Judicial Interference v. Legislative Intent in Arbitration Cases: A Critical Analysis

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Abstract: ***Arbitration, as a preferred method for resolving disputes outside of formal court proceedings, is often founded on the principle of party autonomy and efficiency. It is a settled principle that the role of the courts is very minimal when the parties have agreed to resolve their disputes by arbitration. However, this fundamental premise has been compromised as there is a conflict between the original legislative intent behind arbitration laws and the extent to which judicial bodies intervene in arbitration proceedings. This paper seeks to analyze various judicial pronouncements which have contravened the rudimentary principles of arbitration by undermining the legislative intent behind the Arbitration and Conciliation Act, 1996. This paper also highlights the significant factors which contribute to the conflict between the legislative intent and judicial interference in arbitration cases with regards to recent landmark judgements ranging from 2019 to 2023 such as the Perkins Judgement, Dyna Technologies Private Limited v. Crompton Greaves Limited, NTPC Ltd. v. SPML Infra Ltd, Larsen Air Conditioning & Refrigeration Co. v. Union of India, etc. The role of courts and their limited scope as laid down in the International Conventions on Arbitration such as the UNCITRAL Model Law and the New York Convention is also examined in this paper. This paper proposes to make a detailed overview of the key instances where the entire process of arbitration fails due to the intervention by the judiciary. This paper aims to strike a balance between the intervention of the courts in ensuring the due process of law and the principles of arbitration as enshrined by the legislature in the Arbitration and Conciliation Act,1996.***

Keywords: Arbitration, legislative intent, judicial interference, Arbitration and Conciliation Act, International Conventions

INTRODUCTION

Arbitration, a form of dispute resolution mechanism, continues to develop rapidly in India for its efficiency and effectiveness in resolving the disputes in a timely manner. The legislative framework surrounding arbitration is designed to provide parties with autonomy, flexibility, and finality in resolving their disputes. On the other hand, the judiciary's role is to ensure fairness, due process, and protection of public policy which has eventually led to the conflict between the original intent of the act and the interpretation by the judiciary. [1]Striking the right balance between these two aspects is critical to maintaining the integrity of both arbitration and the broader legal system. Section 5 of the Arbitration and the Conciliation Act, 1996 (hereinafter referred to as 'the act') expressly sets the limit of judicial intervention in arbitration cases by stating that the judiciary could intervene only in circumstances provided in part 1 of the act and this is in consonance with article 5 of the UNCITRAL Model Law. [2]The specific words used in section 5 has made it clear that the discretion to intervene is not granted to any judicial authority except when the act authorizes them to do so. However, in numerous instances, this provision has been contravened by the judiciary by misusing the powers granted under the act.[3] The intention of the legislature could also be interpreted through section 36 of the act which has limited the judicial intervention of the courts by stating that if the final award is not set aside by the courts, then it would be enforceable and binding on the parties involved.

[1] Anita Bharathi, *Curbed Application of Ouster Clause in Indian Legal Framework: The Unsettled Conflict Between Legislature and Judiciary*, 5 COMPARATIVE CONSTITUTIONAL LAW AND ADMINISTRATIVE LAW JOURNAL, 123–135 (2021)

[2] Michael Kerr, *Arbitration and the Courts: The UNCITRAL Model Law*, 34 THE INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, 1–24 (1985)

[3] Ajay Kr Sharma, *Judicial Intervention in International Commercial Arbitration: Critiquing the Indian Supreme Court's interpretation of the arbitration and conciliation act, 1996*, 3.1 INDIAN JOURNAL OF ARBITRATION LAW, 6–16 (2014)

Therefore, this paper explores the imperative for striking a balance between legislative intent and judicial intervention in arbitration cases by highlighting landmark judgements which reflected excessive judicial interference.

