



CGHC010309452026



2026:CGHC:34914-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBA No. 66 of 2026

1. General Manager/south East Central Railway, Bilaspur
Through Chief Engineer / Construction I Office Of The Chief
Administrative Officer Construction South East Central
Railway Bilaspur 495004, Chhattisgarh
2. Dy Chief Engineer Construction, Office Of The Chief
Administrative Officer/ Construction, South East Central
Railway Bilaspur 495004

... Appellants

versus

1. ARSS SIP (JV) a joint venture having its registered office at
129 Transport Center, Rohtak Road Punjabi Baag New Delhi
2. M/s ARSS Infrastructure Project Ltd having its registered
office at Plot No.38, Sector A, Zone D, Mancheswar Industrial
Estate, Bhubaneswar Orissa
3. Shyam Indus Power Solutions Pvt Ltd Having Its Registered
Office At Building No. 16a, Najafgarh Road, Moti Nagar,
Shivaji Marg, New Delhi 110015

... Respondents

For Appellants	: Mr. Ramakant Mishra, Dy. Solicitor General
For Respondents	: Mr. Abhishek Vinod Deshmukh, Advocate

Division Bench

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

10.08.2026

1. Heard on admission.
2. Appellants have filed this arbitration appeal against the order dated 23.02.2026 passed in Arb. M.J.C. No.66/2024 by the learned Commercial Court (District Judge Level) Nawa Raipur, District Raipur.
3. Learned Deputy Solicitor General appearing on behalf of appellants would submit that Union of India acts through its various departments and officers and if any of its officers initiate legal proceedings in their official capacity, it is implicitly on behalf of the Union of India and a mere formal omission in the array of parties should not be allowed to defeat a substantive legal right. In case at hand also, the application under Section 34 of the Act of 1996 has been filed by the General Manager through Chief Engineer / Construction-1 and the Deputy Chief Engineer of South East Central Railways, acting in their official capacity. Identity of appellants being representative of Union of India is not in dispute. However, by the order impugned, the learned Commercial Court dismissed the application filed under Section 34 of the Act of 1996 as not maintainable, on the ground that the same

had not been filed by a party to the arbitration proceedings i.e. Union of India.

4. He submits that the defect of non-impleadment of “Union of India” as a party to the proceeding is a curable in nature not fatal to maintainability of the proceeding itself and said defect can always be cured under the direction of the Court at any stage. Therefore, the learned Commercial Court ought not to have dismissed the application filed under Section 34 of the Act of 1996 at the threshold merely on account of a curable defect.
5. He submits that the Arbitration and Conciliation Act, 1996 (henceforth ‘the Act of 1996’) is a special legislation enacted with the object of facilitating the expeditious resolution of disputes. The provisions of the Act of 1996 ought to be interpreted in a manner that advances the cause of justice, rather than defeats it on account of mere procedural lapses. However, in the case at hand, learned Commercial Court failed to consider very purpose of the Act of 1996 and dismissed the application at the threshold as not maintainable and thereby denied legitimate right of appellants to exercise their legal right to challenge an award.
6. He next contended that non-impleadment of ‘Union of India’ in the proceeding under Section 34 of the Act of 1996, which was an unintentional and inadvertent mistake that has been

occurred due to oversight while drafting application. When said defect is unearthed, appellants have moved an application for amendment to rectify typographical and procedural error crept in the application, but Learned Commercial Court rejected said application on unsustainable grounds. He submits that the amendment application ought to have been dealt with leniently considering the reasons assigned thereunder which is supported by an affidavit. However, the learned Commercial Court, instead of adopting a pragmatic and justice-oriented approach, rejected amendment application merely on technical grounds. He submits the power to permit amendment ought to be exercised with a view to advance substantial justice, particularly where the proposed amendment is intended only to cure an inadvertent procedural defect and does not introduce a new or inconsistent cause of action or change the nature of the proceedings. The omission to implead the “Union of India”, according to him, was a curable defect and could not, by itself, furnish a legitimate ground for non-suiting the appellants at the threshold.

7. He accordingly submitted that dismissal of application filed under Section 34 of the Act of 1996 as not maintainable has resulted in the appellants being non-suited without adjudication of their challenge to the arbitral award on merits.

