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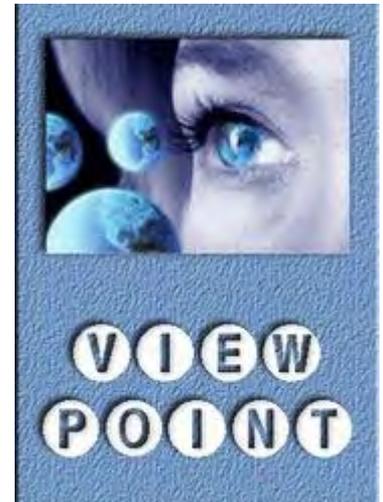
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THE ASPECT OF JURISDICTION IN INDIAN ARBITRATION - I

SHEFALI ROY



This article focuses on the provisions vis-à-vis the divergence of jurisdiction between courts and arbitral tribunals. It looks at the doctrine of kompetenz-kompetenz, which provides tribunals with the power to examine and determine its own jurisdiction. The conflicting issues which arise while deciding on the jurisdiction is considered liberally, postulating on the question of “Who decides?” in the second part, the article also evaluates the stance of law concerning the enforcement of foreign arbitral awards in India. The authors conclude with some suggestions pertaining to the overall structure of Arbitration Act, while focusing primarily on the aspect of Jurisdiction.

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PROLOGUE

“At all events, arbitration is more rational, just and humane than the resort to the sword.”

- Richard Cobden

Arbitration has been exercised as an efficient method to resolve disputes on matters where any conflict of interests has ascended. It adjudicates the most effective manner in which speedy justice can be provided and disputed subjects are deciphered upon. For over 150 years, arbitration has touted its existence in India. Panchayats, which have been operative for quite a period now, consisted of number of heads of the village or town and decided on the disputes, which arose. India has betrothed in arbitration as introduced in early 1850s in the Civil Procedure Code of 1859, which came into effect with alluding on arbitration. Section 89 reads as “Settlement of disputes outside the Court”. However, the British, under their rule in India, made usage of principle of arbitration in the Bengal regulations of 1772 and 1780. Later in 1940, the Arbitration Act was enacted. The statute was aimed at institutionalizing the progression of arbitration in India. Over a period of time it was learned that the Arbitration Act of 1940 was not effectual to result in resolving disputes in a fast manner. Also, the concept of *international commercial arbitration* (“ICA”) was then unknown. ICA first assumed significance in India due to the globalization and liberalization of the economy-the resulting phenomenal growth of commerce and industry-of the late twentieth century. Indeed, the Arbitration Act of 1940, which governed the field for nearly half a century, did not include provisions for ICA. The Act of 1940 was then

replaced by a new legislation in 1996, with the Arbitration and Conciliation Act. The Arbitration and Conciliation Act of 1996 has subsequently been enacted with the hope of giving a new face to arbitration so that it does not replicate the civil courts, which suffer from the huge backlog of cases. Since the enactment of the present legislation, there has been a rise in ICA in the country.¹

The need was felt in 1990s to improve the arbitration laws in the country. Internationally, arbitration laws developed in different countries to cater to the needs of the particular countries. This led to a huge disparity in laws and practices across nations. Problems also often arose from the lack of, or gaps in, specific legislation governing the arbitration.²

BACKGROUND OF ARBITRATION IN INDIA

Arbitration and Conciliation Act of 1996 reflects the jurisprudence of the UN Commission on International Trade Law (UNCITRAL) Model Laws. It consists of detailed provisions relating to both domestic arbitration and international commercial arbitration. Most nations have adopted the UNCITRAL Model Laws on arbitration, which creates a certain level of consistency across countries. This has led towards creating an attractive atmosphere for resolving disputes for foreign investors in many nations.

Part I - Section 2(a) of Arbitration and Conciliation Act, 1996 defines Arbitration as: "arbitration' means any arbitration whether or not administered by permanent arbitral institution.

