

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Arbitration Appeal No. 102 of 2024
Decided on : 08.09.2026**

National Highway Authority of India ...Appellant.

Versus

Deep Sikha Respondent.

Coram

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the appellant: Ms. Shreya Chauhan, Advocate.

For the respondent: Mr. Varun Rana, Advocate.

Romesh Verma, Judge (oral)

The present appeal arises out of the judgment dated 14.07.2023, passed by learned District Judge, Mandi, District Mandi, H.P., whereby application filed by the present appellant for setting aside the award dated 24th January 2023 was ordered to be rejected as having been filed beyond the period of limitation.

2. The facts, as emerge in the present case, are that the land of the respondent was utilized to construct four-lane road in Nerchowk-Manali Section of NH-21, and thereafter, the acquisition proceedings were initiated for the land falling in Revenue Estate Thalla, Tehsil Sundernagar, District Mandi, from kilometer 126.500 to kilometer 188.917, Bilaspur-Ner Chowk Section.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

3. The Gazette Notification was issued under Section 3(A) of the National Highways Act for widening of the NH-21, and the same was published by the Government of India in Official Gazette.

4. The Competent Authority passed the award bearing No. 43/2013-2014 dated 30th October 2013, after taking into consideration the various factors for the determination of the compensation.

5. Feeling dissatisfied against the award as passed by the Competent Authority, the claimant/respondent, filed an application under Section 3G(5) of the Act before the learned Divisional Commissioner, Mandi, District Mandi, H.P.

6. The learned Arbitrator, vide its award dated 24th January 2023, enhanced the amount of compensation by granting the amount of compensation with respect to the land of the respondent @ of Rs. 81,39,120/- per bigha, whereas the Competent Authority had granted a sum of Rs. 60,00,000/- per bigha.

7. Feeling dissatisfied, the present appellant approached the learned District Judge, Mandi, District Mandi, H.P. by filing an application under Section 34 of the Arbitration and Conciliation Act for setting aside the award as passed by the

learned Arbitrator-cum-Divisional Commissioner, Mandi, District Mandi, H.P.

8. Admittedly, the present appellant obtained the certified copy of the award passed by the learned Arbitrator on 2nd February 2023, whereas the application under Section 34 of the Arbitration and Conciliation Act was filed on 1st June 2023, that is beyond the period of three months.

9. The provisions of Section 34 of the Arbitration and Conciliation Act, 1996, read as follows:

"34. Application for setting aside arbitral award.

(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

.....

(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."

10. The provisions of Section 34, sub-section (3) clearly stipulate that no application can be filed for setting aside the award beyond the period of three months from the date of the receipt of the award.

11. Section 34, sub-section (3) of the Act reads as follows:

“(a) Section 34 is the only remedy for challenging an award passed under Part I of the Arbitration Act. Section 34(3) is a limitation provision, which is inbuilt into the remedy provision. One does not have to look at the Limitation Act or any other provision for identifying the limitation period for challenging an Award passed under Part I of the Arbitration Act.

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(c) Section 34 (3) prohibits the filing of an application for setting aside an Award after three months have elapsed from the date of receipt of the Award or disposal of a request under Section 33. Section 34(3) uses the phrase "An application for setting aside may not be made after three months have elapsed". The phrase "may not be made" is from the UNCITRAL Model Law ["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 award or, if a request had been made under article 33, from the date on which that request had been disposed of by the arbitral tribunal"] and has been understood to mean "cannot be made". The High Court of Singapore in ABC Co. Ltd v. XYZ Co. Ltd, [2003] SGHC 107

“The starting point of this discussion must be the Model Law itself. On the aspect of time, Article 34(3) is brief. All it says is that the application may not be made after the lapse of three months from a specified date. Although the words used are 'may not' these must be interpreted as 'cannot' as it is clear that the intention is to limit the time during which an award may be challenged. This interpretation is supported by material relating to the discussions amongst the drafters of the Model Law. It appears to me that the court would not be able to entertain any application lodged after the expiry of the three months period as Article 34 has been drafted as the all-encompassing, and only, basis for challenging an award in court. It does not provide for any extension of the time period and, as the court derives its jurisdiction to hear the application from the Article alone, the absence of such a provision means the court has not been conferred with the power to extend time”.

12. The stipulation as contained in Section 34, sub-section (3) clearly provides that an application for setting aside the award cannot be made after three months, and it is only if the Court is satisfied that the applicant was prevented by sufficient cause from making an application within such period of three months, which may entertain an application within a further period of 30 days, but not thereafter, after considering Section 29, Sub-section (2) of the Limitation Act.

13. Admittedly, in the present case, the award was passed by the learned Arbitrator on 24th January 2023. The present appellant received the certified copy of the award on 2nd February 2023, and on the face of it, three months expired on 2nd May 2023. This Court had summoned the record, and the record reveals that the application under Section 34 of the Arbitration and Conciliation Act was filed on 1st June 2023, that is beyond the period of three months.

14. Admittedly, no application under Section 34 (3) has been filed for condonation of delay, extending the period of 3 months for a further period of 30 days, though learned counsel for the appellant has drawn the attention of this Court to the application filed under Section 5 of the Limitation Act. However, from the perusal of the same, it reveals that the said application has neither been signed nor attested, however, it has been

appended in the second part of the application filed under Section 34 of the Arbitration and Conciliation Act.

15. The provisions of Section 34, sub-section (3) are mandatory, and it stipulates that if the Court is satisfied that the applicant was prevented by sufficient cause for making an application within period of three months, which may entertain an application within a further period of 30 days, but not thereafter.

16. The record shows that the application which has been filed by the present appellant, especially para 9 of the same, states that the application filed under Section 34 of the Arbitration and Conciliation Act is within the period of limitation as they received the certified copy of the order/award on 2nd February 2023. There is no averment in the application that the award was received on 2nd February 2023 and that three months expired on 2nd May 2023. On the face of it, the application which was filed by the present appellant was time-barred, and the applicant/appellant has failed to show sufficient cause for the condonation of delay.

17. Mr. Varun Rana, Advocate, counsel for the respondent has vehemently argued that the application which was filed under Section 34, there is no averment or prayer for condoning the delay and invoking the provision of Section 34, sub-section (3). In second part of the record, though there is an

application under Section 5 of the Limitation Act, but the same has neither been signed nor attested, therefore no benefit can be granted to the present appellant.

18. It is further contended by learned counsel for the respondent that vide order dated 2nd June 2023, the learned District Judge, Mandi, had doubted whether the application filed by the present appellant is within limitation, and despite the observation as made by the learned District Judge, the present appellant/applicant failed to take any steps in that regard, therefore, the conduct on the part of the appellant speaks volumes.

19. The appellant/applicant has failed to establish the sufficient cause which may entitle the present appellant to any relief.

20. In the considered opinion of this Court, the learned District Judge, Mandi, after taking into consideration the provisions of the Act and the record, has rightly come to the conclusion that the application as filed by the present appellant has not been filed within a period of limitation.

21. This Court sees no error or illegality, perversity or jurisdictional error in the order as passed by the learned District Judge. Therefore, the present appeal is ordered to be dismissed.

Pending application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

September 08, 2026
(Nisha)