Such an approach, according to him, defeats the very object of the Act of 1996, which seeks to provide an effective and expeditious mechanism for resolution of disputes, and elevates a procedural lapse over the substantive rights of the parties. The impugned order, therefore, warrants interference, so as to afford the appellants an opportunity to rectify inadvertent mistake and have their application under Section 34 of the Act of 1996 considered on merits in accordance with law.

8. On the other hand, learned counsel appearing for the respondents, while controverting the submissions advanced on behalf of appellants, would submit that identity of the party against whom the award is passed assumes significance in determining the proper and necessary party to a challenge under the applicable provisions of the Act of 1996. In the present case, the arbitral proceedings were duly contested by the Union of India through its officers. Upon conclusion of arbitral proceedings, an award dated 21.08.2024 came to be passed against the Union of India, thereby fastening upon it the liability to satisfy the obligations arising under the said award. The Union of India, being the party against whom the award is passed and upon whom the liability to satisfy the award has been fastened, is the necessary and proper party for any proceeding seeking to assail the legality, validity or

sustainability of the said award. Therefore, a challenge to the arbitral award could be maintained only in the name of the Union of India. Any proceeding instituted in the name of a department or an officer would, therefore, suffer from a fundamental defect as to the identity of the party competent to maintain such proceedings, particularly when the award sought to be assailed imposes the substantive liability upon the Union of India.

9. He further submits that the officers like appellants herein are merely instrumentalities through which the Government conducts its affairs. Appellants had participated in the arbitral proceedings only in their official capacity and as representatives of the Union of India. Their participation in such capacity would not confer upon them an independent juristic status so as to enable them to maintain a challenge to the award in their own name. As the arbitration appeal challenging the award dated 21.8.2024 being not in the name of the Union of India, suffers from a fundamental defect, which goes to the root of the maintainability of the proceeding, and being so, learned Commercial Court has not committed any mistake in dismissing the application of appellants filed under Section 34 of the Act of 1996 as not maintainable, having not been filed by the parties to the arbitration proceeding.

10. Heard learned counsel for the parties and perused the documents available in record of arbitration appeal including order impugned.
11. Perusal of the award dated 21.08.2024, Annexure A-2, would show that as per the agreement, claimants-respondents herein invoked arbitration clause and submitted a dispute / statement of claim before the Arbitral Tribunal impleading Union of India and others as party respondents. An arbitral award in favour of claimants-respondents herein was passed on 21.8.2024. An application under Section 34 of the Act of 1996 for setting aside award dated 21.8.2024 came to be filed Appellants herein, as is appearing from the cause title of application itself. During pendency of application, an objection was raised on behalf of respondents herein with respect to maintainability of application under Section 34 of the Act of 1996 at the instance of appellants herein, on the ground that arbitral proceeding was contested by the Union of India through its competent officers and arbitral award has been passed against the Union of India. Whereas, application under Section 34 of the Act of 1996 has been instituted by the General Manager through the Chief Engineer/Construction-1 and Deputy Chief Manager of South East Central Railways Bilaspur and not by the Union of India.

12. Upon raising such an objection, appellants herein moved an application for amendment in application as also an application for amendment in statement of truth on the ground that certain typographical errors had inadvertently crept therein. Both these applications came to be dismissed vide order dated 10.12.2025. Learned Commercial Court while rejecting amendment application has recorded that present amendment application has not been framed and filed by the proper parties rather it has strangely been filed and verified by the Deputy Chief Engineer / Construction II who was never a party to the arbitration proceedings. Hence, it appears to be non est having not been filed by the parties themselves. It was further observed that prescribed limitation period for preferring objection against impugned award has already expired and amendment, even if allowed to be incorporated, shall not relate back to the date of filing of instant objection application.
13. The order dated 10.12.2025 passed by learned Commercial Court has not been put to challenge by the appellants before superior Court and as such, it has attained finality.
14. Thereafter, vide order impugned, learned Commercial Court dismissed the application under Section 34 of the Act of 1991 holding it to be not filed by the parties to the arbitration proceedings.