The Statement of Objects and Reasons set forth the main objectives of the Act are as follows:

- i) To comprehensively cover international and commercial arbitration and conciliation as also domestic arbitration and conciliation;
- ii) To make provision for an arbitral procedure this is fair, efficient and capable of meeting the needs of the specific arbitration;
- iii) To provide that the arbitral tribunal gives reasons for its arbitral award;

(Footnotes)

¹ K. S., Harisankar. "Supervisory Jurisdiction of Indian Courts in Foreign Seated Arbitration: The Beginning of a New Era or the End of Bhatia Doctrine?" The Arbitration Brief 3, no. 1 (2013): 56-64.

² Dani Gaurav, Kanakagiri Pallavi, "Arbitration in International Commercial Transactions: Indian Courts to the Rescue", American Bar Association, Vol. 42No. 3 (2013)

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- iv) To ensure that the arbitral tribunal remains within the limits of its jurisdiction;
- v) To minimize the supervisory role of courts in the arbitral process;
- vi) To permit an arbitral tribunal to use mediation, conciliation or other procedures during the arbitral proceedings to encourage settlement of disputes;
- vii) To provide that every final arbitral award is enforced in the same manner as if it were a decree of the court;
- viii) To provide that a settlement agreement reached by the parties as a result of conciliation proceedings will have the same status and effect as an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal; and
- ix) To provide that, for purposes of enforcement of foreign awards, every arbitral award made in a country to which one of the two International Conventions relating to foreign arbitral awards to which India is a party applies, will be treated as a foreign award.”³

The Arbitration and Conciliation Act is divided into four parts:

- i. Part I regulates arbitration proceedings held in India;
- ii. Part II states regarding the enforcement of certain foreign awards;
- iii. Part III deals with conciliation; and
- iv. Part IV includes supplementary provisions.

THE ASPECT OF JURISDICTION

There was no specific provision under the Arbitration Act of 1940, which allowed the Arbitral Tribunal to make a decision on its own jurisdiction, and it was in the hands of the courts to decide on the jurisdiction of the arbitral tribunal. Whereas, now under Section 16 of the Arbitration and Conciliation Act, 1996, the Arbitral Tribunal has been granted the power to make a ruling on its own jurisdiction. A challenge to jurisdiction may arise over the validity of an arbitration agreement and attack the whole basis on which the tribunal purports to act. For example, a challenge may question the legality or proper execution of the agreement, or assert a waiver of the right to arbitrate or failure to observe requirements in the underlying contract with respect to assignment or time limits.⁴

Section 2 (1) (e) of the Act states:

“Court” means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such principal Civil Court, or any Court of Small Causes.

In *Swastik Gas vs. Indian Oil Corporation Limited*⁵, the Court reiterated about the aspect of Jurisdiction. The brief facts are that the Appellant’s registered office was in Jaipur, Rajasthan and the respondents registered office was

(Footnotes)

³ Jain, Dr. Monika, “Scope and Jurisdiction of Indian Courts In International Commercial Arbitration, International Journal of Law and Legal Jurisprudence Studies, ISSN: 2348-8212

⁴ W Park, “The Arbitrator’s Jurisdiction to Determine Jurisdiction” in ICCA Congress Series No. 13, International Arbitration 2006: Back to Basics? (2008), 96-111

⁵ 2013 9 SCC 32

in Mumbai, Maharashtra for marketing lubricants in Rajasthan. The jurisdiction clause in the Agreement stated, “The Agreement shall be subject to the jurisdiction of the Courts at Kolkata”.

While some dispute had arisen between the parties and the appellant moved to the High Court of Rajasthan. The Respondent challenged the said jurisdiction and thus the High Court, dismissing the Appellant’s request granted liberty to the Respondents to move to the High Court of Calcutta. The Appellant further appealed in the Supreme Court of India.

