



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 18183 OF 2024 (GM-RES)

BETWEEN:

TEJASCO TECHSOFT PVT LTD
REPRESENTED BY ITS DIRECTOR
MR N S PRASHANTH R/A NO 240,
2ND FLOOR, 32ND CROSS,
7TH BLOCK, JAYANAGAR
BANGALORE - 560 082.

...PETITIONER

(BY SRI. SUNIL KUMAR H, ADVOCATE)

AND:

1. THE PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH
AND FAMILY WELFARE
GOVERNMENT OF KARNATAKA
VIKASA SOUDHA
BENGALURU- 560 001.

2. THE COMMISSIONER
DEPARTMENT OF HEALTH
AND FAMILY WELFARE,
AROGYA SOUDHA,
MAGADI ROAD,
BENGALURU - 560 023.

...RESPONDENTS

(BY SRI. MOHAMMED JAFAR SHAH, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 26 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE

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by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA



ORDER PASSED BY THE COURT OF LXXXVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE COMMERCIAL COURT AT BANGALORE (CCH-88) IN COM AP NO. 30/2023 DTD. 19.04.2024 IN PASSED IN IA NO. 2 OF 2023 VIDE ANNEX-A.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking following reliefs:

- a) *Set aside the order passed by the Court of LXXXVII Additional City Civil and Sessions Judge Commercial Court at Bangalore (CCH-88) in Com A.P.No.30/2023 dated 19/04/2024 in passed in I.A.No.2 of 2023 vide Annexure- A.*
- b) *Pass such other orders or directions as this Hon'ble Court deems fit in the facts and circumstances of the case in the interest of justice and equity."*

2. The petitioner had invoked the arbitral clause in the agreement between the petitioner and the respondent, which resulted in arbitral proceedings in A.C.No.130/2022, where an award was passed on 26.08.2022 when the respondent was absent. The minutes of the Arbitral Tribunal reads as under:



***"Minutes of the Seventh Meeting dated
26.08.2022 at 12.30 p.m. at the Centre***

Present:

1. *Shri Sunil Kumar H and Shri Srikanth M,
learned Advocates for the Claimant.*

2. *None appears for the Respondents.*

*The Seventh Meeting of this Arbitration
is held physically, at the Arbitration & Conciliation
Centre, Race Course Road, Bengaluru.*

1. *The Award was made and signed at this
meeting.*

2. *A signed copy of the Award may be
furnished to the counsel for the Claimant by the
Centre, after completing its formalities.*

3. *Since none appears for the Respondents
the Centre is directed to furnish a copy of this
Minutes by email to the Respondents and its
counsel."*

3. Sri. Sunil Kumar H., learned counsel appearing for
the petitioner, would contend that

3.1. The Commercial Court committed a serious
error in condoning the delay and entertaining
the petition under Section 34 of the Arbitration
and Conciliation Act, 1996. According to him,
the arbitral award was admittedly pronounced
on 26.08.2022 and the parties were aware of
the pronouncement of the award on the said



date. Therefore, for the purpose of computing limitation under Section 34(3) of the Act, the date of the award, namely 26.08.2022, ought to have been taken as the starting point.

3.2. He submits that Section 34(3) prescribes a period of three months for filing an application challenging an arbitral award and confers a limited discretion upon the Court to condone a further delay of thirty days, provided sufficient cause is shown. The legislative intent underlying the provision is to ensure finality of arbitral awards and to prevent prolonged uncertainty in arbitral proceedings. Once the aggregate period of one hundred and twenty days expires, the Court ceases to have jurisdiction to entertain the challenge.

3.3. Learned counsel would further submit that the expression "may not be made after three months have elapsed from the date on which the party making the application had received the arbitral award" occurring in Section 34(3) cannot be interpreted in a manner that defeats the object of expeditious conclusion of arbitral proceedings. According to him, where the



parties have participated in the arbitral proceedings and are aware of the pronouncement of the award, limitation cannot be indefinitely postponed by relying upon the date on which a physical copy of the award is received.

3.4. It is his submission that even assuming the respondent received a copy of the award on 03.11.2022, the fact remains that the award had been pronounced on 26.08.2022 and the respondent was aware of the same. Therefore, the respondent was required to act with due diligence and file the petition within the period prescribed under Section 34(3) of the Act. The challenge having been instituted beyond the outer limit of one hundred and twenty days reckoned from the date of the award, the Commercial Court lacked jurisdiction to condone the delay.

3.5. Learned counsel would therefore contend that the limitation prescribed under Section 34(3) is mandatory in nature and the proviso thereto constitutes the maximum extent of discretion available to the Court. Once the period of one



hundred and twenty days stands exhausted, neither equitable considerations nor the general provisions relating to condonation of delay can be invoked to extend the period further. He therefore submits that the Commercial Court ought to have rejected the application seeking condonation of delay and consequently dismissed the petition under Section 34 of the Act as being barred by limitation.

