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Arbitral Overreach Struck Down by Rajasthan High Court



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Introduction

In the evolving landscape of arbitration in India, a recurring challenge revolves around the delicate balance between upholding the finality of arbitral awards and ensuring that such awards remain within the bounds of the underlying contract and the law. Courts frequently grapple with appeals that question whether arbitrators have exceeded their jurisdiction or awarded reliefs that are not expressly permitted by the agreement between the parties.

It is against this backdrop that a recent judgement by the Rajasthan High Court in **The State of Rajasthan, through District Collector Pali. & Ors. vs. Sanwariya Infrastructure Private Limited¹**, delivered by a bench comprising **Justice Avneesh Jhingan and Justice Bhuwan Goyal**, has reiterated a critical stance: an arbitral award that grants reliefs beyond the express terms of the contract, including compensation for losses and interest where no such entitlement exists under the agreement, is patently illegal and consequently liable to be set aside under **Section 37** of the Arbitration Act².

This decision emerged from an appeal against the dismissal of objections to an arbitral award in a **BOT³** project concerning the Pali Bypass. The core of the dispute centered on the precise commencement date of the concession period, the respondent's right to retain



collected toll, and claims for losses allegedly stemming from delays and the non-closure of a **LRC**⁴, culminating in the arbitrator awarding substantial compensation and interest.

The appellant meticulously argued that the claims were time-barred, that the arbitrator incorrectly determined the project's commencement date, and crucially, that the arbitrator overstepped his authority by granting reliefs like compensation for losses and compound interest in the absence of any enabling clause in the concession agreement. Conversely, the respondent maintained that the delays were attributable to the appellant, justifying the extension of the concession period, and that the definition of '**commencement date**' did not necessitate partial land handover.

But what was the legal reasoning that underpinned the High Court's partial overturning of the arbitral award? The Court, in its meticulous analysis, carefully navigated the arguments presented by both parties, especially scrutinizing the precedents cited.

On the question of liquidated damages, the respondent had leaned on the decision in **Construction and Design Services vs. Delhi Development Authority**⁵. The High Court, however, swiftly distinguished this precedent. It noted that in the cited case, the agreement explicitly contained a clause stipulating a maximum percentage of compensation that could be awarded for a breach. The core issue then was the extent to which compensation, in the absence of actual loss proof, could be considered liquidated damages and not a penalty. In stark contrast, the present case lacked any such contractual provision allowing for monetary compensation or fixing a maximum limit for it. This distinction proved pivotal, highlighting the Court's unwavering commitment to the principle that an arbitrator cannot introduce clauses or entitlements not agreed upon by the parties.

Regarding the contentious issue of interest on interest, the respondent sought solace in **Hyder Consulting (UK) Limited vs. Governor, State of Orissa**⁶ and **Pam Developments Private Limited vs. State of West Bengal And Anr**⁷. However, the High Court found itself in a position where it didn't need to delve deeply into this specific averment, as the primary sum awarded for losses was itself being quashed. Nevertheless, the Court delivered a clear message: "**Suffice to say none of the authorities cited support the issue that compound interest can be given in absence of terms in the agreement.**" This succinctly underscored the Court's stance that the power to award compound interest must derive from the contract itself, not from an arbitrator's discretion in the absence of such a term. Perhaps the most illuminating aspect of the judgment, and indeed a significant contribution to arbitration jurisprudence, was the Court's detailed consideration of the power to modify or partially set aside an arbitral award. Drawing heavily from the Supreme Court's recent pronouncement



in **Gayatri Balasamy vs. M/s. ISG Novasoft Technologies Limited**, the Rajasthan High Court affirmed that Sections 34 and 37 of the Arbitration Act grant a limited power to modify an arbitral award. But what exactly constitutes this "limited power"?

