

**A CRITICAL ANALYSIS OF SECTION 29A: ENSURING EXPEDITIOUS  
ARBITRATION IN INDIA**

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**ABSTRACT**

*“This paper critically examines Section 29A of the Arbitration and Conciliation Act, 1996, as amended by the Arbitration and Conciliation (Amendment) Acts of 2015 and 2019, which were enacted to provide mandatory deadlines so that arbitration proceedings are conducted expeditiously in India. The provision is meant to curb persistent delays in the delivery of arbitral awards by providing a firm time frame within which arbitral awards are to be delivered, thus increasing efficiency and circumventing judicial intervention. Although it has clear goals, Section 29A has created immense legal and practical dilemmas involving problems of interpretation, its application, and balancing between timeliness and procedural fairness. This discussion examines the background of the enactment of Section 29A, its amendments and some of the important judicial decisions, especially that of the Supreme Court in Rohan Builders Pvt. Ltd. v. Berger Paints India Pvt. Ltd. that affirmed the discretionary powers of the courts to extend the timelines of arbitrations on “sufficient cause”. The paper has also taken into consideration a comparative view of Singapore and England with differences in the statutory frameworks when dealing with arbitral award timelines. Finally, this Paper finds the strengths and limitations of Section 29A, and provides recommendations for clearer statutory definitions and procedural guidelines to achieve a balance between prompt dispute resolution and the principles of natural justice. It concludes that though Section 29A is a milestone in the direction of fast-track arbitration in India, judicial and legislative refinement is required to achieve the ultimate goals of the same.”*

**Keyword:** independent, Arbitration, background, arbitral, Conciliation, Commission

**INTRODUCTION**

International and domestic arbitration has become a popular method of resolving disputes in the business world because it is thought to be efficient, flexible and independent of the parties. Intending to improve investor confidence and reduce the backlog within the courts, India has contemplated streamlining its arbitration regime in line with international best practices. The time consumed in the process of awarding an award has been one of the major criticisms of Indian arbitration, which, in most cases, has ended up defeating the very purpose of an arbitration process over a litigation process.<sup>1</sup>

In reply to this issue, the Parliament devised Section 29A in the Arbitration and Conciliation (Amendment) Act, 2015, which introduced a mandatory time limit in relation to the completion of the arbitral proceedings.<sup>2</sup> Even though the provision is targeted at the imposition of

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<sup>1</sup> Arbitration and Conciliation Act, 1996.

<sup>2</sup> Arbitration and Conciliation (Amendment) Act, 2015.

timeliness and limiting judicial interference, its usage has raised issues of jurisdiction, the level of judicial discretion and the fairness of the processes.

The present article is devoted to the critical and thorough discussion of Section 29A and places it in its corresponding context of the statutory framework, judicial interpretations, and practical reality of arbitral tribunals and parties. The target is to determine whether Section 29A is achieving its purpose or introducing new challenges.

### **THE LEGISLATIVE BACKGROUND AND THE GOALS OF SECTION 29A**

In order to determine the extent of the powers vested in the court under Section 29A of the Arbitration and Conciliation Act, 1996, it is important to look at the historical background against which this provision was enacted. Section 28(1) of the Arbitration Act, 1940, gave express power to the courts to order an extension of time to make an arbitral award, whether the initial time had run out or the award had already been made. Also, Section 28(2) of the 1940 Act allowed parties to agree mutually to extend the time period within which the award should be given.

The Act of Arbitration and Conciliation of 1996, as it was initially passed, did not provide anything in respect to the time frame within which arbitral proceedings can be finalised or the award to be handed out. The absence of this gap led to lengthy arbitration, which causes commercial uncertainty and diminishes the arbitration's attractiveness.