- 3.6. In this regard, he relies upon the decision of the Hon'ble Apex Court in ***Bhimashankar Sahakari Sakkare Karkhane Niyamita Vs. Walchandnagar Industries Ltd. (WIL) - (2023) 8 SCC 453***, more particularly, paragraph 51 thereof which is reproduced hereunder for easy reference:

51. *By holding so, this Court considered the earlier decisions in the case of Popular Construction Co. (Supra) and State of Maharashtra vs. Hindustan Construction Co. Ltd. reported in (2010) 4 SCC 518 and has observed and held in paragraphs 6 to 9 as under:*

"6. Section 34(3) of the 1996 Act provides that an application for setting aside an award may be made within three months of the receipt of the arbitral



award. The proviso that follows subsection (3) of Section 34 provides that on sufficient cause being shown, the court may entertain the application for setting aside the award after the period of three months and within a further period of 30 days but not thereafter.

7. In Popular Construction Co.1, this Court has held that an application for setting aside an award filed beyond the period mentioned in Section 34(3) would not be an application "in accordance with subsection (3) as required under Section 34(1) of the 1996 Act" and Section 5 of the 1963 Act has no application to such application. In para 12 of the Report, it was held in Popular Construction Co.1 thus: (SCC pp.47475)

"12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are "but not thereafter" used in the proviso to subsection (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase "but not thereafter" wholly otiose. No principle of interpretation would justify such a result".

8. Recently, in State of Maharashtra v. Hindustan Construction Company Limited², a two Judge Bench of this Court speaking through one of us (R.M. Lodha, J.) emphasised the mandatory nature of the limit to the extension of the period provided in proviso to Section 34(3) and held that an application for setting aside arbitral award under Section 34 of the 1996 Act has to be made within the time prescribed under sub section (3) of Section 34 i.e., within



three months and a further period of 30 days on sufficient cause being shown and not thereafter.

9. Section 43(1) of the 1996 Act provides that the 1963 Act shall apply to arbitrations as it applies to proceedings in court. The 1963 Act is thus applicable to the matters of arbitration covered by the 1996 Act save and except to the extent its applicability has been excluded by virtue of the express provision contained in Section 34(3) of the 1996 Act."

- 3.7. By referring to ***Bhimashankar*** his submission is that Hon'ble the Apex Court reiterated the settled legal position regarding the limitation prescribed under Section 34(3) of the Arbitration and Conciliation Act, 1996. The Supreme Court, after referring to its earlier decisions in **Union of India v. Popular Construction Co.** and **State of Maharashtra v. Hindustan Construction Co. Ltd.**, reaffirmed that an application seeking to set aside an arbitral award is required to be filed within a period of three months from the date of receipt of the arbitral award and that the Court is vested with a limited discretion to condone delay for a further period of thirty days upon sufficient cause being shown, but not thereafter.



- 3.8. Learned counsel submits that the expression "but not thereafter" occurring in the proviso to Section 34(3) has repeatedly been interpreted by the Hon'ble Supreme Court as an express legislative bar on extension of limitation beyond the aggregate period of one hundred and twenty days. The said expression, according to him, reflects the legislative intent of ensuring finality and certainty in arbitral proceedings and preventing arbitral awards from being subjected to prolonged challenges. It is his submission that once the prescribed period expires, the Court becomes functus officio insofar as extension of limitation is concerned and cannot invoke either equitable considerations or the provisions of the Limitation Act to enlarge the period.
- 3.9. By placing reliance on ***Bhimashankar*** learned counsel would contend that even within the additional period of thirty days contemplated under the proviso to Section 34(3), the applicant is required to establish the existence of "sufficient cause" for not having presented the petition within the initial period of three months. According to him, the power to



condone delay is not intended to be exercised mechanically or as a matter of course merely because the delay falls within the condonable period. The applicant must disclose a bona fide and satisfactory explanation demonstrating that despite due diligence, the petition could not be filed within the prescribed time.

3.10. Learned counsel submits that in the present case no such sufficient cause has been made out. The only explanation offered by the respondent is that time was consumed in obtaining approvals and permissions from the concerned authorities before initiating proceedings under Section 34 of the Act. Such an explanation, according to him, does not constitute sufficient cause in law. Administrative procedures, movement of files, internal correspondence and obtaining departmental approvals are matters entirely within the control of the respondent and cannot furnish a valid justification for delay in invoking a statutory remedy.

3.11. It is further submitted that if such explanations are routinely accepted, the very object



underlying Section 34(3) would stand defeated. Government departments and public sector undertakings, by merely referring to internal approvals and procedural formalities, would effectively secure an extension of limitation beyond what has been contemplated by Parliament. This would be contrary to the legislative policy of ensuring expeditious resolution of disputes through arbitration.

3.12. Learned counsel therefore contends that the Commercial Court failed to properly examine whether the respondent had established sufficient cause for condonation of delay. According to him, the impugned order proceeds on a liberal approach inconsistent with the strict limitation regime prescribed under Section 34(3) of the Act. He therefore submits that the order dated 19.04.2024 condoning the delay is unsustainable in law and is liable to be set aside.

