

**THE ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2021**

NO. 3 OF 2021

[11th March, 2021.]

An Act further to amend the Arbitration and Conciliation Act, 1996.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

**1. Short title and commencement.**(1) This Act may be called the Arbitration and Conciliation (Amendment) Act, 2021.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 4th day of November, 2020.

**2.Amendment of section 36.**In the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the principal Act), in section 36, in sub-section (3), after the proviso, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd day of October, 2015, namely:

“Provided further that where the Court is satisfied that a *prima facie* case is made out that,—

- (a) the arbitration agreement or contract which is the basis of the award; or
- (b) the making of the award,

was induced or effected by fraud or corruption, it shall stay the award unconditionally pending disposal of the challenge under section 34 to the award.

*Explanation.*—For the removal of doubts, it is hereby clarified that the above provisos shall apply to all court cases arising out of or in relation to arbitral proceedings, irrespective of whether the arbitral or court proceedings were commenced prior to or after the commencement of the Arbitration and Conciliation (Amendment) Act, 2015.”.

**3.Substitution of new section for section 43J.**For section 43J of the principal Act, the following section shall be substituted, namely:—

“**43J. Norms for accreditation of arbitrators.**The qualifications, experience and norms for accreditation of arbitrators shall be such as may be specified by the regulations.”.

**4. Omission of Eighth Schedule.**The Eighth Schedule to the principal Act shall be omitted.

**5. (1)** The Arbitration and Conciliation (Amendment) Ordinance, 2020 is hereby repealed.

**(2) Repeal and savings.** Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

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**STATE AMENDMENT**

**Union Territory of Jammu & Kashmir and Ladakh**

**Sec.1:** In sub-section (1), omit the proviso and Explanation

[*vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020) and vide Union Territory of Ladakh Reorganisation (Adaptation of Central Laws) Order, 2020, notification No. S.O. 3774(E), dated (23-10-2020).*]

**Sec.8:** After section 8, insert the following sections, namely:-

“**8A. Power of the court, seized of petitions under sections 9 or 11 of the Act, to refer the dispute to Mediation or Conciliation.**—

(1) If during the pendency of petitions under sections 9 or 11 of the Act, it appears to the court, that there exists elements of a settlement which may be acceptable to the parties, the court may, with the consent of parties, refer the parties, for resolution of their disputes, to,-

- (a) mediation; or
- (b) conciliation.

- (2) The procedure for reference of a dispute to mediation is as under—
- (a) where a dispute has been referred for resolution by recourse to mediation, the procedure framed under that Act shall apply;
  - (b) in case of a successful resolution of the dispute, the Mediator shall immediately forward the mediated settlement to the referral court;
  - (c) on receipt of the mediated settlement, the referral court shall independently apply its judicial mind and record a satisfaction that the mediated settlement is genuine, lawful, voluntary, entered into without coercion, undue influence, fraud or misrepresentation and that there is no other legal impediment in accepting the same;
  - (d) the court shall record a statement on oath of the parties, or their authorised representatives, affirming the mediated settlement as well as a clear undertaking of the parties to abide by the terms of the settlement;
  - (e) if satisfied, the court shall pass an order in terms of the settlement;
  - (f) if the main petition, in which the reference was made is pending, it shall be disposed of by the referral court in terms thereof;
  - (g) if the main petition, in which the reference was made stands disposed of, the mediated settlement and the matter shall be listed before the referral court, which shall pass orders in accordance with clauses (iii), (iv) and (v);
  - (h) such a mediated settlement, shall have the same status and effect as an arbitral award and may be enforced in the manner specified under section 36 of the Act.

(3) With respect to reference of a dispute to conciliation, the provisions of Part II of this Act shall apply as if the conciliation proceedings were initiated by the parties under the relevant provision of this Act.

***“8B. Power of the court, seized of matters under sections 34 or 37 of the Act, to refer the dispute to Mediation or Conciliation.***—(1) If during the pendency of a petition under section 34 or an appeal under section 37 of the Act, it appears to the court, that there exists elements of a settlement which may be acceptable to the parties, the court may, with the consent of parties, refer the parties, for resolution of their disputes, to:—

- (a) mediation; or
  - (b) conciliation.
- (2) The procedure for reference of a dispute to mediation is as under:—
- (a) where a dispute has been referred for resolution by recourse to mediation, the procedure framed under the Act shall apply;
  - (b) in case of a successful resolution of the dispute, the Mediator shall immediately forward the mediated settlement to the referral court;
  - (c) on receipt of the mediated settlement, the referral court shall independently apply its judicial mind and record a satisfaction that the mediated settlement is genuine, lawful, voluntary, entered into without coercion, undue influence, fraud or misrepresentation and that there is no other legal impediment in accepting the same;
  - (d) the court shall record a statement on oath of the parties, or their authorized representatives, affirming the mediated settlement, a clear undertaking of the parties to abide by the terms of the settlement as well as statement to the above effect;
  - (e) if satisfied, the court shall pass an order in terms of the settlement;
  - (f) if the main petition, in which the reference was made is pending, it shall be disposed of by the referral court in terms thereof;
  - (g) if the main petition, in which the reference was made stands disposed of, the mediated settlement and the matter shall be listed before the referral court, which shall pass orders in accordance with clauses (iii), (iv) and (v);
  - (h) such a mediated settlement, shall have the status of a modified arbitral award and may be enforced in the manner specified under section 36 of the Act.

(3) With respect to reference of a dispute to conciliation, the provisions of Part III of the Act, shall apply as if the conciliation proceedings were initiated by the parties under the relevant provision of this Act.”[*vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020) and vide Union Territory of Ladakh Reorganisation (Adaptation of Central Laws) Order, 2020, notification No. S.O. 3774(E), dated (23-10-2020).*]

**Amendment of sections 29A.**—(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.

*Explanation.*—For the purposes of this sub-section, an arbitral tribunal shall be deemed to have entered upon the reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing, of their appointment.”;

(b) in sub-section (4), omit second and third provisos.[*vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020) and vide Union Territory of Ladakh Reorganisation (Adaptation of Central Laws) Order, 2020, notification No. S.O. 3774(E), dated (23-10-2020).*]

**Amendment of section 34.**—(i) after sub-section (2), insert the following sub-section, namely:—

“(2A) An arbitral award may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.”;

(ii) in sub-section (3),—

(i) for “three months” substitute, “six months”;

(ii) in proviso thereto, for, “three months and “thirty days” substitute respectively “six months” and “sixty days”.

[*vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, vide notification No. S.O. 1123(E) dated (18-3-2020) and vide Union Territory of Ladakh Reorganisation (Adaptation of Central Laws) Order, 2020, notification No. S.O. 3774(E), dated (23-10-2020).*]