246TH LAW COMMISSION REPORT ON LIMITING JUDICIAL INTERVENTION

The objectives of the 246th Law Commission Report in limiting judicial intervention in arbitration were primarily aimed at streamlining and enhancing the arbitration process, reducing unnecessary delays, and promoting India as an arbitration-friendly jurisdiction. Firstly, the report aimed at minimizing judicial delays as it recognized that excessive judicial intervention could lead to lengthy and costly arbitration proceedings. It aimed to strike a balance between judicial oversight and party autonomy, ensuring that courts would only intervene in cases of necessity, such as setting aside an award in cases of fraud or public policy violations. Secondly, the report highlighted the principle of party autonomy by stressing on the importance of respecting the principle of party autonomy in arbitration. It aimed to limit judicial interference in the selection of arbitrators, arbitration procedures, and the interpretation of arbitration agreements, allowing parties to resolve their disputes efficiently and in accordance with their preferences. Thirdly, the report has also set clear legal standards for court intervention, especially in cases of setting aside arbitral awards. It sought to define and narrow the scope of public policy and fraud as grounds for challenging arbitration awards, reducing the potential for frivolous or excessive challenges. Fourthly, it aims at reducing interference in International Arbitration by ensuring that Indian courts only intervened in accordance with international best practices, thereby enhancing the country's reputation as an arbitration-friendly jurisdiction. This included aligning Indian arbitration laws with international standards, particularly the New York Convention. Lastly, the report enhances the enforcement of awards by streamlining the process of enforcing arbitral awards by limiting judicial intervention. It emphasized the importance of respecting the finality of arbitration awards, which is crucial for maintaining trust in the arbitration process.

IMPACT ON PARTY AUTONOMY

One of the most crucial elements of arbitration as a dispute resolution mechanism is its recognition of the principle of party autonomy which gives the freedom to the parties to execute the arbitration agreement in mutual consensus. This principle has been the guiding grundnorm of arbitration across all jurisdictions and is recognised in all the International Conventions pertaining to arbitration.[4] At every stage of the arbitration procedure as laid down in the Arbitration and Conciliation Act starting from the formation of the arbitration agreement, the parties have the discretion to decide on the procedure of arbitration, seat and venue of arbitration, appointment of arbitrators, jurisdiction of the courts, etc. [5] When courts intervene excessively, they may undermine the parties' ability to select arbitrators, determine arbitration procedures, or control the outcome. This intrusion can erode the trust and flexibility that parties value in arbitration, ultimately discouraging them from choosing this method of dispute resolution and defeating the original purpose of promoting party autonomy under arbitration laws.

PRE-REFERRAL STAGE OF ARBITRATION

The Supreme Court has completely misinterpreted the role of the judiciary in the pre-referral stage of arbitration in the case of *NTPC Ltd v. SPML Infra Ltd*[6] by holding that the pre-referral jurisdiction would require the courts to conduct a primary inquiry about the existence and validity of an arbitration agreement. This is referred to as the ‘accord and satisfaction approach’ which has been abolished by the 2015 Amendment to the Arbitration and Conciliation Act, 1996. As per the recommendations of the 256th Law Commission Report, the main objective of the Arbitration and Conciliation (Amendment Act), 2015

[4] Gary Born, *The Principle of Judicial Non-Interference in International Arbitral Proceedings,* 7 AMERICAN REVIEW OF INTERNATIONAL ARBITRATION, 159–172 (2004)

[5] Fagbemi, Sunday A., “The Doctrine of Party Autonomy in International Commercial Arbitration: Myth or Reality?”, (2015) 6 Journal of Sustainable Development Law and Policy (Issue 1)

