

Run By Shorthand Dictation Legal Matters

Since 2005

(Sir Isaac Pitman's Shorthand)

Krishna Shorthand Institute

कृष्णा आशुलिपिक संस्थान

(English Only) By. A.V. Kushwaha

(For Govt. Jobs, SSC (Group D & C), Supreme Court, High Court, District Courts, ASRB, CRPF, Railway, CBSC & all other departments requiring "English Stenographer/ Personal Assistant/Private Secretary"

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

(Contact No. 7355504435)

Note: You will get following:

- 1. Passage (in two parts)**
- 2. Important Outlines**
- 3. Important Vocabulary**
- 4. Accuracy Building Tips etc.**

NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: Non-Maintainability of Section 34 Petitions Against Foreign Awards

Volume 1: Dictation No. 17

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

Before proceeding to adjudicate the application, it is pertinent to note that the two miscellaneous appeals are filed under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Indian Act'). The facts briefly are that an agreement dated 22.4.1993 was executed between the appellant and the respondent under which the respondent was to supply installed equipment for modernization and upgradation of the production facilities of the appellant at Korba in the State of Chhattisgarh. The agreement provided for settlement of disputes by arbitration. Certain disputes arose between the parties and were referred to arbitration. The arbitration was held in England and the arbitral tribunal made two awards dated 10.11.2002 and 12.11.2002 in England. The appellant, thereafter, filed applications under

Section 34 of the Indian Act for setting aside the two awards dated 10.11.2002 and 12.11.2002 in the Court of learned District Judge, Bilaspur which were numbered as MJC Nos. 92 of 2003 and 14 of 2003 respectively. By order dated 20.7.2004, the learned District Judge, Bilaspur held that the applications filed by the appellant under Section 34 of the Indian Act for setting aside the two foreign awards are not tenable and, accordingly, dismissed the same. Aggrieved, the appellant has filed these appeals.

Mr. Vivek Tankha and Mr. S. N. Mukherjee, learned counsel appearing for the appellant in the two appeals submitted that in the impugned order dated 20.7.2004, the learned District Judge has held that the application filed by the appellant under Section 34 of the Indian Act was not maintainable, but the learned District Judge has not recorded any reason whatsoever for coming to the aforesaid conclusion. They argued that the learned District Judge should have decided the issues of fact and law raised by the parties in their respective pleadings, but no such exercise has been undertaken by the learned District Judge in the impugned order. They submitted that since the impugned order is without any reason, it is liable to be set aside. In support of their submission, they relied on the decision of the Supreme Court in Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee,

2004 AIR SCW 102 and State of Punjab vs. Bhag Singh, 2004 Criminal LJ 916.

Learned counsel for the appellant next submitted that the learned District Judge has proceeded on the assumption that the provisions of Section 34 of the Indian Act are not applicable to a 'foreign award' and for this reason held that the applications filed by the appellant under Section 34 of the Indian Act to set aside the foreign awards were not maintainable. He submitted that this view taken by the learned District Judge is contrary to the decision of the Supreme Court in Bhatia International vs. Bulk Trading, in which it has been held that the Indian Act applied to the arbitration which are held in India between the Indian Nationals as well as to international commercial arbitrations whether held in India or out of India. He also cited the decision of the Gujarat High Court in Nirma Ltd. vs. GMBH, Germany, in which a Division Bench of the Gujarat High Court has taken a view that when the agreement between the parties was governed by the Indian law, then the application for setting aside the award made outside the country can also be filed in a Court in India under Section 34 of the Indian Act. He submitted that since the agreement between the parties was governed by the Indian law, the learned District Judge should have held that the applications for setting aside the awards could be filed under

Section 34 of the Indian Act before the learned District Judge at Bilaspur.

Total Words: 608

Outlines of all highlighted words and phrases.

Note: Adopt only those outlines which are better than yours.

proceeding

प्र

pertinent

प्र

adjudicate

(Sir Isaac Pitman's Shorthand Writing)

miscellaneous

मिस्यूल

Arbitration and Conciliation Act, 1996

अर्बिट्रेशन एंड कॉन्सिलिएशन एक्ट

hereinafter referred to as the

प्र

Indian Act

इंडियन एक्ट

hereinafter referred to as:

प्र

agreement dated 22.4.1993

22-04-93

(Contact No. 73)

ग्राहनी तिथि 22.4.1993

ग्राहनी तिथि 22.4.1993

executed

प्र

installed

प्र

supply

प्र

equipment

प्र

modernization

प्र

upgradation

प्र

State of Chhattisgarh.

प्र

Korba

प्र

production facilities

प्र

provided

प्र

certain disputes between the parties referred to in England arbitral tribunal awards dated applications setting aside the learned District Judge Bilaspur which were numbered respectively. order dated held that the foreign awards are not tenable accordingly, Aggrieved, Mr. Vivek Tankha Mr. S. N. Mukherjee, learned counsel appearing for the appellant

impugned order dated
was not
maintainable
whatsoever
argued that the
issues
respective
pleadings

undertaken

since the
impugned order
is liable

set aside
in support of

relied on

Supreme Court

Smt. Swaran Lata Ghosh

Harendra Kumar Banerjee

State of Punjab

Bhag Singh,

learned counsel for the appellant

submitted that the

proceeded

assumption

provisions

are not
applications
this view
contrary
Bhatia International
vs.

