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JUDICIAL INTERVENTION IN ARBITRATION: A JURISPRUDENTIAL NECESSITY OR AN ANACHRONISTIC ENCUMBRANCE?

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ABSTRACT

This research paper endeavours to critically examine the ambit and contours of judicial intervention under the Arbitration and Conciliation Act, 1996, while simultaneously interrogating whether the Indian arbitral framework has succeeded in achieving an equitable reconciliation between arbitral autonomy and indispensable judicial supervision. The study undertakes a nuanced analysis of the ramifications of judicial interference upon the efficiency, expedition, confidentiality, and finality that constitute the very *raison d'être* of arbitral proceedings in India. It further evaluates the efficacy of successive legislative amendments introduced with the avowed objective of restraining excessive court intervention and fortifying arbitration as a credible and efficacious mechanism of alternative dispute resolution.

The paper additionally undertakes a comparative appraisal of India's arbitral regime vis-à-vis globally acclaimed arbitration-friendly jurisdictions such as Singapore, United Kingdom, and France, with a view to discerning the institutional and jurisprudential practices that have rendered these jurisdictions preferred arbitral seats. In doing so, the study identifies the persistent structural and procedural impediments that continue to afflict the Indian arbitration ecosystem and advances a series of recommendations aimed at invigorating institutional arbitration, attenuating procedural delays, safeguarding confidentiality, and consolidating India's aspirations of emerging as a formidable hub for international commercial arbitration.

INTRODUCTION

“At all events, arbitration is more rationale, just and humane than the resort to the sword”

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With globalization, limited economic growth and exponential increase in cross border trade in the present era, arbitration has emerged as a highly preferred mode of dispute resolution. Modern commercial transactions are about complex contractual bonding among parties which desires high speed justice with least procedural hurdles. Courts are frequently blamed for delays, quagmire-like procedures and the mountain of

pending cases. In such circumstances, arbitration offers a practical and business-friendly solution allowing the parties to limit the loss of time, the costs of litigation and the risk of damage to commercial relationships.

Arbitration is a well-known method of resolving disputes outside the regular court system. It involves the assistance of a neutral and independent third person called as arbitrator. This process is an important part of the Alternative Dispute Resolution (ADR) methods and is commonly used in commercial, contract, corporate and international disputes.²¹⁵ However, arbitration is a more flexible, efficient

²¹⁴ By Richard Cobden

²¹⁵ What Is Alternative Dispute Resolution?, [Program on Negotiation at Harvard Law School](https://www.harvard.edu/program-on-negotiation-at-harvard-law-school/) (last visited May 10, 2026).

and private means for the parties to resolve their disputes than regular court cases. The decision of the arbitration panel (called an arbitral award) is legally binding on the parties and can be enforced like any court decision.

Besides, arbitration plays a significant role to boost the confidence of the investor as well as to facilitate smooth commercial operations especially in the disputes concerning to international trade and investment. Its focus on party autonomy, the specialized knowledge of the arbitrators and confidentiality makes it eminently suitable for the resolution of contemporary commercial disputes.²¹⁶ Thus, arbitration has become an important part of the modern legal and economic structure.

Evolution of the Arbitral Framework in India

The idea of arbitration has been there in India since olden days. In general, the village panchayats and the community elders settled the disputes. The Indian Arbitration Act, 1899²¹⁷, was legislated during the colonial period to provide a formal method of dispute resolution. The Act was based on English arbitration law. Later, the **Arbitration Act of 1940**²¹⁸ was enacted to provide a uniform framework for arbitration throughout the country. However, the 1940 Act was heavily criticised for too much involvement of the judges, slow procedures and inefficiency which often defeated the aim of arbitration.

The need for a new arbitration system that would meet international standards has been created by globalization and international trade. In 1985, the **United Nations Commission on International Trade Law adopted the UNCITRAL**²¹⁹ Model Law on International Commercial Arbitration to achieve uniform arbitration laws throughout the world. India has also signed the New York Convention²²⁰ for enforcement of foreign awards.

India revised its arbitration system with the Arbitration and Conciliation Act in 1996 and it came into effect on January 25, 1996 and was largely based on the UNCITRAL Model Law.

Role of Judiciary in Arbitration Proceedings and its Recent Drawbacks

The intervention of judiciary in arbitration means the involvement of courts in the arbitration process at various stages. This can include appointment of arbitrators, interim relief, review of arbitral awards and enforcement of arbitral awards. Although arbitration is intended to be an independent, effective alternative to traditional litigation, courts cannot be completely out of the picture. Without some measure of judicial intervention, it is difficult to ensure fairness, legality and transparency in the arbitration process. Courts help protect parties from biased proceedings, violations of natural justice, fraud or arbitral awards contrary to public policy or legal standards.

However, judicial intervention has become a major challenge in the arbitration framework especially in India.²²¹ Frequent court interference leads to delay in procedures, higher cost of litigation and longer enforcement of arbitral awards.²²² Such interference undermines the principles of party autonomy and expedition in dispute resolution which are the foundation of arbitration. Therefore, arbitration can end up being just as slow and complex as traditional court litigation, defeating its original intention.

In recent years, excessive judicial intervention has posed a serious challenge to the effectiveness of arbitration in India. Arbitration was meant to be a quick, cost-effective, and efficient alternative to traditional litigation, but frequent court involvement has often hindered these goals. One of the main issues is the delay in enforcing arbitral awards. Parties often

²¹⁶ Arbitration in India: Process, Laws and Benefits Explained, [S&N Legal](#) (last visited May 10, 2026).

²¹⁷ Indian Arbitration Act, 1899, Act No. 11 of 1899 (India).

²¹⁸ Arbitration Act, 1940, Act No. 10 of 1940, Acts of Parliament, 1940 (India).

²¹⁹ United Nations Commission on International Trade Law, G.A. Res. 2205 (XXI), U.N. Doc. A/RES/2205(XXI) (Dec. 17, 1966).

²²⁰ Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3.

²²¹ Arbitration in India: An Express Highway with Too Many Judicial Toll Gates, *Times of India* (Apr. 17, 2026), <https://timesofindia.indiatimes.com/legal/news/arbitration-in-india-an-express-highway-with-too-many-judicial-toll-gates/articleshow/130326305.cms>

²²² Challenges in Arbitration in India, S&N Legal, Arbitration in India: Process, Laws and Benefits Explained, <https://sandnlegal.com/arbitration-in-india-process-laws-and-benefits-explained/>

challenge these awards in court under different provisions of the Arbitration and Conciliation Act, 1996. This leads to extended litigation and defeats the aim of resolving disputes quickly.

Another key issue is the broad judicial interpretation of such terms as “public policy²²³” and “patent illegality²²⁴.” In some cases, courts have reviewed the evidence and factual findings of arbitrators, effectively making arbitration an appellate process similar to regular court proceedings. This adds to the procedural complexity, costs of litigation and uncertainty in the arbitration system.