[6] *NTPC Ltd. v. SPML Infra Ltd.,* 2023 SCC OnLine SC 389

was to limit the judicial intervention of the courts as to only the existence of the arbitration agreement and not delve deeper into the validity of the agreement which would come under the jurisdiction of the arbitral tribunal. However, in various judicial pronouncements, the courts have continued to still apply the 'accord and satisfaction approach' prior to the amendment in spite of the clear intention of the judiciary to limit the jurisdiction of the courts.[7] Even though section 11(6A) which was added by the 2015 amendment was later removed by the Arbitration and Conciliation (Amendment) act, 2019, the Supreme Court has clarified that section 11(6A) would still be applicable in spite of the amendment in the case of *Mayavti Trading Pvt. Ltd. v. Pradyuat Deb Burman.*[8]

The courts have again contravened its jurisdiction in the *NN Global Mercantile Private Limited v. Indo Unique Flame Ltd*[9] by deliberating upon the legitimacy and validity of the arbitration agreement and held that an unstamped arbitration agreement is invalid in the eyes of law. This judgment has been highly criticized as the validity of an arbitration agreement needs to be decided by the arbitral tribunal and the courts would only have jurisdiction to decide on the existence of the arbitration agreement. The 'Doctrine of Separability' which is foundational in deciding the validity of an arbitration agreement was also not considered in this case as the arbitration clause would remain on a separate footing and would not be made unenforceable even if the contract containing the arbitration clause is held to be void. [10] This also imposes an additional burden on the courts to consider the sufficiency of stamping at the pre-referral stage instead of merely deciding on the existence of an arbitration agreement. However, the recent 7-judge bench of the Supreme Court has reached a finality with regards to the issue of stamping of the documents containing the arbitration clauses by making it inadmissible as an evidence and not void.

CONTRAVENTION OF KOMPETENZ-KOMPETENZ

The doctrine of Kompetenz-Kompetenz recognizes the power and competence of the arbitral tribunal to rule on its own jurisdiction and with regards to all kinds of issues pertaining to its jurisdiction and specifically in deciding the existence and validity of an arbitration agreement. This doctrine is encapsulated under section 16 of the Arbitration and Conciliation Act which indicates its underlying objective of limiting judicial intervention by vesting more powers on the arbitral tribunal. However, there are few exceptions to this doctrine and the court may intervene under certain circumstances as mentioned in the act.[11] The courts have also upheld this principle in various judicial pronouncements like *Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. Northern Coal Field Ltd*[12] where the Supreme Court while deciding a matter with regards to section 16 of the act specifically held that only the arbitral tribunal would have the competence to decide on the limitation of the arbitration claim and that the courts have the jurisdiction to intervene only when there is any claim against the existence of the arbitration agreement. However, a restrictive interpretation of this principle has been given in the case of *SBP & Co. v. Patel Engineering Ltd.* where the court specifically held that Arbitral Tribunal would have the competence as per this principle only on matters which arise before it and the same has been upheld in various judicial pronouncements.

SECTION 34- AN ABSOLUTE MISCONCEPTION

The jurisdiction of the courts and its power to set aside an arbitral award under section 34 of the Arbitration and Conciliation act is limited to the grounds mentioned in the provision itself which indicates that the courts could not exercise its discretion in deciding the case if the appellant fails to prove the alleged

[7] Gautam Bhatia, *Section 11 of the Arbitration and Conciliation Act of 1996: The Jurisprudence of the Supreme Court and Implications for the Jurisdiction of an Arbitral Tribunal*, 21 NATIONAL LAW SCHOOL OF INDIA REVIEW, 65–75 (2009)

[8] *Mayavti Trading Pvt. Ltd. v. Pradyuat Deb Burman,* 2019 SCC Online SC 1164

[9] *NN Global Mercantile Private Limited v. Indo Unique Flame Ltd* 2023 SCC Online SC 495

[10] Viswambharan V.S, *Evolution of Arbitration act and Enforceability of an Arbitration agreement along with Analysis of Judicial intervention in Arbitration*, 12 ARBITRATION LAW REVIEW, 1264–1278 (2022)

[11] Abhinav Shrivastava & Nirmal Prasad, *The Arbitration and Conciliation Act, 1996: Should the High Courts Exercise the Powers of Superintendence Over Arbitral Tribunals?*, 25 SCC ONLINE BLOG , 1–7 (2020)

