

**Run By Shorthand Dictation Legal Matters**

Since 2005

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**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")**

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**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

pertinent

adjudicate

miscellaneous

Arbitration and Conciliation Act, 1996

hereinafter referred to as the

Indian Act

hereinafter referred to as:

agreement dated 22.4.1993

executed

installed

supply

equipment

modernization

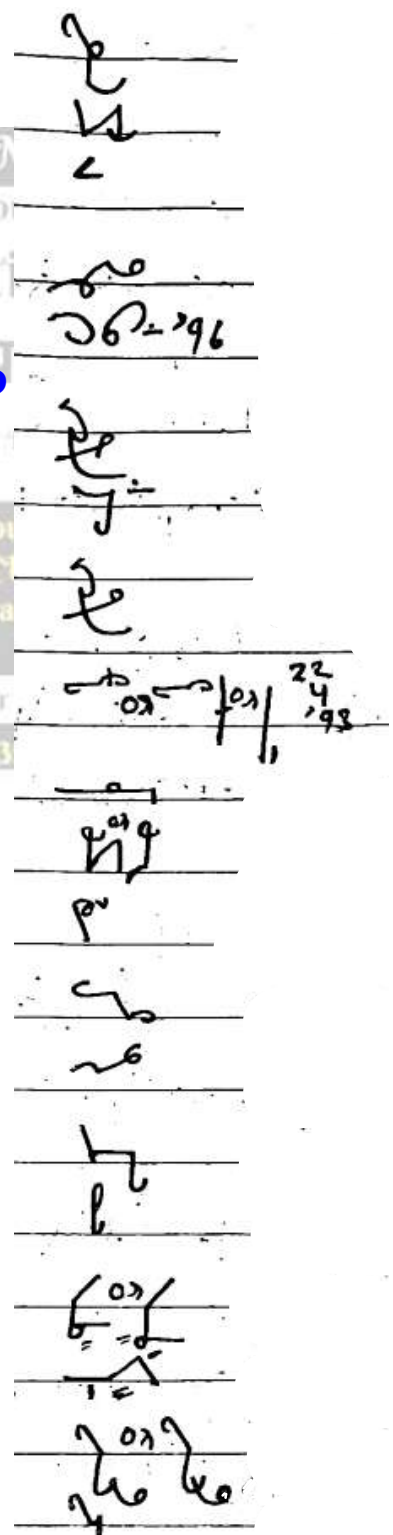
upgradation

State of Chhattisgarh.

