

**THE HON'BLE SRI JUSTICE P.SAM KOSHY**  
**AND**  
**THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**  
**WRIT PETITION No.1013 of 2025**

**ORDER:** *(per the Hon'ble Sri Justice P.Sam Koshy)*

The present is a writ petition which has been filed by the State of Telangana under Article 226 and 227 of the Constitution of India. The challenge is to the order passed in an arbitration proceeding whereby the Sole Arbitrator has rejected an I.A. that was filed by the petitioners/State i.e. I.A.No.1 of 2024 in Arbitration File No.6, decided on 30.10.2024.

**2.** Heard Mr. S. Rahul Reddy, representing the Office of the learned Additional Advocate General for the petitioners, and Mr. Abhimanyu Bhandari, learned Senior Counsel appearing on behalf of Mr. Keerthi Kiran Kota, learned counsel for the respondents.

**3.** *Vide* the impugned order; the Sole Arbitrator has dismissed the petition filed by the petitioners under Section 16 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') raising an objection that the Arbitral Tribunal does not have the jurisdiction to

entertain the claims, as the claims have been hopelessly barred by limitation.

4. The brief facts leading to filing of the present writ petition are that there was a joint venture cum shareholders agreement executed between the petitioners and respondents for the construction and maintenance of hotel and Spa in Hyderabad through a Special Purpose Vehicle (for short, 'SPV'). The respondent No.2 was the SPV with 74% of its shares with respondent No.1 and 26% of the shares being with the petitioners. The total land allotted for the said purpose was 14.94 acres.

5. The respondents, meanwhile, contended that the petitioners have agreed to sell and transfer their 26% of shares in SPV Company on payment of Rs.12,69,90,000/-, with a return of investment of 12% per annum from the date of execution of the sale deed in favour of respondent No.2 so far as the aforementioned land is concerned, till the date of buying back all the shares of respondent No.1 from the petitioners. That on 26.09.2008, the respondents addressed a letter to the petitioners seeking transfer of the 26% of shares. The petitioners *vide* their letter dated 02.06.2009 categorically denied the said request.

**6.** All these developments are said to have arisen between 10.08.2005 to 02.06.2009. Now after a considerable long period of time, the respondents issued an arbitration notice on 15.09.2022. Subsequently, a petition under Section 11(6) of the Act was filed before this High Court and Mr. P. Naveen Rao, Former Acting Chief Justice, was appointed as the Sole Arbitrator/Arbitral Tribunal. After the Sole Arbitrator having seized of the proceedings, the statement of claim was filed by the respondents. After the respondents filed the statement of claim, the petitioners filed an application under Section 16 of the Act contending that the Sole Arbitrator/Arbitral Tribunal does not have the jurisdiction to decide the said matter as the entire claim of the respondents was hopelessly barred by limitation.

**7.** It is this application under Section 16 of the Act filed by the petitioners which stands rejected by the Sole Arbitrator and which is under challenge before this Court.

**8.** On the question of maintainability of the writ petition while the arbitration proceeding is seized by the Sole Arbitrator, the learned counsel appearing for the petitioners vehemently contended that since the order rejecting the application under Section 16 of the Act

is not an appealable order under Section 37 of the Act, as the said order does not fall under any of the stages which allow appeals under Section 37(1) as also under Section 37(2) of the Act.

**9.** The specific contention of the learned counsel appearing for the petitioners was that since the claim raised by the respondents from the averments mentioned in their claim petition itself would establish that the initial rejection to the request made by the respondents for transfer of shares was on 02.06.2009, there were further correspondences also made, and the last categorical rejection was made on 07.08.2019.

**10.** Undisputedly, according to the learned counsel appearing for the petitioners, the period of limitation for raising a claim petition under the Act is three years, and if 02.06.2009 is to be considered as the date of cause of action when the claim was rejected, the proceedings ought to have been initiated by 02.06.2012. Likewise, if the last rejection is to be taken for the purpose of limitation i.e. 07.08.2019, the limitation of three years would come to an end on 07.08.2022. However, the notice invoking the arbitration for the first time was issued by the respondents only on 15.09.2022 i.e. much beyond the three years of limitation from the dates as

contended by the respondents themselves on which the cause of action arises. It was in this context that the objection under Section 16 of the Act was raised by the petitioners which stood rejected by the Sole Arbitrator.