India’s reputation as an arbitration-friendly jurisdiction is also affected by excessive judicial intervention. The uncertainty and delays may make foreign investors and commercial parties wary of choosing India as a seat for arbitration.

Scope for Inquiry

In order to critically analyse the impact of judicial intervention on arbitration proceedings, the present study is guided by a number of key research questions. These questions will help us to study the balance between judicial supervision and arbitral autonomy and also to study the effectiveness of the Indian arbitration framework in the light of international standards. The research is especially interested in the question:

1. Whether judicial intervention strengthens or weakens the effectiveness of arbitration proceedings?
2. To what extent should courts interfere in arbitral proceedings without defeating the purpose of arbitration?
3. Whether the Arbitration and Conciliation Act, 1996 and the past amendments have

successfully minimized judicial interference in arbitration matters?

4. How does the Indian arbitration framework compare with internationally recognized arbitration-friendly jurisdictions?

Legal Provisions Relating to Judicial Intervention under the Arbitration and Conciliation Act, 1996

The Arbitration and Conciliation act has specific provisions which empowers the courts to intervene in the arbitration proceedings in order to ensure fair treatment, justice and enforcement of arbitral awards as follows:

1. Section 5 of Arbitration and Conciliation Act, 1996 – *Extent of judicial intervention*²²⁵
2. Section 8 of Arbitration and Conciliation Act, 1996 – *Power to refer parties to arbitration where there is an arbitration agreement*²²⁶
3. Section 9 of Arbitration and Conciliation Act, 1996 – *Interim measures by Court*²²⁷
4. Section 11 of Arbitration and Conciliation Act, 1996 – *Appointment of arbitrators*²²⁸
5. Section 13(5) of Arbitration and Conciliation Act, 1996 – *Procedure of Challenge*²²⁹
6. Section 14(2) of Arbitration and Conciliation Act, 1996 – *Failure of Impossibility to Act*²³⁰
7. Section 16(6) of Arbitration and Conciliation Act, 1996 – *Competence of arbitral tribunal to rule on its jurisdiction*²³¹
8. Section 27 of Arbitration and Conciliation Act, 1996 – *Court Assistance in taking in evidence*²³²

²²³ O.P. Malhotra, *The Scope of Public Policy under the Arbitration and Conciliation Act, 1996*, 19(2) Student Bar Rev. 29 (2007), <http://docs.manupatra.in/newsline/articles/Upload/BBDF2776-0E16-457D-9337-F46D4F0FD303.pdf>

²²⁴ Sunidhi Singh, Patent Illegality in Setting Aside Arbitral Awards: Is India Becoming a Robust Seat for Arbitration?, LiveLaw (Feb. 13, 2023), <https://www.livelaw.in/lawschoolcolumn/patent-illegality-in-setting-aside-arbitral-awards-is-india-becoming-a-robust-seat-for-arbitration-221421>

²²⁵ Arbitration and Conciliation Act, 1996, § 5, No. 26 of 1996, Acts of Parliament, 1996 (India)

²²⁶ Arbitration and Conciliation Act, 1996, § 8, No. 26 of 1996, Acts of Parliament, 1996 (India)

²²⁷ Arbitration and Conciliation Act, 1996, § 9, No. 26 of 1996, Acts of Parliament, 1996 (India)

²²⁸ Arbitration and Conciliation Act, 1996, § 11, No. 26 of 1996, Acts of Parliament, 1996 (India)

²²⁹ Arbitration and Conciliation Act, 1996, § 13(5), No. 26 of 1996, Acts of Parliament, 1996 (India)

²³⁰ Arbitration and Conciliation Act, 1996, § 14(2), No. 26 of 1996, Acts of Parliament, 1996 (India)

²³¹ Arbitration and Conciliation Act, 1996, § 16(6), No. 26 of 1996, Acts of Parliament, 1996 (India)

²³² Arbitration and Conciliation Act, 1996, § 27, No. 26 of 1996, Acts of Parliament, 1996 (India)

9. Section 34 of Arbitration and Conciliation Act, 1996 – *Recourse to Court for setting aside arbitral award*²³³

These provisions can be divided into three stages of arbitration proceedings like provisions applicable before the commencement of arbitration, during arbitral proceedings and after arbitral award. These provisions permit courts to play a supervisory and supportive role while attempting to preserve the autonomy of the arbitral process.

Provisions Applicable Before Arbitration Proceedings

The main provisions which are applicable before the commencement of arbitration are Section 5, 8, 9, 8A²³⁴ and 11 of the Arbitration and Conciliation Act, 1996. These provisions provide for fairness, protection of rights and effective commencement of proceedings and offer several benefits to the arbitration process. Section 5 promotes minimal judicial interference and enhances arbitral autonomy, as held in **P. Anand Gajapathi Raju v. P.V.G. Raju**²³⁵, where the Supreme Court held that courts must respect arbitration agreements and refer disputes to arbitration. Section 8 aims to avoid unnecessary civil litigation by requiring parties to arbitration where a valid arbitration agreement exists. Section 8A encourages the use of mediation or conciliation to resolve disputes amicably before they go to formal adjudication. Section 9 protects parties by permitting courts to provide interim relief such as injunctions, preservation of property and protection of evidence prior to the constitution of the tribunal. The Supreme Court in **Sundaram Finance Ltd. v. NEPC India Ltd**²³⁶, recognized the importance of interim relief under Section 9 for ensuring the protection of the parties before the arbitral proceedings commence. Section 11 further provides that arbitration proceedings shall not be frustrated

by reason of any disagreement between the parties as to the appointment of arbitrators. In plethora of cases like the **Duro Felguera S.A. v. Gangavaram Port Ltd.**²³⁷, **Mayavati Trading Pvt. Ltd. v. Pradyut Deb Burman**²³⁸, **Hindustan Petroleum Corp. Ltd. v. Pink City Midway Petroleum**²³⁹ and **Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. Northern Coal Field Ltd.**²⁴⁰, the Court clarified that judicial intervention under Section 11 should be primarily confined to examining the existence of an arbitration agreement. All of these provisions, considered as a whole, contribute to the protection of the justice, the preservation of procedural certainty and the proper commencement of arbitral proceedings.

However, these provisions also have a number of disadvantages, as they increase judicial intervention in arbitration. Section 8 provides that courts have the power to decide on the validity and existence of an arbitration agreement before referring the matter to arbitration, which often leads to preliminary litigation and delays. Section 9 encourages reliance on courts even before the constitution of the arbitral tribunal, thereby promoting reliance on courts rather than tribunal independence. Similarly, Section 11 allows courts to appoint arbitrators where the parties cannot agree, thereby limiting the parties' freedom to choose their own dispute resolution mechanism. In the case of **SBP & Co. v. Patel Engineering Ltd**²⁴¹, the Supreme Court expanded the judicial powers under Section 11 by ruling that the appointment of the arbitrators is a judicial function thereby increasing the intrusion of the courts in the pre-arbitration phase.

