 1996

One of the primary objectives with which the Arbitration and Conciliation Act 1996 ("Act") has been enacted is to infuse a strict time-bound regime to arbitration disputes. Therefore, the various timelines stipulated under the Act have to be noted with care and adhered to with a great deal of mindful attention.

The Code of Civil Procedure, through amendments brought out in 1999 and 2002, also tried to bring civil proceedings into the discipline of a time-bound regime. This effort was in a large measure thwarted by the judgment of the Supreme Court in ***Salem Advocate Bar Association, TN vs. Union of India***[1]. The Supreme Court held in this case that the timelines stipulated in the Act are not mandatory but merely directory. The tardy and slow progress of the proceedings before the Civil Court thus continued their indolent trajectory.

Possibly learning from that error and not wanting to institutionalize it the Supreme Court and the various High Courts across the country have held that the timelines set under the Act could only be violated at the cost of bringing the proceedings to a grinding and painful halt.

In this context therefore, it is required to appreciate and bear in mind some important timelines in the Act which would greatly aid the committed and professional approach to handling arbitration disputes.

The first and foremost point to be noted is that Section 43 of the Act expressly makes the provisions of the Limitation Act, 1963 applicable to the proceedings under

1 Salem Advocate Bar Association, TN vs. Union of India (2005) 6 SCC 344

the Act. Here again there is a nuance to be noted. In addition to the timelines stipulated in the Limitation Act, 1963 there are specific timelines for various applications and petitions under the Act. If there is a conflict between these two, then by application of the principle that 'the specific will override the general' (*Generalia specialibus non derogant*), the specific timeline stipulated in the Act will apply. This is of utmost importance and will have to be borne in mind at all times.

Section 11 of the Act: There is no timeline stipulated specifically for filing an application under Section11 of the Act. However, since the Limitation Act, 1963 applies by virtue of Section 43 of the Act, Article 137 of the said Limitation Act applies and courts have held that the limitation is three years from the time the cause of action arises. In ***Bharat Sanchar Nigam Limited & Another vs. Nortel Networks India Private Limited***[2], the Supreme Court undertook a comprehensive analysis of the relevant provisions and held that an application under Section 11 is to be filed in a Court of Law, and since no specific Article of the Limitation Act, 1963 applies, the residual Article i.e., Article 137 would become applicable. The effect being that the period of limitation to file an application under Section 11 is three years from the date of refusal to appoint the arbitrator or on expiry of 30 days of notice of invoking arbitration, whichever is earlier.

Limitation Period for a claim under the Act: The Courts in India have time and again reiterated that there is a marked difference between the limitation period for filing a petition under Section 11 or Section 8 of the Act, and the limitation period for a claim to be raised in arbitration.

Section 23(4) of the Act: Once the arbitration proceedings commences, the first important provision to be borne in mind is Section 23(4) of the Act. This provision was introduced by the Arbitration & Conciliation (Amendment) Act, 2019 and stipulates a period of six months from the date that the arbitral tribunal receives the notice of appointment in writing, for filing the statement of claim and defense. It is interesting to note that the words in the Section lend themselves to an interpretation that though the timeline here is mandatory, the Section does not stipulate the consequences of not adhering to the time limit. It is also not clear as to before whom an application will lie for extending the timeline stipulated here i.e., whether it should be filed before the Arbitral Tribunal or the courts. In any case, given the stringent terms of the provision it would be advisable that the timeline is complied with so that no disqualification on account of the lapse is incurred.

Section 29 A of the Act: In light of the Arbitration & Conciliation (Amendment) Act, 2015 ("**2015 Amendment**") adding Section 29A to the Act, an award has to be made within a period of twelve months from the date of completion of pleadings and such period may be extended by a period of six months by the mutual consent of parties. For any subsequent extension, a party needs to make an application to the court. Section 29A(2) entitles an arbitral tribunal to additional fees if it delivers the award within six months from the date of constitution.