The Indian regime of arbitration has always faced delays in the arbitration award process. Its causes, implications and possible statutory remedies to this widespread issue have been discussed at length in the 176<sup>th</sup> Law Commission Reports<sup>3</sup>. Although arbitration is sold as a better alternative to litigation, in reality, arbitration more often than not finds itself in the same procedural mess it is expected to be avoiding. The Commission underlined that it was important to limit undue delay in order to enhance arbitration as an efficient and fast system of dispute resolution. These recommendations did not find direct application in the statute; nevertheless, they formed a significant background to the further legislative changes.<sup>4</sup>

Based on the issues raised in the 176<sup>th</sup> Report and the increasing pressure to change, the Arbitration and Conciliation (Amendment) Act, 2015 made amendments to the Arbitration and Conciliation Act, 1996 by adding Section 29A. This was a provision which required that arbitral proceedings must be obtained within twelve months after the date on which the arbitral tribunal enters upon the reference, subject to an extension of six months by the mutual agreement of the parties and six months by the court on sufficient cause being shown.

Section 29A was the first provision of Indian arbitration law to codify a rule that arbitration proceedings must be completed within a strict time limit, a legislative desire to encourage expeditious redress and to overcome the chronic delay that had long plagued arbitration in India.

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<sup>3</sup> Law Commission of India, 176<sup>TH</sup> REPORT ON THE ARBITRATION AND CONCILIATION (AMENDMENT) BILL, 2001 (2001). (Report says, 'For the purpose of speeding up of pending arbitration proceedings under the 1940 Act, separate provisions are proposed to be made in sec. 34 of the Amending Act for granting one year for completion, failing which the procedure indicated in sec. 29A of the Court fixing the time schedule will apply till the award is passed.')

<sup>4</sup> *Id.*

The primary objectives underlying the enactment of Section 29A were to make discipline and efficiency in arbitration institutional and restrict the possibilities of judicial intervention, as well as to make India more attractive as a location of arbitration. Although the provision was hailed as a major step in the right direction of reform, its strict deadlines and the court-granted extensions prompted practical and legal complications, so the legislative framework required additional improvements in the following years.

The 2015 version was, however, criticised as being too rigid, particularly in its failure to draw a distinction between international commercial arbitration (ICA) and domestic arbitration, and its ability, which enables the courts to only extend time after time has expired, which can leave a gap in the proceedings.

In the realisation that this required improvement, Section 29A was further amended by the Arbitration and Conciliation (Amendment) Act, 2019. One of the major alterations was the change in the starting point of the 12 months. First, the clock started running when the tribunal entered upon reference. The Amendment of 2019 transferred this to the completion of pleadings in Section 23(4) and made it more practical and fairer as a starting point. This is a change, as well as the fact that international commercial arbitrations are not subject to domestic timelines, which shows that the legislature is responsive to real-world difficulties. Such a recurring system highlights the dynamic nature of the legislative process aimed at maximising the arbitration environment in India.

To cover some of these practical gaps, Section 29A was amended, a part of the Arbitration and Conciliation (Amendment) Act, 2019.

The union legislature introduced Section 29A (with amendments), the gist of which is to:

- Secure prompt settlement of disputes by stipulating a period of twelve months within which an arbitral award must be given after the pleadings have ended to reduce time waste and promote efficiency.
- In an attempt to make arbitration more credible, it aims to codify timelines that resemble international arbitration to make India a seat of both foreign and domestic arbitration.
- Enabling the courts to grant an extension of time in a given situation without compromising fairness in procedure.<sup>5</sup>

#### **IMPORTANT CHANGES THAT THE 2019 AMENDMENT MADE TO 29A**

- The most important amendment which came with the 2019 Amendment was the express inclusion of the authority of the court to give an extension of the period within which an arbitral award should be made past the initial twelve months and six months. This was entrenched by addition of provisos to Section 29A (4) and Section 29A(5) which explained that the court may in its discretion grant extensions beyond the expiry of the statutory time line where sufficient reason is established.
- The Amendment strengthened the provisions that arbitral proceedings could proceed in the process of an application to extend time under Section 29A (5). This was provided to prevent early dismissal of arbitration and minimise inefficiency of procedures.

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<sup>5</sup> Arbitration and Conciliation Act, 1996, S. 29A(5).

- Whereas the Amendment acknowledged the authority of the court to grant extensions, it also made it clear that extensions are not automatic or by right. Judicial scrutiny must be employed by the courts, with “sufficient cause” required in order to extend such scrutiny and the courts retain the right to attach conditions as they see fit.
- Section 29A (1) clearly restricts the time-bound prerequisite to only matters which are not international commercial arbitration, hence the time-bound prerequisite only applies in domestic arbitration proceedings. In light of the peculiarities and procedural demands that typically characterise international arbitrations, the legislature introduced such changes.