Provisions Applicable During Arbitral Proceedings

During arbitral proceedings, Sections 13(5), 14(2), 16(6), and 27 of the Arbitration and Conciliation

²³³ Arbitration and Conciliation Act, 1996, § 34, No. 26 of 1996, Acts of Parliament, 1996 (India)

²³⁴ Arbitration and Conciliation Act, 1996, § 8A, No. 26 of 1996, Acts of Parliament, 1996 (India)

²³⁵ P. Anand Gajapathi Raju v. P.V.G. Raju, (2000) 4 S.C.C. 539 (India).

²³⁶ Sundaram Fin. Ltd. v. NEPC India Ltd., (1999) 2 S.C.C. 479 (India).

²³⁷ Duro Felguera S.A. v. Gangavaram Port Ltd., (2017) 9 S.C.C. 729 (India).

²³⁸ Mayavati Trading Pvt. Ltd. v. Pradyut Deb Burman, (2019) 8 S.C.C. 714 (India).

²³⁹ Hindustan Petroleum Corp. Ltd. v. Pinkcity Midway Petroleum, (2003) 6 S.C.C. 503 (India).

²⁴⁰ Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. N. Coal Field Ltd., (2020) 2 S.C.C. 455 (India).

²⁴¹ SBP & Co. v. Patel Eng'g Ltd., (2005) 8 S.C.C. 618 (India).

Act, 1996 allow a limited role for courts in order to maintain fairness and smooth functioning of the arbitration process. These provisions are important because they ensure that arbitration remains transparent, impartial, and legally accountable without excessive judicial interference. Section 13(5) gives parties the right to challenge an arbitrator if there are reasonable doubts regarding the arbitrator's independence or impartiality, helping maintain confidence in the process. Similarly, Section 14(2) empowers courts to terminate the mandate of an arbitrator who is unable to perform his duties due to incapacity or other valid reasons, thereby preventing unnecessary delays in proceedings.

Section 16(6) further acts as a safeguard by allowing judicial review of decisions relating to the tribunal's jurisdiction. Although arbitral tribunals are empowered to decide their own jurisdiction, courts may intervene where the tribunal exceeds its legal authority. In **Kvaerner Cementation India Ltd. v. Bajranglal Agarwal**²⁴² and **Arabian Exports Pvt. Ltd. v. National Insurance Company Ltd.**²⁴³, the Supreme Court emphasized the importance of allowing arbitral tribunals to first determine jurisdictional objections themselves. Additionally, Section 27 allows courts to assist arbitral tribunals in procedural matters such as summoning witnesses, collecting evidence, and directing production of documents, especially where the tribunal lacks coercive powers. Together, these provisions create a balance between arbitral independence and necessary judicial support, ensuring that arbitration proceedings remain efficient, fair, and legally sound.²⁴⁴

At the same time, these provisions also increase court involvement in arbitration proceedings and can reduce the independence of arbitral tribunals. Section 13(5) allows parties to challenge arbitrators before courts, which may interrupt proceedings and create delays.

Similarly, Section 14(2) gives courts the power to terminate the mandate of arbitrators, affecting the autonomy of the tribunal. Section 16(6) permits judicial review of jurisdictional decisions, which weakens the doctrine of "kompetenz-kompetenz"²⁴⁵ that allows tribunals to decide their own jurisdiction. In **McDermott International Inc. v. Burn Standard Co. Ltd.**²⁴⁶, the Supreme Court stated that courts should interfere minimally in arbitration matters yet judicial supervision still continues at several stages. As a result, these provisions often increase delays, costs, and procedural complexity, therefore reducing the speed and flexibility that arbitration is meant to provide.

Provisions Applicable After Arbitral Proceedings

After the arbitral award is passed, Section 34 becomes the main provision through which courts can intervene in arbitration matters. This provision is important because it helps ensure fairness, legality, and accountability in arbitral awards. It allows courts to set aside awards only on limited grounds such as patent illegality, violation of public policy, lack of jurisdiction, or breach of natural justice. In **Associate Builders v. Delhi Development Authority**²⁴⁷, the Supreme Court clarified the scope of "public policy" under Section 34 and stated that courts should not act like appellate courts by re-examining facts or evidence. The judgment emphasized that judicial intervention should remain limited and should only address serious legal or procedural defects in the award. In this way, Section 34 helps maintain trust in the arbitration process by protecting parties from arbitrary or unfair decisions while still preserving the finality of arbitral awards.

However, excessive judicial interference under Section 34 has also created several challenges for arbitration in India. Courts have often interpreted terms like "public policy" and "patent

²⁴² Kvaerner Cementation India Ltd. v. Bajranglal Agarwal, (2012) 5 S.C.C. 214 (India).

²⁴³ Arabian Exports Pvt. Ltd. v. Nat'l Ins. Co. Ltd., 2025 INSC 630 (India).

²⁴⁴ Section 27 of Arbitration and Conciliation Act, 1996: Court Assistance in Taking Evidence, The Legal School, <https://thelegalschool.in/blog/section-27-arbitration-and-conciliation-act> (last visited May 10, 2026)

²⁴⁵ Aishwarya Agrawal, *What is Kompetenz-Kompetenz Principle?*, LawBhoomi (Dec. 10, 2024), <https://lawbhoomi.com/kompetenz-kompetenz-principle/>

²⁴⁶ McDermott Int'l Inc. v. Burn Standard Co. Ltd., (2006) 11 S.C.C. 181 (India).

²⁴⁷ Associate Builders v. DDA, (2015) 3 S.C.C. 49 (India).

illegality” very broadly, leading to greater scrutiny of arbitral awards. In **ONGC Ltd. v. Saw Pipes Ltd.**²⁴⁸, the Supreme Court expanded the meaning of “public policy,” which widened the scope for setting aside arbitral awards and increased court intervention.²⁴⁹ As a result, parties frequently challenge arbitral awards before courts, causing delays and prolonged litigation. This weakens the finality and binding nature of arbitration and makes the process more expensive and time-consuming. In many cases, arbitration starts resembling ordinary court litigation, which goes against its main purpose of providing a faster and more efficient method of dispute resolution.

Balancing Arbitral Autonomy and Judicial Intervention

The Indian judiciary has delivered several important judgments that support arbitral autonomy and encourage minimal judicial interference. In **P. Anand Gajapathi Raju v. P.V.G. Raju**²⁵⁰, the Supreme Court held that courts should refer parties to arbitration whenever a valid arbitration agreement exists, highlighting that the purpose of the Arbitration and Conciliation Act, 1996 is to reduce court involvement and promote speedy dispute resolution. Similarly, in plethora of judgements like **Kvaerner Cementation India Ltd. v. Bajranglal Agarwal**²⁵¹, the Court upheld the doctrine of “kompetenz-kompetenz” by stating that arbitral tribunals should themselves decide issues relating to their jurisdiction instead of civil courts interfering at the initial stage. Further, in **McDermott International Inc. v. Burn Standard Co. Ltd.**²⁵², the Supreme Court clarified that courts exercising powers under Section 34 cannot function as appellate authorities by re-evaluating facts or evidence. In all these cases, the judiciary emphasized that excessive court interference would defeat the core purpose of

arbitration, which is to provide a faster, flexible, and independent method of resolving disputes outside traditional court procedures.