The inclusion of Section 29-A by way of the 2015 Amendment was a consequence of the concerns underscored in the 246th Law Commission Report. Section 29-A, as it stands currently, significantly modifies

2 Bharat Sanchar Nigam Limited & Another vs. Nortel Networks India Private Limited, (2021) 5 SCC 738

the power to grant an extension of time in arbitration compared to the provisions of the Arbitration Act, 1940. It mandated passing of the award within a period of twelve months from the date of reference and restricted extensions to a maximum of six months. Moreover, the court's authority to extend this period is dependent upon the demonstration of sufficient cause and is subject to terms deemed appropriate by the court as per sub-section (5) of Section 29-A of the Act.

Further provisions have been introduced to bring in greater accountability in the arbitration process. In addition to the termination of the arbitrator's mandate resulting from their failure to deliver a timely award, the *proviso* to Section 29-A (4) of the Act also provides measures to hold arbitrators accountable through reduction of fee of arbitrators for each month of such delay. Section 29-A (6) of the Act also empowers the court to substitute the arbitrator/s when granting an extension, and proceedings will continue from the current stage based on the existing record and evidence.

Time for delivering awards: Courts have also frowned on delays in passing an award. In a long line of judgments, including but not limited to ***Director General, Central Reserve Police Force vs. Fibroplast Marine Pvt Ltd***[3]***, Department of Transport, GNCTD vs. Star Bus Services***[4] and ***Harji Engineering Works Pvt Ltd vs. M/s Bharat Heavy Electricals***[5], it has been held that inordinate delay in making the award after reserving the same is against public policy and a valid ground for setting aside of an award under Section 34 of the Act.

It is also important to note that in a recent judgment delivered in the case of ***Tata Sons Private Limited vs. Siva Industries and Holdings Limited and others***[6] it has been clarified that the timelines set out in Section 29A of the Act do not apply to international arbitrations.

Section 34(3) of the Act: This Section mandates that an application for setting aside shall not be made after three months from the date of receiving the award. This stance is strongly taken in various cases such as ***State of U.P and others vs. Harish Chandra India Limited***[7] which observes that the Act itself leaves no room for condoning delay beyond what is permissible. This judgment places reliance on the Supreme Court's judgment in ***Union of India vs. Popular Construction Co***[8] which stresses on the interpretation of the words "but not thereafter" given in Section 34(3) of the Act to not allow an extension beyond the given period.

All in all, it is apparent that the Act lays emphasis on making India an arbitration hub by implementing strict timelines for the various steps in an arbitral proceeding, as well as for rendering of the arbitral award.

N.L. Rajah
Senior Advocate
Madras High Court

3 Director General, Central Reserve Police Force vs. Fibroplast Marine Pvt Ltd (2022) 3 HCC (Del) 304

4 Department of Transport, GNCTD v. Star Bus Services (2023) SCC OnLine Del 2890

5 Harji Engineering Works Pvt Ltd v. M/s Bharat Heavy Electricals (2008) SCC OnLine Del 1080

6 Tata Sons Private Limited vs. Siva Industries and Holdings Limited and others (2023) 5 SCC 421

7 State of U.P and others vs. Harish Chandra India Limited (2024) SCC OnLine ALL 3218

8 Union of India vs. Popular Construction Co (2001) 8 SCC 470

LEGAL UPDATES

Supreme Court rules that referral Courts must respect Arbitral autonomy in case regarding insurance claims

In the case of ***SBI General Life Insurance Co Ltd vs. Krish Spinning 2024 INSC 532***, the Supreme Court very recently gave out a landmark pro-arbitration decision that the referral Courts must adhere strictly to the Arbitration and Conciliation Act, 1996, without overstepping their bounds. The case involved SBI General Insurance and Krish Spinning, centering on insurance claims for two fire incidents. When the parties failed to resolve their dispute amicably, the respondent invoked the arbitration clause, prompting the Gujarat High Court to appoint an arbitrator. The appellant contested this, arguing that the claim was settled through a discharge voucher, but the High Court proceeded with the arbitration appointment, leading to the Supreme Court appeal.

A three judge bench led by Chief Justice DY Chandrachud, emphasized that referral courts cannot delve into issues like '*accord and satisfaction*' which should be decided by the arbitral tribunal. The Court criticized prior judicial interference tests such as *"eye of the needle"* and *"ex-facie meritless"* asserting that they contradict the principles of modern arbitration by requiring Courts to examine contested facts. The judgment clarified that disputes over contract discharge are arbitrable and reaffirmed that the referral Court's role is limited to verifying the existence of an arbitration agreement.