3.13. He refers to the decision in the case of ***Bharatiya Rashtriya Rajmarg Pradhikaran Vs. Neeraj Sharma and Ors*** – **2024:AHC:94330** of the Hon'ble Allahabad



High Court in Appeal No.8/2020, more particularly, paragraph Nos.10, 11, 12, 13 and 14 thereof which are reproduced hereunder for easy reference:

*10. The importance of Section 31(5) cannot be overstated as it initiates several procedural timelines. These include the periods within which parties may seek to correct, interpret, or request an additional award under Section 33 of the Arbitration Act, or challenge the award under Section 34 of the Arbitration Act. The delivery of the signed copy of the arbitral award is not a mere formality; it is a substantive requirement that marks the conclusion of the arbitration proceedings and the commencement of potential post-award actions. In **Union of India v. Tecco Trichy (supra)**, the Hon'ble Supreme Court emphasized that the delivery of an arbitral award is substantive, as it activates the commencement of several critical timelines. This stage marks the termination of the arbitral proceedings and sets the clock ticking for any remedial actions available under the Arbitration Act.*



11. However, interpreting Section 31(5) too literally in all cases may lead to unjust outcomes, undermining the fundamental objectives of arbitration. The literal adherence to this provision might be used strategically by parties to delay the enforcement of the award, thus defeating the principle of expeditious dispute resolution that arbitration seeks to promote.

12. In the instant case, the appellant has assailed the order of the Learned District Judge based on the assertion that they never received a signed copy of the arbitral award. However, as highlighted by the Learned District Court, it is essential to consider several critical facts. Relevant portions from the impugned order dated November 16, 2019 passed by the Learned District Judge Court under Section 34 of the Arbitration Act are delineated below:

“इस पत्र से यह स्पष्ट है कि, मध्यस्थ के निर्णय दिनांकित 28.07.2016 के परिप्रेक्ष्य में परियोजना निदेशक, राष्ट्रीय राजमार्ग प्राधिकरण, सी०एम०यू०, मथुरा द्वारा अपने पत्रांक 44271 दिनांकित 22.05.2017 द्वारा विशेष भूमि अध्याप्ति अधिकारी को अनुपूरक अभिनिर्णय घोषित कर उपलब्ध कराने हेतु पत्र भेजा गया है एवं उसके अनुपालन में सक्षम प्राधिकारी/विशेष भूमि अध्याप्ति अधिकारी द्वारा धनराशि का गणना प्रपत्र तथा धनराशि की गणना दिनांक 31.05.2017 को परियोजना निदेशक, राष्ट्रीय राजमार्ग प्राधिकरण, सी०एम०यू०, मथुरा द्वारा प्रेषित की गयी है, जिससे यह स्पष्ट है कि, मौजूदा आपत्तिकर्ता यानि परियोजना



निदेशक, राष्ट्रीय राजमार्ग प्राधिकरण, सी०एम०यू०, मथुरा द्वारा मध्यस्थ के निर्णय दिनांकित 28.07.2016 को स्वीकार किया गया है एवं उसके अनुपालन में प्रतिकर की गणना करने हेतु सक्षम अधिकारी/विशेष भूमि अध्याप्ति अधिकारी, संयुक्त संगठन, मथुरा को पत्र प्रेषित किया गया है एवं इस पत्र के तथा मध्यस्थ महोदय के पंचाट निर्णय दिनांकित 28.07.2016 के अनुपालन में सक्षम अधिकारी/विशेष भूमि अध्याप्ति अधिकारी, संयुक्त संगठन ने तहसीलदार छाता से स्थलीय जाँच कर एवं इस जाँच की आख्या के अनुसार स्थल का निरीक्षण कर जाँच आख्या परियोजना निदेशक, राष्ट्रीय राजमार्ग प्राधिकरण, फरीदाबाद को प्रेषित की। स्थलीय जाँच आख्या एवं सर्वेयर की जाँच आख्या के अनुसार मध्यस्थ महोदय के निर्णय दिनांकित 28.07.2016 के अनुपालन में सक्षम अधिकारी/विशेष भूमि अध्याप्ति अधिकारी द्वारा अनुपूरक अधिनिर्णय घोषित कर मुवलिग 29,04,000/- का प्रतिकर विपक्षीगण संख्या 1 लगायत 4 हेतु निर्धारित किया गया है एवं उक्त प्रतिकर निर्धारण मध्यस्थ महोदय के अनुमोदन हेतु भी प्रेषित किया गया है, जिसके सम्बन्ध में मध्यस्थ ने अनुमोदन का कोई प्रावधान न होने का कथन करते हुए सक्षम अधिकारी/विशेष भूमि अध्याप्ति अधिकारी, संयुक्त संगठन, मथुरा को पत्र वापस प्रेषित किया गया है, जिससे स्पष्ट है कि, मध्यस्थ पंचाट निर्णय दिनांकित 28.07.2016 का क्रियान्वयन हो चुका है। इस प्रकार प्रश्नगत मध्यस्थ निर्णय दिनांकित 28.07.2016 की पहले से ही जानकारी होने तथा इसके अनुपालन हेतु दिनांक 22.05.2017 को सक्षम अधिकारी/विशेष भूमि अध्याप्ति अधिकारी, संयुक्त संगठन, मथुरा को मौजूदा आपत्तिकर्ता द्वारा पत्र भेजने तथा सक्षम अधिकारी/विशेष भूमि अध्याप्ति अधिकारी, संयुक्त संगठन, मथुरा के पत्रावली पर मौजूद पत्र दिनांकित 31.05.2017 एवं गणना प्रपत्र के अवलोकन से स्पष्ट है कि, मध्यस्थ के पंचाट निर्णय दिनांक 28.07.2016 का क्रियान्वयन हो चुका है, अतः मध्यस्थ के पंचाट निर्णय दिनांकित 28.07.2016 का दिनांक 31.05.2017 से पूर्व अनुपालन हो जाने के कारण दिनांक 01.11.2017 को भारतीय राष्ट्रीय राजमार्ग प्राधिकरण द्वारा मध्यस्थ निर्णय दिनांकित 28.07.2016 के विरुद्ध प्रस्तुत मौजूदा आपत्ति अंतर्गत धारा 34 मध्यस्थ सुलह अधिनियम 1996 कानूनन अपोषणीय हो जाती है, अतः मौजूदा आपत्ति अंतर्गत धारा 34 मध्यस्थ सुलह अधिनियम 1996 द्वारा, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण द्वारा परियोजना निदेशक, सी०एम०यू० मथुरा, फरीदाबाद, हरियाणा कानूनन पोषणीय न होने के कारण निरस्त होने योग्य है।