[12] *Uttarakhand Purv Sainik Kalyan Nigam Ltd. v. Northern Coal Field Ltd, 2019 SCC Online SC 1518*

grounds. The Supreme Court in the case of *Larsen Air Conditioning & Refrigeration Co. v. Union of India*[13] has further clarified that any court which is acting under section 34 of the act could only set aside an arbitral award in part or full but does not have the power to modify the same. The Delhi Court specifically stated that an well-reasoned award passed by the Arbitral tribunal should not be interfered with by the judiciary in the absence of any patent illegality or any prima facie error in the case of *Kal Airways Private Ltd v. Spicejet Private Ltd and Anr*.[14] The court also observed that the intention of the legislature was to dispose of the matter in an effective and expeditious manner by limiting the interference of the courts in the arbitral proceedings. The Supreme Court has also repeatedly emphasized that courts are not allowed to reevaluate the evidence already assessed by arbitrators, nor can they explore an alternative perspective different from that of the arbitrator, even if such an alternative perspective is available.[15]

The rudimentary principle is that arbitral awards should be final and binding on the parties. However, the courts have contravened these principles by setting aside the award on various grounds which are not mentioned in section 34 of the Arbitration and Conciliation Act,1996.[16] In the case of *Dyna Technologies Private Limited v. Crompton Greaves Limited*,[17] the Supreme Court invalidated an arbitral award, citing its lack of intelligibility due to insufficient reasoning. The Supreme Court determined that the award was perplexing and had an abrupt conclusion at the conclusion of the factual account, devoid of any explanatory rationale.

Another contentious issue in the realm of arbitration is the setting aside of an arbitral award on the grounds of public policy as per section 34 of the act. In some instances, this provision has been significantly exploited to challenge the arbitral awards merely on the pretext of it being violative of public policy.[18] The explanation to section 34(b)(ii) elucidates that the term 'public policy' needs to be construed in a very narrow sense which is limited to the grounds mentioned in the same and that the courts should not entail a review of the merits of the case. However, the courts have failed in the interpretation of this section and have brought various aspects under the ambit of public policy. In *National Agricultural Cooperative Marketing Federation of India v. Alimenta SA*,[19] the Supreme Court ruled that, in light of the contract's contingency as per Section 32 of the Contract Act, 1872, it was unenforceable due to the absence of government permission. The court declared the contract null and void. Additionally, the enforcement of the award was refused because doing so would contravene India's fundamental public policy, particularly concerning export-related policies requiring government approval, making any such supply in violation of those policies. This judgement also violates the principle of separability of arbitration agreement as the arbitration clause would still be held valid even if the contract containing the clause is declared to be void.

GRANT OF INTERIM MEASURES- UNFETTERED POWERS

To prevent irreparable harm to the parties and to ensure the effectiveness of the arbitration process, the courts have been vested with the power to grant interim measures under section 9 of the Arbitration and Conciliation Act. The primary purpose of this provision is to maintain the status quo and protect the rights of the interested parties by maintaining fairness and efficiency during the arbitration process.[20] As per section 2, the intention of the legislature was to grant this power to the courts only in matters mentioned in part 1 of the AC Act. However, the courts have acted

[13] *Larsen Air Conditioning & Refrigeration Co. v. Union of India,* 2023 LiveLaw SC 631

[14] *Kal Airways Private Ltd v. Spicejet Private Ltd and Anr.*, 2023 SCC Online Del 4557

[15] *Associates Builders v DDA (2015) 3 SCC 49; see also National Highways Authority of India v M. Hakeem* 2021 SCC OnLine SC 473

[16] Rohan Tigadi, *Section 34 of the Arbitration and Conciliation Act, 1996: Whether Courts have the Power to Modify or Vary Arbitral Awards,* SCC ONLINE BLOG, 146–169 (2021)