**11.** According to the learned counsel appearing for the petitioners, the findings given by the Sole Arbitrator being *per se* illegal and contrary to law and also contrary to the judgments laid down by the Hon'ble Supreme Court, and moreover there being no provision of an appeal against the rejection of Section 16 petition, it is only the writ remedy that the petitioners have. Therefore, the writ petition is maintainable.

**12.** *Per contra*, the learned Senior Counsel appearing for the respondents contended that the writ petition otherwise is not maintainable for the reason that except for rejecting the plea of limitation that the petitioners have raised, no substantial orders have been passed by the Sole Arbitrator calling the order to be one which is perverse and there is nothing to hold that the order passed by the Arbitral Tribunal to be unreasonable and in excess of its jurisdiction.

**13.** According to the learned Senior Counsel appearing for the respondents, while deciding the Section 16 objection, the Sole Arbitrator has given certain reasons for reaching to the said conclusion and those reasons are based on the judgments of the Hon'ble Supreme Court and also the judgments of other High Courts. According to the learned Senior Counsel appearing for the respondents, the said finding is judicially correct or not, is not one which could be tested at this juncture invoking the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India. Rather, the petitioners can raise this issue if at all if the Arbitral Award goes against them while challenging the said award in an appeal under Section 34 and under Section 37 of the Act.

**14.** It was strongly contended by the learned Senior Counsel appearing for the respondents that exercising of writ jurisdiction in an arbitral proceedings, particularly when only an application of preliminary objection is being decided, would defeat the very purpose for which the Act has been enacted. It was also contended that writ jurisdiction in the instant case should not be invoked only on the ground that the petitioners would be put to great inconvenience by waiting for conclusion of the arbitral proceedings

and challenging the ground of limitation as well is not sustainable. This aspect again has been decided by the Hon'ble Supreme Court as also by High Courts in a catena of decisions.

**15.** According to the learned Senior Counsel appearing for the respondents, the writ petition is otherwise not maintainable for the reason that the Act itself provides for a remedy of appeal against any order which is not justifiable. But the appeal is provided under Section 37, and Section 37 categorically prescribes for certain orders of the Arbitral Tribunal to be appealable and rejection of Section 16 petition under Section 37 is not arbitral. However, the aggrieved person even being aggrieved against any of those petitions which do not fall within the ambit of Section 37, the remedy is to raise that ground while challenging the final Award under Section 34 which includes all those in between orders that would be passed by the Arbitral Tribunal.

**16.** Having heard the contentions put forth on either side and on perusal of records, at the first instance, what this Bench intends to go into is whether the instant writ petition would be maintainable against an order of rejection of Section 16 objection filed before the

Arbitral Tribunal, more particularly when the objection was that the matter being barred by limitation.

**17.** There could be no dispute so far as the legal position as it stands, as has been enunciated by the Hon'ble Supreme Court in a series of judgments where it has been held that the question of limitation is a mixed question of facts and law. Admittedly, upon reading of the impugned order, it would reflect that the last correspondence which is admitted by the petitioners is that of 07.08.2019 when the claim of the respondents was rejected by the State for the last time. It is also not in dispute that the notice for arbitration was for the first time raised by the respondents on 15.09.2022. The fact which was considered by the Sole Arbitrator was how the period of limitation of three years had to be counted from 07.08.2019 onwards. The Sole Arbitrator referring to certain judicial precedents which were laid down by the Hon'ble Supreme Court as also by other High Courts, has excluded the period between 01.03.2020 to 28.02.2022, which was otherwise commonly considered as lockdown period on account of COVID-19 pandemic. In terms of the **Suo Moto Writ Petition (Civil) No.3 of 2020**<sup>1</sup>

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<sup>1</sup> IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION.

entertained by the Hon'ble Supreme Court for extending the period of limitation for litigants who were adversely affected and were prevented from availing the legal recourse during the pandemic period, particularly the legal recourse which prescribed a period of limitation. The said judgment was further reiterated by the Hon'ble Supreme Court and has also been followed by High Courts as well so far as computation of the period of limitation is concerned and which has also been relied upon by the Sole Arbitrator while passing the impugned order.

