



2025:DHC:11801-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on:15.12.2025
Judgment pronounced on:24.12.2025

+ FAO (COMM) 319/2025, CM APPL. 70183/2025, CM APPL.70184/2025, CM APPL. 70185/2025 and CM APPL.70186/2025

**GNCTD THROUGH DEPARTMENT OF TRAINING AND
TECHNICAL EDUCATION**Appellant

Through: Ms. Avni Singh, Panel Counsel
with Mr. Abhimanyu Kapoor,
Advocate.

versus

**M/S HUMAN POTENTIAL DEVELOPMENT AND
RESEARCH SOCIETY**Respondent

Through: Mr. B.S. Rawat, Advocate.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Appeal has been instituted under Section 37(1)(c) of the **Arbitration and Conciliation Act, 1996**¹ read with Section 13(1A) of the Commercial Courts Act, 2015, challenging the **Judgement dated 05.08.2025**² passed by the learned **District Judge, Commercial Court, North-West District, Rohini, Delhi**³, in

¹ A&C Act

² Impugned Judgement

³ Commercial Court



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OMP(Comm.) No. 38/2021 titled as '*Department of Training and Technical Education, GNCTD vs. M/s Human Potential Development & Research Society*'.

2. By way of the Impugned Judgement, the Commercial Court dismissed the Petition of the Appellant herein, filed under Section 34 of the A&C Act, by way of which the Appellant sought to set aside the **Arbitral Award dated 09.01.2020⁴**.

BRIEF FACTS:

3. The Appellant herein, **Department of Training & Technical Education⁵**, functions under the aegis of the Government of NCT of Delhi and is entrusted with the implementation of skill development and vocational training programmes. The Respondent is a registered Vocational Training Provider under the **Modular Employable Skills Scheme⁶**, which forms part of the Skill Development Initiative Scheme launched by the Government of India.

4. The parties entered into a contractual agreement pursuant to an Office Order passed by the Department dated 17.03.2015, whereby the Respondent was approved to commence training programmes in respect of the modules specified therein, and was entitled to reimbursement of the training and assessment costs, subject to strict compliance with, and adherence to, the guidelines issued in this regard by the **Directorate General of Employment and Training⁷** on their web portal.

5. The Respondent, upon completion of various training modules,

⁴ Arbitral Award

⁵ Department

⁶ MES

⁷ DGE&T



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raised several bills, seeking reimbursement for training and assessment costs. The Appellant, during scrutiny of the said bills, noticed certain ambiguities and discrepancies and non-compliance with the guidelines of DGE&T, including delayed submission of the claims, duplication of trainers across batches conducted simultaneously, and non-compliance with mandatory attendance requirements.

6. Pursuant thereto, disputes arose between the parties, whereupon the Respondent initiated arbitration proceedings seeking reimbursement for the services rendered. The learned Sole Arbitrator entered upon the reference on 23.08.2018. During the pendency of the arbitral proceedings, the parties engaged in settlement discussions, as a consequence of which the Respondent withdrew all its claims, except those relating to two disputed bills, amounting to Rs. 3,70,000/- and Rs. 4,52,500/- respectively, aggregating to Rs. 8,22,500/-.

7. The learned Sole Arbitrator passed the Arbitral Award whereby the remaining claims of Rs. 8,22,500/- were allowed in favor of the Respondent.

8. Aggrieved by the said Arbitral Award, the Appellant filed a Petition under Section 34 of the A&C Act, before the learned Commercial Court.

9. Thereafter, by the Impugned Judgment dated 05.08.2025, the learned Commercial Court dismissed the petition under Section 34 on the ground of *non-est* filing, *inter alia*, due to the failure to file the Arbitral Award along with the petition, and further imposed costs of Rs. 50,000/- in favor of the Respondent, directing that the same be



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recovered from the concerned officer.