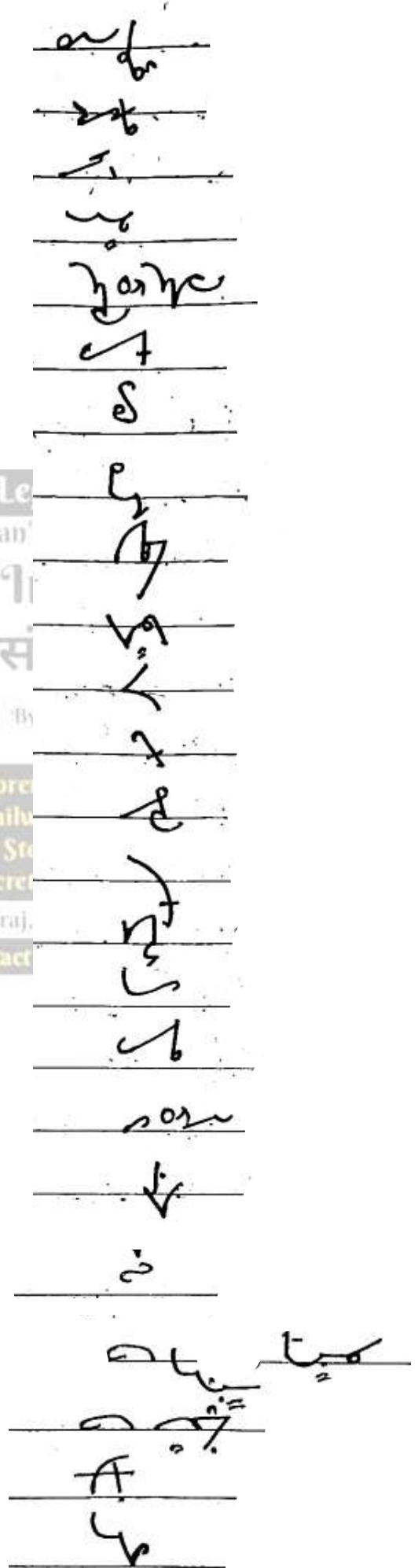
Korba

production facilities

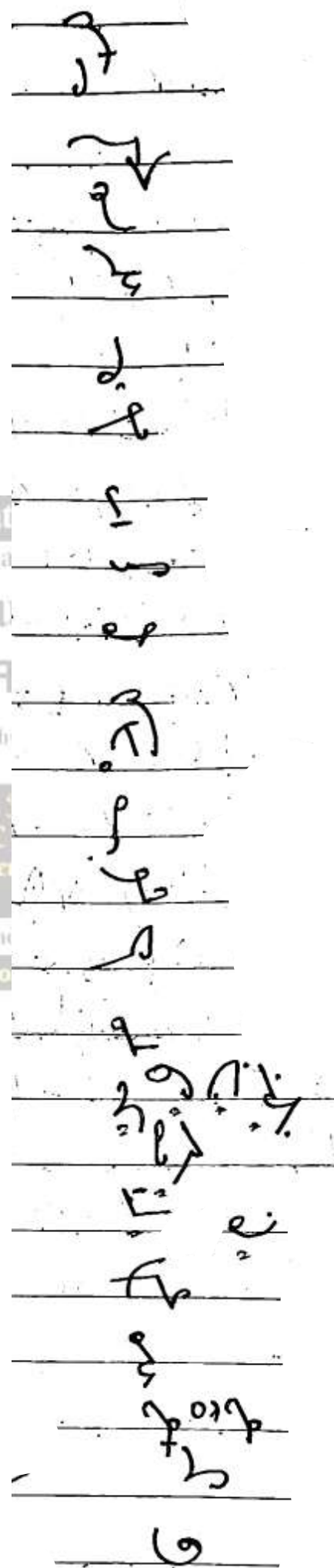
provided



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

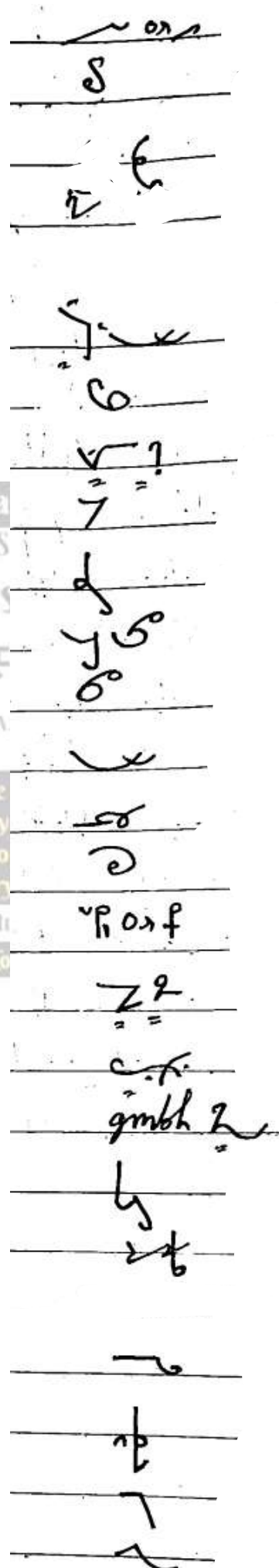


impugned order dated  
was not  
maintainable  
whatsoever  
argued that the  
issues  
respective  
pleadings  
undertaken  
since the  
impugned order  
is liable  
set aside  
in support of  
relied on  
Supreme Court  
Smt. Swaran Lata Ghosh  
Harendra Kumar Banerjee  
State of Punjab  
Bhag Singh,  
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  
 as well as  
 international  
 commercial  
 arbitrations  
 cited  
 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. **Whatsoever:** (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

**By Sir AV Kushwaha,**

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