[17] *Dyna Technologies Private Limited v. Crompton Greaves Limited,* 2019 SCC Online SC 1656

[18] Gourab Banerji, *Judicial Intervention in Arbitral Awards: A Practitioner's Thoughts*, 21 NATIONAL LAW SCHOOL OF INDIA REVIEW, 39–53 (2009)

[19] *National Agricultural Cooperative Marketing Federation of India v. Alimenta SA*, 2020 SCC Online SC 381

[20] Prakhar Deep & Nandita Chauhan, *Relegation of Application for Interim Measures by Court to Tribunal under the Arbitration and Conciliation (Amendment) Act, 2015*, 4 RGNUL FINANCIAL AND MERCANTILE LAW REVIEW, 25–51 (2017)

arbitrarily in interpreting the powers granted to them under section 9 of the Act. In the recent case of *Leighton India Contractors Private Ltd. vs. DLF Ltd.* (2020) the Delhi High Court[21] has stated that the scope of section 9 is very broad and that it does not limit or curtail the powers of the courts. Therefore, the power which have been given to the courts under section 9 of the act to grant interim measures is abused by the court in various cases which eventually disrupts the entire arbitration procedure.

JUDICIAL LEGISLATION IN APPOINTMENT OF ARBITRATORS

The parties have the autonomy to determine the process for selecting the member(s) of the arbitral tribunal. In case the parties do not follow the agreed procedure or if the two arbitrators cannot reach a consensus on appointing the third arbitrator, or if a person or institution fails to carry out their assigned responsibilities as per that procedure, a party has the option to approach either the High Court (for domestic arbitration) or the Supreme Court (for international commercial arbitration) under Section 11(6) or Section 11(9), as applicable, of the Act for the appointment of arbitrators. While recent Supreme Court decisions have broadened the extent of judicial intervention during Section 11 applications under the Act, the scope of this assessment may expand further once the Central Government enforces the amendment to Section 11 under the 2019 Amendment Act, leading to the removal of sub-section (6A) from Section 11.[22] This change stands in contrast to the legislative intent outlined in Section 5 of the Act, according to the author, and to some degree, undermines the fundamental principle of party autonomy in arbitration.

However, in most instances it is observed that there is judicial legislation in the case of appointment of arbitrators even after express mention in the act which allows parties to agree on any procedure.[23] The landmark decision in the case of appointment of arbitrators was delivered in *Perkins Eastman Architects DPC v. HSCC (India) Ltd*[24], where the Supreme Court has imposed a complete ban on unilateral appointment of arbitrators and concluded that the mere fact that an arbitrator is appointed by one party could be used as a ground for disqualification of arbitrator. This decision has faced several criticisms because the Supreme Court has added one more ground for disqualification of arbitrators which is not mentioned in schedule 5 and schedule 7 which talks about the disqualification of arbitrators.[25] It is necessary to analyze the impact of this judgment, particularly on arbitration clauses in government contracts and contracts with financial institutions. The immediate effect of this judgment will be on future arbitrations arising from contracts that contain unilateral appointment clauses. [26]In this regard, to avoid Section 112 proceedings, it is advisable to appoint an independent and impartial arbitrator with the mutual consent of the parties until necessary amendments are made to such contracts. This can be achieved in various ways. For example, one party can propose a panel of arbitrators, and the other party can choose one arbitrator from that panel. Another approach could involve substituting a sole arbitrator with a panel of three arbitrators. In such a scenario, each party could appoint its nominee arbitrator, and the two arbitrators could jointly select the presiding arbitrator.