In this case, it was held that only the Courts at Kolkata had the jurisdiction to entertain the disputes arisen between the parties. The Court stated that “...absence of the words like “alone”, “only”, “exclusive” or “exclusive jurisdiction” is neither decisive nor does it make any material difference in deciding the jurisdiction of a court. The very existence of a jurisdiction clause in an agreement makes the intention of the parties quite clear and it is not advisable to read such a clause in the agreement like a statute.”

The decision in *Swastik Gas* provides precision to the Indian position on exclusive jurisdiction. It may help the Courts to interpret the jurisdiction clauses in an easier manner, which are without exclusion clauses.

Competence

Section 16 is reproduced herein under:

16. Competence of arbitral tribunal to rule on its jurisdiction.

1. The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement.



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Darkness cannot drive out darkness; only light can do that.
Hate cannot drive out hate; only LOVE can do that.
~ Martin Luther King Jr. ~

*Rajnigandha Cooperative Group Housing Society Ltd. vs. M/s Chand Construction Co. and Anr*⁶

The issue involved in this case was whether the ruling on its own jurisdiction by the arbitrator is an interim award. The court was articulate in explaining the matter and elaborated stating that the decision by the arbitral tribunal under section 16(5) holding that it has jurisdiction to entertain the claim petition is not an interim award. It was categorically held that where the arbitral tribunal decides the question of jurisdiction under section 16(5) and rules that disputes raised in the petition are arbitrable, the petition under section 34 is not maintainable as no appeal is provided under the Act against such order and since the order is not an interim order, it is not challengeable under section 34 either. The purpose emerges to be that in such a case, the arbitral tribunal shall continue with the proceedings and make an award without delay and without the arbitral process being interfered with at that stage by the Court in their supervisory role.

DOCTRINE OF “KOMPETENZ- KOMPETENZ”

The “competence-competence” principle empowers an arbitration tribunal to rule on its jurisdiction, and is affirmed in Article 16(1) of Schedule 1 to the Arbitration Act 1996 (the “Act”). It is supported by the principle of separability, also found in Article 16(1), which treats an arbitration clause in an underlying contract as distinct from the contract, allowing the clause, and therefore jurisdiction, to survive invalidity or termination of the contract. Although they serve different functions, these principles are together intended to give primary responsibility to the tribunal with respect to determining whether it has jurisdiction.⁷

Section 16 of the Arbitration and Conciliation Act, 1996 incorporates the principle of Kompetenz-Kompetenz.⁸ It has two facets: first that the tribunal may decide on its jurisdiction without support from the courts when the validity or scope of the agreement to arbitrate is in doubt. The second facet relates to the principle of separability, which treats the arbitration clause as an autonomous agreement that survives the invalidity or termination of the main underlying contract. Also, that the courts are prevented from determining this issue before the tribunal has made a determination on this issue. The kompetenz-kompetenz principle is closely related to rules regarding the allocation of jurisdictional competence between arbitral tribunals and national Courts and to rules concerning the nature and timing of judicial consideration of challenges to an arbitral tribunal’s jurisdiction.⁹ It has widely been codified into national arbitration laws in various nations.

The principle of Kompetenz is widely recognized and certainly allows room for justice. However, there may occur few negative aspects, which needs to be known. There is almost equal comprehensive discrepancy and uncertainty vis-à-vis to its precise extent and consequences. In order to give full effect to the kompetenz-kompetenz principle, the arbitral tribunal ought to be given priority over the Courts as far as issues of its jurisdiction are concerned. In other words, the courts should limit, at that stage, their review to a prima facie determination that the agreement is not ‘null and void, inoperative or incapable of being performed’. This principle is known as the ‘negative effect of competence-competence, which means that the arbitrators must be the first (as opposed to the sole) judges of their own jurisdiction and that the courts control is postponed to the stage of any action to enforce or to set aside the arbitral award rendered on the basis of the arbitration agreement. As a result, a court that is confronted with the question of the existence or validity of the arbitration agreement must refrain from hearing substantive arguments as to the arbitrators’ jurisdiction until such time as the arbitrators themselves have had an opportunity to do so¹⁰

(Footnotes)

⁶ 94(2001) DLT636, 2001(60) DRJ293

⁷ JDM Lew “Achieving the Dream: Autonomous Arbitration” (2006) 22(2) Arb Int’l 179, 193.