10. Aggrieved by the said Impugned Judgement dated 05.08.2025, the Appellant has preferred the present Appeal before us.

CONTENTIONS OF THE APPELLANT:

11. Learned counsel for the Appellant would contend that the learned Commercial Court erred in dismissing the Section 34 Petition on the ground of non-filing of the Arbitral Award with the Petition, despite the fact that the Court itself had, *vide* Order dated 06.09.2022, expressly granted liberty to file the Arbitral Award at a later stage.

12. Learned counsel would further contend that once such liberty was expressly granted by the learned Commercial Court, using its inherent power, and which was duly acted upon by the Appellant, the issue of maintainability on the ground of non-filing of the Arbitral Award no longer survived. It would be urged that the dismissal of the Petition on that basis amounts to patent error apparent on the face of the record, which in turn resulted in manifest injustice to the Appellant.

13. Learned counsel would further contend that the Impugned Judgement overlooks the fact that both, the date of the Arbitral Award as well as the date of filing of the Section 34 Petition, fell within the period covered by COVID-19 relaxations granted by the Hon'ble Supreme Court. It would be submitted that, at the relevant time, the e-filing system had not been fully streamlined and, consequently, the Petition was placed in the designated filing box of the Court, which may have inadvertently resulted in the Arbitral Award being detached from the Petition.



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14. Learned counsel would next contend that the learned Commercial Court erred in placing reliance on the decision of this Court in *Pragati Construction Consultants vs. Union of India*⁸, as the factual matrix therein was materially distinguishable from the facts of the present case. It would be urged by the learned counsel for the Appellant that the said decision was inapplicable, particularly since, in the present case, the learned Commercial Court had, *vide* Order dated 06.09.2022, expressly granted liberty to file the Arbitral Award at a subsequent stage, which direction was duly complied with by the Appellant.

15. Learned counsel for the Appellant, while concluding, would also urge that the direction of the learned Commercial Court, imposing costs of Rs. 50,000/- to be recovered from the concerned officer, was harsh, unwarranted, and wholly disproportionate, particularly when the procedural lapse, if any, was inadvertent and occurred during the unprecedented pandemic period.

CONTENTION OF THE RESPONDENT:

16. *Per contra*, learned counsel for the Respondent, while supporting the Impugned Judgement, would submit that no infirmity whatsoever arises warranting interference by this Court. It would be urged that the learned Commercial Court rightly dismissed the Section 34 Petition on account of the Appellant's failure to comply with the mandatory requirement of filing the Arbitral Award along with the Petition, a defect which goes to the very root of maintainability, thereby rendering the Petition "*non-est*".

⁸ 2025 SCC OnLine Del 636



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17. Learned counsel for the Respondent would rely upon the Order dated 06.09.2022 passed by the learned Commercial Court, which has been referred to by the Appellant to contend that express liberty was granted to file the Arbitral Award after the institution of the petition under Section 34, and would submit that such reliance is erroneous and misconceived.

18. It would be urged by the learned counsel for the respondent that a careful reading of the said Order would reveal that the learned Commercial Court merely recorded the Appellant's submission seeking time to file the Arbitral Award and did not grant any categorical, express, or affirmative liberty in that regard. It would further be submitted that, on the date when the said Order was passed, the Respondent was unrepresented due to non-service of notice, and the learned Commercial Court had confined itself to issuing notice of the petition to the Respondent, without considering or granting any substantive relief.

19. Learned counsel for the Respondent would contend that the Appellant could not seek shelter under COVID-19 relaxations granted by the Hon'ble Supreme Court, as the said directions did not dispense with the statutory requirements nor absolve the litigants of the obligation to file essential documents. It would accordingly be urged that the Appellant's explanation regarding difficulties in e-filing was vague and unsubstantiated.

ANALYSIS:

20. We have heard the rival submissions advanced on behalf of the parties at length and have carefully perused the record.



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21. At the outset, we deem it appropriate to examine and adjudicate upon the principal contention advanced on behalf of the Appellant, which is founded on the Order dated 06.09.2022. The Appellant seeks to contend that, by virtue of the said Order, the learned Commercial Court consciously exercised its inherent powers and granted liberty to file the Arbitral Award after the institution of the petition under Section 34 of the A&C Act, thereby curing the defect arising from the non-filing of the Arbitral Award along with the said petition.