On the other hand, certain landmark judgments have favoured greater judicial intervention in order to ensure fairness, legality, and protection of parties’ rights within the arbitral process. In **SBP & Co. v. Patel Engineering Ltd.**²⁵³, the Supreme Court held that the appointment of arbitrators under Section 11 is a judicial function. The Court reasoned that before referring parties to arbitration, courts must examine the validity and existence of the arbitration agreement to prevent invalid, unfair, or fraudulent arbitrations from proceeding. Similarly, in **ONGC Ltd. v. Saw Pipes Ltd.**²⁵⁴, the Supreme Court broadened the scope of “public policy” under Section 34 and allowed arbitral awards to be challenged on grounds of patent illegality. The reasoning behind this approach was that arbitral tribunals cannot be given unrestricted authority where their decisions are clearly contrary to law or justice. Further, in **Associate Builders v. Delhi Development Authority**²⁵⁵, the Court emphasized that judicial review becomes necessary when an arbitral award violates principles of natural justice, fairness, or fundamental public policy. These judgments reflect the view that although arbitration is meant to function independently, a certain degree of judicial supervision remains essential to prevent misuse of arbitral powers and to maintain public confidence in the arbitration system.

How Judiciary doesn’t completely absolve the Confidentiality in such cases

Judicial decisions in arbitration matters can affect confidentiality to some extent, but they do not completely dissolve it. Arbitration is generally preferred because proceedings are private and less public than ordinary court litigation.

²⁴⁸ ONGC Ltd. v. Saw Pipes Ltd., (2003) 5 S.C.C. 705 (India).

²⁴⁹ Yash Pathak & V. Harini, The Public Policy Exception: Sword or Shield in Indian Arbitration, NLIU L. Rev. Blog (Oct. 28, 2024), <https://nliulawreview.nliu.ac.in/blog/the-public-policy-exception-sword-or-shield-in-indian-arbitration/>

²⁵⁰ P. Anand Gajapathi Raju v. P.V.G. Raju, (2000) 4 S.C.C. 539 (India).

²⁵¹ Kvaerner Cementation India Ltd. v. Bajranglal Agarwal, (2012) 5 S.C.C. 214 (India).

²⁵² McDermott Int’l Inc. v. Burn Standard Co. Ltd., (2006) 11 S.C.C. 181 (India).

²⁵³ SBP & Co. v. Patel Eng’g Ltd., (2005) 8 S.C.C. 618 (India).

²⁵⁴ ONGC Ltd. v. Saw Pipes Ltd., (2003) 5 S.C.C. 705 (India).

²⁵⁵ Associate Builders v. DDA, (2015) 3 S.C.C. 49 (India).

However, when parties approach courts under Sections 9, 11, 34, or 37²⁵⁶ of the Arbitration and Conciliation Act, issues relating to the dispute, arbitral procedure, or award may become part of public judicial records and judgments. As a result, certain confidential commercial information, contractual terms, or disputes may indirectly enter the public domain through court proceedings and reported judgments.

Critics often argue that excessive judicial intervention undermines one of the biggest advantages of arbitration i.e. confidentiality. Landmark decisions such as **ONGC Ltd. v. Saw Pipes Ltd.**²⁵⁷ and **SBP & Co. v. Patel Engineering Ltd.**²⁵⁸ increased court involvement at different stages of arbitration, which also increased the chances of arbitral disputes becoming part of public court records. Frequent challenges under Section 34 further make arbitration resemble ordinary litigation, reducing both privacy and procedural efficiency. As disputes move repeatedly before courts, sensitive commercial information and arbitral proceedings may lose the confidentiality that parties originally sought through arbitration.

At the same time, supporters of judicial oversight believe that limited court intervention is necessary to ensure fairness, legality, and proper enforcement of arbitral awards. Courts play an important role in preventing arbitrary decisions and protecting parties from procedural injustice. Recognizing the importance of confidentiality, the **Arbitration and Conciliation (Amendment) Act, 2019**²⁵⁹ introduced Section 42A²⁶⁰, which specifically provides for confidentiality in arbitration proceedings except where disclosure becomes necessary for implementation or enforcement of the award. Therefore, although judicial intervention may reduce confidentiality in practice, Indian arbitration law still attempts to preserve confidentiality as an essential feature of the arbitration process.

Section 34: Necessary Judicial Intervention for Safeguarding Public Policy and Fundamentals

The autonomy in arbitration cases is an important principle of arbitration but it is not absolute. Section 34 of the Arbitration and Conciliation Act, 1996 provides the courts with the power to interfere in exceptional cases where the arbitral award is tainted by serious legal flaws like patent illegality, contravention of public policy, fraud, corruption and decisions against justice and morality. Judicial intervention is therefore a necessary check against the use of arbitration as a tool to enforce illegal, arbitrary or unjust decisions. There are also situations where arbitral tribunals may not be sufficiently equipped to handle difficult questions involving fraud, corruption or fundamental legal principles. Judicial oversight is required in such circumstances to safeguard fairness, legality and public confidence in the arbitral process.

One of the most significant grounds for judicial intervention is **patent illegality**, which arises when an arbitral award contains an obvious legal error or disregards the terms of the contract. In **Delhi Airport Metro Express Pvt. Ltd. v. Delhi Metro Rail Corporation Ltd.**²⁶¹ and **Bombay Slum Redevelopment Corp. Pvt. Ltd. v. Samir Narain Bhojwani**²⁶², the Supreme Court had observed that courts may interfere where an arbitral award is so irrational or unreasonable that it shocks the conscience of the court. The Court further emphasized that arbitral tribunals cannot rewrite contractual terms or ignore binding clauses under the guise of interpretation. This judgment highlights that although arbitral tribunals enjoy considerable independence, their powers are not unlimited, and limited judicial supervision remains necessary to prevent arbitrary or legally unsustainable decisions.

²⁵⁶ Arbitration and Conciliation Act, 1996, § 37, No. 26 of 1996, Acts of Parliament, 1996 (India).

²⁵⁷ ONGC Ltd. v. Saw Pipes Ltd., (2003) 5 S.C.C. 705 (India).

²⁵⁸ SBP & Co. v. Patel Eng'g Ltd., (2005) 8 S.C.C. 618 (India).

²⁵⁹ Arbitration and Conciliation (Amendment) Act, 2019, No. 33 of 2019, Acts of Parliament, 2019 (India).

²⁶⁰ Arbitration and Conciliation Act, 1996, § 42A, No. 26 of 1996, Acts of Parliament, 1996 (India).