The Supreme Court's ruling has brought out the importance of maintaining arbitral autonomy and minimizing judicial interference. It held that the question of 'accord and satisfaction' falls exclusively within the arbitral tribunal's jurisdiction, not the referral Court's. This decision reinforces the Arbitration Act's intent to expedite and simplify arbitration proceedings, ensuring that disputes are resolved by the arbitral tribunal as initially intended by the parties.

Supreme Court criticizes lengthy Arbitral Proceedings and urges efficiency

In the recent case of ***Bombay Slum Redevelopment Corporation Private Limited vs. Samir Narain Bhojwani 2024 INSC 478***, the Supreme Court expressed serious concerns over the increasing complexity and duration of arbitral proceedings. The judgment by a three-judge bench highlighted that arbitration has become synonymous with extensive pleadings, voluminous evidence, and protracted submissions, leading to excessively lengthy awards. The Court noted that this tendency to rely on numerous precedents, relevant or irrelevant, has resulted in prolonged hearings under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996.

The case involved a dispute between the Maharashtra Housing and Area Development Authority (MHADA) and the Andheri Kamgar Nagar Co-operative Housing Society Limited. The dispute arose when the society appointed the appellant, Bombay Slum Redevelopment Corporation Private Limited, as a developer for a slum rehabilitation project. After a series of legal battles, the Supreme Court observed that the arbitral award extended to 139 pages, with subsequent petitions and judgments also being exceedingly lengthy.

The Supreme Court put across the need for brevity and efficiency in arbitral proceedings. It urged members of the Bar to exercise restraint by including only legally permissible grounds in their petitions and appeals. The Court emphasized that such practices undermine the objectives of the UNCITRAL model, which aims for expeditious and cost-effective dispute resolution. The judgment concluded by partly allowing the appeals, setting aside the impugned judgment, and restoring the appeal before the High Court, while stressing the importance of making arbitration a more effective and fair process.

Delhi High Court rules on the power of an Arbitrator in case of impleadment in Arbitration and counterclaims

The Delhi High Court recently dismissed a batch of arbitration applications in the case of ***ASF Buildtech Pvt. Ltd. vs. Shapoorji Pallonji & Co. Pvt. Ltd., 2024 SCC OnLine Del 4530***, clarifying that a Section 21 notice is not required if a claim is filed as a counterclaim for which a Court has already made a reference. The Court addressed appeals under Section 37(2) of the Arbitration and Conciliation Act, 1996 ("**Act**"), and a petition under Section 14 of the Act, arising from disputes involving ASF Buildtech Pvt. Ltd. (ABPL) and Shapoorji Pallonji & Co. Pvt. Ltd. (SPCPL). The Court ruled that the Sole Arbitrator had the legal capacity to deal with the claims and counterclaims, and his mandate did not need to be terminated.

The case's background involved a series of agreements between ASF Insignia SEZ (P) Ltd. (AISPL), SPCPL, and other entities for the development of a building in Gurgaon, Haryana. After a settlement agreement due to project delays, AISPL received a demand notice from SPCPL under the Insolvency and Bankruptcy Code, which was later dismissed by the National Company Law Tribunal. SPCPL then invoked arbitration, leading to disputes about the Sole Arbitrator's jurisdiction and the proper parties to the arbitration. ABPL and AISPL contested their impleadment, arguing there was no direct contractual relationship with SPCPL.

The High Court, referencing the case of ***Cox and Kings Ltd. vs. SAP India (P) Ltd., (2024) 4 SCC 1***, emphasized the Group of Companies doctrine, allowing counterclaims to include closely related entities like AISPL and ABPL. The Court noted that the ASF Group's involvement was significant enough to warrant their inclusion for a comprehensive resolution. The ruling concluded that the Sole Arbitrator's mandate should continue, and the delineation of separate cases was unnecessary. The Court ordered the arbitration to proceed as a single case, with claims and counterclaims to be adjudicated together.