22. In order to appreciate the said contention in its proper perspective, it becomes necessary to closely examine the contents of the Order dated 06.09.2022, which is reproduced hereunder for ready reference:

“06.09.2022

Present:

Sh. Rahul Dabas, l.d. counsel for petitioner alongwith Sh. Vineet Kapoor (CI Academic) & Sh. Anil Kumar (CI Litigation).

None for respondent no. 1.

Sh. Ankit Sharma advocate on behalf of respondent no.2

Heard. Perused.

Some time is sought for filing the award.

Respondent no. 1 not served. The address of respondent no.1 in one of the document is shown as E-15/122 2 Floor, Sector-8, Rohini, Delhi-110085.

Issue notice of petition to respondent no.1 on filing of PF/RC as well as through e-mode, returnable for 09.01.2023.

Steps to be taken within one week.”

23. On a plain and careful reading of the aforesaid Order, the Appellant’s reliance thereon, and the vehement assertion that the learned Commercial Court, by the said Order, granted liberty by exercising its inherent powers to file the Arbitral Award, is wholly misplaced. In our considered view, such an interpretation does not



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withstand closer judicial scrutiny. The Order merely records the submission made on behalf of the Appellant to the effect that “*Some time is sought for filing the award*” and, significantly, does not reflect any express, categorical, or reasoned exercise of judicial discretion granting permission or liberty to cure the defect of non-filing of the Arbitral Award along with the Section 34 petition.

24. We concur with the submissions advanced by the learned counsel for the Respondent that, at the relevant stage, the learned Commercial Court had confined itself strictly to procedural aspects, *namely*, the issuance of notice to the Respondent, who had not entered appearance owing to non-service. The focus of the Court was limited to ensuring service of notice and fixing a returnable date. In such circumstances, there was neither occasion nor necessity for the learned Commercial Court to consider, much less grant, any liberty permitting the filing of the Arbitral Award subsequent to the institution of the Section 34 petition.

25. Consequently, we are of the considered opinion that no express or implied liberty was granted by the learned Commercial Court *vide* Order dated 06.09.2022, which could be construed as having the effect of curing the fundamental defect arising from the non-filing of the Arbitral Award along with the Section 34 petition. At best, the Order can be understood as a procedural record noting the Appellant’s request to place the Arbitral Award on record; however, it cannot, by any stretch of interpretation, be equated with a judicial condonation of the defect or a conscious exercise of any inherent powers to validate a *non-est* filing.

26. At this juncture, we must also record our strong disapproval of



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the manner in which the learned counsel for the Appellant has sought to read into the said Order an authority or liberty which is plainly absent from its text. The emphatic and repeated assertion advanced on behalf of the Appellant is not borne out from even a liberal reading of the Order dated 06.09.2022 and reflects an interpretation that is neither legally sustainable nor reasonably possible on the face of the record.

27. At this stage, we consider it apposite to refer to the decision of the Full Bench of this Court in ***Pragati Construction Consultants (supra)***. The said judgment examined an analogous issue and squarely governs the controversy arising for consideration in the present case. The principles enunciated therein have a direct, authoritative, and determinative bearing on the question as to whether a petition under Section 34 of the A&C Act, can be treated as a valid filing in the absence of the Arbitral Award. For the sake of completeness and ready reference, the relevant paragraphs of the said decision are reproduced herein below:

“66. We, therefore, have no hesitation in holding that filing of the copy of the Impugned Award, which is under challenge, is a bare minimum, rather, mandatory requirement for an application under Section 34 of the for A&C Act. Further, non-filing of the same would make such an application “non-est” in the eyes of law, thereby, not stopping the period of limitation from running.