²⁶¹ Delhi Airport Metro Express Pvt. Ltd. v. Delhi Metro Rail Corp. Ltd., (2022) 1 S.C.C. 131 (India).

²⁶² Bombay Slum Redevelopment Corp. Pvt. Ltd. v. Samir Narain Bhojwani, 2025 SCC OnLine SC 815 (India).

Another important ground for judicial intervention is when an arbitral award conflicts with the **public policy of India**. Courts may interfere where an award violates the fundamental principles of Indian law, national interest, or basic notions of justice and fairness. In *Renusagar Power Co. Ltd. v. Gen. Elec. Co.*²⁶³, *Vijay Karia v. Prysmian Cavi E Sistemi SRL*²⁶⁴ and *Punjab State Civil Supplies Corporation Ltd. v. M/s Sanman Rice Mills*²⁶⁵, the Supreme Court clarified that the concept of public policy should be interpreted narrowly so that courts do not unnecessarily interfere with arbitral awards. However, the Court also recognized that judicial intervention becomes necessary where enforcement of an award would violate fundamental legal principles, such as the doctrine of res judicata or other core legal standards. The judgment reflects the view that arbitral tribunals cannot independently decide issues that affect sovereign legal principles or overriding public interest. Therefore, limited judicial review under the ground of public policy acts as an important safeguard to ensure that arbitral awards remain consistent with the basic legal and constitutional values of the country.

Judicial intervention also becomes necessary in cases involving **fraud or corruption** because arbitral tribunals do not possess investigative or coercive powers similar to those of courts. In *Avitel Post Studioz Ltd. v. HSBC PI Holdings (Mauritius) Ltd.*²⁶⁶ and *A. Ayyasamy v. A. Paramasivam*²⁶⁷, the Supreme Court emphasized that arbitration cannot be used to validate agreements or proceedings affected by fraud or serious illegality. The Court observed that where allegations of fraud directly affect the validity of the arbitration agreement itself, judicial determination may become necessary. These judgments highlight that arbitral tribunals may not always be capable of effectively dealing

with issues involving corruption, forged documents, or complex fraudulent conduct. In such situations, court intervention becomes important to ensure fairness, legality, and proper administration of justice.

Similarly, courts may also interfere where an **arbitral award is contrary to the basic principles of justice or morality**. In *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*²⁶⁸ & *MMTC Ltd. v. Vedanta Ltd.*²⁶⁹, the Supreme Court held that judicial intervention is justified where an arbitral award is so unfair, unreasonable, or arbitrary that it violates fundamental notions of justice. The Court clarified that although courts should not function as appellate authorities over arbitral awards, they must intervene where a tribunal's decision becomes irrational or shocks the conscience of the court. This shows that while arbitral tribunals enjoy considerable autonomy, their decisions cannot remain completely free from judicial oversight when fairness, legality, or public morality is at stake. Therefore, limited judicial intervention under Section 34 remains necessary to preserve the legitimacy, accountability, and credibility of the arbitration system in India.

Amendments Brought in the Act to address the Issue

The Arbitration and Conciliation Act, 1996 has undergone significant reforms through the Amendment Acts of 2015²⁷⁰, 2019²⁷¹ and 2021²⁷², to reduce unnecessary judicial intervention and make arbitration a swifter, more efficient and party friendly mode of dispute resolution in India. These amendments have been made primarily to resolve practical problems encountered in arbitration proceedings, especially delays due to excessive involvement of courts at different stages of the process. The reforms were

²⁶³ *Renusagar Power Co. Ltd. v. Gen. Elec. Co.*, 1994 Supp. (1) S.C.C. 644 (India).

²⁶⁴ *Vijay Karia v. Prysmian Cavi E Sistemi SRL*, (2020) 11 S.C.C. 1 (India).

²⁶⁵ *Punjab State Civil Supplies Corp. Ltd. v. M/s Sanman Rice Mills*, 2024 INSC 742 (India).

²⁶⁶ *Avitel Post Studioz Ltd. v. HSBC PI Holdings (Mauritius) Ltd.*, (2021) 4 S.C.C. 713 (India).

²⁶⁷ *A. Ayyasamy v. A. Paramasivam*, (2016) 10 S.C.C. 386 (India).

²⁶⁸ *Ssangyong Eng'g & Constr. Co. Ltd. v. Nat'l Highways Auth. of India*, (2019) 15 S.C.C. 131 (India).

²⁶⁹ *MMTC Ltd. v. Vedanta Ltd.*, (2019) 4 S.C.C. 163 (India).

²⁷⁰ Arbitration and Conciliation (Amendment) Act, 2015, No. 3 of 2016, Acts of Parliament, 2016 (India).

²⁷¹ Arbitration and Conciliation (Amendment) Act, 2019, No. 33 of 2019, Acts of Parliament, 2019 (India).

²⁷² Arbitration and Conciliation (Amendment) Act, 2021, No. 3 of 2021, Acts of Parliament, 2021 (India).

designed to enhance party autonomy, procedural flexibility and the independence of arbitral tribunals, with intervention by courts only in limited circumstances as specifically provided for under the Act.

Another important objective of the amendments was to bring the Indian Arbitration Law at par with the internationally accepted standards under UNCITRAL Model Law and to make India a more arbitration friendly jurisdiction for domestic and international commercial disputes. The amendments also aimed at increasing investor confidence, promoting institutional arbitration, expediting the enforcement of arbitral awards, and reducing the load on traditional courts by encouraging the use of alternative dispute resolution mechanisms.

The Arbitration and Conciliation (Amendment) Act, 2015 has made many important amendments and one of the most important amendments was to section 11 that deals with appointment of arbitrators. Prior to this reform, courts used to examine several preliminary issues while appointing arbitrators such as validity of arbitration agreement, jurisdiction of the tribunal, arbitrability of the dispute and even limitation related questions. The intense judicial scrutiny often created long delays before arbitration proceedings could commence. To limit such interference, Section 11(6A) was introduced restricting the role of courts only to checking whether a valid arbitration agreement exists.²⁷³ Other jurisdictional and procedural issues were left for the arbitral tribunal to decide under Section 16, thereby strengthening the doctrine of “kompetenz-kompetenz,” which allows tribunals to determine their own jurisdiction. As a result, the process of constituting arbitral tribunals became quicker, more efficient, and less dependent on prolonged court proceedings.

The Arbitration and Conciliation (Amendment) Act, 2015²⁷⁴ brought about significant reforms in Sections 8, 9 and 17 with the objective of reducing excessive court intervention and strengthening the powers of arbitral tribunals.²⁷⁵ By way of amendment to Section 8, courts are required to refer the parties to arbitration where there is a valid arbitration agreement, unless the court holds that no prima facie case as regards an arbitration agreement is made out. Prior to this amendment, courts had more flexibility to deny reference to arbitration, which often led to prolonged litigation and unnecessary delays. The amendment limited this discretion, thereby increasing party autonomy and encouraging the resolution of disputes by arbitration rather than through the ordinary court process.

