CPC Provisions Do Not Strictly Apply To Arbitration, And Writ Jurisdiction Cannot Be Invoked Ordinarily To Challenge Interim Arbitral Orders: Jharkhand High Court

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Introduction

The Jharkhand High Court, in ***Rites Ltd. & Damodar Valley Corporation v. M/s Supreme BKB DECO JV***, addressed an important issue concerning the permissible limits of judicial intervention in arbitration proceedings. The primary question before the Court was whether an interim order passed by an arbitral tribunal allowing an amendment petition could be challenged through a writ petition under Articles 226 and 227 of the Constitution of India. The petitioners sought the quashing of the order of the sole arbitrator, arguing that the amendment was unjustified and that the arbitrator had failed to consider their objections properly.

The High Court, however, ruled against judicial interference at the interim stage, reaffirming the principle that arbitration is a self-contained mechanism with minimal court intervention. It held that unless exceptional circumstances exist, Courts should refrain from interfering with arbitral orders before the final award. In this article, we navigate through the facts of the case and the findings of the High Court.

Facts

The dispute originated from a contract dated March 23, 2015, related to a tender floated by Damodar Valley Corporation ("**DVC**") for the construction of a bridge over the Konar River and a railway overbridge on the Gomoh–Barkakana railway line at BTPS. The claimants, Supreme BKB DECO JV, initiated arbitration against Rites Ltd. and DVC, alleging fundamental breaches of the contract and seeking damages, escalation costs, and interest on outstanding payments.

The arbitral tribunal commenced proceedings on November 6, 2022, with the term of arbitration set to expire on February 17, 2025. During the proceedings, the claimant filed an amendment petition under Section 23(3) of the Act and Order VI Rule 17 of the Code of Civil Procedure, 1908 (*CPC*), seeking to introduce additional claims and evidence. The arbitrator allowed the amendment on October 6, 2024.

Aggrieved by this order, the respondents (petitioners in the writ petition) approached the Jharkhand High Court, arguing that the amendment was impermissible as the documents relied upon by the claimant were available earlier, and no sufficient reason was given for their late submission. They further contended that the arbitrator failed to consider their objections regarding due diligence.

Arguments of the Petitioners

The petitioners argued that the amendment petition should not have been allowed as the claimant failed to demonstrate that the new evidence was not available earlier. Under

Order VI Rule 17 of CPC, amendments should not be permitted unless the party can prove that, despite due diligence, they could not raise the issue before the commencement of the trial.

The petitioners also relied upon Section 23(3) of the Arbitration and Conciliation Act, 1996 ("**the Act**"), which states that amendments to pleadings can only be allowed if both parties agree. Since the petitioners had objected to the amendment, the arbitrator had no jurisdiction to allow it unilaterally.

The petitioners argued that they were left remediless since the arbitration proceedings were in their final stages, and the amendment would substantially alter the nature of the dispute. Relying on ***Serosoft Solutions Pvt. Ltd. v. Dexter Capital Advisors Pvt. Ltd.*** [(2022) 1 SCC 75], they contended that the High Court should intervene in exceptional cases where judicial interference is necessary to prevent injustice.

Arguments of the Respondents

The respondents raised a preliminary objection to the maintainability of the writ petition. The respondents argued that under Section 5 of the Act, Courts cannot intervene in arbitral proceedings except where expressly provided. The Act is a self-contained code that discourages judicial interference, as emphasised in ***SBP & Co. v. Patel Engineering Ltd.*** [(2005) 8 SCC 618].

The respondents argued that the petitioners were not without remedy, as they could challenge the final arbitral award under Section 34. Since the amendment was part of the ongoing arbitration, the petitioners had to wait until the award was delivered. The respondents submitted that the amendment was necessitated by the Supreme Court's ruling in ***Batliboi Environmental Engineers Ltd. v. Hindustan Petroleum Corporation Ltd.*** [(2024) 2 SCC 379]. The case established key principles regarding price escalation and contract variations, making it essential for the claimant to update its pleadings in light of the new legal framework.

The respondents cited ***Life Insurance Corporation Ltd. v. Sanjeev Builders Pvt. Ltd.*** [(2022) SCC Online SC 1128], which held that amendments should be granted liberally in arbitration, as arbitral tribunals are not bound by the strict procedural requirements of CPC.

Court's Analysis and Decision

The Jharkhand High Court ruled in favour of the respondents, dismissing the writ petition on the grounds that judicial interference in arbitration should be exercised only in the rarest of circumstances. The High Court reiterated the principle set in ***Serosoft Solutions Pvt. Ltd.***, which states that the High Court's power under Articles 226 and 227 should only be invoked in cases of "*exceptional rarity*". While the power exists, it must be exercised sparingly. The present case did not meet the threshold for extraordinary interference.

The High Court found merit in the respondent's argument that the amendment was necessitated due to the Supreme Court's decision in ***Batliboi Environmental Engineers***

Ltd., which clarified the legal position on price escalation and contract variations. This justified the claimant's request to bring additional material on record.

The High Court emphasised that arbitration is a flexible dispute resolution process not bound by strict CPC rules. Even if Order VI Rule 17 restricts amendments in civil suits, arbitration proceedings allow modifications to ensure that all material facts are considered.

The High Court pointed out that the petitioners could challenge the final arbitral award under Section 34, where they could raise their grievances regarding the amendment. Since this alternative remedy was available, the High Court saw no reason to intervene at an interim stage.

Comment

The decision aligns with India's pro-arbitration approach, which seeks to minimise judicial intervention in arbitral proceedings. The ruling reinforces the well-established principle that Courts should not entertain challenges against interim arbitral orders unless exceptional circumstances exist.

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