

Supreme Court Reiterates Limited Scope of Judicial Interference at the Referral Stage in Section 11 Arbitration Proceedings

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INTRODUCTION

The evolving jurisprudence of arbitration in India consistently grapples with the delicate interplay between judicial intervention and arbitral autonomy. The Supreme Court of India, in its judgment in *Aslam Ismail Khan Deshmukh v. ASAP Fluids Pvt. Ltd.*¹ revisited these questions. At the heart of the case lay the nuanced issue of how far Courts may delve into arbitrability-related concerns, including limitation, while deciding a reference under Section 11 of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**"). The decision serves as an important milestone, particularly for its reaffirmation that substantive questions of arbitrability must ordinarily be reserved for arbitral tribunals. It also provides clarity on the Court's limited role at the referral stage, balancing the legislative intent behind arbitration with procedural safeguards.

THE DISPUTE

The petitioner, a Non-Resident Indian (NRI), entered into a Shareholders Agreement ("**Agreement**") in 2011 with the respondents, who operated in the drilling fluids industry. This Agreement entitled the petitioner to 4,00,000 equity shares in the respondent company, alongside a commitment to transfer an additional 2,00,010 shares held in trust. Central to the dispute was a "*lock-in*" clause requiring the petitioner to remain employed for three years to retain his shareholder rights.

The petitioner's resignation in 2013 triggered a series of disputes. Despite repeated demands for share certificates, the petitioner claimed that the respondents failed to deliver either the shares or their monetary equivalent. After an arbitration notice issued in January 2017 failed to elicit resolution, the petitioner approached the Supreme Court seeking the appointment of an arbitrator under Section 11(6) of the Arbitration Act.

The respondents countered that the petitioner's claims were barred by limitation and did not fall within the scope of the arbitration clause due to his contractual breach.

KEY QUESTIONS BEFORE THE COURT

The judgment revolved around two central questions:

1. Could the Court, at the referral stage under Section 11 of the Arbitration Act, entertain substantive questions such as limitation and arbitrability?
2. Were the petitioner's claims time-barred or otherwise non-arbitrable under the shareholders agreement?

¹ 2024 INSC 849.

JUDICIAL FINDINGS AND REASONING

Scope of Review under Section 11

The Supreme Court emphasised that under Section 11, the judiciary's role is largely confined to determining whether an arbitration agreement exists and whether the reference request is made within the prescribed limitation period. Detailed inquiries into the merits of the dispute or even whether claims are ex-facie time-barred are ordinarily left to the arbitral tribunal.

Citing the decision in *Vidya Drolia v. Durga Trading Corporation*², the Supreme Court reaffirmed that judicial intervention should only occur in exceptional cases where a claim is manifestly non-arbitrable or devoid of merit. This principle safeguards the integrity of arbitration as an autonomous process while ensuring that Courts do not usurp the arbitrator's role.

Limitation in Arbitration

While limitation concerns in arbitration proceedings are governed by the Limitation Act, 1963, the Supreme Court noted that the three-year period for invoking arbitration under Section 11 begins only after the issuance of an arbitration notice and subsequent failure to act on it. In this case, the arbitration notice was issued in 2017, and the Section 11 petition was filed in 2019, *i.e.*, well within the statutory limitation period. Even otherwise, the Supreme Court clarified that questions regarding substantive limitation must be decided by the arbitrator.

Acknowledging the possibility of frivolous or stale claims being brought to arbitration, the Supreme Court proposed a practical deterrent: if the arbitral tribunal ultimately finds the petitioner's claims to be barred by limitation or lacking in merit, the costs of the arbitration could be imposed entirely on the petitioner.

DECISION AND DIRECTIONS

The Supreme Court appointed a sole arbitrator to resolve the disputes. It left the substantive issues of limitation and breach of contract to the tribunal, highlighting that these were questions squarely within its jurisdiction.

The judgment reiterated that courts should not conduct evidentiary reviews or resolve substantive disputes at the referral stage unless claims are demonstrably frivolous or abusive. By drawing a clear boundary around judicial intervention, the Apex Court sought to preserve the sanctity of arbitration.

IMPLICATIONS FOR ARBITRATION LAW

This ruling is a timely reaffirmation of arbitration as a party-driven process. By restricting the scope of judicial review at the Section 11 stage, the Supreme Court ensured that arbitration remains the primary forum for resolving substantive disputes.

² (2021) 2 SCC 1.

The judgment underscores the principle of limited judicial oversight in arbitration. Courts, particularly at the referral stage under Section 11, are required to avoid delving into substantive issues such as limitation and arbitrability unless the claims are demonstrably non-arbitrable. This approach aligns with the broader legislative intent to minimise judicial interference and allow arbitration to function as an autonomous process.

By emphasising that contentious issues should be delegated to arbitrators, the Supreme Court reinforced the principle of party autonomy. This ensures that arbitration remains an efficient mechanism for dispute resolution, free from procedural delays that can arise from unnecessary judicial scrutiny. Such efficiency is critical for maintaining confidence in arbitration as an alternative to conventional litigation.

In addition, the potential imposition of cost sanctions serves as an effective deterrent against the misuse of arbitration. By introducing this accountability mechanism, the Apex Court ensures that parties approach arbitration with genuine intent and not as a strategic tool to delay proceedings or harass the opposing party. This measure helps safeguard the arbitration process's integrity while discouraging frivolous claims.

CONCLUSION

The judgment is a noteworthy addition to India's arbitration jurisprudence. It highlights the judiciary's evolving role in promoting arbitration as a robust dispute resolution mechanism while safeguarding against potential misuse. The decision strikes a careful balance, preserving arbitration's autonomy while ensuring procedural discipline.

This case serves as a reminder that while Courts remain gatekeepers, the onus lies with arbitrators to decide disputes in accordance with the law and the parties' intentions. The judiciary's message is clear: arbitration should be a path to resolution, not a battleground for procedural roadblocks.

CONTACT

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