आदेश

आपत्तिकर्ता भारतीय राष्ट्रीय राजमार्ग प्राधिकरण की आपत्ति कानूनन पोषणीय न होने के कारण निरस्त की जाती है।

पत्रावली नियमानुसार अभिलेखागार प्रेषित हो।"

13. What emerges from the order of the Learned District Judge is that the appellant was fully aware of the contents of the arbitral award dated July 28, 2016 and had acted on it, thereby demonstrating a practical acknowledgement of the arbitral award. In view of the award dated July 28, 2016, the Appellant through its letter dated May 22, 2017 asked the Special Land Acquisition officer to calculate the compensation amount and publish a supplementary award. In compliance of the same, the Competent



Authority that is the Special Land Acquisition Officer calculated the amount of compensation to be paid and sent it to the Appellant on May 31, 2017. What is evident is that, the Appellant, even despite the non-receipt of a signed copy of the arbitral award dated July 28, 2016 accepted the same and acted upon it. Therefore, the appellant cannot now evade the consequences by exploiting a procedural technicality regarding the non-receipt of a signed copy. It is crucial to interpret Section 31(5) of the Arbitration Act in a matter that aligns with the Arbitration Act's overarching goals of promoting fairness and expeditious dispute resolution.

*14. A literal interpretation, which ignores the practical reality that the party was aware of the arbitral award and acted upon it, would be contrary to the spirit of the Arbitration Act. This was aptly summarized by the Bombay High Court in **Akola Janta (supra)** when it remarked that a narrow view of Section 31(5) of the Arbitration Act would defeat the Arbitration Act's purpose if it allowed a party to delay proceedings unjustly by claiming non-receipt of a signed copy despite having knowledge of the award's contents.*

- 3.14. By relying on **Neeraj Sharma** his submission is that while Section 31(5) of the Arbitration and Conciliation Act, 1996 mandates delivery of a signed copy of the arbitral award to the parties, the requirement cannot be interpreted in a manner that enables a party to indefinitely



postpone the commencement of limitation despite having full knowledge of the award and having acted upon it.

3.15. Learned counsel submits that the Hon'ble Allahabad High Court, after considering the decisions of the Hon'ble Supreme Court in **Union of India v. Tecco Trichy Engineers & Contractors** and other decisions on the subject, observed that though delivery of a signed copy of the award is an important statutory requirement, a purely literal interpretation of Section 31(5) may, in certain situations, defeat the very object of arbitration by permitting parties to delay enforcement of awards on technical grounds. The Hon'ble Allahabad High Court held that where a party is fully aware of the contents of the award and has acted upon it, such party cannot subsequently seek to avoid the consequences flowing from the award merely by contending that a signed copy was not formally delivered.

3.16. Learned counsel submits that the Hon'ble Allahabad High Court found that the appellant therein had acted upon the arbitral award,



called upon the concerned authorities to calculate compensation in terms thereof, and had thereby unequivocally acknowledged the award. In those circumstances, the Hon'ble Allahabad High Court held that the appellant could not rely upon the plea of non-receipt of a signed copy of the award as a means to defeat limitation and delay the arbitral process.

3.17. Placing reliance on **Neeraj Sharma**, learned counsel submits that the governing principle which emerges is that where a party has acquired knowledge of the arbitral award and is aware of its contents, limitation cannot be indefinitely deferred by relying upon procedural objections relating to formal receipt of the signed copy of the award. According to him, the purpose of Section 31(5) is to ensure communication of the award to the parties and not to create a mechanism by which a party, despite having knowledge of the award, may postpone commencement of limitation.

3.18. It is his submission that in the present case, an email communication had been dispatched to the respondent informing it that the arbitral



award had been passed. The respondent was therefore aware of the passing of the award and had knowledge of the same. Once such knowledge was available, the respondent was required to act diligently and take steps for challenging the award, if so advised. The respondent cannot, according to learned counsel, contend that limitation would commence only upon formal receipt of a signed copy of the award when it was already aware that the arbitral proceedings had culminated in an award.

3.19. Learned counsel would further contend that acceptance of the respondent's contention would defeat the legislative objective underlying Sections 31, 34 and 36 of the Act, namely, expeditious finality of arbitral proceedings. If parties who are aware of the award are permitted to postpone limitation until formal service of a signed copy, the certainty and finality which arbitration seeks to achieve would be seriously undermined.

