2026:DHC:5562

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ O.M.P. (COMM) 529/2024, I.A. 47511/2024 & I.A. 47514/2024

CHIEF ENGINEER EMPLOYEES STATE INSURANCE CORPORATION .....Petitioner

Through: Mr. Siddharth, Standing Counsel along with Ms. Himanshi Girdhar and Mr. Deepanshu Grover, Advs.

versus

ENARCH CONSULTANTS PVT LTD .....Respondent

Through: Mr. Sonal Kumar Singh, Mr. Ratik Sharma, Ms. Muskan Agarwal, Mr. Parth Sindhwani, Mr. Yashvardhan Singh & Ms. Dimple Kathuria, Advs.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% **07.07.2026**

I.A-47512/ 2024

1. Every objection predicated on limitation, in one sense, raises a question anterior to the merits. However, at this stage, the Court is not called upon to examine whether the challenge is well-founded or not, but whether it is one which the statute permits within the permissible period of limitation.

2. The present petition has been preferred under Section 34 of the Arbitration and Conciliation Act, 1996[1], assailing the Arbitral Award dated 19.08.2023 rendered by the learned Sole Arbitrator.

3. Along with the present petition, the Petitioner has filed I.A. No.47512/2024 seeking condonation of delay of 22 days in filing the petition under Section 34 of the Act.

4. The said application is vehemently opposed by the Respondent.

5. Learned Counsel for the Respondent Mr. Sonal Kumar Singh submits that the petition is not merely delayed but is barred by the mandate of Section 34(3) of the Act itself. It is contended that the limitation commenced on 21.08.2023 when the learned Sole Arbitrator transmitted a scanned signed copy of the Arbitral Award by electronic mail[2] to the parties. The period prescribed under Section 34(3), including the additional period of thirty days contemplated under the proviso thereto, consequently expired much before the institution of the present proceedings. It is further urged that the initial filing before the Registry was itself *non-est* in law, being replete with foundational defects, and therefore incapable of arresting limitation.

6. Mr. Siddarth, learned Standing Counsel for the Petitioner disputes the aforesaid objections. He submits that the limitation could commence only upon receipt of the Arbitral Award in

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[1] "the Act" hereinafter
[2] "e-mail" hereinafter

terms of Section 31(5) of the Act, which, according to the Petitioner, occurred only on 03.01.2024.

7. This Court has heard the learned Counsel for the parties and has carefully perused the documents placed on record, the affidavit filed by the Petitioner pursuant to the directions of this Court and the short note filed on behalf of the Respondent.

8. The preliminary objection raised by the Respondent goes to the very maintainability of the present petition. Before examining the challenge to the Arbitral Award on merits, it is incumbent upon this Court to determine whether the petition itself has been instituted within the period prescribed under Section 34(3) of the Act. If the petition is found to be barred by limitation, the enquiry must necessarily end there, as the Court cannot assume jurisdiction contrary to the express legislative mandate.

9. The controversy in the present case essentially turns upon the interpretation and interplay of Sections 31(5) and 34(3) of the Act. For appreciating the rival submissions, it would be apposite to reproduce the relevant statutory provisions:

> ***"31. Form and contents of arbitral award.-***
> ***(5) After the arbitral award is made, a signed copy shall be delivered to each party.***
>
> ***34. Application for setting aside arbitral award-***
> ***3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request***

had been made under Section 33, from the date on which that request had been disposed of by the arbitral tribunal:
Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."

10. The scheme of the statute is clear. Section 31(5) stipulates the manner in which the Arbitral Award is to be delivered. Section 34(3), in turn, links the commencement of limitation to the receipt of the Arbitral Award. The two provisions are not independent of each other but constitute an integrated statutory scheme. The expression "had received the arbitral award" occurring in Section 34(3) necessarily refers to receipt in the manner contemplated under Section 31(5).

11. The limitation under Section 34(3) commences only upon delivery of the signed copy of the Arbitral Award in accordance with Section 31(5). The requirement of delivery is not an empty formality but a statutory safeguard intended to ensure certainty regarding the commencement of limitation.