The amendments to Section 9 and Section 17 also reduced dependence on courts during arbitral proceedings. Section 9 was amended to provide that, when an arbitral tribunal is constituted, parties should in general seek interim relief from that tribunal and not approach the courts. Section 17 was strengthened to empower arbitral tribunals on the lines of courts to grant interim measures, such as injunctions, preservation of property and protection of evidence, to facilitate this. Orders passed under Section 17 were also made executable in the same manner as orders of a court. The reforms increased the independence of arbitral tribunals, reduced unnecessary judicial interference and made arbitration proceedings faster and more effective.

Another significant reform brought in the Arbitration and Conciliation Act was the limitation on judicial review under Section 34. The amendments clarified that arbitral awards can be challenged on limited grounds such as patent illegality, fraud or conflict with public policy²⁷⁶ and courts cannot re-examine the

²⁷³ The Story Behind Section 11(6A) of the Arbitration and Conciliation Act, 1996, Mapping ADR, O.P. Jindal Global University, <https://jgu.edu.in/mappingADR/the-story-behind-section-116a-of-the-arbitration-and-conciliation-act-1996/>

²⁷⁴ Arbitration and Conciliation (Amendment) Act, 2015, No. 3 of 2016, Acts of Parliament, 2016 (India).

²⁷⁵ Arbitration Act: 2015 Amendment, Major Reforms & Impact in India, The Legal School, <https://thelegalschool.in/blog/arbitration-act-2015-amendment> (last visited May 11, 2026).

²⁷⁶ Niharika Agrawal, *Evolutionary Review of Arbitration and Conciliation (Amendment) Act, 2021*, iPleaders (Aug. 28, 2021), <https://blog.ipleaders.in/evolutionary-review-arbitration-conciliation-amendment-act-2021/>

merits of the dispute like an appellate authority. The explanation appended to the phrase 'public policy' also helped in curbing its expansive interpretation and thus undue judicial interference with the arbitral awards. The 2019 Amendment also created the Arbitration Council of India and fostered institutional arbitration to improve professionalism, efficiency and consistency in arbitration while minimizing delays caused by excessive court intervention.²⁷⁷

Another important amendment introduced by the 2021 Amendment was the limitation on the automatic stay on enforcement of arbitral awards²⁷⁸. Now, filing a challenge only under Section 34 could delay the enforcement of an award for many years. The amendment made it clear that a stay would not go into effect automatically unless expressly granted by the court. This made arbitral awards more final and enforceable and discouraged parties from using court proceedings merely to delay execution. These amendments have generally worked towards reducing judicial intervention, reinforcing arbitral autonomy and improving the efficiency and credibility of arbitration in India.

Comparative Study of India with Arbitration-Friendly Jurisdictions

Indian arbitration law is predominantly based on the UNCITRAL Model Law as embedded in the Arbitration and Conciliation Act, 1996. Indian arbitration law has been subject to major reforms over the years, to make arbitration a more efficient and less court-reliant process. The 2015, 2019 and 2021 amendments were aimed at reducing judicial interference, strengthening arbitral tribunals and promoting institutional arbitration in India. These reforms have improved the overall arbitration process and made India more arbitration friendly than it ever was.

However, notwithstanding such developments, India still faces comparatively higher judicial intervention and procedural delays vis-à-vis leading arbitration-friendly jurisdictions such as Singapore, United Kingdom, and France. These countries are globally known for their effective arbitration systems, limited court intervention, quick enforcement of arbitral awards and strong support for arbitral autonomy. They are therefore preferred venues for international commercial arbitration.

India and Singapore

Singapore is widely recognized as one of the most arbitration-friendly jurisdictions in the world because of its modern legal framework, strong institutional support, and minimal judicial intervention in arbitral proceedings. The presence of the Singapore International Arbitration Centre (SIAC), one of the leading arbitral institutions globally, has significantly contributed to Singapore becoming a preferred seat for international commercial arbitration.²⁷⁹ Singaporean courts consistently adopt a pro-arbitration approach and interfere only in exceptional situations involving fraud, jurisdictional defects, or serious violations of public policy. Courts generally respect party autonomy and uphold the finality of arbitral awards, thereby ensuring efficiency and certainty in dispute resolution.

On the contrary, India has adopted several reforms to make its arbitration framework more arbitration-friendly, but the judicial intervention is comparatively higher.²⁸⁰ In India, courts often entertain challenges under Section 34 and Section 37 of the Arbitration and Conciliation Act, 1996, which often delay enforcement of arbitral awards and prolong the dispute. Confidentiality is another important difference. Singapore is dedicated to upholding strict confidentiality in

²⁷⁷ Nihal Kumar Singh, Critical Analysis of 2019 Amendment in Arbitration and Conciliation Act 1996, Brillpedia (Dec. 22, 2022), <https://www.brillpedia.net/post/critical-analysis-of-2019-amendment-in-arbitration-and-conciliation-act-1996>

²⁷⁸ Devika Jayaraj, Arbitration and Conciliation Amendment Act, 2021: An Analysis, VIA Mediation Centre, <https://viamediationcentre.org/readnews/MTMwNg==/ARBITRATION-AND-CONCILIATION-AMENDMENT-ACT-2021-AN-ANALYSIS>

²⁷⁹ Singapore International Arbitration Centre, "SIAC General FAQs," Singapore International Arbitration Centre, <http://siac.org.sg/faqs/siac-general-faqs>.

²⁸⁰ Roshni Agarwal, From Courts to Confidentiality: Comparing Arbitration in India and Singapore, 5(3) Indian J. Integrated Rsch. L. 569 (2025), <https://ijrl.com/wp-content/uploads/2025/05/FROM-COURTS-TO-CONFIDENTIALITY-COMPARING-ARBITRATION-IN-INDIA-AND-SINGAPORE.pdf>

arbitral proceedings, which is particularly crucial in international commercial disputes where sensitive business information is at stake. But in India, the confidentiality associated with arbitration is often diluted by the repeated court proceedings and publication of judicial decisions.

Singapore also has an efficient enforcement mechanism for foreign arbitral awards under the New York Convention. In Singapore, courts rarely refuse enforcement unless there is a flagrant breach of public policy or procedural fairness. Though India is a signatory to the same Convention, it has seen a broader scope of judicial review of foreign awards, particularly on the grounds of public policy and patent illegality. Singapore is therefore perceived as being more predictable, faster, neutral and investor-friendly than the Indian arbitration regime.

India and the United Kingdom

The United Kingdom's arbitration regime, under the Arbitration Act 1996²⁸¹, is seen as one of the most sophisticated and arbitration-friendly regimes in the world. The main principles of the legislation are party autonomy, procedural flexibility and minimum judicial intervention. Parties have a great degree of freedom of choice in relation to procedure, appointment of arbitrators, applicable law and conduct of arbitration proceedings. Courts in the United Kingdom will intervene only in limited and exceptional circumstances²⁸², for example, serious procedural irregularity, lack of jurisdiction or conflict with public policy. This conservative judicial approach supports the finality and enforceability of arbitral awards and results in quick resolution of commercial disputes.

