CHANGING THE LANDSCAPE OF INDIAN ARBITRATION – AN ANALYSIS TO THE AMENDMENTS TO THE ARBITRATION AND CONCILIATION ACT, 1996

Shoaib Alvi[1]

ABSTRACT

The swift expansion of commercial transactions and globalization has given rise to an exponential growth in arbitration at national and international level. Arbitration is a method of settling dispute without getting into long drawn litigation. Arbitration emanates either through pre-existing arbitration agreement or through a court reference, whereby arbitrators formulate an arbitral tribunal to resolve the dispute as per the rules mutually accepted by the parties in the said agreement. The statutory recognition of Arbitration in India is enshrined in the Arbitration and Conciliation Act, 1996. The legislation was designed to create a pro-arbitration legal regime as well as to cater to the market demand for speedy justice.

The Act is based on the 1985 version of the UNCITRAL Model Law and is presently out of sync with contemporary international arbitration practices, causing confusion and uncertainty about the state of the law. Hence, significant reforms can act as catalyst for resolving commercial disputes and for improving the Indian Arbitration landscape. With the introduction of the latest version of UNCITRAL Model Law, 2006, the Indian government considered modernizing the Indian Arbitration Act by adopting the 2006 version.

In order to create a truly effective Arbitration mechanism, the Law Commission of India in its 246th Report recommended certain amendments to the Indian Arbitration Act. Henceforth, the Arbitration and Conciliation Act, (Amendment) Bill, 2015 had been proposed by the Indian government.

The scope of this paper circumscribed around the background, and the likely effect of the key amendments proposed in the Amendment bill.

[1] HIDYATULLAH NATIONAL LAW UNIVERSITY

INTRODUCTION

"At all events, arbitration is more rational, just, and humane than the resort to the sword".

Richard Cobden

Arbitration is a method of alternative dispute resolution and aims to be an effective and efficient alternative to the conventional method of dispute resolution through court. Rapid globalization of the economy and resulting increase in competition has led to a rise in the number of commercial disputes. Thus, seeking justice through litigation seems like a distant dream. Litigation is traditional, time consuming and expensive method for dispute resolution through courts. Thus, the legal system of dispensing justice in India has come under great stress for several reasons mainly because of the huge pendency of cases in courts[2]

"*Arbitration is a process used by agreement of the parties to resolve disputes. In arbitration, disputes are resolved, with binding effect, by a person or persons acting in a judicial manner in private, rather than by a national court of law that would have jurisdiction but for the agreement of the parties to exclude it. The decision of the arbitral tribunal is usually called an award"*[3].

In order to avoid long drawn litigation process, arbitration has emerged as a commercially significant method of dispute resolution. Thus in India as well as in other countries, parties whether private or with the state, prefer to have an "arbitration clause" in the contract, whereby they agree to settle the dispute with respect to the agreement by arbitration instead of going to the court. Arbitration means, a process of dispute resolution in which a neutral third party called arbitrator, renders a decision after a hearing at which both parties have an opportunity to be heard[4].

[2]Nearly 30 million cases pending in courts, <www.rtiindia.org> viewed on 14th October,2015

[3]II Halsbury's Laws of England, 1201. (2008)

[4] Bryan A.Garner, 1990."Black's Law Dictionary", 6thEdn., West Publishing Company,Thompson and Reuters Group

In *Jivaji Raja Vs Khimiji Poonja& Company*[5] the court observed that, arbitration is the reference of dispute or difference between two or more parties to a person chosen by the parties or appointed under statutory authority, for determination of the same.

The law regarding Arbitration in India has been enshrined in Arbitration and Conciliation Act, 1996 and is based on the UNCITRAL Model Law, 1985[6]and the UNCITRAL Conciliation Rules, 1980[7].

The Act was formulated to encourage out of court settlement of disputes between the parties in a faster and less expensive manner. It has almost been two decades since the formulation of the act and now arbitration has swiftly emerged as a frequently chosen alternative to litigation. Though arbitration is the preferred method of settlement of dispute, in the contemporary scenario it has come to be afflicted with various issues like inherent delays and tremendous high costs. The rate of industrial growth, modernization, and improvement of socio-economic circumstances has outpaced the rate of growth of dispute resolution mechanisms[8].Thus the very object of quick dispute resolution by arbitration remains frustrated. Henceforth there is a desperate need to revise certain provisions of the Act in order to preserve the objective of enforcement of the Act.

