

Balancing the Scales: Writ Jurisdiction and Arbitration in India

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Introduction

In India, addressing the maintainability of writ petitions in matters amenable to arbitration poses a delicate legal challenge. It requires a careful balancing act between the extraordinary powers granted to High Courts under Articles 226 and 227 of the Constitution and the overarching purpose of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**").

The Arbitration Act, particularly Section 5, aims to limit judicial interference in arbitration proceedings, allowing intervention only in specific circumstances explicitly provided for under the Arbitration Act. Yet, Courts have often been faced with situations where invoking their writ powers became essential to uphold justice. Over time, key judgments have shaped the boundaries of this judicial intervention, establishing two core principles: (i) the writ jurisdiction of High Courts is not ousted by Section 5 of the Arbitration Act, and (ii) such powers must be exercised sparingly, reserved for exceptional situations like clear jurisdictional errors, bad faith, or breaches of natural justice.

This issue takes on added significance as arbitration solidifies its role as a preferred method for resolving disputes in India. While arbitral tribunals are granted considerable independence to decide disputes, judicial oversight sometimes becomes necessary to address abuses of the process or avert injustices. Recent decisions by the Supreme Court have further refined this balance, reiterating that writ petitions should only be entertained in rare cases, consistent with the Arbitration Act's intent to promote efficient and independent dispute resolution.

This article delves into how the judiciary continues to navigate this fine line, ensuring that constitutional safeguards coexist with the autonomy of arbitral tribunals, thereby upholding fairness, efficiency, and the rights of the parties involved.

The Constitutional Foundation: Articles 226 and 227

Articles 226 and 227 of the Constitution grant High Courts wide-ranging powers to ensure the administration of justice. Article 226 allows High Courts to issue writs for the enforcement of fundamental rights and "*for any other purpose*" providing a powerful tool to redress grievances. Article 227, on the other hand, confers supervisory jurisdiction over subordinate Courts and Tribunals, enabling the High Courts to correct jurisdictional errors, ensure procedural fairness, and prevent abuse of power. In the context of arbitration, these provisions act as a safeguard against gross violations of natural justice or jurisdictional overreach. However, the exercise of these powers is tempered by judicial restraint and the recognition that arbitral autonomy is a cornerstone of the Arbitration Act.

The Legislative Framework under the Arbitration Act

The Arbitration Act reflects a strong policy preference for minimal judicial interference. Section 5 of the Act is unequivocal in stating that notwithstanding anything contained in any other law, in matters governed by Part I of the Arbitration Act, no judicial authority shall

intervene except where so provided. This provision highlights the self-contained nature of the Arbitration Act and its alignment with the UNCITRAL Model Law.

Key provisions under the Arbitration Act, such as Sections 34 and 37, delineate the limited grounds for judicial intervention. Section 34 permits the setting aside of an arbitral award on narrowly defined grounds, such as incapacity of parties, procedural irregularities, or violations of public policy. Section 37 provides a restrictive appellate framework, further emphasising the finality of arbitral awards. In ***Fuerst Day Lawson Ltd. v. Jindal Exports Ltd.*** [(2011) 8 SCC 333], the Supreme Court characterised the Arbitration Act as a "*self-contained code*", highlighting its comprehensive nature and the legislative intent to limit judicial oversight. This principle is central to understanding how courts approach writ petitions in arbitration matters.

The Judicial Tightrope: Case Law Analysis

In ***Bhaven Construction v. Executive Engineer, Sardar Sarovar Narmada Nigam Ltd.*** [2021 SCC Online SC 8], the Supreme Court set a high threshold for invoking writ jurisdiction in arbitration matters. The Court held that writ powers under Articles 226 and 227 should be exercised only in "*exceptional rarity*" such as cases involving bad faith, manifest jurisdictional errors, or denial of natural justice. This judgment reinforced the principle that arbitral autonomy should not be undermined by routine judicial intervention. Similarly, in ***Deep Industries Ltd. v. ONGC*** [(2020) 15 SCC 706], the Court addressed the question of whether orders under Section 16 of the Arbitration Act could be challenged through writ petitions. The Court emphasised that such challenges must await the final arbitral award and be addressed under Section 34, thereby discouraging piecemeal litigation.

The question of constitutional supremacy versus statutory barriers also plays a critical role in this discussion. In ***C.P. Rama Rao v. NHAI*** [2024:DHC:8131 DB], the Delhi High Court examined whether the bar on revisions under Section 8 of the Commercial Courts Act, 2015, limits the writ powers of the High Court. The Court unequivocally held that constitutional provisions cannot be overridden by statutory enactments, reaffirming the primacy of Articles 226 and 227.

The issue was revisited in ***Unitech Ltd. v. Telangana State Industrial Infrastructure Corporation*** [(2021) 16 SCC 35], where the Supreme Court reaffirmed the principles laid down in ***ABL International Ltd. v. Export Credit Guarantee Corporation of India*** [(2004) 3 SCC 553]. The Court confirmed that writ petitions under Articles 226 or 227 of the Constitution can, in certain cases, be used to enforce contractual rights against the state or its instrumentalities.

In ***Surendra Kumar Singhal v. Arun Kumar Bhalotia*** [2021 SCC OnLine Del 3708], the Delhi High Court examined various Supreme Court rulings and clarified the scope of judicial intervention in arbitration through Articles 226 and 227. The Court held that arbitral tribunal orders could be challenged through writ petitions, but only in rare and exceptional cases. Judicial intervention would be justified only if the Arbitral Tribunal's decision was patently flawed or if it acted outside its jurisdiction. The High Court also clarified that Section 5 of the Arbitration Act does not curtail the constitutional powers of writ courts under Article 227. However, it stressed that the integrity of the arbitration process must be upheld, ensuring that such interventions do not undermine the efficiency and autonomy of arbitration.

Key Principles Emerging from Jurisprudence

Judicial restraint has emerged as a central theme in arbitration-related writ jurisdiction. Courts have consistently recognised that excessive judicial interference undermines the efficiency and finality of arbitration. The legislative framework of the Arbitration Act prioritises the finality of arbitral awards, with limited avenues for challenge. Writ jurisdiction has been confined to exceptional cases involving jurisdictional errors, denial of natural justice, or manifest injustice. Routine challenges are expected to be addressed within the statutory framework of the Arbitration Act.

While the Arbitration Act seeks to minimise judicial interference, the constitutional powers of the High Courts serve as a vital safeguard against procedural or jurisdictional failures. This duality ensures that arbitration remains both autonomous and fair.

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