12. Equally well settled, however, is the principle that once the statutory requirement of delivery stands satisfied, the commencement of limitation cannot be deferred by reference to the internal administrative functioning of a litigant. Section 34(3) does not postpone limitation until the award reaches the officer competent to sanction litigation, nor does it make limitation contingent upon movement of files within a department. The statute speaks only of receipt of the Arbitral Award in accordance with Section 31(5).

13. In the present case, the material on record unmistakably establishes that the learned Sole Arbitrator, by e-mail dated 21.08.2023, transmitted a scanned signed copy of the Arbitral Award simultaneously to the parties and their respective learned counsel, specifically recording that the communication was being issued in compliance with Section 31(5) of the Act. The authenticity of the said communication has not been disputed by the Petitioner. Nor has it been suggested that the document attached thereto was anything other than a scanned signed copy of the Arbitral Award.

14. The principal submission of the Petitioner is that notwithstanding the aforesaid communication, limitation could commence only upon receipt of the signed hard copy on 03.01.2024. This submission cannot be accepted.

15. Section 31(5) requires delivery of a signed copy of the Arbitral Award. It does not prescribe the mode through which such delivery must necessarily be effected. The provision does not mandate that delivery can only be by physical dispatch or by a certified hard copy. Once the learned Arbitrator himself transmitted a scanned signed copy of the Arbitral Award to the parties through the very mode adopted during the arbitral proceedings, and the authenticity of such communication remains unquestioned, the statutory requirement under Section 31(5) stood duly complied with.

16. As we move forward towards scrutinizing the contents of the affidavit filed pursuant to the directions of this Court, we find that the averments made therein does not in any manner advance the Petitioner's case. On the contrary, it records that the office of the Chief Engineer became aware of the Arbitral Award in 22.11.2023, and thereafter initiated internal administrative processes for obtaining approvals, engaging counsel and collecting the hard copy of the award. Even assuming the correctness of the chronology disclosed in the affidavit to be a gospel truth, it merely demonstrates the Petitioner's internal administrative movement after the award had already been validly delivered on 21.08.2023. According to this Court, such internal processes are wholly irrelevant for determining the commencement of limitation under Section 34(3).

17. The contention that Mr. Yatesh Kumar Sharma was not the competent authority to receive the Arbitral Award is equally untenable. Learned Counsel for the Respondent also submits that throughout the arbitral proceedings, communications issued by the learned Arbitral Tribunal were consistently exchanged through the very same e-mail address. Having accepted that mode of communication during the arbitral proceedings, the Petitioner cannot now be permitted to contend that delivery of the Arbitral Award through the same channel did not constitute valid delivery under Section 31(5). A litigant cannot approbate and reprobate in the same breath.

18. In the present case, there is no dispute that upon pronouncement of the award, the learned Sole Arbitrator, by an e-mail dated 21.08.2023, forwarded a scanned signed copy of the Arbitral Award to both the parties as well as to their learned Counsel. The said communication specifically recorded that the transmission was being effected in compliance with Section 31(5) of the Act.

19. It is also to be noted that the Petitioner is not denying the communication of the Arbitral Award to Mr. Yatesh Kumar Sharma nor has objected to receipt of the e-mail, which had the Arbitral Award as an attachment. The principal endeavour of the Petitioner is to contend that the communication dated 21.08.2023 cannot be treated as valid delivery under Section 31(5), as the same was addressed to Mr. Yatesh Kumar Sharma, who, according to the Petitioner, was not the competent authority authorised to take a decision regarding institution of proceedings under Section 34 of the Act.

20. This contention, in the considered opinion of this Court, deserves to be rejected.

21. It is also to be noted that the learned Arbitrator did not transmit the award to Mr. Yatesh Kumar Sharma alone. The communication was simultaneously addressed to the learned counsel representing the parties in the arbitral proceedings. The factum of receipt of the communication has never been disputed. Indeed, the subsequent conduct of the Petitioner itself indicates that it became aware of the award and initiated steps to challenge the same. The plea that the communication did not reach the "competent authority" within the Petitioner's internal administrative hierarchy cannot postpone the commencement of limitation envisaged under Section 34(3).

22. The inevitable conclusion, therefore, is that limitation under Section 34(3) commenced on 21.08.2023, when the scanned signed copy of the Arbitral Award was delivered by the learned Sole Arbitrator in compliance with Section 31(5) of the Act.

