
High Court Appointing Arbitrator Under Section 11(6) Is Not A "Court" Under Section 42; Jurisdiction For Section 34 Challenges Lies With The Principal Civil Court: Himachal Pradesh High Court

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Introduction

The Himachal Pradesh High Court in *Chief General Manager, H.P. Telecom Circle v. Kashmir Singh* [2025:HHC:305] addressed a important jurisdictional issue concerning the appropriate Court for filing objections under Section 34 of the Arbitration and Conciliation Act, 1996 ("A&C Act").

The dispute revolved around whether the objections to an arbitral award should be filed before the High Court, which appointed the arbitrator, or before the Principal Civil Court of original jurisdiction. The decision clarifies the interplay between Sections 2(1)(e), 11, and 42 of the A&C Act, shedding light on how Courts interpret the statutory framework governing arbitral proceedings. In this article, we navigate through the facts of the case and the findings rendered by the Himachal Pradesh High Court.

Brief Facts

The dispute arose between Kashmir Singh, a government contractor, and the Telecom Department regarding two works awarded to him in Mandi, Himachal Pradesh. Dissatisfied with certain claims, Kashmir Singh moved two applications under Section 11(6) of the A&C Act before the Himachal Pradesh High Court, seeking the appointment of an arbitrator. The High Court appointed an arbitrator, who subsequently issued two awards on 11 November 2022, directing the Telecom Department to pay amounts of Rs. 4,40,521 and Rs. 2,26,554 with interest at 6% per annum.

The Telecom Department challenged the arbitral awards under Section 34 of the A&C Act before the District Judge, Mandi. Meanwhile, Kashmir Singh also filed objections under Section 34, challenging certain aspects of the awards. The District Judge, after reviewing Sections 2(1)(e), 11, and 42 of the A&C Act, held that since the arbitrator was appointed by the Himachal Pradesh High Court, all subsequent applications, including challenges under Section 34, should be filed before the High Court. Consequently, the District Judge returned the objections, directing the parties to approach the High Court.

Both parties subsequently filed their respective Section 34 objections before the High Court, leading to the present dispute over the correct jurisdiction for hearing these objections.

Arguments from Both Sides

The petitioners (Telecom Department) argued that the District Judge had the proper jurisdiction to entertain the Section 34 objections, as per the definition of "Court" under Section 2(1)(e) of the A&C Act. They relied on *Garhwal Mandal Vikas*

Nigam Ltd. v. Krishna Travel Agency, (2008) 6 SCC 741, where the Supreme Court held that once an arbitrator is appointed, the appropriate forum for filing objections under Section 34 is the Principal Civil Court of original jurisdiction. The petitioners contended that merely because the High Court appointed the arbitrator under Section 11(6), it did not mean that the High Court had jurisdiction to entertain objections against the award.

On the other hand, Kashmir Singh, the respondent, supported the District Judge's ruling and contended that since the Himachal Pradesh High Court appointed the arbitrator, it had exclusive jurisdiction to hear all subsequent applications under Section 42 of the A&C Act. He relied on ***State of Maharashtra v. Atlanta Ltd.***, (2014) 11 SCC 619, wherein the Supreme Court ruled that if the High Court exercises ordinary original civil jurisdiction over a district, it takes precedence over the Principal Civil Court of original jurisdiction. He further submitted that since the entire arbitration was conducted under the jurisdiction of the High Court, including the appointment of the arbitrator, the objections should be filed there.

Findings of the High Court

The High Court examined the legal provisions and precedents to determine the appropriate forum for filing objections under Section 34. It considered the implications of Section 42 of the A&C Act, which states that where an application under Part I has been made in a "Court", that Court alone shall have jurisdiction over subsequent applications arising from the arbitration agreement.

The High Court noted that while the Himachal Pradesh High Court did appoint the arbitrator under Section 11(6), the arbitrator was not appointed in the exercise of the High Court's original civil jurisdiction but rather as a designated authority under the A&C Act. It relied on ***Garhwal Mandal Vikas Nigam Ltd. and State of Goa v. Western Builders***, (2006) 6 SCC 239, where the Supreme Court held that even if an arbitrator is appointed by the High Court, the Principal Civil Court of original jurisdiction remains the appropriate forum for Section 34 proceedings.

The High Court also referred to ***State of West Bengal v. Associated Contractors***, (2015) 1 SCC 32, which clarified that Section 42 applies only when the first application under Part I is made to a "Court" as defined under Section 2(1)(e). Since applications under Section 11(6) are made to the Chief Justice or their designate, and not to a "Court" under Section 2(1)(e), they do not attract the exclusive jurisdiction mandate of Section 42.

Additionally, the High Court observed that its pecuniary jurisdiction only extends to disputes exceeding Rs. 1 crore, whereas the amounts in controversy in the present case totalled approximately Rs. 11 lakhs. As such, even if jurisdiction were to be considered under the High Court's original civil jurisdiction, the present claims would not fall within its pecuniary threshold. The Court thus held that the appropriate forum for filing objections under Section 34 was the District Judge, Mandi.

Accordingly, the High Court set aside the District Judge's order and directed the objections to be presented before the Principal Civil Court of original jurisdiction.

Comment

This judgment is an important reaffirmation of the statutory framework governing arbitration proceedings in India. The ruling clarifies that merely because an arbitrator is appointed by the High Court under Section 11(6), it does not mean that all subsequent applications must also be filed before the High Court. By relying on established Supreme Court precedents, the High Court has reinforced that jurisdiction under Section 34 is determined based on the definition of "*Court*" in Section 2(1)(e), which means the Principal Civil Court of original jurisdiction.

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