3.20. He therefore submits that the Commercial Court failed to properly appreciate the effect of the



respondent's knowledge of the award and proceeded solely on the basis of the date on which the respondent claims to have received a signed copy thereof. According to him, the date on which the respondent acquired knowledge of the award ought to have been taken into consideration while computing limitation under Section 34(3) of the Act. Had the Commercial Court done so, it would have come to the conclusion that the petition under Section 34 was filed beyond the period prescribed under law and was therefore liable to be rejected as barred by limitation. The impugned order, according to learned counsel, suffers from a fundamental error in this regard and therefore calls for interference by this Court.

3.21. He relies upon the decision of the Hon'ble Chhattisgarh High Court in the case of ***Union of India Vs. Bhola Prasad Agrawal and Another – 2022 SCC OnLine Chh 1644***, more particularly, paragraph No.8 thereof, which is reproduced hereunder for easy reference:

"8. In order to ascertain the correctness at the bar, it would be appropriate to notice



Section 34(3) of the Arbitration Act, which runs thus:

"34. Application for setting aside arbitral award.--(1) xxxx (3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."

- 3.22. Relying on **Bhola Prasad Agrawal**, particularly, he submits that the Hon'ble Chhattisgarh High Court considered the provisions of Section 34(3) of the Arbitration and Conciliation Act, 1996. Learned counsel submits that the statutory scheme governing challenges to arbitral awards is clear and unambiguous. Section 34(3) prescribes a period of three months from the date on which the party making the application has received the arbitral award. The proviso confers a limited discretion upon the Court to entertain the application within a further period of thirty days



if sufficient cause is shown, but expressly prohibits extension beyond the said period.

3.23. Learned counsel submits that the Hon'ble Chhattisgarh High Court reiterated the settled principle that the limitation prescribed under Section 34(3) is a special limitation created by the statute itself and that the Court's jurisdiction to condone delay is confined strictly to the parameters prescribed therein. According to him, the legislative intent is to ensure finality of arbitral awards and expeditious resolution of disputes, which are the foundational objectives underlying the Arbitration and Conciliation Act, 1996.

3.24. Placing reliance on **Bhola Prasad Agrawal**, learned counsel contends that while considering an application for condonation of delay in proceedings under Section 34, the Court cannot adopt the liberal principles ordinarily applicable under Section 5 of the Limitation Act. The discretion available under the proviso to Section 34(3) is considerably narrower and is circumscribed by the statutory mandate contained in the expression "but not



thereafter". Therefore, unless the applicant establishes sufficient cause for the delay and demonstrates that the application has been presented within the statutorily permissible period, the Court lacks jurisdiction to entertain the challenge.

3.25. It is his submission that the Commercial Court, while allowing the application for condonation of delay, failed to keep in view the strict limitation regime governing arbitral proceedings and proceeded as though a wider discretion was available. Such an approach, according to learned counsel, is contrary to the statutory scheme as well as the consistent judicial pronouncements interpreting Section 34(3) of the Act.

3.26. Learned counsel therefore submits that the impugned order deserves to be set aside on the ground that the Commercial Court exercised jurisdiction contrary to the limitations imposed by Section 34(3) of the Act and thereby defeated the legislative objective of ensuring finality and certainty in arbitral adjudication.



3.27. He refers to the decision of the Hon'ble High Court of Telangana in the case of **Food Corporation of India Vs. A.P. State Warehousing Corporation - in I.A.No.1/2022 and C.M.A.No.157/2022**, more particularly, paragraph No.8 thereof, which is reproduced hereunder for easy reference:

8. ***In Government of Maharashtra (Water Resources Department) rep. by Executive Engineer Vs Borse Brothers Engineers & Contractors Private Limited - (2021) 6 SCC 460***, the Hon'ble Supreme Court held:

"32. Thus, from the scheme of the Arbitration Act as well as the aforesaid judgments, condonation of delay under Section 5 of the Limitation Act has to be seen in the context of the object of speedy resolution of disputes.

58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in Basawaraj v. LAO [Basawaraj v. LAO,



(2013) 14 SCC 81] , has held : (SCC pp. 85-88, paras 9-15)

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land & Building Corpn. v. Bhutnath Banerjee [Manindra Land & Building Corpn. v. Bhutnath Banerjee, AIR 1964 SC 1336] ,



Mata Din v. A. Narayanan [Mata Din v. A. Narayanan, (1969) 2 SCC 770] , Parimal v. Veena [Parimal v. Veena, (2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1] and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai [Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai, (2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24].)

10. *In Arjun Singh v. Mohindra Kumar [Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".*

11. *The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only [Ed. : The matter between two asterisks has been emphasised in original.] so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned [Ed. : The matter between two asterisks has been emphasised in original.] , whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal [Madanlal v. Shyamlal, (2002) 1 SCC 535] and Ram Nath Sao v. Gobardhan Sao [Ram Nath Sao v. Gobardhan Sao, (2002) 3 SCC 195] .)*



*12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.*

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, Para 605 p. 266:

'605. Policy of the Limitation Acts.-- The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with



good causes of actions should pursue them with reasonable diligence.' An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat & Kotecha Property v. SBI Staff Assn. [Popat & Kotecha Property v. SBI Staff Assn., (2005) 7 SCC 510] , Rajender Singh v. Santa Singh [Rajender Singh v. Santa Singh, (1973) 2 SCC 705] and Pundlik Jalam Patil v. Jalgaon Medium Project [Pundlik Jalam Patil v. Jalgaon Medium Project, (2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907].)"