**18.** The learned counsel appearing for the petitioners relied upon the judgment passed by the Hon'ble Supreme Court in **Suo Moto Writ Petition (Civil) No.3 of 2020**, and also the decisions rendered in **Delhi Development Authority vs. Tejpal and Others<sup>2</sup>**, **Arif Azim Company Limited vs. Aptech Limited<sup>3</sup>**, **OPG Power Corporation Private Limited vs. Enexio Power Cooling Solutions India Private Limited and Another<sup>4</sup>** and **The State of Andhra Pradesh & Ors. vs. Kopparla Santhi<sup>5</sup>**.

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<sup>2</sup> (2024) 7 Supreme Court Cases 433

<sup>3</sup> (2024) 5 Supreme Court Cases 313

<sup>4</sup> (2024)SCC OnLine SC 2600

<sup>5</sup> Order dated 19.07.2024 in S.L.P. (C) No.2681 of 2024

19. Relying upon all these decisions, it was strongly harped by the learned counsel for the petitioners that all the aforementioned judicial pronouncements held that for the purpose of counting the limitation in terms of the judgment in **Suo Moto Writ Petition (Civil) No.3 of 2020** entertained by the Hon'ble Supreme Court, the period between 01.03.2022 to 02.08.2022 alone would be excluded. Neither the earlier period would get waived, nor would the party get a fresh period of limitation after 02.08.2022.

20. Now the questions for consideration in the writ petition are: -

- a) In the factual backdrop, should the impugned order passed by the Sole Arbitrator be interdicted invoking the writ jurisdiction in the midst of the progress of arbitration proceedings?
- b) Whether in terms of the judicial precedents relied upon by the petitioners on the one side and the judicial precedents and interpretation given by the Sole Arbitrator on the other hand could be subjected to judicial review under the writ jurisdiction at the threshold stage of the Arbitral proceedings?

21. As early as in the year 2005, the Hon'ble Supreme Court in the case of **SPB Co. vs. Patel Engineering Ltd. and Another**<sup>6</sup> dealing with the aspect of power of the writ Court under Article 226, held at paragraph Nos.45 and 46 as under:

"45. It is seen that some High Courts have proceeded on the basis that any order passed by an Arbitral Tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution. We see no warrant for such an approach. Section 37 makes certain orders of the Arbitral Tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating its grievances against the award including any in-between orders that might have been passed by the Arbitral Tribunal acting under Section 16 of the Act. The party aggrieved by any order of the Arbitral Tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act. The Arbitral Tribunal is, after all, a creature of a contract between the parties, the arbitration agreement, even though, if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the Arbitral Tribunal. It will still be a forum chosen by the parties by agreement. We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the Arbitral Tribunal is capable of being corrected by the High Court under Article 226 or 227 of the Constitution. Such an intervention by the High Courts is not permissible.

46. The object of minimising judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if

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<sup>6</sup> (2005) 8 Supreme Court Cases 618

the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the Arbitral Tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the Arbitral Tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage.”

**22.** A similar view was also taken in the judgment rendered by the Hon’ble Supreme Court in the case of **Deep Industries Limited vs. Oil and Natural Gas Corporation Limited and Another**<sup>7</sup> wherein in paragraph No.22 the Hon’ble Supreme Court made some strong observations. The relevant portion is reproduced hereunder:

“**22**.....Even otherwise, entering into the general thicket of disputes between the parties does not behove a court exercising jurisdiction under Article 227, where only jurisdictional errors can be corrected....”

**23.** A similar view was also laid down by the Hon’ble Supreme Court in the case of **Punjab State Power Corporation Limited vs. Emta Coal Limited and Another**<sup>8</sup> wherein in paragraph Nos.4 and 5 it has been held as under:

“**4.** We are of the view that a foray to the writ court from a Section 16 application being dismissed by the arbitrator can only be if the

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<sup>7</sup> (2020) 15 Supreme Court Cases 706

<sup>8</sup> (2020) 17 Supreme Court Cases 93

order passed is so perverse that the only possible conclusion is that there is a *patent* lack in inherent jurisdiction. A *patent* lack of inherent jurisdiction requires no argument whatsoever — it must be the perversity of the order that must stare one in the face.

5. Unfortunately, the parties are using this expression which is in our judgment in *Deep Industries Ltd.* [*Deep Industries Ltd. v. ONGC*, (2020) 15 SCC 706], to go to the Article 227 Court in matters which do not suffer from a patent lack of inherent jurisdiction. This is one of them. Instead of dismissing the writ petition on the ground stated, the High Court would have done well to have referred to our judgment in *Deep Industries Ltd.* [*Deep Industries Ltd. v. ONGC*, (2020) 15 SCC 706] and dismiss the Article 227 petition on the ground that there is no such perversity in the order which leads to a *patent* lack of inherent jurisdiction. The High Court ought to have discouraged similar litigation by imposing heavy costs. The High Court did not choose to do either of these two things.”

