

An aerial photograph of a coastline, showing a mix of brownish land and blue water. The image is framed by a white border that is thicker at the corners, creating a window-like effect. The text is centered within this frame.

RESOLUTION IS JUSTICE!

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**PART III OF THE ARBITRATION AND CONCILIATION
ACT,1996- APPLICABILITY, SCOPE, COMMENCEMENT
OF PROCEEDINGS AND APPOINTMENT OF
CONCILIATORS**

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ABSTRACT

This paper intends to specify an inclusive reasoning of Part III of the Arbitration and Conciliation Act, 1996, that focuses on the administration of foreign awards in India. The research questions surveyed involve the influence of the Act in advancing competent dispute judgment, the challenges confronted in its implementation, and allure affect the Indian lawful method. Through a test of appropriate precedential law and academic information, this study sheds touch down the Vigors and instability of Part III and offers judgments into allure overall importance in the dimension of compromise. This article also analyzes the key provisions related to the applicability, scope, dawning of proceedings, and appointment of conciliators under the Arbitration and Conciliation Act, 1996. It investigates the lawful structure of the Act, analyzes the sphere of allure use, considers the procedural features of initiating adjudication exercise, and delves into the process of appointing conciliators. By judging pertinent case law and academic belief, this study determines an inclusive understanding of these critical elements in the Indian arbitration view.

FINDINGS:

1. Part III of the Arbitration and Conciliation Act, 1996 has performed an important part in advancing effective dispute resolution by providing a clear and robust foundation for the imposition of foreign awards in India. This has improved the reliability of the Indian lawful method and raised assurance with international problems.

Analysis:

Conciliation is one of the nonbinding processes where an unprejudiced third party, familiar as the conciliator, assists the parties to a dispute in arriving a together-agreed conclusion of the dispute. As per Part III of the act, the process of conciliation longer either contractual or

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not. But the disputes must stand out of the juridical connection. It means that the dispute must be to a degree to give individual party the right to claim and to the other party the burden to be sued. But Part III of the Act does not relate to specific disputes as cannot be endure conciliation by the virtue of some law for the time being in force. This shows the significance of voluntary conciliation.²

In this ambitious earth, the delay in resolving the disputes cost a huge failure to the corporation. Parties want to resolve their disputes speedily and amicably. The dominant connotation of arbitration is the privacy and secrecy of the transaction. Generally, parties don't want their disputes to enhance public and decrease the image of the association. Arbitration is very adaptable in time and process and arbitration plays after parties' autonomy.

2. The exercise of Part III has confronted challenges, to a degree delays in the enforcement process and irregular legal interpretations of definite provisions. These challenges have influenced to uncertainties and procedural complicatedness, through sabotaging the Act's objective of speedy and efficient imposition.

Analysis:

- Conciliation – Relevancy to the subordinate judiciary

Under sections 61 to 81 of the Act (Part – III), Conciliation is provided. The significance of the provisions is that under section 67 the Act meticulously Speaks about the role of conciliator and his duties. The relevancy of the Provisions to subordinate judiciary is that under section 73 and 74 the Conciliation settlement agreement has the status of a decree of a Court of Law and it will be executed as if it is a decree of a Court. In case of any Challenge of the settlement agreement, the provisions of C.P.C. will apply and The District Court can make an enquiry on the challenge of the said agreement under section 47 of C.P.C.³

3. Part III has had an important impact on the Indian juridical order, as it has facilitated the

² Vinayan Singh, IMPORTANCE OF CONCILIATION AND IMPORTANT PROVISIONS OF THE CONCILIATION ACT, 1996, VIA Mediation and Arbitration Centre, <https://viamediationcentre.org/readnews/MzYw/Importance-of-Conciliation-and-Important-Provisions-of-the-Conciliation-Act-1996>.

³ Dr. Pundla Bhaskara Mohan, ARBITRATION AND CONCILIATION ACT, 1996 AND ITS RELEVANCE TO SUBORDINATE COURTS (2018).

acknowledgment and application of foreign awards, with enticing foreign financing and advancing India as an adjudication-cordial administration. This has contributed to the progress of worldwide marketing connections and the happening of India as a favored seat for arbitration.

Analysis:

An investor may initiate arbitration processes against a state body pursuant to an arbitration provision in a contract. Even in the absence of an arbitration provision, parties can later consent to comply their disputes to arbitration.⁴

White Industries Australia Ltd v. Coal India Limited,⁵

The contract held a production goal, and therefore White to a certain extent labeled to a bonus where production of coal was in addition the target figure, and almost liable to a penalty when the result was below the target figure. Disputes arose between the parties concerning either White was named to the bonuses and/or Coal India was labeled to penalty payments.

4. The Arbitration and Conciliation Act, 1996, applies to both internal and global arbitrations operated in India. It covers disputes arising from allowable connections, either permissible or not, and caters a comprehensive structure for arbitration measures and the administration of arbitral awards.

Analysis:

- Applicability of the Arbitration and Conciliation Act, 1996

The Act applies to the whole of India but Part I, Part II, Part III and Part IV will stretch to Jammu and Kashmir only if they have connection with worldwide marketing adjudication or reconciliation. The Act was imposed on 22nd August 1996 but the ordinance was declared by the President on 16th January 1996. The different two ordinances namely, Arbitration and

⁴ Kshama A. Loya, Resolving Disputes — Between Foreign Investors & The Indian State / State Entities, Nishith Desai Associates (2023).