⁸ The word “Kompetenz-Kompetenz” derives from the German, known in French jurisprudence as “compétence de la compétence”. It refers to the tribunal’s jurisdiction to decide its jurisdiction.

⁹ Gary B. Born, *International Commercial Arbitration* 852 (2010)

¹⁰ Gaillard Emmanuel and Banifatemi Yas, *Negative Effect of Competence-Competence: The Rule Of Priority In Favour Of The Arbitrators*, *The New York Convention in Practice* (2008)

THE PRINCIPLE OF KOMPETENZ: EFFECT ON THE INTERPRETATION OF INDIAN ARBITRATION LAWS

Earlier, the courts in India considered the applicability of Part I of the Arbitration Act in arbitration taking place outside India as explained in *Bhatia International vs. Bulk Trading*.¹¹ The Supreme Court held that Part I would apply to all arbitrations and to all proceedings relating thereto, where such arbitration is held in India. For international commercial arbitration, it was held that Part I would still apply unless the parties by agreement, whether express or implied, had excluded all or any of the provisions included therein. The factual scenario in *Bhatia International* case was that a party to arbitration proceedings sought interim relief from the Indian court. The parties had earlier agreed that arbitration would be conducted in Paris and governed by the rules of the International Chamber of Commerce. The respondent argued that, as the seat of arbitration was outside India, reliefs provided under Part I of the Act would not be available to the parties. As there are no corresponding provisions for interim relief in Part II of the Act, however, it was argued that the legislature did not intend to permit judicial intervention by Indian courts in foreign arbitrations. The Supreme Court observed that if a party were prohibited from approaching the Indian courts for interim relief, then the party would be without remedy until the conclusion of arbitration and thus it would lead to a gap in the legislation. The Supreme Court held that the principle of territorial criterion was not recognized under the Arbitration Act and that the provisions of Part I would continue to apply to all arbitrations, whether held in or outside India.

*Bharat Aluminium Company (BALCO) vs. Kaiser Aluminium Technical Services Inc.*¹², which came up before the Supreme Court emerged as a landmark case. It overturned the previous ruling given in *Bhatia* case. The Supreme Court reconsidered its earlier controversial ruling in *Bhatia International* concerning applicability of Part I to arbitrations that are held outside India. The court held that the rationale laid down in *Bhatia International* was not in line with the Act. The Supreme Court of India ruled that the arbitrations held outside India will not be governed by arbitration laws of India and that such arbitrations will not be subject to the jurisdiction of the Indian courts. Thus, parties cannot seek interim relief from Indian courts to intervene in international arbitration proceedings conducted outside India. The Court in *BALCO* deliberated in detail upon the significance of the missing word “only” in section 2(2). Therefore, it was reiterated that only in the absence of a choice of seat of arbitration would the country whose law is chosen by the parties have jurisdiction to entertain arbitration proceedings.

The court’s decision to apply the *BALCO* reasoning prospectively can be seen as an attempt to avoid the miscarriage of justice by entirely eroding away the prospect of an interim remedy. In light of the recent judgment, parties to arbitration are no longer at liberty to either include or exclude the jurisdiction of the Indian courts in cases of international commercial arbitrations. The *BALCO* judgment provides much-needed relief to international players and also rightly recognizes the principle of territorial criterion, which is a cornerstone of arbitration.¹³

(to be continued.....)

(Footnotes)

¹¹ *Bhatia International vs. Bulk Trading*(2002) 4 SCC 105

¹² *Bharat Aluminium Company (BALCO) vs. Kaiser Aluminium Technical Services Inc* (2012) 9 SCC 552.