23. Once the commencement of limitation is determined, the consequences under Section 34(3) follow inexorably. The period of three months prescribed by the statute, together with the further period of thirty days contemplated by the proviso, constitutes the maximum period within which the Court is empowered to entertain a petition under Section 34. Beyond the said period, the jurisdiction of the Court itself stands exhausted.

24. In the present case, the Registry notings disclose that the present petition under Section 34 came to be instituted only on 25.04.2024. Thus, reckoned from 21.08.2023, the petition was instituted long after the expiry of not only the prescribed period of three months but also the further period of thirty days contemplated under the proviso to Section 34(3) of the Act. The statutory embargo engrafted in the expression "but not thereafter" therefore squarely operates against the Petitioner.

25. The legal position in this regard is no longer *res integra*. In ***Union of India v. Popular Construction Co*[3]*.,*** the Supreme Court held that the expression "but not thereafter" contained in the proviso to Section 34(3) amounts to an express exclusion of any power to condone delay beyond the additional period of thirty days. The principle has consistently been reaffirmed thereafter.

26. In ***My Preferred Transformation & Hospitality (P) Ltd. v. Faridabad Implements (P) Ltd*[4]**., the Supreme Court reaffirmed that the rigid language and statutory scheme of Section 34(3), read in the light of ***Popular Construction Co.*** *(supra)*, leaves no room for condonation of delay beyond the statutorily prescribed outer limit. The Court reiterated that the legislative intent underlying Section 34(3) is one of certainty and finality, and that the jurisdiction of the Court cannot be enlarged on equitable considerations.

27. The same principle has been consistently applied by this Court, holding that once the statutory outer limit prescribed under Section 34(3) stands crossed, the Court is rendered powerless to entertain the petition.

28. Tested on the aforesaid principles, the explanation furnished by the Petitioner regarding movement of files, internal approvals, correspondence between departments, engagement of Counsel and

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[3] **(2001) 8 SCC 470**
[4] **(2025) 6 SCC 481**

eventual collection of the hard copy cannot confer jurisdiction upon this Court where the statute expressly withholds it. Administrative delays within the organisation of a litigant cannot override an express legislative mandate.

29. Accordingly, this Court holds that the scanned signed copy of the Arbitral Award transmitted on 21.08.2023 constituted valid delivery under Section 31(5) of the Act; limitation under Section 34(3) commenced on that date; and the present petition, having been instituted beyond the maximum period prescribed under the statute, is barred by limitation.

30. Consequently, I.A. No.47512/ 2024 seeking condonation of delay is dismissed.

31. As a necessary consequence, the petition under Section 34 of the Act also stands dismissed as barred by limitation.

32. Since the application seeking condonation of delay in filing has been rejected and the petition under Section 34 has been held to be barred by limitation, no adjudication on the application seeking condonation of delay in re-filing is warranted. The said application is rendered infructuous and is disposed of accordingly.

33. Before parting, this Court wishes to record its resentment to the recent alarming trend of Government Organization, like the petitioner corporation and other authorities to assail Arbitral Award belatedly. In most of these cases, this Court finds that although the government might have had a good case on merits, but however due to administrative lackadaisical and specific recalcitrance attitude at the end of the handling officer, most of these government cases are lost on technical grounds of limitation.

34. Although, the law of limitation as applicable for a challenge to an Arbitral Award is well settled, this Court is unable to countenance as to why time and again the Government keeps delaying the filing of these proceedings, which obviously cannot be for any holy reasons. The Government, which is the largest litigant has to pull up its socks and put its own house in order, so as to take immediate corrective measure, in order to avert further financial losses. This Court also cannot be oblivious to the fact that immediate steps ought to be also taken against all erring officers, who may be responsible for such a delay.

35. In this regard, it is directed that the Secretary, Ministry of Law & Justice constitute a high-level committee to examine the short comings, including proposing departmental enquiries, so that these kind of delay in filing objections to Arbitral Award, if any, is curtailed to arrest further drain of public money.

36. The Registrar General of this Court is directed to send a copy of this judgment to the Secretary, Ministry of Law & Justice for its necessary compliance.

OM PRAKASH SHUKLA, J

JULY 7, 2026
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