The **Gayatri Balasamy** judgment, which the High Court meticulously referenced, lays down precise circumstances for such modification:

- **Severability:** When the award is severable, allowing for the "invalid" portion to be detached from the "valid" portion. The Supreme Court emphasized that partial setting aside is feasible only when the valid and invalid parts are "legally and practically inseparable," not "inter-dependent or intrinsically intertwined." This echoes the sentiment from the Privy Council's decision in **Pratap Chamarla v. Durga Prasad Chamarla**, where it was noted that if matters beyond the scope of the suit are "inextricably bound up" with matters within the suit, the court cannot effectively give effect to the award.
- **Clerical, Computational, or Typographical Errors:** The power extends to correcting errors that are apparent on the face of the record.
- **Post-Award Interest:** Modification of post-award interest in specific circumstances.
- **Article 142 of the Constitution:** This extraordinary power, exercised with great care and caution, can also be invoked.

Applying these principles to the facts at hand, the High Court determined that the claims in the arbitral award were indeed severable. It meticulously identified two distinct heads: firstly, the collection of toll up to **January 22, 2012**, and the respondent's retention of that amount; and secondly, the awarding of damages for losses incurred due to the non-closure of the LRC and the interest for the delay in the commencement of toll collection, along with further interest thereon. The Court explicitly held that these two claims were "severable and are not interconnected," and that their severability was "legally and practically possible."

Thus, the appeal was partly allowed, delivering a nuanced judgment that both respected the autonomy of arbitration and firmly upheld the fundamental tenet that arbitral awards must be rooted in the contractual agreements between the parties. This judgment serves as a timely reminder that while the arbitral process aims for finality, it is not an unbridled power, and courts will intervene when awards stray beyond the clear mandate of the contract, especially when it comes to granting remedies not contemplated or agreed upon by the contracting parties. It reinforces the critical role of the courts in ensuring that arbitral awards adhere to the contractual framework and the underlying principles of justice.



Conclusion

The Rajasthan High Court's judgment in the Pali Bypass case serves as a poignant reminder of the inherent limitations placed upon arbitral tribunals, reinforcing that their authority flows directly from the contract itself. By meticulously distinguishing the precedents cited and emphasizing the absence of specific contractual clauses for compensation and compound interest, the Court has drawn a bright line, making it abundantly clear that arbitrators cannot act as benevolent grantors of relief beyond the agreed-upon terms. The partial setting aside of the award, facilitated by the principle of severability, is particularly significant, demonstrating a pragmatic approach to judicial intervention that aims to rectify specific errors without dismantling the entire arbitral edifice. This nuanced application of Section 37, heavily guided by the Supreme Court's pronouncements in **Gayatri Balasamy**, showcases a judiciary committed to upholding the sanctity of contracts while ensuring that the pursuit of alternative dispute resolution does not inadvertently lead to unbridled power or the rewriting of agreements.

Looking ahead, this judgment will undoubtedly embolden parties to meticulously draft their arbitration clauses and concession agreements, leaving no room for ambiguity regarding the scope of an arbitrator's powers, especially concerning monetary claims, compensation for losses, and the award of interest. It reinforces the notion that arbitration, while a flexible and efficient mechanism, remains firmly rooted in the contractual understanding between the parties. Will this ruling lead to an even more stringent approach from courts when reviewing arbitral awards, compelling arbitrators to adhere even more strictly to the black letter of the contract? Only time will tell, but for now, the message from the Rajasthan High Court is clear: the arbitral mandate is defined by the contract, and any deviation, however well-intentioned, risks judicial scrutiny and potential invalidation.

Citations

1. D.B. Civil Miscellaneous Appeal No. 5302 of 2024
2. The Arbitration and Conciliation Act, 1996
3. Build-Operate-Transfer
4. Level Railway Crossing
5. Construction and Design Services vs. Delhi Development Authority (2015) 14 SCC 263
6. Hyder Consulting (UK) Limited vs. Governor, State of Orissa (2015) 2 SCC 189
7. Pam Developments Private Limited vs. State of West Bengal And Anr. (2024) 10 SCC 715
8. Gayatri Balasamy vs. M/s. ISG Novasoft Technologies Limited 2025 INSC 605

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