### **JUDICIAL INTERPRETATION AND CHALLENGES**

#### **Application of 29A and determination of the Crucial date**

A major legal issue emerged on the question as to whether the amended Section 29A would be applicable to all the pending arbitrations that were initiated before the date of the 2015 Amendment (October 23, 2015), the Delhi High Court answered the question in the affirmative, and stated that the amended Section 29A would apply to all such pending arbitrations.<sup>6</sup>

Delhi High Court has held that the limitation period provided under Section 29A of the Arbitration and conciliation Act, 1996, does not apply to arbitral proceedings that had been commenced, in terms of Section 21 of the Act, before the 2015 Amendment, i.e., before 23.10.2015. The Court explained that, in order to ascertain the relevancy of Section 29A, the relevant date should be the date of commencement of arbitral proceedings as defined under Section 21 and not the date on which the arbitral tribunal enters upon the reference. In this case, the arbitral proceedings were initiated before 23.10.2015 and, hence, the Court believed that the Section 29A would not apply.<sup>7</sup>

#### **ROHAN BUILDERS CASE<sup>8</sup>**

In a landmark judgement, Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Pvt. Ltd., the Supreme Court of India addressed the issue of whether it was possible to apply and prolong a period under Section 29A (5) even though twelve months had passed.<sup>9</sup> The Court ruled that courts have the power to extend the mandate of the arbitral tribunal after the expiry of the statutory period of 12 months plus 6 months under Section 29A. The extension can be awarded after the fact, in the case of a sufficient cause. Lapse of time does not render the proceedings non est, and a court's order can reinstate the mandate of the tribunal. The Court noted that the legislature was not attempting to reduce the delay at the expense of fairness and due process. It was held in the judgment that (a) extensions in subsection (3) should be grounded on the basis of a “sufficient cause” that will involve an objective evaluation of the reasons as to why it is necessary to delay, including unavoidable events or procedural barriers. (b) the courts must strike a balance between expeditious proceedings and natural justice and not put undue pressure on parties by strict time limits. (c) the mandate cannot be extended beyond the statutory limits

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<sup>6</sup> *ONGC Petro Additions Limited v. Fernas Construction Co. Inc.*

<sup>7</sup> *Chinar Steel Industries v. Ircon International Limited.*

<sup>8</sup> *Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Pvt. Ltd.*, 2024 SCC OnLine SC 2494.

<sup>9</sup> *Id.*

either unilaterally or by consent of the tribunal or the parties.

The Court further said that the extension applications are viable, despite the expiry of the arbitral mandate, since the legislature did not mean to have a self-destruction of arbitration mandates.<sup>10</sup> This is a purposive interpretation adopted by the court whose aim is to ensure that the arbitration remains effective as opposed to a strict timeline, and to strike the balance between the need for timely arbitration and the flexibility required to deal with practical difficulties in complex arbitration cases.

### **“Sufficient Cause” for Extension**

The discretion given to the courts to extend the arbitral mandates by proving sufficient cause has been subject to scrutiny. In *Larsen & Toubro Limited v. IIC Limited*, the Delhi High Court observed that the absence of parties' consent to the extension does not mean that the Court will not extend the same, where a reasonable reason is present.<sup>11</sup>

Further, the Punjab and Haryana High Court in *HMT Limited*<sup>12</sup> case held that the deteriorating health of an arbitrator constitutes sufficient cause, given that such situations are beyond the control of either party.

The Andhra Pradesh High Court adopted a similar approach, and applied the ratio laid in the *Rohan Builders* case while allowing an extension.<sup>13</sup>

Under section 29A (4), the arbitrator's mandate would have to be invalidated in case they do not make the award on time with an extension. Courts have adhered to this strictly in order to maintain procedural discipline. However, Section 29A(6) offers the continuity aspect because it allows the Court to replace arbitrators so as not to completely derail the proceedings.<sup>14</sup>

Section 29A(9) imposes a time limit of sixty days on courts to decide applications that seek an extension to ensure that the litigation is not too long. The courts were abiding by this requirement in good faith of quick arbitration.<sup>15</sup>

### **PRACTICAL IMPLICATIONS**

Section 29A has had significant practical consequences on arbitration in India:

1. Positive Impacts:
  - a. A majority of arbitral tribunals have been more compliant with the timelines that guide procedures, hence, the disposal of pending arbitrations becomes more swift and efficient.
  - b. Higher Judicial Discipline: The courts have realised their statutory duties, and the applications under extension have been expedited with low pendency.
  - c. Improved Credibility: The international community stakeholders view the timeline requirement as the introduction of the Indian arbitration to the international standards.
2. Challenges and Concerns

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<sup>10</sup> *Supra* 8.