However, it is important to note that appointments by mutual consent are rare, especially in government contract cases. Therefore, considering such difficulties, Vikas Mahendra and Shalija Agarwal have highlighted the role of arbitral institutions as appointing authorities for selecting a sole arbitrator under the agreement. This alternative seems promising in light of the Arbitration and Conciliation (Amendment) Act, 2019, which aims to promote

[21] *Leighton India Contractors Private Ltd. vs. DLF Ltd.*, 2021 SCC Online Del 3772

[22] Lewis B. Kaden, *Judges and Arbitrators: Observations on the Scope of Judicial Review*, 80 COLUMBIA LAW REVIEW ASSOCIATION, INC., 267–298 (1980)

[23] Prashant Tripathi & Sanjeev Singh, *Unilateral Appointment of Arbitrator - Whether Absolute Prohibition Contrary to the Scheme of the Act*, SCC ONLINE BLOG, 33–41 (2023)

[24] *Perkins Eastman Architects DPC v. HSCC (India) Ltd* 2019 S.C.C. Online SC 1517

[25] Sharma, U., 2020. Independence and Impartiality of Arbitral Tribunals: Legality of Unilateral Appointments. *Indian J. Arb. L.*, *9*, p.121.

[26] Desai, V., Sahu, S. and Bansal, R., 2023. Unilateral Appointment of Arbitrators: Looking beyond Perkins. *Indian Rev. Int'l Arb.*, *3*, p.7.

institutional arbitration in India. Moreover, appointing arbitrators from arbitral institutions may prove more advantageous as these institutions can choose specialized arbitrators from a qualified panel.[27] Nonetheless, it is worth mentioning that the current system of institutional arbitration in India is inadequate and underdeveloped. Many arbitral institutions lack the necessary digital infrastructure, such as web pages. Therefore, implementing such an alternative may be more feasible once institutional arbitration becomes more established in the country and not in the current scenario. The intervention of the judiciary in this case by holding that unilateral appointment of arbitrators is null and void goes against the legislative intent of the act as the parties have been given the freedom to agree on any procedure for appointment of arbitrators as per setion 11 of the Arbitration and Conciliation Act, 1996.

Another matter that necessitates immediate discussion is the impact of the Perkins judgment on ongoing arbitrations where a sole arbitrator has been unilaterally appointed. The Delhi High Court, in the case of *Proddatur Cable TV Digi Services vs. Siti Cable Network Limited*[28], has ruled that the Perkins judgment applies to ongoing arbitrations, leading to the termination of an arbitrator's mandate under Section 14(1)(a) of the Act. Considering this ruling, the only feasible solution to continue with ongoing arbitration proceedings would be for the arbitrator to obtain written consent from both parties. Such retrospective consent can be interpreted as consent retroactively granted from the date of appointment. This would fulfill the requirement of mutual consent for the appointment of an arbitrator and render unilateral appointments valid. Therefore, the implications of the Perkins judgement has eventually led to a lot of controversies and have gone against the very rationale of the judgement as unilateral appointments could be made valid by a waiver agreement under section 12(4) of the Arbitration and Conciliation Act.

In the case of *Indian Oil Corporation Ltd. vs. NCC Ltd.*,[29] the Supreme Court noted that the courts possess the power and jurisdiction to settle disputes, including determining whether a matter is suitable for arbitration, during the appointment of arbitrators, especially when the facts are unmistakable and specific clauses in the agreement exclude certain issues from arbitration. Even when deciding a Section 11 application, the court can apply a preliminary test to assess aspects such as the 'accord and satisfaction' of claims.

In the case of *Emaar India Ltd. vs. Tarun Aggarwal Projects LLP*,[30] the Supreme Court, when considering an appeal that stemmed from a High Court order issued under Section 11(6) of the Act, sent the matter back to the High Court for a preliminary examination in accordance with the Supreme Court's previous rulings as outlined in earlier legal judgments.

