



## No Automatic Stay on Arbitration Awards (Post-2015): Allahabad High Court



India, recognizing the pivotal role of a robust dispute resolution mechanism in fostering a conducive business environment and attracting investment, has embarked on a journey of continuous refinement of its arbitration law. The Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act”), stands as the cornerstone of this framework. However, this legislative edifice has been subject to numerous amendments, often described as “piecemeal tinkering,” aimed at projecting India as a pro-arbitration jurisdiction – a destination where businesses can operate with the confidence of efficient and reliable dispute resolution.

The most recent of these interventions is the enactment of the Arbitration and Conciliation (Amendment) Act, 2021 (hereinafter referred to as “the 2021 Act”), which, controversially, reintroduced the concept of an “Automatic Stay” of arbitral awards, albeit under the specific circumstances of established fraud or corruption. This move effectively reversed a key change brought about by the Arbitration and Conciliation (Amendment) Act, 2015 (hereinafter referred to as “the 2015 Act”), and has been met with considerable criticism for potentially undermining the progress made towards a more efficient arbitration regime.



Before this crucial change, as the Supreme Court aptly pointed out in **National Aluminium Company Ltd. v. Presstel & Fabrications (P) Ltd. & Anr**, an arbitral award could only be enforced after the deadline for a Section 34 application or its rejection. This effectively meant that the mere act of challenging an award triggered an automatic suspension of its operation, often undermining the very essence of alternative dispute resolution. Why was this automatic stay so problematic? It frequently led to frivolous challenges aimed solely at delaying the enforcement of legitimate awards.

The 2015 Act decisively addressed this by amending Section 36. What fundamental change did this bring about? It stipulated that merely filing a Section 34 application would no longer render an award unenforceable. Instead, a separate application specifically seeking a stay became mandatory. Furthermore, the court was granted the discretion to impose conditions for granting such a stay, with a requirement to record specific reasons, while also adhering to the principles governing the stay of money decrees under the Civil Procedure Code. This begs the question: how did this empower the courts? It allowed them to prevent unwarranted delays and ensure that successful parties in arbitration could realize the benefits of their award more swiftly.

The Allahabad High Court, in a recent pronouncement in **LR Print Solutions v. M/s Exflo Sanitation Pvt Ltd.**, firmly reiterated this post-2015 legal landscape. What key principle did the court uphold? It held that **an automatic stay on the operation of an arbitral award is not granted merely by filing an appeal under Section 34 of the Arbitration and Conciliation Act, 2016.** This ruling emerged in response to a petitioner's argument that their Section 34 application had automatically stayed the award, thus absolving them of any default concerning mesne profits. Why did the Allahabad High Court refute this argument?

The court emphasized the prospective application of the amendment to Section 34, effective from October 23, 2015, considering it a court proceeding. Drawing upon the Supreme Court's landmark judgments in **Board of Control for Cricket in India and Shree Vishnu Constructions**, the Allahabad High Court affirmed that for court proceedings initiated after the 2015 amendment, the simple act of filing a Section 34 application does not, in itself, lead to an automatic stay of the award.

To fully grasp the implications, it's crucial to understand the Supreme Court's rationale in **Board of Control for Cricket in India**. What critical distinction did the Apex Court draw? It clearly differentiated between "arbitral proceedings" (those before the arbitral tribunal, commencing with the Section 21 notice) and "court proceedings in relation thereto" (including applications under Sections 34 and 36). The Court explicitly held that the 2015 Amendment





Act applies prospectively to both categories if they commenced on or after the amendment's enactment. How does this distinction impact the applicability of the automatic stay? Since a Section 34 application is classified as a "court proceeding," its governance by the amended Section 36 is determined by its filing date, not the commencement date of the arbitration itself. This was further underscored by the Allahabad High Court's reliance on *Hindustan Construction Company Limited and others Vs Union of India & others*, where the Supreme Court explicitly affirmed that no automatic stay arises from merely filing a Section 34 appeal after the 2015 amendment.

Beyond the issue of automatic stay, the Allahabad High Court also addressed the consequences of non-compliance with an arbitral award in the absence of a stay order. The petitioner had invoked *Small Scale Industrial Manufacturers Association* to argue against the imposition of mesne profits, citing a lack of default. However, the Allahabad High Court astutely distinguished this precedent. What was the basis for this distinction? The court highlighted the unique factual context of the *Small Scale Industrial Manufacturers Association* case, which revolved around government economic policies, a far cry from the petitioner's failure to hand over possession as per the arbitral award without obtaining any stay.

This leads to a crucial question: what happens if a party fails to comply with an arbitral award and hasn't secured a stay? The Allahabad High Court, referencing the Supreme Court's decision in *State of Rajasthan Vs. J.K. Synthetics Ltd.*, reiterated the established principle that even during a period of an interim stay that is subsequently vacated, the concerned party remains liable for obligations such as interest. In the present case, as the petitioner had neither vacated the premises as per the award nor presented any evidence of a stay order, the Allahabad High Court rightly deemed the respondent entitled to mesne profits.

## Conclusion

The legal landscape governing the stay of arbitral awards in India, post the 2015 amendment to the Arbitration and Conciliation Act, 1996, unequivocally establishes that the mere filing of an application under Section 34 does not automatically suspend the enforcement of an arbitral award. This principle, consistently upheld by the Supreme Court and emphatically reiterated by the Allahabad High Court, signifies a decisive step towards bolstering the efficacy and enforceability of arbitral awards. It necessitates that parties challenging an award must actively seek a reasoned stay from the court, marking a clear departure from the previous regime of automatic suspensions and fostering a more robust





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pro-arbitration environment in India.

1. National Aluminium Company Ltd. v. Presstel & Fabrications (P) Ltd. & Anr (AIR 2005 SUPREME COURT 1514)
  2. LR Print Solutions v. M/s Exflo Sanitation Pvt Ltd. (2025:AHC:44024)
  3. Board of Control for Cricket in India Vs. Kochi Cricket Pvt. Ltd. and others ( 2018) 6 SCC 287
  4. Hindustan Construction Company Limited and others Vs. Union of India and others, AIR 2020 SC 122
  5. State of Rajasthan and others Vs. J.K. Synthetics Ltd. and others, (2011) 2 SCC 518.
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