However, Indian courts have traditionally adopted a wider approach to the scope of judicial review, particularly vis-à-vis wider interpretations of "public policy" and "patent

illegality" under Section 34 of the Arbitration and Conciliation Act, 1996. This has often led to recurrent challenges to arbitral awards and delays in enforcement. Another important difference is the United Kingdom's heavy focus on institutional arbitration and commercial certainty. London-based institutions have international credibility and as a result, London is a leading global arbitration hub for cross-border commercial disputes. As a rule, English courts do not interfere with the procedural decisions of arbitral tribunals and strictly respect tribunal autonomy.

Though recent amendments have tried to curb court interference, courts still play a relatively larger supervisory role at the pre-arbitration stage, interim relief and post-award stages in India. Procedures for appointment of arbitrators, interim measures and enforcement of awards are often time-consuming. Furthermore, the UK legal system is perceived to be more predictable and commercially oriented, bolstering the confidence of international investors and multinational corporations. Thus, despite India's impressive progress towards becoming an arbitration friendly jurisdiction, the United Kingdom still has a more mature, efficient and internationally trusted arbitration framework.

India and France

France is internationally recognized as having a very liberal, modern and arbitration friendly legal framework making it one of the most preferred jurisdictions for international commercial arbitration. French arbitration law strongly favours party autonomy, minimal judicial intervention and the finality of arbitral awards²⁸³. The French arbitration system boasts a particularly strong recognition of the doctrine of separability²⁸⁴, which holds that an arbitration agreement is separate and independent from the main contract. This leaves room for arbitral tribunals to continue exercising jurisdiction even

²⁸¹ Arbitration Act 1996, c. 23 (U.K.).

²⁸² Saskia Wolters, Arbitration Reform – A Perspective from the UK, [Clyde & Co](https://www.clyde.com)

²⁸³ International Arbitration Laws and Regulations in France, CMS Expert Guide to International Arbitration, <https://cms.law/en/int/expert-guides/cms-expert-guide-to-international-arbitration/france>

²⁸⁴ Juliet L. Geimer, Arbitration Under Private International Law: The Doctrines of Separability and Compétence de la Compétence, 17 Fordham Int'l L.J. 599, 617 (1994).

in the case of a challenge to the validity of the underlying contract. French courts also strongly support the doctrine of “kompetenz-kompetenz” that allows arbitral tribunals to determine their own jurisdiction with little interference from the courts at the preliminary stage.

Unlike India, French courts rarely interfere with arbitral awards unless there is a clear violation of international public policy, fraud or fundamental procedural fairness. The French legal system places great store on the finality and enforceability of arbitral awards so that disputes can be resolved expeditiously and commercial certainty assured. France also adopts a flexible and pro-enforcement approach to foreign arbitral awards under international arbitration conventions, so enforcement proceedings are fairly smooth and predictable.

On the other hand, India has brought in many reforms to minimize judicial interference, but still arbitral awards are challenged in courts under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996. These problems frequently lead to enforcement delays and undermine the effectiveness and finality of arbitration. In addition, repeated judicial scrutiny sometimes deters international parties seeking quick resolution of commercial disputes. The efficiency, neutrality and predictability of its legal regime have made Paris a leading centre for international arbitration and a very popular place for settling international commercial disputes.

Main Challenges in the Arbitration and Conciliation Act, 1996

The Arbitration and Conciliation Act, 1996 has undergone several amendments, it still suffers from a number of practical and legal problems, which impact the overall efficiency of arbitration in India. The major concern is the excessive judicial intervention at different stages of the arbitral process, especially at the stage of

appointment of arbitrators, grant of interim relief and challenges to arbitral awards under sections 34 and 37. Courts are often involved, leading to delays, and a lack of speed and effectiveness that arbitration is supposed to offer. Another key issue is the broad interpretation of such terms as “public policy” and “patent illegality” which give parties greater scope to challenge arbitral awards and undermine the principle of finality in arbitration.²⁸⁵

Another big challenge is the absence of strong institutional arbitration in India. Many arbitrations are still conducted on an ad hoc basis²⁸⁶, with the result of inconsistency of procedure, lack of professionalism and increasing costs. The continued lack of enforcement of arbitral awards remains a serious concern, especially where parties use court proceedings to extend the dispute unnecessarily.²⁸⁷ Furthermore, confidentiality is one of the major benefits of arbitration which is often violated as disputes go public during judicial process.²⁸⁸ India also continues to face issues such as shortage of specialized arbitrators, inconsistent judicial interpretation and inadequate infrastructure to effectively deal with international commercial arbitration.

Reforms to Strengthen the Arbitration and Conciliation Act, 1996

1. Clearer Definition of “Public Policy” and “Patent Illegality”

One of the main reasons behind excessive judicial intervention in Indian arbitration is the wide and inconsistent interpretation of the terms “public policy” and “patent illegality” under Section 34 of the Arbitration and Conciliation Act, 1996. Courts have often interpreted these grounds very broadly, which allows parties to indirectly challenge arbitral awards on merits and weakens the principle of finality in arbitration. To reduce unnecessary litigation and

²⁸⁵ Yuvraj Anand, *The Narrowing of the “Public Policy” Exception*, in *Arbitration and Judicial Intervention: Limits & Necessity – Complete Legal Guide 2025*, [Century Law Firm](#)

²⁸⁶ Government of India, *National Initiative on Strengthening Arbitration and Enforcement in India* (Ministry of Law & Justice, 2016).

²⁸⁷ Arnab Kumar Mullick, *The Tedious Task of Enforcing Arbitral Awards*, in *Impediments to Enforcement of Awards in India*, [NLIU Law Review](#)

²⁸⁸ Sabah Iqbal Siddiqui, *The Boundaries of Arbitration: Confidentiality and Judicial Restraint*, [Bar & Bench](#) (Aug. 21, 2025).

bring greater clarity, there is a need for more precise statutory definitions explaining the exact scope and limits of these terms.

The phrase “public policy” should be used sparingly and only in exceptional cases of fraud, corruption, breach of fundamental principles of law or gross procedural unfairness. Similarly, “patent illegality” must be confined to obvious legal errors on the face of the award, and not mere errors of interpretation or appreciation of evidence. The clearer definitions would reduce ambiguity, discourage frivolous challenges and ensure that courts do not act as appellate authorities over arbitral awards. Such a reform would enhance the autonomy of arbitral bodies, lead to greater uniformity in judicial pronouncements and inspire greater trust in the Indian arbitration regime.

