

JPS-10
Ct No.01
22.07.2025
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction

C.O. 88 of 2025

The Airport Authority of India and others
Vs
Amazing India Contractors Pvt. Ltd.

Mr. Singhania

.... for the petitioners.

1. The present application under article 227 of the Constitution of India has been preferred against an order passed by an arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the 1996 Act”).
2. Learned counsel appearing for the petitioners submits that despite the availability of a remedy by way of an appeal under Section 37 of the 1996 Act, the present application has been preferred seeking judicial review in view of the impugned order being patently perverse.
3. It is contended that while the arbitrator was appointed under Section 11 of the 1996 Act for the specific purpose of deciding a dispute relating to the claim of compensation of the opposite party, while deciding the application under Section 17 of the 1996 Act, a separate departmental proceedings, having no nexus or connection with

the arbitration clause or the arbitral proceeding, has been stayed by the learned arbitrator. Thus, the learned arbitrator allegedly overstepped the jurisdiction vested in the arbitrator.

4. It is submitted that the power of judicial review under Article 227 of the Constitution, being a Constitutional remedy, is not fettered by any piece of legislation.
5. However, this court is unable to accept such contention of the petitioners inasmuch as the maintainability of the present challenge is concerned.
6. Undoubtedly, the power of judicial review under Article 227 of the Constitution of India is, under normal circumstances, not circumscribed by any legislation, which is subordinate to the Constitution.
7. However, the question is as to whether this court should exercise its discretion in the circumstances of the present case to invoke such superintending power despite a specific remedy being prescribed under the concerned statute.
8. The illegality/perversity complained of by the petitioners is of such a nature which is amenable to the alternative remedy of an appeal under Section 37 of the 1996 Act.

- 9.** A special feature of the 1996 Act is Section 5 of the same, which, in specific terms and by providing a separate Section, restricts judicial intervention apart from those cases where such intervention has been specifically provided for under the statute.
- 10.** The entire scheme and object of the 1996 Act is to promote India as an international hub of alternative dispute resolution, as declared in the statement of objects and reasons of the Act itself.
- 11.** It has been consistently held by judicial opinion, both by the Supreme Court as well as different High Courts of the country, that the least the judicial interference in arbitral proceedings, the better.
- 12.** As such, since the issues raised in the present application can also be canvassed in a properly constituted appeal under Section 37 of the 1996 Act, which provides an equally efficacious alternative remedy, this court chooses not to exercise its jurisdiction under Article 227 of the Constitution of India but to relegate the petitioners to the appropriate appellate forum.
- 13.** Accordingly, C.O. 88 of 2025 is disposed of by granting liberty to the petitioners to challenge the order impugned herein by way of a proper appeal

under Section 37 of the Arbitration and Conciliation Act, 1996.

14. For such purpose, the learned Advocate-on-record for the petitioners is granted leave to take back the certified copy of the impugned order upon furnishing a photocopy of the same for the records.
15. It is made amply clear that this court has not touched or entered into the merits of the contentions of the parties at all.
16. There will be no order as to costs.
17. Urgent certified copies, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)