

## **Writ Petition Seeking Mandamus For Time-Bound Disposal Of Statutory Arbitration Not Maintainable: Allahabad High Court**

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### **Introduction**

In *Suryadev Pathak v. Union of India* [Writ-C No. 28215 of 2025, decided on 28.11.2025], the Allahabad High Court dismissed a batch of eight writ petitions seeking a writ of mandamus directing arbitrators appointed under Section 3G(5) of the National Highways Act, 1956 ("**the Act, 1956**") to conclude the arbitral proceedings within a time-bound period. The Division Bench held that such writ petitions are not maintainable, whether or not the statutory period prescribed under Section 29A of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") has expired, since the Arbitration Act designates the competent civil Court as the forum for relief in relation to delay in the arbitral proceedings, extension of mandate, or substitution of the arbitrator.

The judgment clarifies the interplay between the statutory arbitration mechanism under the Act, 1956 and the timeline provisions under Section 29A of the Arbitration Act, and reaffirms the principle that the extraordinary writ jurisdiction of a High Court, which does not exercise ordinary original civil jurisdiction cannot be invoked to bypass the remedies designated by the legislature under the Arbitration Act.

### **Brief Facts**

The petitioners in the batch of writ petitions were landowners whose lands had been acquired under the Act, 1956 for the widening and expansion of national highways. Being dissatisfied with the quantum of compensation determined by the competent authority, the petitioners filed claim petitions under Section 3G(5) of the Act, 1956 before the respective arbitrators. In the leading case, the petitioner's land was acquired under the Bharat Mala Scheme for the widening of a national highway. The petitioner filed his claim petition on 17 May 2023. Despite the lapse of over two years, the claim remained undecided. Aggrieved by the delay, the petitioner invoked the jurisdiction of the High Court under Article 226 of the Constitution, seeking a direction to the arbitrator to decide the matter expeditiously.

Upon examination, the High Court found that in four out of the eight writ petitions, including the leading case, the statutory period of eighteen months prescribed under Section 29A of the Arbitration Act had already expired. In the remaining four cases, the statutory period had not yet lapsed.

## Issues and Submissions

The principal question before the High Court was whether a writ of mandamus could be issued under Article 226 directing an arbitrator appointed under Section 3G(5) to conclude proceedings within a time-bound period, particularly when Section 29A provides a self-contained mechanism for seeking extension of time before the competent civil Court as defined under Section 2(1)(e)(i) of the Arbitration Act.

The petitioners submitted that the unexplained delay of over two years was arbitrary and violative of Articles 14 and 21 of the Constitution. It was argued that speedy justice is an integral component of the right to life and that the prolonged inaction had caused serious financial hardship to landowners deprived of both land and compensation.

The State respondents opposed the petitions, submitting that Section 3G(6) of the Act, 1956 makes the Arbitration Act applicable to all arbitrations conducted under the Act, 1956, and any grievance relating to delay must be addressed exclusively under Section 29A. It was further submitted that the definition of "Court" under Section 2(1)(e)(i) is exhaustive and restricts jurisdiction to the Principal Civil Court of original jurisdiction, and that since the Allahabad High Court does not exercise ordinary original civil jurisdiction, it cannot entertain applications under Section 29A or issue mandamus in its stead.

The respondent NHAJ submitted that the arbitration under Section 3G(5) is statutory in nature and the Act, 1956 constitutes a self-contained code. Reliance was placed on **NHAJ v. Sayedabad Tea Co.** [(2020) 15 SCC 161] to contend that while a writ petition may be maintainable to ensure discharge of statutory obligations, it cannot be used to bypass the statutory mechanism or usurp the jurisdiction of the designated forum.

## Findings of the High Court

The High Court dismissed all eight writ petitions, holding that they were not maintainable on the ground of availability of an alternative statutory remedy and on the ground that the High Court lacked jurisdiction to extend or restore the mandate of the arbitrator.

On the jurisdictional aspect, the High Court held that Section 29A specifically designates the "Court" as defined in Section 2(1)(e)(i) as the competent authority to entertain applications for extension of the arbitrator's mandate. Since the Allahabad High Court does not exercise ordinary original civil jurisdiction, it does not fall within this definition. Reliance was placed on **M/s Pandey & Co. Builders Pvt. Ltd. v. State of Bihar** [(2007) 1 SCC 467], **State of West Bengal v. Associated Contractors** [(2015) 1 SCC 32], and the three-Judge

Bench decision in ***Chief Engineer (NH) PWD (Roads) v. M/s BSC & C&C JV*** [2024 (2) Law Herald (SC) 1772].

As regards the four cases where the statutory period had expired, the High Court held that the mandate of the arbitrators stood exhausted under Section 29A(4), rendering them functus officio. Issuing mandamus to such arbitrators would amount to extending their mandate through the backdoor, contrary to the express provisions of the statute.

In respect of the four cases where the statutory period had not yet expired, the High Court held that even in such cases the appropriate forum is the competent civil Court, and clarified the position notwithstanding the earlier decisions in ***Jai Bahadur Singh v. State of U.P.*** (Writ-C No. 41221 of 2018) and ***Kotak Mahindra Bank Ltd. v. District Judge, Lucknow***. The High Court reasoned that Section 29A provides a complete machinery for addressing grievances relating to delay, and entertaining writ petitions in such matters would amount to usurping the jurisdiction conferred upon the civil Court. It was further observed that permitting such petitions would lead to forum shopping, burdening the High Court with matters the legislature intended to be dealt with by the civil Courts.

On merits, the High Court found that the petitioners had not demonstrated any *mala fides* or gross abuse of power. The Court clarified that the dismissal would not preclude the petitioners from approaching the competent civil Court under Section 29A(4) for appropriate orders including extension of the mandate or substitution of the arbitrator.

### Comment

The judgment in ***Suryadev Pathak*** provides a structured restatement of the jurisdictional boundaries between writ Courts and statutory forums under the Arbitration Act in the context of statutory arbitrations under the National Highways Act. By holding that writ petitions seeking mandamus for time-bound disposal are not maintainable irrespective of whether the statutory period has expired, the Division Bench has clarified the proper forum position in the light of the earlier decisions in ***Kotak Mahindra Bank Ltd.*** and ***Jai Bahadur Singh***.

The reasoning rests on two well-established principles: the exhaustive nature of the definition of "Court" under Section 2(1)(e)(i), which does not extend to High Courts lacking ordinary original civil jurisdiction, and the settled principle that writ jurisdiction is not to be exercised when an adequate statutory remedy exists. By applying both in conjunction, the High Court has reinforced the legislative design behind Section 29A.

The decision is particularly significant for land acquisition disputes under the Act, 1956, where statutory arbitrations before the District Magistrate are frequently subject to prolonged delays. By directing affected parties to seek recourse before

the competent civil Court, the High Court has channelled such grievances into the forum best equipped to examine the factual aspects of delay and pass considered orders on extension or substitution. For practitioners advising landowners in national highway acquisition matters, the judgment serves as a clear reminder that the remedy under Section 29A(4) must be pursued before the designated civil Court, and that constitutional remedies cannot ordinarily substitute for the statutory scheme.

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