

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

OMPM No.55 of 2025
in Arbitration Appeal No.87 of 2025
Date of decision: 09.04.2025

National Highway Authority of India. ...Appellant.

Versus

Jagroop Singh & Ors. ...Respondents.

Coram:

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?

For the appellant : Ms. Shreya Chauhan and Ms.
Sneh Bhimta, Advocates.

For the respondents : Nemo.

Jyotsna Rewal Dua, Judge

The award was passed by learned Arbitrator against the appellant/applicant on 03.01.2022. The applicant/appellant filed objections under Section 34 of the Arbitration and Conciliation Act, 1996, against the aforesaid award. The objections were dismissed by the learned District Judge on 13.06.2024 on the ground of their having been preferred beyond three months plus 30 days provided for the purpose under Section 34 of the Act. Feeling aggrieved, applicant/appellant has instituted this arbitration appeal taking recourse to Section 37 of the Act. There is delay of 258 days in institution of this appeal as well. Hence, application has been moved for condoning the delay.

Whether reporters of Local Papers may be allowed to see the judgment? Yes

2. Heard learned counsel for the applicant/appellant and considered the case file.

3. In the given facts and circumstances of the case, there is no necessity for issuing notice to the respondents.

3(i). Award was passed against the applicant/appellant on 03.01.2022 and its copy was received by it on 20.08.2022.

3(ii). Period of three months made available under Section 34 of the Act for assailing the award, thus, is to be reckoned from 20.08.2022. The said period of three months lapsed around 22.11.2022.

3(iii). Under Section 34(3) of the Act, an application for setting aside the award on the ground mentioned in Section 34(2) of the Act can be made within three months and the period can only be extended for a further period of 30 days on showing sufficient cause and 'not thereafter'.

3(iv). It is well settled that Section 5 of the Limitation Act has no application to an application challenging an arbitral award under Section 34 of the Act. Under Section 34(3) of the Act, an application for setting aside the award on the grounds mentioned in Section 34(2) of the Act can be

made within three months and the period can only be extended for a further period of thirty days on showing sufficient cause and not thereafter. The use of the words “but not thereafter” in the proviso to Section 34 makes it clear that extension cannot be beyond thirty days. [Ref. ***Simplex Infrastructure Limited Versus Union of India***¹ and ***My Preferred Transformation & Hospitality Pvt. Ltd. & Anr. vs. M/s. Faridabad Implements Pvt. Ltd.***²].

In the instant case, three months’ period from the date of receipt of award expired on 22.11.2022. Further period of thirty days lapsed on 22.12.2022. The petition under Section 34 of the Act was instituted on 19.01.2023. There was a delay of about 33 days in moving the application under Section 34 of the Act by the present applicant. Learned District Judge, therefore, did not err in holding that a delay beyond 120 days in moving the application under Section 34 of the Act could not be condoned. Even otherwise, the applicant/appellant has failed to justify the delay in taking recourse to Section 37 of the Act as well.

4. In view of above, present application is dismissed and consequently, appeal is also dismissed. Pending

¹(2019) 2 SCC 455

²Civil Appeal No.336 of 2025 decided on 10.01.2025

miscellaneous application(s), if any, to also stand disposed of.

9th April, 2025
(*Pardeep*)

Jyotsna Rewal Dua
Judge