(emphasis supplied)

59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in Postmaster General v. Living Media (India) Ltd. [Postmaster General v. Living Media (India) Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] ["Postmaster General"], as follows : (SCC pp. 573-74, paras 27-29)....."

.....

63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or



Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.

.....

65. Apart from this, there is a long delay of 131 days beyond the 60-day period provided for filing an appeal under Section 13(1-A) of the Commercial Courts Act. There is no explanation worth the name contained in the condonation of delay application, beyond the usual file-pushing and administrative exigency. This appeal is therefore dismissed.

....

.....

67. That apart, on the facts of this appeal, there is a long delay of 75 days beyond the period of 60 days provided by the Commercial Courts Act. Despite the fact that a certified copy of the District Court's judgment was obtained by the respondent on 27-4-2019, the appeal was filed only on 9-9-2019, the explanation for delay being:

"2. That, the certified copy of the order dated 1-4-2013 was



received by the appellant on 27-4-2019. Thereafter the matter was placed before the CGM purchase MPPKVVCL for the compliance of the order. The same was then sent to the law officer, MPPKVVCL for opinion.

3. That after taking opinion for appeal, and approval of the authorities concerned, the officer-in-charge was appointed vide order dated 23-7-2019.

4. That, thereafter due to bulky records of the case and for procurement of the necessary documents some delay has been caused however, the appeal has been prepared and filed pursuant to the same and further delay.

5. That due to the aforesaid procedural approval and since the appellant is a public entity formed under the Energy Department of the State Government, the delay caused in filing the appeal is bona fide and which deserve[s] to be condoned."

.....

69. In the civil appeal arising out of SLP (C) Diary No. 18079 of 2020, there is a huge delay of 227 days in filing the appeal, and a 200-day delay in refiling. The facts of this case also show that there was no sufficient cause whatsoever to condone such a long delay. The impugned judgment of the High Court of Delhi dated 15-10-2019 [Union of India v. Associated Construction Co., 2019 SCC OnLine Del 10797] cannot be faulted on this score and this appeal is consequently dismissed.



(emphasis supplied) 8.1. In *N.V. International Vs State of Assam and others*⁵, the Hon'ble Supreme Court held:

"4. We may only add that what we have done in the aforesaid judgment is to add to the period of 90 days, which is provided by statute for filing of appeals under Section 37 of the Arbitration Act, a grace period of 30 days under Section 5 of the Limitation Act by following Lachmeshwar Prasad Shukul [Lachmeshwar Prasad Shukul v. Keshwar Lal Chaudhuri, 1940 SCC OnLine FC 10 : AIR 1941 FC 5] , as also having regard to the object of speedy resolution of all arbitral disputes which was uppermost in the minds of the framers of the 1996 Act, and which has been strengthened from time to time by amendments made thereto. The present delay being beyond 120 days is not liable, therefore, to be condoned."

(emphasis supplied)

3.28. By relying on ***Food Corporation of India***

Learned counsel submits that the Hon'ble High Court of Telangana considered the principles laid down by the Hon'ble Supreme Court in ***Government of Maharashtra (Water Resources Department) v. Borse Brothers***



Engineers & Contractors Private Limited as well as N.V. International v. State of Assam. Learned counsel submits that the aforesaid decisions unequivocally reiterate that the law of limitation in matters arising under the Arbitration and Conciliation Act, 1996 is required to be applied with strictness, having regard to the legislative objective of ensuring expeditious resolution of disputes and finality of arbitral awards.

3.29. Referring to the observations of the Hon'ble Supreme Court in **Borse Brothers**, learned counsel submits that the expression "sufficient cause" occurring in limitation statutes cannot be construed in an unrestricted or liberal manner so as to condone negligence, inaction or lack of bona fides. The Hon'ble Supreme Court has repeatedly held that limitation provisions are founded upon public policy and are intended to secure certainty, finality and diligence in legal proceedings. The Hon'ble Supreme Court has also observed that a party seeking condonation of delay must furnish a satisfactory and bona fide explanation and that mere administrative difficulties, movement of



files, procedural approvals or departmental formalities cannot automatically constitute sufficient cause.

3.30. Learned counsel further submits that the Hon'ble Supreme Court in **Borse Brothers** has specifically disapproved explanations founded upon internal administrative procedures, obtaining opinions from legal departments, appointment of officers-in-charge, movement of files between departments and similar bureaucratic processes. The Hon'ble Supreme Court has categorically held that such routine explanations cannot justify condonation of delay, particularly in arbitration matters where expedition is the underlying legislative objective.

3.31. Placing reliance on the observations extracted in the aforesaid judgment, learned counsel submits that the Hon'ble Supreme Court has reaffirmed the well-established principle that courts are not empowered to extend limitation on equitable considerations. Merely because a party may suffer hardship on account of expiry of limitation, the statutory mandate cannot be



diluted. The maxim *dura lex sed lex* — "the law is hard, but it is the law" — has been specifically recognised and applied by the Supreme Court while interpreting limitation provisions.

3.32. Learned counsel further submits that the Hon'ble Supreme Court has emphasised that limitation statutes are founded on public policy, intended to suppress stale claims, promote diligence and ensure certainty in legal relations. Therefore, once the legislature has prescribed a specific period of limitation together with a limited power of condonation, the Court is duty-bound to give full effect to the statutory scheme without being influenced by considerations of sympathy or hardship.