The Law Commission of India prepared a report on the experience of the 1996 Act and suggested a number of amendments in its 246th Report[9]. The commission proposed path breaking amendments to overhaul the arbitration scenario in India. Large-scale amendments are designed to plug major gaps identified over time and if implemented, will work to impart

[5]Jivaji Raja Vs Khimiji Poonja& Company AIR 1934 Bom 476

[6] UNICITRAL Model law of international commercial arbitration, 1985 <http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/1985Model_arbitration.html> viewed on 15th October, 2015

[7] UNCITRAL Conciliation Rules, 1980 <http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/1980Conciliation_rules.html> viewed on 15th October,2015

[8] Sharma,Krishna,(2009)"Development and Practice of Arbitration in India –Has it Evolved as an Effective Legal Institution**"**, *Center on Democracy, Development, and The Rule of Law Freeman Spogli Institute for International Studies*, Number 103

[9] Law Commission of India. August 2014.246th Report on, 'Amendments to Arbitration & Conciliation Act',

confidence in Indian Arbitration[10]. On 26th August 2015, Arbitration and Conciliation (Amendment) Bill, 2015 was approved by the Union Cabinet taking into considerations the Law Commission recommendations and suggestions[11].

On 23rd October, 2015 an ordinance to amend the Arbitration and Conciliation Act, 1996 was promulgated by the President in the sixty-sixth year of the Republic of India[12].

HISTORICAL BACKDROP OF THE ACT

Shortly before the middle of the eighteenth century, SIR ROBERT RAYMOND C.J. was held to have stated: "*An Arbitrator is a private extraordinary judge between party and party, chosen by their mutual consent, to determine controversies between them and are also called because they have arbitrary powers , for if they observe the submission(arbitration agreement) and keep with due bounds, their sentences are definite from which there lies no appeal*"[13].Regulation of the conduct of arbitration has a long history in India. Legal history indicates that down the ages man has been experimenting with procedure for making it easy, cheap, unfailing and convenient to obtain justice[14].The Indian Arbitration Act, 1899 was the first direct law on the subject of arbitration applicable only to the Presidency towns. This was followed by the Code of Civil Procedure, 1908 where the Second Schedule was completely devoted to arbitration. The Arbitration Act, 1940 was a general law based on the English Arbitration Act, 1934 and was the first major legislation to govern the arbitrations across the country. The 1940 Act had also repealed The Indian Arbitration Act, 1899 as well as the provisions of Code of Civil Procedure. Also, The Arbitration (Protocol and Convention) Act

---

[10] Kanuga.Sahil,(2015) "India-A New Inning for Arbitration overhaul suggested for the Arbitration and Conciliation Act,1996 <http://www.mondaq.com/india/x/335520/Arbitration+Dispute+Resolution/A+NEW+INNINGS+FOR+ARBITRATI<ON+IN+INDIA+OVEglRHAUL+SUGGESTED+FOR+THE+ARBITRATION+CONCILIATION+ACT+1996> viewed on 17th October

[11]Press Information Bureau, Government of India,(2015)"Amendments to the Arbitration and Conciliation Bill, 2015" <http://pib.nic.in/newsite/PrintRelease.aspx?relid=126356 >viewed on 5th October

[12] Ministry of Law and Justice,(2015) "The Arbitration and Conciliation(Amendment)Ordinance,2015", <http://www.prsindia.org/uploads/media/Ordinances/Arbitration%20and%20Conciliation%20Amendment%20Ordinance%202015.pdf> viewed on 5th October

[13] William H.Gill,(1965). "*Evidence and Procedures in Arbitration"*

[14] Dr. Shraddhakara Supakar.(1986). "*Law of Procedure and Justice in Ancient India"*, New Delhi, Deep & Deep Publication,

1937 and the Foreign Awards (Recognition and Enforcement) Act 1961 were passed to deal with enforcement of Geneva and New York Convention foreign awards respectively.

The object of The Arbitration Act, 1940 was reiterated by *Justice D.A. Desai* in ***Guru Nanak Foundation v Rattan Singh***[15], as "Interminable, time consuming, complex and expensive Court procedures impelled jurists to search for an alternative Forum, less formal, more effective and speedy for resolution of disputes, avoiding procedural claptrap and this led them to Arbitration Act, 19

The Law Commission of India examined the working of the 1940 Act and analyzed certain shortcomings. The 1940 Act covered only domestic arbitration and while it was perceived to be a good piece of legislation in its actual operation and implementation by all concerned - the parties, arbitrators, lawyers and the courts, it proved to be ineffective and was widely felt to have become outdated[16]. Thus in order to remedy these problems, the earlier system was sought to be replaced by the Arbitration and Conciliation Bill, 1995 which was introduced in Parliament. The Bill received the assent of the President of India on 16.08.1996 and 'The Arbitration and Conciliation Act, 1996' came into force on 22.08.1996. The 1996 Act applies to domestic arbitrations, enforcement of foreign awards and conciliations. An elaborate codified recognition has been given to arbitration laws through the 1996 Act that aims to provide for an efficient and effective mode of settlement of disputes. Arbitration as a mode alternative dispute redressal methods have to be looked up to with all earnest so that the litigant public has a faith in the speedy process of resolving their disputes with these processes[17]. In the landmark judgment of ***Fuerst Day Lawson Ltd Vs Jindal Exports Ltd***[18] the Supreme Court held that the provisions of the Arbitration and Conciliation Act, 1996 have to be interpreted and construed independent to that the Arbitration and Conciliation Act, 1940.

The Arbitration and Conciliation Act, 1996 has been introduced in the backdrop of the increased need of enforceability of foreign awards and strides towards ensuring that dispute resolution through arbitration is effective and efficient. In the progeny of the Act, section 89 of the Civil Procedure Code, which infused the Court with the duty of referring certain

[15] *Guru Nanak Foundation v Rattan Singh* (1981) 4 SCC 634
[16] Statement of Objects and Reasons, The Arbitration and Conciliation Act, 1996
[17] *State of J & K Vs Dev Dutt Pandit, (1999)7 SCC 339*
[18] *Fuerst Day Lawson Ltd Vs Jindal Exports Ltd* (2011) 8 SCC 333

disputes for alternative remedies, was a stepping-stone towards achieving the ineffable ideal of judicial efficiency[19].

NEED FOR ARBITRATION REFORM IN INDIA

The Indian Government plans to renovate the country's arbitration landscape and is considering amendments to its arbitration legislation. In order to make India an arbitration hub, it is essential that the suggested amendments take the shape of law in the country

In year 2001, a recommendation was made by the Government to the Law Commission to comprehensively review the Arbitration and Conciliation Act, 1996 and formulate a report on various shortcomings observed in its working. The Commission in its report pointed out that the UNCITRAL Model (on the basis of which the Arbitration and Conciliation Act, 1996 was enacted) was mainly intended to enable various countries to have a common model for 'International Commercial Arbitration' but the 1996 Act had made provisions of such a Model Law applicable also to cases of purely domestic arbitration between Indian nationals and was thus giving rise to difficulties in the implementation of the Act[20]. Furthermore, there were conflicting judgments with regard to interpretation of various provisions of the 1996 Act. In order rectify the problems in the 1996 Act, the Commission suggested a number of amendments through its 176th Report[21].

Based on the recommendations of the Commission, the Government of India introduced the Arbitration and Conciliation (Amendment) Bill,2003, in Parliament for amending the 1996 Act. As the bill had not been taken up for consideration, in the meantime, the Ministry of

[19]Abhinav Chandrachud,(2012) " Alternative Dispute Resolution : Is It Always An Alternative?",*Manupatra*

[20] Law Commission of India. September 2001. 176th Report on, "Arbitration and Conciliation(Amendment)Bill, 2001"

[21] Supra Note. 20

Law and Justice, constituted a Committee popularly known as the '*Justice Saraf Committee on Arbitration'*, to study in depth the implications of the recommendations of the Law Commission of India contained in the 176th Report and the Arbitration and Conciliation (Amendment) Bill, 2003[22]. The committee submitted its report in the Parliament in August, 2005 and was of the view that the provisions of the bill gave enough gave room for judicial intervention by the courts as well as many provisions were insufficient[23]. Thus, the Amendment Bill, 2003 was withdrawn from the Rajya Sabha. In order to fill the lacuna in the 1996 Act, the Ministry of Law and Justice issued a Consultation Paper on April, 08, 2010[24] inviting suggestions.

The Law Commission had set up a committee to review the suggestions given and on the basis of the committee report, the commission formulated its 246th Report suggesting the amendments in the 1996 Act. In order to make India an arbitration user- friendly country, recommendations of the law commission should be considered to make amendments in the Arbitration and Conciliation Act, 1996. Also the suggestions made by the law commission were based on the UNCITRAL Model Law, 2006[25]. Hong Kong is the first Asian jurisdiction to adopt the latest version of the UNCITRAL Model Law[26].

Thus Arbitration and Conciliation (Amendment) Bill, 2015 was promulgated and was passed by the Union Cabinet on 26th August, 2015[27]. In order to scrutinize the amendments suggested in Amendment Bill, 2015 it is essential to identify the issues and the suggested amendments intended to remedy the problems.

ANALYSIS OF VARIOUS AMENDMENTS IN THE ARBITRATION BILL

[22] Supra Note.7
[23] Supra Note.8
[24] Ministry of Law and Justice, "*Proposed Amendments to the Arbitration and Conciliation Act, 1996*", 22nd December,2003
[25] Supra Note.5
[26] Aditya Kurian,2015. "Arbitration Reform In India: A Look at The Hong Kong Model", Kluwer Arbitration Blog. Wolters Kluwer Law and Business, accessed on 16th October,2015 < http://kluwerarbitrationblog.com/2015/07/28/arbitration-reform-in-india-a-look-at-the-hong-kong-model/

[27] Payel Chatterjee,(2015), "India: Efficient Arbitration: One Step Closer", http://www.mondaq.com/india/x/426342/Arbitration+Dispute+Resolution/Efficient+Arbitration+One+Step+Closer accessed on 17th October

The Government of India is dedicated to improve its legal framework relating to Arbitration in order to make India a hub of International Commercial Arbitration. The Law Commission of India through its 246th Report has recommended various amendments. The Commission has also submitted a Supplementary to Report No.246 on "Amendments to the Arbitration Act, 1996 on "Public Policy" – Developments post report 246"[28] wherein reformulation of Section 34(2)(b) of the Act is recommended.

1. **Neutrality of Arbitrators**

In the context of International Arbitration, independence is concerned with questions arising out of the relationship between an arbitrator and one of the parties, whether financial or otherwise, and this is considered to be an objective test mainly because it has nothing to do with the arbitrator's state of mind[29]. Under the 1996 Act, Section 12 enumerates the grounds on which an appointment of an arbitrator can be challenged by the parties. This section is similar to Article 12 of the UNICITRAL Model Law. Section 12, sub-section(1) and (2) enjoin a duty upon arbitrator to disclose any circumstance which are likely to give rise to reasonable apprehension as to his impartiality and independence, at the time of appointment or after the appointment[30]. The object of the provision is to cast a duty upon the parties to appoint such an arbitrator who does not suffer from any disqualification or position likely to impair their decision in the dispute. By contrast, the concept of impartiality, is connected with actual or apparent bias of an arbitrator either in favor of one of the parties or in relation to the issues in dispute, thus impartiality is subjective and more abstract concept than independence that primarily involves a state of mind.[31].

[28] Law Commission of India. February 2015. 246th Report on, "Supplementary to Report No.246 on Amendments to Arbitration and Conciliation Act, 1996"
[29]Martin Hunter.(2009), "*Redfern and Hunter on International Arbitration*", Oxford University Press
[30] Arbitration and Conciliation Act, 1996
[31] Supra Note. 29

In, ***Union of India vs Tolani Bulk Carriers Limited***[32], it was held that the duty imposed on the arbitrator to disclose is a mandatory duty under Section 12 and failure to do so will vitiate the entire arbitration proceeding. The Act fails to explain the conditions to determine the 'circumstances' which give rise to 'justifiable doubts'.

The Commission was of the view that party autonomy cannot be exercised by completely ignoring the principle of independence and impartiality. But party autonomy cannot be stretched to a point where it negates the very basis of having impartial and independent adjudicators for resolution of disputes. Thus, the commission has proposed proper disclosure by the arbitrator regarding any relationship leading to justifiable doubts and insertion of Fourth Schedule, and as based on the Red and Orange lists of the IBA Guidelines[33]

'

2. **Inserting provision for award to be made within 12 months**

The Arbitral tribunal shall make its award under Section 31 of the 1996 Act. The provision thoroughly explains about the reasons, date, place and cost of the interim and final arbitral award. Although the provision is unsuccessful in providing the time period in which the award should be made. In order to safeguard the object behind enforcement of the 1996 act, the Law Commission proposed insertion of new provision that provides a period of 12 months to the Arbitral tribunal to make an award[34]. This period can be extended by the court for a period up to 6 months if there is a sufficient cause.

Furthermore, one of the complaints against arbitration in India is charging arbitrary, unreasonable and unilateral fees by the arbitrators. In, ***Union of India v. Singh Builders Syndicate***[35] it was held that, the cost of arbitration can be high if the arbitral tribunal consists of retired Judges. The Law Commission recommended that in order to make arbitration a cost-effective solution there should be a model schedule of fees, which allows High Court to

[32] *Union of India vs Tolani Bulk Carriers Limited* 2002 (2) BomCR 256
[33] Supra Note.8
[34] Supra Note. 33
[35] *Union of India v. Singh Builders Syndicate* (2009) 4 SCC 523

formulate proper rules for fixation of fees for the arbitrators[36]. Also the court while extending the period of award may also order reduction of fees of arbitrator not exceeding five percent for delay of each month.

3. Addition of provision for disposing the application challenging the award

Section 34 of the Act states the grounds and the application procedure for setting aside the arbitral award. In order to set aside the award, an application has to be made to the Court. Section 34(3) of the act emphasis that the application may not be made after the elapse of 3 months from the date on which the party making the application had received the arbitral award.[37] It also states that a further period of 30 days may be granted to make such application if the party was prevented by sufficient cause. The provision has failed to provide the period of disposing the application. Thus, it was recommended by the Commission that such application should be disposed with one year in order to preserve the object of resolving the disputes effectively and efficiently.

4. Fast track procedure

The judicial intervention by the courts in the arbitral proceedings leads to inherent delays and ultimately defeats the purpose of conducting arbitration. Despite Section 5[38] the court is being continuously overburdened with new cases. The Commission has suggested that in order to fast track the procedure of arbitration separate benches to adjudicate on the arbitration matters. Parties to the dispute may agree to resolve their dispute by fast track procedure. Also the award in such cases should be given within 6 months[39]

5. Scope of 'Public Policy

Once the arbitral award is made under Section 34 of the Act an aggrieved party may file an application for setting aside the arbitral award. Section 34 deals with the grounds for setting aside the arbitral award. One such ground is mentioned under Section 34(2)(b)(ii) of the Act, that is the court is satisfied that the award conflicts with the 'public policy' in India. It was interpreted in the landmark judgment of ***RenuSagar Power Company Ltd. V. General***

[36] Supra Note.8
[37] Indu Malhotra, O.P.Malhotra.(2014)." *Law & Practice of Arbitration and Conciliation"*., Thomas Reuters
[38] *Section 5-Extent of Judicial Intervention*, Arbitration and Conciliation Act, 1996
[39] Supra Note.8

Electric Co.[40]under the 1940 Act, it was held that it will be contrary to public policy if such enforcement would be against i) fundamental policy of Indian law ii) interest of India, and iii) justice and morality.

The Supreme Court expanded the definition of 'public policy' in ***ONGC v. Saw Pipes Ltd.***[41], and included the cases of 'patent illegality' in the ambit of public policy.

Though criticized, the court agreed with the rationale expressed in *Saw Pipes Judgment*[42].

Interpretation of 'public policy' with respect to challenging foreign awards[43] was narrowed down to the interpretation given by the apex court in *RenuSagar* case.

The law commission recommended amendments with an endeavor to ensure that position under *RenuSagar* applies to all foreign awards. Addition of a new provision Section 34(2A) was introduced. The judgment expanded the power of intervention by the court rather than minimizing it, thus there was a need for amendment in the 1996 Act. It was recommended to restrict the scope only to fraud, corruption and contravention with fundamental policy

6. Award can be stayed only when order passed by Court

Section 36 of the Act makes it clear that an arbitral award becomes enforceable as a decree only after the time for filing a petition under section 34 has expired or after the section 34 petition has been dismissed. Mere filing of an application under Section 34 for challenging the award would automatically stay the execution of the award. In ***National Aluminum Co. Ltd. v. Pressteel & Fabrications***[44], it was held that automatic suspension of the execution of the award, the moment an application challenging the said award is filed under section 34 defeats the very objective of arbitration. In order to rectify the mischief, amendment was proposed by the law commission that award can only be stayed where the court has passed any specific order on an application filed by the party.

7. Addition of sub-section in Section 11(13)

[40] *RenuSagar Power Company Ltd. V. General Electric Co* (1994) SCC Supp.(1) 644
[41] *ONGC v. Saw Pipes Ltd* (2003) SCC (5) 705
[42] *Centorade Minerals and Metals Inc v. Hindustan Copper Ltd.*, 2006 (2) ArbLR 547
[43] *Section 48:Conditions for enforcement of foreign awards*, Arbitration and Conciliation Act, 1996
[44] *National Aluminum Co. Ltd. v. Pressteel & Fabrications* (2004) 1 SCC 540

The docket of the Supreme Court has been growing larger and larger by the year and this has been affecting its quality and effectiveness in the delivery of justice. Appointment of an arbitrator by the Chief Justice has been enshrined under Sections 11(4), (5) and (6)[45]. The appointment is made when the parties fail to appoint an arbitrator with mutual consent. As a lot of time is spend in appointment of an arbitrator by the Chief Justice it adds to the existing burden of the Court. The Commission had recommended a modification in the current scheme of the power of appointment vested in "Chief Justice" to "High Court" and "Supreme Court".

As the appointment by the Courts is not a judicial act, the Courts can further delegate the power to appoint the arbitrator to specialized or external person than by doing it themselves. The Commission also proposed an amendment in Section 11(7), in order to give finality to the appointment of the arbitrator by the High Court. It further proposed the addition of Section 11(13) that requires the Court to dispose of the matter expeditiously within 60 days from the date of service of notice on the opposite party[46]. These amendments will make the arbitration process faster, cheaper, and effective. Also the limit of 60 days will reduce the burden on the court.

CONCLUSION

The recommendations in the 246th Report of the law commission were meant to introduce fairness as well as speedy and economical resolution of disputes through arbitration[47]. This was considered essential to stem the gradual shift away from India as a favored seat for International commercial arbitration in support of more investor-friendly jurisdiction such as Singapore, Hong Kong and London. The shortcomings of the act resulted in Indian parties choosing arbitration abroad. The Arbitration and Conciliation (Amendment) Bill, 2015 was proposed in order to develop India into a global hub for arbitration and legal outsourcing. The

[45] Supra Note.30
[46] Supra Note.8
[47] Supra Note. 27

Amendment bill, 2015 is not exhaustive in nature. In order to fill the lacuna certain recommendations of the commission should be considered:

- Scope and nature of judicial intervention, as applicable to section 11, should also apply to sections 8 and 45 of the Act. The scope and nature should not vary if the parties refuse to appoint an arbitrator in terms of the arbitration agreement, or move a proceeding before a judicial authority.

- Addition of Section 24 (1) to the Act which is intended to discourage the practice of frequent and baseless adjournments.

- Addition of Explanation 2 to section 11(6A) of the Act, so that High Courts and the Supreme Court, while acting in exercise of their jurisdiction under Section 11 of the Act will take steps to encourage the parties to refer the disputes to institutionalized arbitrations.

- In order to prevent the arbitration proceedings from becoming a replica to the court proceedings, it is essential that there is a alteration in the conduct of arbitral proceedings to a more formal sitting.

In order to remedy the mischief the government has taken cognizance of the problems in the Arbitration and Conciliation Act, 1996. In this context it is committed to develop India into a global hub for arbitration and legal outsourcing. The Bill will mark a change in direction and will make Indian arbitration as well as any related court proceedings, more efficient and effective. Along with the amendments in the bill, recommendations given should be considered in order to make the amendment comprehensive.

The proposed Bill is a positive step forward therefore, and should be welcomed by foreign investors. The Ordinance to the Arbitration and Conciliation Act has been passed on 23rd October 2015, but it is yet to become an Act. If passed the enforcement of commercial

contracts in India by arbitration will be easier both arbitration in India itself, and arbitration seated elsewhere which leads to an award that is enforced in India

Bibliography

Statutes

1. Arbitration and Conciliation Act, 1996
2. Arbitration Act, 1940
3. Code of Civil Procedure, 1908
4. Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (New York Arbitration Convention

Arbitral Institutional Rules

1. UNCITRAL Model Law on International Commercial Arbitration, 1985 (adopted in 2006)
2. UNCITRAL Conciliation Rules, 1980

Books

1. Gary Born, *International Arbitration: Cases and Materials*, Kluwer Law International, 2011.
1. Martin Hunter *et. al.*, *Redfern and Hunter on International Arbitration*, 5thEdn., Oxford University Press, 2009.
2. Micheal Mustill and Stewart Boyd, *Commercial Arbitration*, 2ndEdn., LexisNexis Butterworths, 2001.
3. Philippe Fouchard*et. al.*, *International Commercial Arbitration*, Kluwer Law International, 1999.
4. Indu Malhotra, *O.P.Malhotra on the Law & Practice of Arbitration and Conciliation*, 3rd ed., Thomas Reuters, 2014
5. Justice R.S.Bachawat, *Law of Arbitration & Conciliation)*,5th ed., LexisNexis Butterworths, 2010
6. Dr. P.C.Markhanda, *Law relating to Arbitration & Conciliation*,8th ed., LexisNexis Butterworths,2013
7. William H.Gill, EVIDENCE AND PROCEDURES IN ARBITRATION,1,(1965)
8. Dr. Shraddhakara Supakar, *Law of Procedure and Justice in Ancient India*, Deep & Deep Publication,New Delhi, 1986.

Articles and Reports

1. Ajay Kumar Sharma, "Judicial Intervention In International Commercial Arbitration: Critiquing The Indian Supreme Court's Interpretation of the Arbitration And Conciliation Act, 1996", *Indian Journal of Arbitration Law*, Vol. 3, No. 1, 2014.
2. Matthias Scherer, "The IBA Guidelines on conflicts of interest in International Arbitration. The First Five Years 2004-2009," *The IBA Conflicts Committee, a Sub-committee of the IBA Arbitration Committee*, 2010

3. Krishna Sharma "Development and Practice of Arbitration in India –Has it Evolved as an Effective Legal Institution**",** *Center on Democracy, Development, and The Rule of Law Freeman Spogli Institute for International Studie*, Number 103,October 2009
4. Abhinav Chandrachud, " Alternative Dispute Resolution : Is It Always An Alternative?", *Manupatra*,2012
5. Ministry of Law and Justice, "*Proposed Amendments to the Arbitration and Conciliation Act, 1996*", 22nd December,2003
6. Law Commission of India, Report No. 176th, "Arbitration and Conciliation(Amendment)Bill, 2001", New Delhi, 12th September, 2001
7. Law Commission of India, Report No.246, 'Amendments to Arbitration & Conciliation Act', August,2014
8. Law Commission of India, "Supplementary to Report No.246 on Amendments to Arbitration and Conciliation Act, 1996", February 2015