⁵ White Industries Australia Ltd v India, IIC 529 (2011).

Conciliation ordinances were passed on 26th March and 21st June 1996 respectively.⁶

- Nature of Arbitration and Conciliation Act,1996:

In arbitration, the disputing bodies resolve their dispute through the process of a court by a third person who is one preferred by having to do with parties. The common idea is that litigation is expensive, time-consuming, and filled of obstacles. Thus, the arbitration is a term of alternate dispute resolution (ADR) whereby two litigating parties desire their dispute to be settled outside the court. Methods of ADR are:

1. Arbitration
2. Mediation
3. Conciliation

Due to delays in bias by the court, few of these methods grown considerably.⁷

- Scope of Arbitration and Conciliation Act,1996:

Arbitration and conciliation are a humane way of dealing with issues that evade court actions.⁸

In the case of **Haryana Telecom limited vs. Sterlite Industries India Limited**,⁹where the Supreme Court of India has grasped that where a petition is ground for the purpose where the firm is commercially indebted is accountable wind up under the Companies Act. The capacity to order winding up of a party is held under the Companies Act and is deliberated on the court. An arbitrator, nevertheless some contract between the companies, would have no jurisdiction to order winding up of a firm.

In a unique case under Insolvency and Bankruptcy Code, 2016, the Income tax Appellate

⁶ Monesh Mehndiratta, Arbitration and Conciliation Act, 1996, Ipleaders (June 9, 2022), <https://blog.ipleaders.in/arbitration-and-conciliation-act-1996/>.

⁷ Samreen, Nature and scope of arbitration and conciliation act 1996, Legal Service India, <https://legalserviceindia.com/legal/article-7506-nature-and-scope-of-arbitration-and-conciliation-act-1996.html>.

⁸ Amrisha Jain, SCOPE AND OBJECT OF ARBITRATION AND CONCILIATION ACT 1996, <https://viamediationcentre.org/readnews/MjA3/Scope-and-object-of-Arbitration-and-Conciliation-act-1996>.

⁹ Haryana Telecom Limited vs Sterlite Industries (India) Ltd., (1999) 122 PLR 116.

Tribunal (Delhi) in the case of **Sham ken Multifiber Ltd., New Delhi vs. Dicot (2019)** quoted the judgement brought by the Supreme Court of India in the case of **Alchemist Asset Reconstruction Pvt. Ltd & Anr vs. M/S Hotel Gaudavan Pvt. Ltd. & Anr**,¹⁰ that even arbitration proceedings cannot be passed subsequently intrusion of the ban u/s 14 (1) (a) of the Code.

5. To introduce arbitration procedures, the Act requires person who takes part in activity do a penned notice to the other party, apparently declaring its goal to apply the dispute to arbitration. The notice must hold essential facts such as the nature of the dispute, remedy wanted, and the assignment of an arbitrator or a request for the designation of a committee of arbitrators.

Analysis:

The Limitation Act, 1963 applies to the Arbitration and Conciliation Act, 1996 unless expressly excluded by the Arbitration and Conciliation Act. Any arbitration processes inaugurated after the ending of three years from the date on that the cause of operation arose will be time-barred. The parties be entitled to fix their own set of rules for the procedure of the arbitration. The court will not administer some provisions of the Civil Procedure Code, 1908 and the Evidence Act, 1872. In the arbitration contract, the arbitration searches out be executed by an arbitration organization and background rules of that organization enhance any of the adjudication requirement by suggestion. If the operation is in an ad hoc arbitration, specific parties should create their own set of rules for the process.¹¹

6. The Act specifies for the appointment of conciliators through different methods, containing direct appointment by the parties, appointment by an arbitral institution, or by the court. Factors like liberty, fairness, and competence in the theme of the dispute are considered while appointing conciliators.

Analysis:

Conciliator can be appointed by the parties themselves of their own choice with

¹⁰ Alchemist Asset Reconstruction Company Limited Vs. M/s. Hotel Gaudian Private Limited & others (Civil Appeal No. 16929 of 2017).

¹¹ Mohd Sarim Khan, Arbitral Process under Arbitration and Conciliation Act, 1996, Ipleaders (March 13, 2020), https://blog.ipleaders.in/arbitral-process/#How_long_do_Arbitral_Proceedings_last.

consensus i.e., both should agree upon the appointment of the conciliator. The following methods, the parties can follow:

- (a) The parties themselves may name a conciliator or conciliators.
- (b) Each party may appoint one conciliator & may mutually agree on the third conciliator.
- (c) The parties may gather the help of a suitable organization one in connection with the appointment of Conciliators.¹²

CONCLUSION:

I hereby wish to conclude that the provisions regarding applicability, scope, commencement of proceedings, and appointment of conciliators under the Arbitration and Conciliation Act, 1996, establish a healthy foundation for efficient dispute resolution in India. Part III of the Act has definitely played a vital function in elevating efficient dispute determination and improving the arbitration-amicable jurisdiction. The efforts bear to organize the enforcement process, provide consistency in legal interpretation, and determine enough resources for the effective implementation of Part III. By addressing these challenges, India can further harden its position as a preferred goal for arbitration, reinforce financial growth, and encourage its position in the worldwide lawful landscape.

¹² Dr. Ujwala Shinde, Conciliation as an Effective Mode of Alternative Dispute Resolving System, 4(3) JHSS,1-7 (2012).