Bulk Trading

in which

it has been

Indian Nationals

कृष्णा आशुलिपिक संस्कृत

as well as

international

commercial

arbitrations

cited

(For Govt. Jobs, SSC (Group D & C), Supreme

Court, District Courts, ASRB, CRPF, Railway

other departments requiring "English Steno"

Personal Assistant/Private Secretary

Gujarat High Court

Nirma Ltd

GMBH, Germany

Division Bench

between the parties

governed

outside the

could be

should have

(Increase your vocabulary:

Learn New and Important Words of the Matter)
Keep revising all new words learned.

Legal/General Matter (Legal Vocabulary Building)

1. **Proceeding:** (noun) legal action in court कार्यवाही
2. **It is pertinent:** (phrase) it is relevant यह प्रासंगिक है
3. **Adjudicate:** (verb) to decide officially निर्णय देना
4. **Miscellaneous:** (adjective) various types विविध
5. **Arbitration and Conciliation:** (noun phrase) dispute resolution method मध्यस्थता और सुलह
6. **Hereinafter referred to as:** (phrase) hereafter called इसके बाद संदर्भित
7. **Executed:** (verb) signed formally निष्पादित किया
8. **Installed:** (verb) set up स्थापित किया
9. **Equipment:** (noun) tools/machines उपकरण
10. **Upgradation:** (noun) improvement उन्नयन
11. **Arbitral tribunal:** (noun phrase) arbitration panel मध्यस्थता न्यायाधिकरण
12. **Awards:** (noun) arbitrator's decisions पंचाट

13. Setting aside: (verb phrase) cancelling रद्द करना

14. Respectively: (adverb) in order mentioned क्रमशः

15. Foreign awards: (noun phrase) awards made abroad विदेशी पंचाट

16. Tenable: (adjective) defensible रक्षणीय

17. Aggrieved: (adjective) wronged पीड़ित

18. Impugned order: (noun phrase) challenged order विवादित आदेश

19. Maintainable: (adjective) legally sustainable स्वीकार्य

20. Whichever: (adverb) at all कुछ भी

21. Respective: (adjective) belonging separately संबंधित

22. Pleadings: (noun) formal court statements अभिवचन

23. Undertaken: (verb) carried out किया गया

24. Set aside: (verb phrase) to cancel रद्द करना

25. Relied on: (verb phrase) depended on भरोसा किया

26. Proceeded: (verb) continued आगे बढ़ा

27. Contrary: (adjective) opposite विपरीत

28. Vs.: (abbreviation) versus बनाम

29. Arbitrations: (noun) dispute settlements
मध्यस्थताएं

30. Cited: (verb) referred to उद्धृत किया Example: He cited a Supreme Court case.

Accuracy Mantra: Don't confuse or transcribe following words and be very attentive while transcribing above word.

31. Sited: (verb) located स्थित किया Example: The plant was sited in Korba.

32. Sighted: (verb) seen देखा Example: The document was sighted by the judge.

By Sir AV Kushwaha,

Principal,

Krishna Shorthand Institute,

via online Telegram Class through

7355504435

Accuracy Builder: following words occurred in the dictation is to be capitalized;

1. Personal Names and Titles:

- Mr. Vivek Tankha
- Mr. S. N. Mukherjee
- Smt. Swaran Lata Ghosh
- Harendra Kumar Banerjee
- Bhag Singh
- District Judge

2. Place Names (Geographical Locations):

- Korba
- State of Chhattisgarh
- England
- State of Punjab
- India
- Bilaspur
- Germany
- Gujarat

3. Court Names:

- Supreme Court
- Gujarat High Court

- Court (when referring to specific judicial body)

4. Case Names:

- Bhatia International vs. Bulk Trading
- Nirma Ltd. vs. GMBH
- Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee
- State of Punjab vs. Bhag Singh

5. Legislation/Statute Names:

- Arbitration and Conciliation Act, 1996
- Indian Act
- Section 34
- Section 37(1)(b)

6. Law Report Abbreviations:

- AIR SCW
- Criminal LJ
- MJC Nos.

7. Nationality/Demonym:

- Indian Nationals
- Indian (when referring to Indian law/nationals)

8. Company/Organization Names:

- Bhatia International

- Bulk Trading
- Nirma Ltd.
- GMBH

Accuracy Builder: Analysis from the passage dictated today.

1. "Before proceeding to adjudicate the application, it is pertinent to note..."

- **Reason:** Separates introductory phrase from main clause

2. "...Arbitration and Conciliation Act, 1996..."

- **Reason:** Sets off the year as additional information. Always put a comma just before the year as indicated above.

3. "The appellant, thereafter, filed applications..."

- **Reason:** Sets off transitional adverb "thereafter"

4. "...the learned District Judge, Bilaspur held that..."

- **Reason:** Separates title from location (appositive)

5. "Aggrieved, the appellant has filed these appeals."

- **Reason:** Separates participial phrase from main clause

6. "Mr. Vivek Tankha and Mr. S. N. Mukherjee, learned counsel appearing for the appellant..."

- **Reason:** Sets off appositive phrase

7. "...in their respective pleadings, but no such exercise has been undertaken..."

- **Reason:** Separates independent clauses joined by "but"

8. "...since the impugned order is without any reason, it is liable to be set aside."

- **Reason:** Separates dependent clause from independent clause

9. "...Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee, 2004 AIR SCW 102..."

- **Reason:** Separates case name from citation details

10. "...Bhatia International vs. Bulk Trading, in which it has been held..."

- **Reason:** Separates case name from relative clause

11. "...since the agreement between the parties was governed by the Indian law, the learned District Judge should have held..."

- **Reason:** Separates dependent clause from independent clause

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