Gauhati High Court allows Arbitration despite alternative remedy under RERA

In a recent ruling in the case of ***Pallab Ghosh vs. Simplex Infrastructures Ltd., 2024 SCC OnLine Gau 751***, the Gauhati High Court held that parties could invoke arbitration for dispute resolution even if an alternative remedy is available under the Real Estate (Regulation and Development) Act, 2016 ("**RERA**"). The Court emphasized that there is no inconsistency between RERA and arbitration, thereby allowing arbitration as a valid recourse despite the concurrent remedy under RERA. This decision came in response to a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking the appointment of an arbitrator based on an agreement between the parties.

The case involved a dispute over the delayed possession of an apartment. The petitioners had entered into a sale agreement with the respondents and paid 95% of the total consideration. When the apartment was not delivered on time, the petitioners sought interest under RERA and the contractual agreement. The respondents argued that the RERA authority had investigative and enforcement powers that an arbitral tribunal lacked. However, the Court referenced similar cases from the Delhi and Patna High Courts, affirming that arbitration is not barred by the existence of a remedy under RERA.

Applying the Supreme Court's fourfold test from ***Vidya Drolia vs. Durga Trading Corporation (2021) 2 SCC 1***, the Court found the subject matter arbitrable. The Court cited precedents that allow parties to choose arbitration despite public fora options, emphasizing that the arbitration agreement in the contract was valid and enforceable. The Court appointed a retired Judge as the single arbitrator to resolve the dispute considering the cost concerns associated with a three-member tribunal.

Calcutta High Court clarifies interpretation of 'three months' in Arbitration Act, 1996 by the Supreme Court

The Calcutta High Court, in its recent judgment dated 11.07.2024 in the case of ***Future Market Networks Ltd. vs. Laxmi Pat Surana & Anr***, clarified that the period of 'three months' stipulated in Section 34(3) of the Arbitration and Conciliation Act, 1996, should be computed based on calendar months, rather than a strict 90-day period as previously interpreted by various Supreme Court observations. The Court held that these Supreme Court interpretations were obiter dicta, not binding ratio decidendi, thus affirming that the limitation period must be calculated from the date following the receipt of the arbitral award.

The case involved Future Market Networks Ltd., which sought to set aside an arbitral award received on May 19, 2016. The respondent, Laxmi Pat Surana, argued that the application filed on August 17, 2016, was beyond the 90-day limitation period. However, the petitioner contended that the calculation should start from May 20, 2016, thereby making the filing timely within the three-month period. The Court emphasized the golden rule of statutory interpretation, stating that the literal meaning of the statute must be adhered to, thus supporting the petitioner's argument.

Referring to precedents and the principles of statutory interpretation, the High Court concluded that the period of limitation in Section 34(3) should be computed based on calendar months. The Court reaffirmed its previous stance in ***State of West Bengal vs. Rajpath Contractors and Engineers Limited 2024 INSC 477***, applying the General Clauses Act and the Limitation Act to support this interpretation. Consequently, the Court ruled that the application filed by Future Market Networks Ltd. was within the statutory period, dismissing the respondent's objection regarding the limitation.

NANI PALKHIVALA ARBITRATION CENTRE

SATYA HEGDE ESSAY COMPETITION

Nani Palkhivala Arbitration Centre (NPAC) is pleased to announce an Essay competition on Arbitration. The competition is open to current students of Law in any College or University in India.

TOPIC:

Extending Curative Jurisdiction to Arbitration Matters – Exploring the Consequences

Word Limit : 2500 words (excluding footnotes)

Deadline : **Monday, August 23, 2024 before 06.00 pm**

Entries should be sent to : **npac05shec@gmail.com**

PRIZE MONEY

First Prize – Rs.10,000/-
Second Prize – Rs. 7,500/-
Third Prize – Rs. 5,000/-

GUIDELINES

- One entry per person.
- Joint authorship is not allowed.
- Essay must be the original work of the author.
- Essay must be typed in double spacing.
- Essay can be sent in word doc. or pdf. Format.
- First page should contain the details viz; Name, College or University you are studying, Postal address, Mobile no. & Mail id.
- Entries must be enclosed with a bonafide certificate from the Dean/Principal of your College or University.
- Jury's decision is final.

Prize winners will be announced on September 10, 2024.