15. A perusal of the record clear indicates that the arbitration was between the claimants-respondents and the Union of India and other parties impleaded before the Arbitral Tribunal. The arbitral proceedings were contested on behalf of the Union of India through its competent officers. The award dated 21.8.2024 was ultimately passed against the Union of India. In other words, the Arbitrator did not make an award against the General Manager personally, the liability fastened by the impugned award is the liability of the Union of India. Hence, the party aggrieved by the award and entitled to invoke Section 34 of the Act of 1996 would be Union of India. However, arbitration appeal challenging the impugned award is preferred by the General Manager, South East Central Railways, Bilaspur through the Chief Engineer/Construction-1 as also by the Dy. Chief Engineer/ Construction, office of the Chief Administrative Officer/Construction SECR, Bilaspur.
16. It may be noticed here that in the arbitral proceeding, appellant No.1 was representing Union of India and Chief Administrative Officer was impleaded as separate respondent. Appellant No.2-Dy. Chief Engineer/ Construction, office of the Chief Administrative Officer/Construction SECR, Bilaspur was not even party to the arbitral proceedings. Thus, it is clear that presence and participation of appellant No.1

herein before the Arbitral Tribunal was solely in their official capacity as representatives/officers of the Union of India.

17. Representation of a party and being a party are two distinct concepts. An authorized officer, counsel, representative or functionary appearing on behalf of a party does not thereby become a separate party. The rights available under Section 34 of the Act of 1996 belong to the party contemplated by the Act of 1996 and cannot be independently exercised by the officer merely because he represented or acted for that party during the arbitral proceedings. Hence, an officer representing the Union of India in an arbitral proceeding does not, by such representation, become entitled to challenge arbitral award separately. The legal identity of the party to the arbitration remains that of the Union of India. The General Manager, Deputy Chief Manager or any other officer of the Railway Department may act for and represent the Union of India in the proceedings, but such representation is only in an official capacity and does not confer upon the officer an independent or personal right to institute proceedings for setting aside the arbitral award.
18. Consequently, when the award dated 21.08.2024 was passed against the Union of India, the statutory remedy under Section 34 of the Act of 1996 could be invoked by the Union of India, being the party against whom the award was passed. The

individual officers who represented the Union of India could not itself institute proceedings challenging the award. Appellants cannot claim an independent locus merely because the proceedings before the learned Arbitral Tribunal were conducted through them. The authority of an officer to represent the Union of India is entirely different from a statutory right vested in that officer personally to challenge the arbitral award. The former does not create the latter.

19. In case of *Union of India v. Tecco Trichy Engineers & Contractors*, (2005) 4 SCC 239, Hon'ble Supreme Court while considering the expression "party" in the context of the Union of India/ Railways has observed that the statutory rights arising under Sections 31 and 34 of the Act of 1996 accrue to the party to the arbitration and not merely to every officer or functionary who may have participated in the proceedings on its behalf.
20. In *Benarsi Krishna Committee v. Karmyogi Shelters Private Limited*, (2012) 9 SCC 496, the Hon'ble Supreme Court has observed thus:-

“15. Having taken note of the submissions advanced on behalf of the respective parties and having particular regard to the expression “party” as defined in Section 2(1)(h) of the 1996 Act read with the provisions of Sections 31(5) and 34(3) of the 1996 Act, we are not

inclined to interfere with the decision [*Karmyogi Shelters (P) Ltd. v. Benarsi Krishna Committee*, AIR 2010 Del 156] of the Division Bench of the Delhi High Court impugned in these proceedings. The expression “party” has been amply dealt with in *Tecco Trichy Engineers case* [(2005) 4 SCC 239] and also in *ARK Builders (P) Ltd. case* [(2011) 4 SCC 616 : (2011) 2 SCC (Civ) 413], referred to hereinabove. It is one thing for an advocate to act and plead on behalf of a party in a proceeding and it is another for an advocate to act as the party himself. The expression “party”, as defined in Section 2(1)(h) of the 1996 Act, clearly indicates a person who is a party to an arbitration agreement. The said definition is not qualified in any way so as to include the agent of the party to such agreement. Any reference, therefore, made in Section 31(5) and Section 34(2) of the 1996 Act can only mean the party himself and not his or her agent, or advocate empowered to act on the basis of a vakalatnama. In such circumstances, proper compliance with Section 31(5) would mean delivery of a signed copy of the arbitral award on the party himself and not on his advocate, which gives the party concerned the right to proceed under Section 34(3) of the aforesaid Act.”

21. We are, therefore, of the considered view that learned Commercial Court was justified in holding that the application under Section 34 of the Act of 1996 was not filed by the parties to arbitration proceedings. Appellants, notwithstanding their official capacity as officers of the South East Central Railway, could not institute the proceedings against an award which had been passed against the Union of India.

22. For the foregoing reasons and discussions, the arbitration appeal being meritless is liable to be and is hereby dismissed in limine. No order as to cost.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

roshan/