3.33. By relying on the aforesaid decision, learned counsel contends that the question of limitation in the present matter has to be examined with full rigour and in strict conformity with the provisions of Section 34(3) of the Act. According to him, even if the consequence of applying the limitation provision strictly may appear harsh in a given case, such hardship



cannot furnish a ground for extending the period prescribed by Parliament.

3.34. It is his submission that the arbitral award in the present case was pronounced on 26.08.2022. Therefore, even assuming that the respondent was entitled to avail the entire statutory period of three months together with the additional grace period of thirty days contemplated under the proviso to Section 34(3), the challenge to the award ought to have been instituted within the outer limit prescribed by law. Once the said period expired, the Court ceased to possess jurisdiction to entertain the challenge.

3.35. Learned counsel submits that the explanation offered by the respondent, namely that time was consumed in obtaining approvals from the concerned authorities and in completing internal administrative formalities, is precisely the kind of explanation which has been repeatedly rejected by the Hon'ble Supreme Court. Such reasons, according to him, cannot constitute "sufficient cause" within the meaning of Section 34(3) of the Act.



- 3.36. He therefore contends that the Commercial Court failed to appreciate the strict limitation regime governing arbitral proceedings and proceeded to condone the delay on considerations which are legally impermissible. The impugned order, according to learned counsel, effectively defeats the legislative intent underlying the Arbitration and Conciliation Act, namely the speedy resolution of disputes and finality of arbitral awards.
- 3.37. On these grounds, learned counsel submits that the order dated 19.04.2024 passed by the Commercial Court condoning the delay is contrary to the settled principles governing limitation under the Arbitration and Conciliation Act and is therefore liable to be set aside.
4. Heard Sri.Sunil Kumar H., learned counsel for the petitioner and learned AGA for the respondents and perused the papers.
5. The short, but important, question that arises for consideration is

"Whether the petition filed by the respondent under Section 34 of the Arbitration and Conciliation Act, 1996 ("the Act") was



presented within the period prescribed under Section 34(3) of the Act and, if not, whether the delay fell within the statutorily condonable period and was supported by sufficient cause?

6. Sub-section (3) of Section 34 of the Arbitration and Conciliation Act, 1996 is reproduced hereunder for easy reference:

"34(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."

7. The Arbitration and Conciliation Act, 1996 was enacted with the avowed object of reducing judicial intervention in arbitral proceedings and ensuring speedy and final resolution of disputes. The limitation prescribed under Section 34(3) is therefore not a mere procedural requirement but is an integral part



of the legislative policy intended to confer finality upon arbitral awards within a definite timeframe.

8. The provision strikes a careful balance between two competing considerations. On the one hand, a party aggrieved by an arbitral award must be afforded a reasonable opportunity to challenge the same. On the other hand, the successful party is entitled to certainty and finality and ought not to be subjected to indefinite uncertainty regarding enforcement of the award. It is in furtherance of this balance that Parliament has prescribed a limitation period of three months coupled with a narrowly circumscribed grace period of thirty days.
9. A plain reading of Section 34(3) makes it clear that the starting point for computation of limitation is not the date on which the award is pronounced, nor the date on which the arbitral proceedings conclude, but the date on which the party making the application "had received the arbitral award". The legislature has consciously employed the expression "received the arbitral award" and not "became aware of the award" or "the award was pronounced".
10. The significance of the expression "received the arbitral award" has repeatedly been emphasised by



the Hon'ble Supreme Court. The reason is not difficult to understand. A party can effectively exercise its statutory right to challenge an award only after obtaining access to the award and understanding the findings, reasoning and operative directions contained therein. Mere knowledge that an award has been passed does not necessarily equip a party to challenge the award. It is the receipt of the award that enables a party to assess its rights, obtain legal advice and determine whether a challenge is required.

11. The second limb of Section 34(3), relating to disposal of a request under Section 33 of the Act, is admittedly not attracted in the present case. Therefore, the controversy is confined to determining the date on which the respondent received the arbitral award and whether the petition was filed within the period prescribed therefrom.
12. The proviso to Section 34(3) confers a limited discretion upon the Court. The structure of the provision itself indicates that the legislature has treated the initial period of three months and the additional period of thirty days differently.



13. The first period of three months is available as a matter of right. The second period of thirty days is not available automatically. It becomes available only if the applicant demonstrates that sufficient cause prevented filing within the original period of three months. Thus, the proviso is not an extension of limitation as a matter of course. It is a statutory indulgence granted in deserving cases where the Court is satisfied about the existence of sufficient cause.
14. Three distinct principles emerge from a conjoint reading of Section 34(3) and its proviso:
 - 14.1.a petition under Section 34 must ordinarily be filed within three months from the date of receipt of the arbitral award;
 - 14.2.a delay beyond the said period may be condoned only if the petition is filed within the further period of thirty days and sufficient cause is established; and
 - 14.3.upon expiry of the aggregate period contemplated under the provision, the Court becomes functus officio insofar as extension of



limitation is concerned and lacks jurisdiction to entertain the challenge.