Prize winners will be awarded their prizes in the International Conference hosted by NPAC at New Delhi on Saturday October 19th 2024.

They will be provided to & fro train charges in III A/C.

Conference Registration fee will be exempted for the prize winners.

For any further details or queries contact us at

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- Types of Arbitration
- Judicial Interference at Pre-Arbitration Stage
- Arbitral Process as per the Arbitration and Conciliation Act 1996
- Challenge to an Arbitral Award
- Concept of a Foreign Award and challenges thereto
- Amendments to the Arbitration and Conciliation Act and Expert committee report
- Seat and Venue in Arbitration
- Issues in Sector Specific Arbitrations

Who Can Attend?

Any person eager to learn about Arbitration, Advocates, Students of Law, Arbitrators, In-house Counsel, CAs, CSs, Academicians, Financial Intermediaries and other Professionals.

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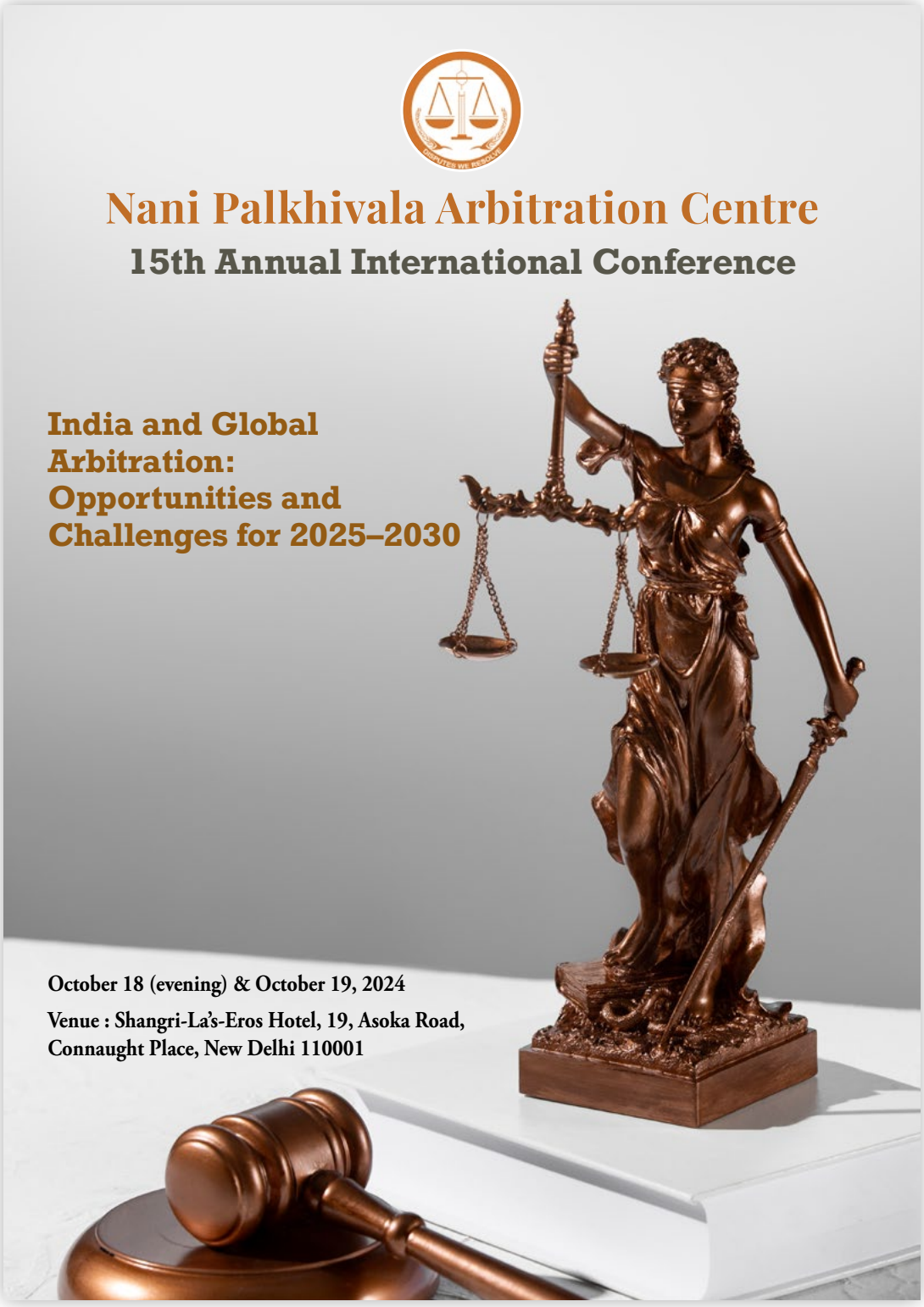