FACTORS THAT NECESSITATE JUDICIAL INTERVENTION

The legislative intent behind the Act was to limit judicial intervention in arbitration proceedings and uphold the principle of party autonomy. However, it is essential to understand that judicial intervention in arbitration is not entirely and contrary to this intent; rather, it is necessary in specific circumstances to ensure due process of law, effectiveness, integrity, and fairness of the arbitration process.[31] Firstly, judicial intervention is vital to safeguard the fundamental principles of natural justice. In cases where one party alleges bias, misconduct, or violation of the principles of fairness, the judiciary can step in to review the proceedings and provide redress. This ensures that arbitration awards are not tainted by impropriety and upholds the integrity of the process. Secondly, the judiciary plays a crucial role in enforcing arbitration agreements and awards. In situations where a party refuses to comply with an arbitral award, the court's enforcement powers are essential to ensure the effectiveness of the arbitration process. Without such

[27] Kishor, K., 2022. Unilateral Appointment Clauses-A Tussle between Party Autonomy and Independence and Impartiality of Arbitrator. *Issue 5 Indian JL & Legal Rsch.*, *4*, p.1.

[28] Proddatur Cable Tv Digi Services v. Siti Cable Network, 2020 SCC Online Del 350

[29] *Indian Oil Corporation Ltd. vs. NCC Ltd.,* 2022 SCC Online SC 896

[30] *Emaar India Ltd. vs. Tarun Aggarwal Projects LLP*, 2022 SCC Online 1328

[31] Badrinath Srinivasan, *Arbitration and The Supreme Court: A Tale of Discordance between The Text and Judicial Determination*, 4 NUJS REVIEW, 639–664 (2011)

intervention, parties might disregard awards, rendering the arbitration process ineffective.

In certain scenarios, the intervention by the judiciary with respect to setting aside awards in cases when it conflicts with public policy becomes justified in order to maintain the legitimacy and enforceability of the outcomes of the arbitration. In complex disputes or where arbitration agreements are unclear, the courts help interpret and clarify these agreements. This is in line with the objective of ensuring that arbitration remains a viable alternative dispute resolution mechanism, even in situations where the parties' intentions are ambiguous. Therefore, the intervention by the judiciary in certain key instances is in consonance with the legislative intent of the act and ultimately fulfilling the Act's overarching goal of promoting alternative dispute resolution in India.[32]

STRIKING A BALANCE BETWEEN LEGISLATIVE INTENT AND JUDICIAL INTERFERENCE

Striking the right balance between the legislative framework surrounding arbitration and the judiciary's role in overseeing the process is a complex and crucial task. Arbitration is designed to provide parties with autonomy, flexibility, and finality in resolving their disputes, while the judiciary's role is to ensure fairness, due process, and the protection of public policy. This tension between the original intent of the arbitration process and its interpretation by the judiciary has led to a delicate equilibrium that must be maintained to ensure the effectiveness and legitimacy of arbitration.[33] Autonomy and flexibility are fundamental principles of arbitration. Parties choose arbitration to have greater control over the resolution of their disputes, allowing them to select their arbitrators, determine the rules governing the process, and keep their proceedings confidential. This autonomy promotes efficiency and reduces the burden on overburdened courts.

However, this autonomy cannot be absolute. The judiciary's role in ensuring fairness and due process is crucial to prevent abuse and protect vulnerable parties. The courts need to be vigilant against any arbitration agreements that may be unconscionable or tainted by fraud, ensuring that parties enter into arbitration voluntarily and with equal bargaining power. Additionally, the judiciary plays a role in enforcing arbitral awards and setting aside awards that are contrary to public policy or involve serious procedural irregularities.

To strike a balance, it is essential for legislatures to provide clear and comprehensive legal frameworks for arbitration, setting out the limits and expectations of the process.[34] These laws should respect the core principles of arbitration while providing safeguards to protect parties and the public interest. Similarly, the judiciary should interpret and apply these laws consistently and judiciously, avoiding undue interference in the arbitration process while fulfilling their role as guardians of justice. In conclusion, the delicate balance between legislative frameworks and the judiciary's role in arbitration is vital to maintain the integrity of the system. Both parties' autonomy and the judiciary's oversight are necessary to create a reliable and just dispute resolution mechanism. As arbitration continues to evolve, lawmakers and judges must work together to adapt and refine this balance to meet the ever-changing needs of dispute resolution in a dynamic legal landscape.