24. In yet another judgment of the Hon'ble Supreme Court in the case of **Bhaven Constructions Through Authorised Signatory Premji Bhai K. Shah vs. Executive Engineer, Sarovar Narmada Nigam Limited and Another**<sup>9</sup>, in paragraph Nos.25 to 27, the following observations were made, viz.,

“25.....It is a settled law that the interpretation of contracts in such cases shall generally not be done in the writ jurisdiction. Further, the mere fact that the Gujarat Act might apply may not be sufficient

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<sup>9</sup>(2021) SCC OnLine SC 8

for the writ courts to entertain the plea of Respondent 1 to challenge the ruling of the arbitrator under Section 16 of the Arbitration Act.

**26.** It must be noted that Section 16 of the Arbitration Act, necessarily mandates that the issue of jurisdiction must be dealt first by the tribunal, before the court examines the same under Section 34. Respondent 1 is therefore not left remediless, and has statutorily been provided a chance of appeal. In *Deep Industries case* [*Deep Industries Ltd. v. ONGC*, (2020) 15 SCC 706] , this Court observed as follows : (SCC p. 718, para 22)

"22. One other feature of this case is of some importance. As stated hereinabove, on 9-5-2018, a Section 16 application had been dismissed by the learned arbitrator in which substantially the same contention which found favour with the High Court was taken up. *The drill of Section 16 of the Act is that where a Section 16 application is dismissed, no appeal is provided and the challenge to the Section 16 application being dismissed must await the passing of a final award at which stage it may be raised under Section 34.*"

(emphasis supplied)

**27.** In view of the above reasoning, we are of the considered opinion that the High Court erred in utilising its discretionary power available under Articles 226 and 227 of the Constitution herein. Thus, the appeal is allowed and the impugned order [*Sardar Sarovar Narmada Nigam v. Bhaven Construction*, 2012 SCC OnLineGuj 6499] of the High Court is set aside. There shall be no order as to costs. Before we part, we make it clear that Respondent 1 herein is at liberty to raise any legally permissible objections regarding the jurisdictional question in the pending Section 34 proceedings."

25. Again very recently, in the case of **Serosoft Solutions Pvt. Ltd. vs. Dexter Capital Advisors Pvt. Ltd.**<sup>10</sup> the Hon'ble Supreme Court dealing with the scope of interference under Article 226 and 227 held in paragraph Nos.14 to 16 as under:

"14.....In order to justify its interference and extension of time, the High Court has referred to and relied on a judgment of the same Court<sup>1</sup>. Certain conditions for exercising jurisdiction under Articles 226/227 are mentioned in the judgment. Conditions (v) and (vi) of the said judgment could have provided sufficient guidance for the High Court to consider whether interference is warranted or not. The relevant portion of the said order is as under: —

*"(v) Interference is permissible only if the order is completely perverse i.e. that the perversity must stare in the face.*

*(vi) High Courts ought to discourage litigation which necessarily interfere with the arbitral process.*

*(vii) Excessive judicial interference in the arbitral process is not encouraged.*

*(viii) It is prudent not to exercise jurisdiction under Articles 226/227.*

*(ix) The power should be exercised in 'exceptional rarity' or if there is 'bad faith' which is shown.*

*(x) Efficiency of the arbitral process ought not to be allowed to diminish and hence interdicting the arbitral process should be completely avoided."*

15. It is evident from the above that even as per the quote hereinabove interference under Article 226/227 is '*permissible only*

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<sup>10</sup> (2025) SCC OnLine SC 22

*if the order is completely perverse i.e. that the perversity must stare in the face.'* Condition (vi) to (x) underscores the reason why High Courts ought not to interfere with orders passed by the Arbitral Tribunals for more than one reason.

16. We looked into the other parts to see if the High Court has in fact found any perversity in the decision of the Tribunal. We found none. The High Court has not bothered to indicate under what circumstances the order passed by the Tribunal is perverse.....There is absolutely no discretion about this aspect of the matter, except to say that in the facts and circumstances of the case and as an exceptional circumstance as well, the request of the respondent/claimant is excessive."