NPAC 15th Annual International Conference:

The Nani Palkhivala Arbitration Centre (NPAC) is proud to present the NPAC International Conference on Arbitration, focusing on "India and Global Arbitration: Opportunities and Challenges for 2025-2030." The event will take place on the evening of October 18 and throughout the day on October 19, 2024, at the Shangri-La's Eros Hotel in New Delhi. This conference will feature a fireside chat and an annual international conference, bringing together experts to discuss the future of arbitration.

For further details click here.

Truncated arbitral panels and role of courts under Section 9 of the Arbitration Act, 1996 in India

A truncated arbitral tribunal occurs when any multi-member arbitral panel becomes incomplete during the arbitral proceedings before an award is rendered. This situation can arise due to the death, resignation, or failure of a tribunal member to participate in proceedings or discussions, leaving the remaining two members to carry on.

At the international level, Articles 14 and 15 of the UNCITRAL Model Law and the Article 56 of the Convention on Internal Centre for the Settlement of Investment Disputes ("**ICSID Convention**") handle truncated tribunals by emphasizing the need for reappointing a replacement within a short period to prevent any party from using delaying tactics. Both regimes focus on maintaining the original assumption that a three-member tribunal will make the decision.

The international provisions mentioned above, read as follows:

1. UNCITRAL Model Law:

"Article 14.

Failure or impossibility to act

(1) If an arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his offi ce or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this article or article 13(2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article or article 12(2).

Article 15.

Appointment of substitute arbitrator

Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced."

2. ICSID Convention:

"Article 56

(1) After a Commission or a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if a conciliator or an arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

(2) A member of a Commission or Tribunal shall continue to serve in that capacity notwithstanding that he shall have ceased to be a member of the Panel.

(3) If a conciliator or arbitrator appointed by a party shall have resigned without the consent of the Commission or Tribunal of which he was a member, the Chairman shall appoint a person from the appropriate Panel to fill the resulting vacancy."

When an arbitrator's death, or other external factors prevent participation, the enforcement of awards made by truncated panels is often refused. This refusal is based on the principle that an award is made by a panel with lesser number of arbitrators than as specified in the agreement between the parties and the principles of equal treatment and representation.

In the case of ***Ivan Milutinovic vs. Deutsche Babcock***,[1] the Swiss Federal Supreme Court ruled that the remaining arbitrators could not proceed without party authorization when an arbitrator resigned. Doing so would breach the parties' right to the proper composition of the arbitral tribunal. This case provides a comprehensive examination of the jurisdiction of a truncated tribunal and the legitimacy of its awards, considering party autonomy, efficiency, and due process.

Conversely, in the dispute between Himapurna and Indonesia[2] in a case in the year 2000, it was established that an arbitral tribunal has the right and obligation to proceed when a member fails to act, withdraws, or resigns without valid excuse.

The 2015 Amendment to the Arbitration and Conciliation Act, 1996 introduced several changes aimed at reducing judicial intervention in the arbitral process. One significant amendment was to Section 9, limiting the court's ability to provide interim relief once the arbitral tribunal is constituted, by including subsection (3). The amendment also added a provision in Section 17, ensuring that the arbitral tribunal's orders for interim measures would be enforceable as court orders.

In ***Arcelor Mittal Nippon Steel India Ltd. vs. Essar Bulk Terminal Ltd***.,[3] the Supreme Court clarified that courts retain jurisdiction to grant interim relief under Section 9 when the tribunal is unable to act promptly due to illness, other reasons, or challenges to its constitution. Given the urgent nature of interim relief, the Court emphasized that the legislature did not intend to diminish the court's authority in cases where the tribunal's inability to act would render Section 17 ineffective, with the following observations:

"63. Section 9(1) of the Arbitration Act, as amended enables a party to an arbitration agreement to apply to a Court for interim measures of protection before or during the arbitral proceedings, or at any time after an award is made and published, but before the Award is enforced in accordance with Section 36 of the Arbitration Act.