2. Effective Implementation of Section 42A for Confidentiality

One of the biggest advantages of arbitration over ordinary litigation in the courts, especially in commercial disputes where sensitive financial, business or contractual information is involved, is confidentiality. While Section 42A of the Arbitration and Conciliation Act, 1996 formally acknowledges confidentiality in arbitration proceedings, its practical execution continues to be weak. Many disputes involving arbitration reach courts under Sections 9, 11, 34 and 37, and judicial orders, pleadings and arbitral documents are often made public records. This means arbitration is less private and less commercially secret than parties usually expect. For the improvement of the confidentiality aspect, stronger procedural safeguards need to be introduced in court proceedings connected with arbitration matters. Courts should allow sealed records, anonymous reporting in commercially sensitive disputes and limited public disclosure as necessary. There should also be tougher penalties for the unauthorised disclosure of confidential arbitral information. Strengthening these protections would build greater confidence among domestic and international parties in the Indian arbitration

system and make India a more secure and attractive destination for international commercial arbitration.

3. Establishment of Specialized Arbitration Benches and Judges

Another important reform is the establishment of dedicated arbitration benches in High Courts and Commercial Courts, manned by judges with specialized training in arbitration law and international commercial practices. Currently, arbitration cases are usually adjudicated by general judicial benches that handle a broad spectrum of civil and commercial disputes, leading to inconsistent interpretations and delays. Moreover, India’s practice of appointing retired judges as arbitrators raises concerns of procedural rigidity and court-like functioning in arbitration. Specialized judges sitting on dedicated arbitration benches would bring more expertise, consistency and efficiency to the resolution of arbitration-related matters. Such judges would be better placed to understand complex commercial disputes, international arbitration standards and technical procedural issues. Specialized judicial training programs in arbitration law should also be introduced to promote uniformity in judicial decisions. This reform would improve the speed and quality of arbitration-related adjudication and align India with globally recognized arbitration jurisdictions.

4. Fixed Timelines for Disposal of Appeals and Section 34 Petitions

Although the Arbitration and Conciliation Act prescribed timelines for completion of arbitral proceedings and passing of awards, there are no strict and effective timelines for disposal of challenges and appeals before courts under Sections 34 and 37. As a result, parties often misuse judicial proceedings to delay enforcement of arbitral awards for several years, thereby defeating the objective of speedy dispute resolution. To remedy this, statutory time limits should be introduced for courts to dispose of Section 34 petitions, Section 37 appeals and enforcement proceedings within a fixed period of time. Fast-track procedures and limited

adjournments should also be introduced in arbitration-related matters. Commercial divisions dedicated to the task can monitor adherence to timeframes to prevent unnecessary delays. Timely disposal of post award litigation will go a long way in strengthening the enforceability and finality of arbitral awards and will add to the credibility of arbitration in India. Speedier judicial processes would also make India an attractive and trusted seat of arbitration for foreign investors and multinational corporations.

5. Promotion of Institutional Arbitration

India continues to be dominated by the ad hoc arbitration system, where parties decide procedural issues without any institutional supervision. This often leads to procedural inconsistency, delays, lack of professionalism, and higher costs. Hence, more efforts should be directed towards encouraging institutional arbitration by recognized arbitral institutions with standardised rules and efficient administrative support. India must upgrade the infrastructure, transparency and quality of administration of domestic arbitration institutions. Institutional arbitration should be given a clear preference over ad hoc arbitration in government contracts and large commercial agreements. Internationally reputed arbitration centres should also be encouraged to set up branches in India. Institutional arbitration provides better procedural discipline, clear fee structures, professional case management and timely disposal of disputes. By promoting institutional arbitration, it would significantly improve India's image as an arbitration-friendly jurisdiction and reduce excessive dependence on courts during arbitral proceedings.

6. Limiting Judicial Interference at Pre-Arbitration and Post-Award Stages

Even after a number of legislative amendments have been brought, courts in India still retain a significant supervisory role at pre-arbitration and post-award stages. Intervention of judiciary during appointment of arbitrators, grant of interim relief and review of arbitral awards often

leads to delays and undermines the arbitral autonomy. "The courts should limit their role to exceptional cases involving fraud, corruption, jurisdictional defects or violation of principles of natural justice. The factual findings or the merits of disputes submitted to arbitral tribunals shall not be subject to review by judicial authorities. There should be more reliance on the doctrines of separability and kompetenz-kompetenz which enable arbitral tribunals to decide on their own jurisdiction. This would minimize unnecessary court involvement, maintain the independence, speed and flexibility of arbitration proceedings and would not convert arbitration into a form of ordinary litigation.

7. Improving International Investor Confidence

India needs to generate more confidence amongst foreign investors and international commercial parties in order to be a leading global arbitration hub. Arbitral awards are fast enforced, judicial intervention is limited and legal outcomes are predictable jurisdictions are preferred by investors. Therefore, India should adopt a more enforcement-friendly and commercially-oriented approach to domestic and foreign arbitral awards. Consistency in judicial interpretation, efficient infrastructure, specialized arbitration institutions and faster disposal of arbitration related disputes, would enhance India's international image. In addition, India should continue to align its arbitration laws with international standards under the UNCITRAL Model Law and international conventions. Keeping neutrality, efficiency, confidentiality and finality in arbitration proceedings will enable India to better compete with established arbitration-friendly jurisdictions like Singapore, United Kingdom and France.

CONCLUSION

The Arbitration and Conciliation Act, 1996 is India's attempt to establish a modern, efficient and internationally compatible regime of arbitration that encourages speedy dispute resolution with minimum judicial intervention. Important amendments and judicial developments over the years have significantly

enhanced the strength of arbitration by promoting party autonomy, empowering the arbitral tribunals and constraining unwarranted intervention of courts. Undoubtedly, reforms pertaining to appointment of arbitrators, interim measures, enforcement of awards and institutional arbitration have improved the effectiveness of Indian arbitration regime and brought it closer to global standards followed in arbitration friendly jurisdictions like Singapore, United Kingdom and France.

And at the same time, arbitration cannot function entirely without judicial supervision. Limited intervention by courts remains essential in exceptional situations involving fraud, corruption, patent illegality, violation of public policy, lack of jurisdiction, or awards that are contrary to justice and morality. Judicial review acts as an important safeguard to ensure fairness, legality, and accountability within the arbitral process. However, excessive interference through repeated challenges, broad interpretation of statutory grounds, and prolonged court proceedings undermines the very objectives of arbitration by causing delays, increasing costs, and weakening confidentiality and finality of arbitral awards.

Therefore, the true success of the Arbitration and Conciliation Act, 1996 lies in maintaining a balanced approach between arbitral independence and necessary judicial oversight. India must continue focusing on reducing procedural delays, strengthening institutional arbitration, ensuring strict timelines for disposal of arbitration-related disputes, improving confidentiality protections, and adopting a more consistent pro-arbitration judicial approach. With continuous reforms and effective implementation, India has the potential to emerge not only as a strong domestic arbitration system but also as a globally trusted center for international commercial arbitration.



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