**26.** It would be worthwhile to take note of a judgment of the Delhi High Court in the case of **Cadre Estate Pvt. Ltd. vs. Salochna Goyal and Ors.**<sup>11</sup> wherein in paragraph Nos.23, 24 and 30, the Delhi High Court has answered the very same issue that the petitioners have raised in the present writ petition. For ready reference, paragraph Nos.23, 24 and 30 are reproduced hereunder:

"**23.** A challenge to the jurisdiction of the Arbitral Tribunal including the existence or validity of the arbitration agreement is envisaged under Section 16(1) of the AC Act. Section 16(1)(b) clarifies that the decision of the Arbitral Tribunal that the contract is null and void "shall not entail ipso jure the invalidity of the arbitration clause". Under Section 16(2) of the AC Act, the plea objecting to the jurisdiction of the Arbitral Tribunal should be raised by the objector

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<sup>11</sup>2010 SCC OnLine3520

not later than the submission of the statement of defence. However, a party shall not be precluded from raising such a plea merely because he has been appointed, or participated in the appointment of an Arbitrator. Under Section 16(3), a plea that the Arbitral Tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. Under Section 16(4) the Arbitral Tribunal can excuse the delay under Sections 16(2) and (3) if it considers the delay justified. Section 16(5) states that whether the Arbitral Tribunal takes a decision rejecting the plea under Sections 16(2) and (3), it shall continue with the arbitral proceedings and make an arbitral award. Under Section 16(6) the party aggrieved by such an arbitral award may make an application for setting aside the award in accordance with Section 34.

**24.** Although a party may raise a challenge to the jurisdiction of the Arbitrator under Section 16(1) of the AC Act, if such challenge is unsuccessful, such party will have to wait for the award to be made and then raise the plea again as a ground to challenge the award under Section 34 of the AC Act. This position is also reiterated in Section 37(2) AC Act. It provides the right of an appeal to the Court only where the Arbitral Tribunal upholds the objection to its jurisdiction under Section 16(2) or 16(3) of the AC Act. No appeal is provided where it rejects such objection. An appeal is provided under Section 37(2)(b) against an order of the Arbitral Tribunal granting or refusing interim relief under Section 17 of the AC Act. Consequently, the AC Act cannot be said to be silent on what happens if the plea of a party objecting to the jurisdiction of the Arbitrator is negated by the Arbitral Tribunal. Section 16(5) read with Section 16(6) makes it clear that the aggrieved party has to wait till the award is passed by the Arbitral Tribunal before raising a challenge to the Award on the grounds outlined in Section 34 of the AC Act.

**30.** It may be observed that as regards the Petitioner's challenge to the jurisdiction of the learned Arbitrator it is not as if it has no remedy. If its application under Section 16 of the AC Act is allowed by the learned Arbitrator it will have no grievance left. If not, the Petitioner has to abide by the legislative scheme outlined in Section 16(5) read with Section 16(6) AC Act and await the passing of the Award. If the Award goes against the Petitioner, it can challenge the Award on the grounds available to it under Section 34 of the AC Act. The mere fact that this may, cause it the inconvenience of having to await the conclusion of the arbitral proceedings is no ground to entertain a writ petition at an intermediate stage in a manner contrary to the legislative scheme under Section 16 AC Act. The AC Act being a complete code in itself and with Section 5 of the AC Act limiting interference by judicial authorities, any attempt to expand the scope for interference by the High Court in exercise of its powers under Article 226 of the Constitution would defeat the object and purposes of the AC Act."

**27.** Same view has again recently been taken by the Delhi High Court in the case of **IDFC First Bank Ltd. vs. Hitachi MGRM Net Ltd.**<sup>12</sup>, wherein in paragraph Nos.21, 24, 25 and 26 it has been held as under:

"**21.** The above provision makes it clear that an order passed under Section 16 is appealable if the plea raised is held to be maintainable and the arbitral proceedings are terminated. However, if the plea is rejected and the arbitral proceedings continue, no appeal is provided. Clearly, therefore, the intention is not to permit an appellate remedy in case the Arbitral Tribunal holds that it has jurisdiction to proceed with the reference. Further, an order under

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<sup>12</sup>(2023)SCC OnLine Delhi 4052

Section 16 which is not appealable under Section 37 would, in the scheme of the Arbitration and Conciliation Act, 1996 be liable to be challenged only once the final award is passed by invoking the terms of Section 34 of the Act.