64. A Civil Court of competent jurisdiction thus has the jurisdiction to admit, entertain and decide an application under Section 9(1) of the Arbitration Act, any time before the final arbitral award is enforced in accordance with Section 36 of the Arbitration Act.

……..

66. Sub-Section (3) of Section 9 has two limbs. The first limb prohibits an application under sub-Section (1) from being entertained once an Arbitral Tribunal has been constituted. The second limb carves out an exception to that prohibition, if the Court finds that circumstances exist, which may not render the remedy provided under Section 17 efficacious."

Despite its incomplete nature, decisions made by a truncated tribunal may still hold legal weight depending on various aspects such as the agreement between the parties and the rules of the arbitration centre in which the proceedings are being held. Key considerations include fairness, adherence to due process, and the impact on involved parties. The clarity included under Section 9 of the Arbitration and Conciliation Act, 1996 ensures that courts can provide interim relief when a tribunal is unable to act due to a truncated panel and this is a significant aspect in the arbitration landscape in India. This balance between tribunal authority and court intervention is vital for maintaining a fair and reliable arbitration framework in India.

In instances where an arbitral panel becomes truncated, critical questions emerge about the authority of the remaining tribunal and its ability to continue proceedings and issue an enforceable award. In the Indian context, these issues are governed by the Arbitration and Conciliation Act, 1996, particularly Section 9.

While International frameworks such as the UNCITRAL Model Law and ICSID Convention emphasize swift reappointment to maintain tribunal integrity, the Indian framework, through Section 9, allows courts to provide interim relief if the tribunal cannot act due to a truncated panel and does not empahise on swift reappointment as the authority of the remaining panel is contingent upon the arbitration rules of the relevant arbitration centre and the agreement between the parties.

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1 ICC Case no 5017

2 Himpurna California Energy Ltd v Republic of Indonesia, XXV YBCA 186 (2000), 194

3 Arcelor Mittal Nippon Steel (India) Ltd. v. Essar Bulk Terminal Ltd., 2021 SCC OnLine SC 718

Report on Interactive session with Justice S. Muralidhar

NPAC organized an interactive session with the Retired Chief Justice of the Orissa High Court, Justice. Dr. S. Muralidhar. The session took place on the 8th of June 2024, at Savera Hotel, Chennai. It was a hybrid session with the dignitaries attending both in person and virtually *via* Zoom. Justice (Retd.) Dr. S. Muralidhar graduated meritoriously with his Bachelor of Laws from the University of Madras and completed his LL.M, where he specialised in Constitutional and Administrative Law, from Nagpur University in 1990. He was awarded Ph.D from the University of Delhi in the year 2003 on "Legal Aid and the Criminal Justice System in India". He also secured the first position in the Advocates on Record Examinations.

Justice Muralidhar was appointed as a Judge of the Delhi High Court in May, 2006, following which in February 2020 he was transferred to the Punjab and Haryana High Court. He was later elevated as the Chief Justice of the Orissa High Court in January 2021 and retired in August 2023. During his tenure as the Chief Justice, he brought in a number of changes to the administration system of the Orissa High Court, which included digitisation of court records, organizing farewell events for employees of the Court, and creation of the Museum of Justice. He took initiatives and achieved a reduction of 80% of pending cases from the time he assumed the chair as the Chief Justice.

Justice Muralidhar discussed the significant outcomes which he achieved with the staff of the Orissa High Court during his tenure. He stated that the efficiency of the judiciary depends on the coexistence of judicial and non-judicial branches. He moved on to explain about the not so sophisticated condition of the non-judicial branches of the Orissa High Court that he had witnessed and spoke about his initiatives to mitigate the issue and to help improve the working conditions of the non-judicial branch.