SUGGESTIONS

This paper puts forth the suggestion mandatory training need to be provided for judges on arbitration law and practices by stressing on the fundamental principles of arbitration which would eventually lead to a reduction in unnecessary judicial interference. This paper also suggests clear and defined grounds for judicial intervention in the Arbitration and Conciliation Act, 1996 instead of leaving certain issues at the discretion of the judges. Terms such as ‘manifest illegality’, ‘public policy’, ‘procedural unfairness’ should be more expressly defined in order to avoid any discrepancies and abuse of powers by the court. This paper also proposes establishment of specialized courts with judges who would have

[32] Ila Kapoor & Ananya Aggarwal, *Gateway to Arbitration: The role of courts in India*, 4 INDIAN ARBITRATION LAW REVIEW, 6–16 (2017)

[33] Kumar, L.S., 2023. A Study on Judicial Intervention in Arbitration. *Indian J. Integrated Rsch. L.*, *3*, p.1.

[34] Promod Nair, *Ring Fencing Arbitration from Judicial Interference: Proposed changes to the Arbitration and Conciliation Act*, 6 INDIAN ARBITRATION LAW REVIEW, 2–14 (2010)

expertise over arbitration matters for appeals from the arbitral tribunals to make informed and consistent decisions. Expedited arbitration procedures such as emergency arbitration and Online Dispute Resolution are encouraged in this paper as it would reduce the scope of judicial intervention. The adoption of international best practices and guidelines for arbitration, as established by organizations like the United Nations Commission on International Trade Law (UNCITRAL) would help in a better understanding about the core principles of arbitration by the courts and arbitration laws and regulations in India should be periodically reviewed and amended to adapt to changing circumstances and evolving international standards.

CONCLUSION

The burgeoning issue of judicial interference in arbitration cases in India has cast a shadow over the legislative intent behind the Arbitration and Conciliation Act of 1996. As this research paper has illuminated, the Act was conceived with a clear legislative intent to provide a robust framework for alternative dispute resolution, with arbitration at its core. Yet, the escalating number of judicial pronouncements reflecting excessive interference has raised concerns about whether the original legislative objectives are being compromised. This paper has delved into the intricate interplay between judicial intervention and the legislative intent of promoting arbitration as an efficient, cost-effective, and autonomous means of dispute resolution. The consequences of excessive judicial interference are far-reaching, undermining the very essence of arbitration and deterring parties from embracing it as the preferred method of resolving disputes, thereby defeating the primary purpose of the Act. The recommendations presented in this research paper offer a path forward, striving to strike a balance between the need for judicial oversight and the preservation of arbitration's core principles. It is important to acknowledge that achieving this equilibrium is a nuanced endeavor, one that demands careful consideration of the unique Indian legal and cultural landscape. However, the overarching objective remains consistent: to ensure that arbitration remains a viable and attractive option for parties seeking to resolve disputes swiftly and efficiently. As we navigate the complex terrain of judicial interference in Indian arbitration, it is imperative that we remain steadfast in upholding the legislative intent embedded in the Arbitration and Conciliation Act of 1996. While judicious judicial oversight is essential to preserve legality and fairness, it should not eclipse the autonomy and effectiveness of the arbitration process. This will not only enhance access to justice but also contribute to the development of a more efficient and effective legal framework that aligns with the aspirations of the 1996 Act.

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[10] *Dyna Technologies Private Limited v. Crompton Greaves Limited*, 2019 SCC Online SC 1656

[11] Gourab Banerji, *Judicial Intervention in Arbitral Awards: A Practitioner's Thoughts*, 21 NATIONAL LAW SCHOOL OF INDIA REVIEW, 39–53 (2009)

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