**24.** While there is no doubt that a remedy under Articles 226 and 227 are available against the orders passed by the Arbitral Tribunal, such challenges are not to be entertained in each and every case and the court has to be “extremely circumspect”.

**25.** Recently, in *Surender Kumar Singhal v. Arun Kumar Bhalotia* [*Surender Kumar Singhal v. Arun Kumar Bhalotia*, 2021 SCC OnLine Del 3708] , this Court, after considering all the decisions, of the Supreme Court [*Deep Industries Ltd. v. ONGC Ltd.*, (2020) 15 SCC 706; *Bhaven Construction v. Sardar Sarovar Narmada Nigam Ltd.*, (2022) 1 SCC 75 : (2022) 1 SCC (Civ) 374; *Punjab State Power Corpn. Ltd. v. EMTA Coal Ltd.*, (2020) 17 SCC 93 : (2021) 4 SCC (Civ) 341; *Virtual Perception OPC (P) Ltd. v. Panasonic India (P) Ltd.*, 2022 SCC OnLine Del 566 and *Ambience Projects & Infrastructure (P) Ltd. v. Neeraj Bindal*, 2021 SCC OnLine Del 4023] has laid down circumstances in which such petitions ought to be entertained. The relevant portion of the said judgment reads as under:

“24. A perusal of the abovementioned decisions, shows that the following principles are well settled, in respect of *the scope of interference under Articles 226/227 in challenges to orders by an Arbitral Tribunal including orders passed under Section 16 of the Act*:

(i) An Arbitral Tribunal is a tribunal against which a petition under Articles 226/227 would be maintainable.

(ii) The non obstante clause in Section 5 of the Act does not apply in respect of exercise of powers under Article 227 which is a constitutional provision.

*(iii) For interference under Articles 226/227, there have to be 'exceptional circumstances.*

*(iv) Though interference is permissible, unless and until the order is so perverse that it is patently lacking in inherent jurisdiction, the writ court would not interfere.*

*(v) Interference is permissible only if the order is completely perverse i.e. that the perversity must stare in the face.*

*(vi) High Courts ought to discourage litigation which necessarily interfere with the arbitral process.*

*(vii) Excessive judicial interference in the arbitral process is not encouraged.*

*(viii) It is prudent not to exercise jurisdiction under Articles 226/227.*

*(ix) The power should be exercised in 'exceptional rarity' or if there is 'bad faith' which is shown.*

*(x) Efficiency of the arbitral process ought not to be allowed to diminish and hence interdicting the arbitral process should be completely avoided."*

**26.** A perusal of the above would show that it is only under exceptional circumstances or when there is bad faith or perversity that writ petitions ought to be entertained."

**28.** After considering the aforegiven judicial precedents, when we look into the impugned order passed by the Sole Arbitrator, we find that the Sole Arbitrator in the instant case has given some justification for the conclusion that he has arrived at. Since there is justification provided by the Sole Arbitrator in reaching to the said conclusion, this Bench also has no hesitation in reaching to the

conclusion that the order passed by the Sole Arbitrator cannot be said to perverse. At this juncture, this Bench would like to clarify that holding that there is no perversity; we do not intend to hold that the conclusion arrived on the question of limitation to be correct on merits. So far as testing the merits of the objections of limitation is concerned, we would leave the question open to be agitated by the petitioners in the event if the Arbitral Award stands decided against them and they can raise this objection in an appeal under Section 34 as also under Section 37 of the Act if so need arises.

**29.** Since we do not find any perversity in the findings arrived at by the Sole Arbitrator, and the judicial precedents referred to in the preceding paragraphs would clearly lay down the principle that the writ Court would not have the jurisdiction to sit over the proceedings of the Arbitral Award as a matter of routine to test the veracity of the order so passed in between the arbitral proceedings, we refrain from entering into the merits of the case and dismiss the instant writ petition at this juncture reserving the right of the petitioners to avail the remedy if the need so arises finally under Section 34 and Section 37 of the Act.

**30.** As a sequel, miscellaneous applications pending if any, shall stand closed. However, there shall be no order as to costs.

**P.SAM KOSHY, J**

**NAMAVARAPU RAJESHWAR RAO, J**

Date: 21.03.2025  
GSD