He wanted to improve the working staff's commitment towards work and he started a farewell scheme for all employees of the Orissa High Court which included the drivers, registrars etc. He presided over these farewell occasions which made the employees feel valued and work with vigor for the institution. He mentioned that this practice is still followed and practised by his successors as well. Justice Muralidhar allocated Friday 3:00 PM every week to observe obituary for the deceased lawyers and judges who died in the week or preceding week.

To eradicate the overflowing court files, he digitized them and took rapid action to clean the files in a single step where he personally opened every cupboard and disposed of the files and also formed committees and presided over them.

To improve the efficiency of the Orissa High Court he made sure that all things run as per their scheduled timings. Due to this, the pendency of cases had drastically reduced.

One of the main topics discussed at the session was regarding the 'digitalization of the Orissa government and the judiciary'. As he was one of

the pioneers of the digitization process, he talked about the various facilities available in the Orissa High Court website like the provision for virtual courts, online mentioning, online certified copies, live streaming of cases, e-inspection of case records, RRDC (Record Room Digitization Centre) and DCDC (District Court Digitization Centre). He had also shortened the period for retaining files and also introduced a standard template for the infrastructure of the court. The website of the Orissa High Court also contains a Centre for Judicial Archives which contains old judgments in both Persian and English. The Orissa judiciary also has an E-SEWA KENDRA which helps people in filing and making use of the digital forum.

Justice Muralidhar felt that the Orissa High Court website must be updated and he took the initiative to add the number of days the court worked, the number of days and hours wasted due to various factors etc, in order to depict the accountability of the judiciary towards the people. The Judge further contributed by involving himself in the construction of courtrooms to include modern amenities in them, such as developments to the POSCO Special Courts. Justice Muralidhar played an important role by organising the National Judicial History Conference.

As the nation's judiciary prepares for increased digitization, significant challenges arise considering the digital divide and the broader disparities in digital access and literacy across the country. On this issue, Justice (Retd.) Dr. S. Muralidhar opined that this divide manifests in varying degrees of technological infrastructure and proficiency among court staff, judges, and legal practitioners, particularly in rural and semi-urban areas. To address these disparities, he clarified on the various steps being undertaken. The judiciary has commenced several projects, including the e-Courts project which aims to enhance ICT (Information and Communication Technology) infrastructure in courts nationwide. Additionally, extensive training programs have been implemented to equip judicial officers, court staff, and lawyers with the necessary digital skills. Initiatives such as virtual courts, e-filing systems, and online legal resources are being promoted to streamline judicial processes and make them more accessible.

When asked on how he would rate the 'rule of law' in India, he stated that evaluating it within a country is inherently complex and cannot be easily distilled into a single rating or score. This complexity arises because the application and

perception of the 'rule of law' can vary significantly across different cases and contexts. To elaborate on this, he discussed the case of Umar Khalid's bail, the electoral bond case and the Guantanamo Bay detention centre and concluded by stating that the 'rule of law' cannot be uniformly rated across a country because each legal decision is influenced by unique circumstances and perceptions. Evaluating it requires looking at specific cases individually to understand how well the legal system adheres to principles of justice, fairness, and accountability in each instance. This approach acknowledges the complexities and variances inherent in any legal system.

The question of whether the judiciary in India has too many holidays was a topic of debate and concern. This issue was addressed by Justice (Retd.) Dr. S. Muralidharan wherein he provided a nuanced understanding of the judiciary's functioning and the necessity of holidays. He stated that there is always a requirement to work on extended working hours which is beyond the official court hours of 10 AM to 4 PM., and that the responsibilities of a judge are not confined to the courtroom, the mental exhaustion due to the demanding nature of judicial work. He added that while it is essential to address case backlogs and ensure timely justice, the well-being and mental clarity of judges are equally important for judges to deliver well-reasoned and fair judgments and that breaks and vacations are crucial for judges to rejuvenate and maintain the high standards required in their profession. He suggested that a balanced approach, combining administrative efficiency, policy reforms, and robust support systems, is crucial to maintaining the effectiveness and integrity of the Indian judiciary.

In conclusion, the session with Dr. S. Muralidhar was a testament to his visionary leadership and dedication to judicial excellence. The session not only honoured his contributions but also provided a platform for meaningful dialogue on advancing judicial reforms and upholding the rule of law in India.