<sup>11</sup> *Larsen & Toubro Ltd. v. IIC Ltd.*, 2024 SCC OnLine Del 832.

<sup>12</sup> *HMT Limited, Pinjore v. S.K.V. Agro Distributors* (Punjab and Haryana High Court, 2024).

<sup>13</sup> *Oriental Insurance Co. v. Sri Lakshmi Srinivasa Jute Mills* (Andhra Pradesh High Court, 2024).

<sup>14</sup> Arbitration and Conciliation Act, S. 29A(6).

<sup>15</sup> *Id.* Sec.29A (9).



- a. Judicial Overload: The involvement of the courts in the extension process has led to an additional burden on the courts.
- b. Uncertainty and Delays in Strategy: Parties will also abuse the provision in the statute to extend the proceedings in order to get strategic delays.
- c. Complex Interpretation: The meaning of the term “sufficient cause” is ambiguous, which causes inconsistency, which will ultimately impede the purpose.

### **COMPARATIVE PERSPECTIVE**

1. Singapore: there is no time limit to deliver arbitral award in the Singapore Arbitration Act 2001 but Section 36 of the Act authorizes the General Division of the High Court (hereinafter referred to as the Court under Section 2(1)) to extend the time fixed in the arbitration agreement to deliver an arbitral award unless agreed otherwise by the parties. An extension application can be filed by the arbitral tribunal (with notice to the parties) or any party (with notice to the tribunal and other parties) but not before all tribunal processes available have been exhausted to extend the time limit. The Court will only grant an extension where it is content that otherwise substantial injustice would arise. The Court may enlarge the time therefor and, on such conditions, as it shall think proper, though the time originally or last extended may have expired. Moreover, appeal against the order of the Court under this section needs the leave of the appellate court.<sup>16</sup>
2. England: The Arbitration Act 1996 does not impose any time limit to deliver an arbitral award; however, Section 50 gives the court the ability to extend the time period to deliver an arbitral award in situations where the arbitration agreement imposes a time limit. This extension can only be permitted unless the parties otherwise agree. An extension application may be done by the arbitral tribunal (after informing the parties) or by any party (after notifying the arbitral tribunal and other parties), but after exhausting all arbitral means to extend the time. Such an extension will only be granted where the court is satisfied that failure to do so will cause significant injustice. The court is free to determine the duration of the extension and the terms of the extension, whether or not the initial time period is exhausted. Finally, any request to appeal against the court on extension must be with the permission of the court.<sup>17</sup>

### **RECOMMENDATIONS AND CONCLUSION**

Though Section 29A has made the arbitration system in India expeditious, the following are some of the recommendations that can be employed to make it more effective:

1. What is supposed to be regarded as a “sufficient cause” in Section 29 should be written in black and white (as much as possible) to guide the courts and reduce disparity and discretion.
2. A fast-track procedure or mediation may be adopted in resolving disputes that emerge and congest the courts regarding extension applications.
3. Provide online educational material for the arbitrators and practitioners on the nuances of Section 29A to ensure its uniform application.

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<sup>16</sup> Singapore Arbitration Act 2001, S.36.

<sup>17</sup> Arbitration Act 1996 (UK), S.50.



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In conclusion, Section 29A is an excellent legislation that eliminates delays in the Indian arbitration regime. In the *Rohan Builders*, the court judicial interpretation of the provision has applied the purposive interpretation, just to further the objective of the legislation. However, the equilibrium between the legal time limits and the free spirit of an arbitration is challenging to attain. The vision of efficient and just arbitration in India can be met only through its ongoing judicial and legislative improvement.