67. The Reference in FAO(OS) (COMM) 70/2024 titled ***Pragati Construction Consultants v. Union of India*** is answered accordingly by holding that filing of the Arbitral Award under challenge, is an essential prerequisite for filing the application under Section 34 of the A&C Act and in absence thereof, the filing of the said application will be treated as “non-est”.”

(Emphasis supplied)

28. Applying the aforesaid binding legal position to the facts of the present case, it is an admitted and undisputed position that the



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Appellant filed the petition under Section 34 of the A&C Act on 14.12.2021 without enclosing or filing a copy of the Arbitral Award, which was sought to be assailed before the learned Commercial Court. It is equally undisputed that the Arbitral Award was brought on record only much later, on 07.09.2022.

29. The legal position on this issue admits of no ambiguity. A petition under Section 34 of the A&C Act, filed without the Arbitral Award, is a “*non-est*” filing in the eyes of the law and does not have the effect of arresting or stopping the running of the period of limitation. Consequently, where the Arbitral Award is filed beyond the maximum permissible period prescribed under Section 34(3) of the A&C Act, such a petition becomes barred by limitation. It is well settled and no longer *res integra* that Section 34(3) prescribes a period of three months, extendable by a further period of thirty days upon sufficient cause being shown, beyond which the Courts have no jurisdiction to entertain the challenge.

30. In the present case, though the Section 34 petition was instituted on 14.12.2021, the said filing fell within the period during which limitation stood extended by virtue of the *suo motu* orders passed by the Hon’ble Supreme Court in ***In Re: Cognizance for Extension of Limitation***⁹, *vide* its order dated 10.01.2022. In terms of the said directions, where the period of limitation commenced between 15.03.2020 and 28.02.2022, the limitation was to recommence from 01.03.2022.

31. Even after granting the Appellant the full benefit of the aforesaid extension, it remains undisputed that the Arbitral Award was

⁹ Suo Motu Writ Petition (Civil) No. 3/2020



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filed only on 07.09.2022, which is more than six months from the recommencement of the limitation period on 01.03.2022. This delay is *ex facie* in complete contravention of the outer limit prescribed under Section 34(3) of the A&C Act, even after accounting for the condonable period of thirty days.

32. Adverting now to the argument of the Appellant that, at the relevant time, the Section 34 objection petition was filed physically by being placed in a filing box and that, in the process, the arbitral award became 'detached' from the main petition. In our considered view, this submission is a mere afterthought, ingeniously crafted by the Appellant, and is wholly inconsistent with the tone and tenor of the order dated 06.09.2022. No such plea appears to have been raised at the relevant stage, and we are clearly of the opinion that it would be impermissible, at this juncture, to allow the Appellant to introduce such a contention for the first time in proceedings under Section 37 of the A&C Act.

33. In view of the foregoing discussion, it is manifest that the Arbitral Award was brought on record far beyond the statutorily prescribed and permissible period. As a consequence, the initial filing of the petition under Section 34 of the A&C Act, being a *non-est* filing in the eyes of the law, did not have the effect of suspending the running of limitation. The period of limitation, therefore, continued to run uninterrupted and ultimately expired in accordance with the law.

34. The inevitable and unavoidable consequence, therefore, is that the challenge mounted by the Appellant under Section 34 of the Act is *ex facie* barred by limitation and thereby not maintainable.



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**DECISION:**

35. In view of the foregoing discussion and the settled legal position, we find ourselves in agreement with the conclusion reached by the learned Commercial Court on the issue of maintainability of the petition under Section 34 of the A&C Act. We find no infirmity, illegality, or perversity in the reasoning or conclusion recorded in the Impugned Judgment, warranting interference by this Court. Accordingly, the Impugned Judgment is upheld and the present appeal stands dismissed.

36. With regard to the costs imposed on the Appellant by the learned Commercial Court, we find no justification to interfere with the said direction, as it neither suffers from any legal infirmity nor warrants appellate intervention.

37. The present Appeal, along with pending application(s), if any, is disposed of in the above terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
DECEMBER 24, 2025/sm/dj