15. The first issue that therefore requires determination is whether the respondent can be said to have received the arbitral award on 26.08.2022 when the award was pronounced, or on 01.09.2022 when the email enclosing the minutes of the proceedings was sent, or on 03.11.2022 when the signed copy of the award was admittedly received.
16. The minutes of proceedings dated 26.08.2022 have been extracted hereinabove. A perusal thereof indicates that the award was pronounced on the said date. However, it is equally evident that no representative of the respondent was present when the award came to be pronounced. The minutes merely record the pronouncement of the award and direct circulation of the proceedings.
17. The records do not disclose that a signed copy of the award was delivered to the respondent on the said date. Mere pronouncement of the award, in the absence of the respondent and without delivery of the award, cannot constitute receipt of the award within the meaning of Section 34(3).



18. Reliance was sought to be placed on the email dated 01.09.2022. A careful examination of the said communication indicates that what was transmitted was only the minutes of the proceedings. The award itself was not enclosed. The email therefore merely informed the recipient that proceedings had been conducted and the award had been pronounced. It did not communicate the contents, reasoning, findings or operative directions contained in the award.
19. Knowledge that an award has been pronounced is fundamentally different from receipt of the award itself. A party cannot be expected to formulate grounds under Section 34 merely because it is aware that an award has been passed. What is relevant is knowledge of the award itself and not merely knowledge of its existence.
20. There is no material placed before this Court to indicate that the respondent was furnished with the award, made aware of its contents, acted upon its directions or otherwise demonstrated knowledge of the findings recorded therein prior to 03.11.2022.
21. The petitioner has not produced any acknowledgment, communication or



contemporaneous material establishing that the award had in fact been served upon the respondent prior to the said date. In the absence of such material, this Court cannot proceed on assumptions or presumptions regarding receipt of the award.

22. Significantly, the receipt of the award by the respondent on 03.11.2022 is not in dispute. Once that factual position is accepted, the legal consequence necessarily follows. The limitation contemplated under Section 34(3) must commence from 03.11.2022.
23. Any other interpretation would amount to rewriting the statutory provision and substituting the expression "receipt of the arbitral award" with "knowledge of the award". Such an interpretation would be contrary to the plain language employed by Parliament.
24. Computing limitation from 03.11.2022, the initial period of three months expired on 02.02.2023. Had the respondent filed the petition on or before the said date, no question of condonation would have arisen.
25. The petition admittedly came to be filed on 21.02.2023. Thus, while the petition was beyond the



original period of ninety days, it was filed within the additional period of thirty days contemplated under the proviso.

26. The next issue therefore is whether sufficient cause has been established for the delay.
27. The expression "sufficient cause" is incapable of precise definition and must necessarily be determined on the facts of each case. While the expression cannot be interpreted so liberally as to render limitation meaningless, it also cannot be construed in a manner that defeats substantial justice where the party has acted bona fide and with reasonable diligence.
28. The records produced by the respondent assume significance in this regard. The documents disclose that immediately upon receipt of the award on 03.11.2022, steps were initiated for examining the feasibility of challenging the award. A Government Advocate was appointed on 23.11.2022. Legal opinion was obtained on 21.01.2023. Thereafter, the matter was processed at various administrative levels and approval to initiate proceedings was accorded under Government Order dated



14.02.2023. The petition was thereafter filed on 21.02.2023.

29. The chronology does not indicate complete inaction or negligence. On the contrary, it discloses continuous movement of the matter through various stages culminating in the filing of the petition.
30. It is no doubt true that administrative procedures cannot invariably constitute sufficient cause. If internal procedures are permitted to justify every delay, the limitation prescribed under Section 34(3) would become illusory. However, the facts of each case must be independently assessed.
31. In the present case, the delay is not one extending beyond the outer limit prescribed by the statute. Nor is it a case where the respondent remained dormant for months together and thereafter sought to revive a stale claim. The challenge was instituted within the statutorily condonable period. The material on record demonstrates that steps were continuously being taken for obtaining legal opinion and governmental approval. The Commercial Court, upon appreciation of these facts, has exercised its discretion in favour of condonation.



32. The scope of interference with such exercise of discretion is necessarily limited. Unless the discretion is shown to be arbitrary, capricious, perverse or contrary to settled principles of law, this Court would be slow to substitute its own view merely because another view is possible.
33. The decisions relied upon by the petitioner do not advance his case. **Bhimashankar** reiterates the strict limitation regime under Section 34(3), but simultaneously recognises the statutory discretion available within the additional period of thirty days. **Neeraj Sharma** turned upon peculiar facts where the party had acted upon the award despite alleging non-receipt. No such circumstance exists in the present case. **Food Corporation of India** reiterates that limitation must be applied strictly. The said principle is fully respected in the present matter because the petition has not been entertained beyond the period permitted by statute.
34. Thus, on a cumulative consideration of the statutory scheme, the factual matrix and the documents placed on record, I am of the considered view that
- 34.1.the respondent received the arbitral award on
03.11.2022;



34.2.limitation commenced from the said date;

34.3.the petition filed on 21.02.2023 was within the additional thirty-day period contemplated under the proviso to Section 34(3);

34.4.sufficient cause was established for the delay beyond the initial period of three months; and

34.5.the Commercial Court was justified in exercising its discretion to condone the delay.

35. The impugned order does not suffer from any jurisdictional error, perversity or illegality warranting interference by this Court in exercise of its supervisory jurisdiction. The challenge therefore fails and is liable to be rejected.

Accordingly, the petition stands **dismissed**.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE