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ARBITRATION AND CONCILIATION

Delay in Challenging an Award: When Does the Clock Start for the Government?

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On 28 August 2025, a two -judge Bench of the Supreme Court of India (Justices J.B. Pardiwala and K.V. Viswanathan) brought down the curtain—at least for the moment—on a dispute that began in 2002, culminated in an arbitral award in 2013, and has ever since been fought over one question: when exactly does the 90-day limitation period under Section 34 of the Arbitration and Conciliation Act, 1996 start to run against the State? The judgment, reported as M/s Motilal Agarwala v. State of West Bengal & Anr., 2025 INSC 1062, reaffirms that for a government department the clock ticks only when a signed copy of the award reaches the desk of the officer who is competent to decide the next move, and not merely the desk of any official who happened to attend the proceedings.

Facts that framed the fight

The contract was executed between the Superintending Engineer, Mahananda Barrage Circle (Irrigation & Waterways Directorate), and the partnership firm M/s Motilal Agarwala. A dispute arose, arbitration followed, and on 12 November 2013 the sole arbitrator, Justice Kalyanmoy Ganguli (Retd.), passed an award in favour of the contractor. On that very day an Assistant Engineer, Sri Pradip Saha, collected a xerox copy duly signed by the arbitrator. The award was never delivered to the Secretary, Irrigation & Waterways Department, nor to the Executive Engineer, Islampur—officers who would normally take the policy decision to challenge or honour the award.

The State first learnt of the award when Motilal Agarwala began execution proceedings. Within days the State rushed to the District Court, Uttar Dinajpur, with a Section 34 application dated 20 March 2014, accompanied by a condonation-of-delay plea. The District Judge dismissed the petition as barred: counting 90 days from 12 November 2013, the application was about five weeks late. Aggrieved, the State filed a first appeal (F.M.A. No. 4576 of 2015) before the Calcutta High Court.

Calcutta High Court's intervention

A Division Bench of the High Court reversed the District Court. It held that limitation under Section 34(3) commences only when the "party" receives a signed copy from the arbitral tribunal. Relying on National Agricultural Cooperative Marketing Federation v. R. Piyarelal Import & Export (decided by the same Bench on 28 August 2015) and on the Supreme Court's earlier ruling in State of Maharashtra v. ARK Builders (2011) 4 SCC 616, the High Court concluded that service on an Assistant Engineer who was neither a party to the arbitration agreement nor entrusted with the power to challenge the award did not trigger limitation. The State's appeal was allowed, the District Court's order set aside, and the Section 34 petition directed to be heard on merits.

The appeal before the Supreme Court

Motilal Agarwala then approached the Supreme Court in Civil Appeal No. 4480 of 2016. Senior Advocate Ajit Kumar Sinha argued that the authorized representative who collected the signed copy on 12 November 2013 was fully aware of the proceedings and should be treated as the "party" within the meaning of Section 2(1)(h) of the Act. He urged that the State's delay must be visited with dismissal. Countering him, Advocate Madhumita Bhattacharjee submitted that the Assistant Engineer never placed the award before the competent authority; the State therefore discovered the award only during execution. She insisted that "party" in Section 2(1)(h) is confined to the signatory to the arbitration agreement, excluding agents or lower-rung officers.

Legal compass used by the Court

The Supreme Court examined Sections 31(5) and 34(3) in conjunction with Section 2(1)(h). It recalled its own exposition in Union of India v. Tecco Trichy Engineers & Contractors (2005) 4 SCC 239 that in large government organisations the award must reach "the person who has knowledge of the proceedings and who would be the best person to understand and appreciate the arbitral award and also to take a decision in the matter of moving an application under Section 34." The Benarsi Krishna Committee case (2012) 9 SCC 496 was pressed into service to stress that an advocate or agent cannot be equated with the party itself. ARK Builders fortified the principle that limitation starts only upon receipt of a copy "from the arbitral tribunal" in the manner prescribed.

Supreme Court's reasoning

The Bench noted that the Secretary, Irrigation & Waterways Department, and the Executive Engineer were the only officers competent to decide whether to challenge the award. The Assistant Engineer was admittedly not a party to the arbitration agreement and had no decision-making authority. Consequently, service upon him did not amount to delivery to "each party" as mandated by Section 31(5). Limitation therefore never began to run on 12 November 2013, and the State's petition filed on 20 March 2014—once the award actually came to the notice of the competent officers—was held to be within time. The Court also reminded that delivery of the award is not a mere formality; it sets in motion several limitation periods under Sections 33 and 34. Any dilution of the "competent authority" rule would create uncertainty in government litigation.

Final order

The Supreme Court dismissed the contractor's appeal, upheld the Calcutta High Court judgment, and directed the District Court to decide the pending Section 34 application on merits within six months from the date the Supreme Court's order is received. After twelve years of litigation, the battle now returns to the trial court for a decision on substance rather than time.

M/s Motilal Agarwala v. State of West Bengal reiterates a simple but vital proposition: in arbitration involving the State, the award must reach the desk that counts, not merely the desk that is convenient. By insisting that limitation under Section 34 starts only when the competent departmental head receives a signed copy, the Supreme Court has sought to balance the rigours of limitation with the realities of bureaucratic hierarchy—while also sending a gentle reminder that government departments must streamline internal communication so that the next arbitration dispute does not take another dozen years to discover its starting line.

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