¹³ Dani Gaurav, Kanakagiri Pallavi, “Arbitration in International Commercial Transactions: Indian Courts to the Rescue”, American Bar Association, Vol. 42No. 3 (2013)

WHAT’S HAPPENING

We often focus on trying to change an event or circumstance,
when we really need to change the habits that caused it.

Often bad things that happen to us have happened before.
If we change the pattern, we keep it from happening again.

Work on your habits if you want to change what’s happening.

PUBLIC POLICY – CREATION OF LEGISLATURE OR JUDICIARY - I

SONAL SRIVASTAVA & PURNIMA SRIVASTAVA



How to make and shape “Public Policy” when no definite definition has been given till date. Judges do intervene in defining what constitutes public policy by interpreting it, so can we call it judicial legislation. If yes, then does it offend the principle which says that policies should be framed by legislature? In this article, the authors scrutinize the issue of defining the term ‘public policy’ by judicial pronouncement and analyses whether public policy is the creation of judiciary and not by the legislature. This article is in two parts.

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INTRODUCTION

The word public policy has no specific definition till date, in any law the public policy is a reasonable ground to challenge as well as it is an equal legitimate ground for setting aside any order, decree, award or judgment.

If we look at arbitration and conciliation act 1996 this act as compared to earlier act in 1940 provides guideline for interpreting the section but it failed to define the term public policy which is in itself expanding and restricting the meaning depending upon the context it is associated with. The section 34 of the said act talks about the public policy as a ground for setting aside the arbitral award. In term public policy was understood that it was not equivalent to the political stances or international policies of state but it comprised of fundamental notions and principle of justice.

Earlier the commission proposes the idea that the public policy as a ground for setting aside the arbitral award should be deleted from the provision but after the deliberation because it was understood that the term covered the fundamental principle of law and justice in substantive as well as procedural respects.

The term public policy is in itself very vague term lord delhousie has defined it as an unruly horse. As per LORD MANSFIELD the term public policy is *ex dolo*

malo non oritur actio. No court of law will lend its aid to a man who found his cause of action upon an immoral or illegal act.

The term public policy connotes the term something which is in public good or in public interest , but it is important here to know that what is public good and public’s interest has been varied from time to time. However generally

we classified those awards which are prima facie contrary to fundamental policy of Indian law, country's interest and its sense of morality and justice.¹ Also it has been stated that Section 34(2)(b)(ii) provides that an arbitral award may be set aside by the court if it finds that the arbitral award is in conflict with the public policy of India.

The Explanation appended to this section provides that for the avoidance of any doubt, it is hereby declared that an award is in conflict with the public policy of India, if the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81 of the Act

The Scope of the Term 'Public Policy' under the Arbitration Act

The section 34 and section 48 mentions public policy under arbitration and conciliation act 1996. The term public policy as what it is and what it is not has not been defined under the arbitration and conciliation act the only reason is that it is impossible to define it because definition given today might be appropriate for present time but there is a likelihood that for all future purposes it might act as a hindrance because the people who are defining it today are not aware of all the possible future events and defining the term in one way narrow down the essence of the term in itself because the notion of the term public policy is not static it keeps changing with time. Also one more difficulty in way of defining the term is that no precise interpretation is possible for it.

For understanding the scope of the term we need to look upon two historical cases associated with the term public policy and arbitral awards. One case talks about the narrow interpretation and the other case talks about the wider interpretation.

(Footnotes)

¹ Rail India Technical and economic service ltd vs ravi construction (2003) 4 RAJ 394 (kar).



MORE BEYOND OUR EXPECTATIONS

Once a boy went to a shop with his mother. The shop keeper looked at the small cute child and showed him a bottle with sweets and said, "Dear child, you can take the sweets".

But the child didn't take. The shop keeper was surprised, such a small child and why is he not taking the sweets. Again he told the child to take the sweets. Now the mother also heard that and said, "Take the sweets dear", yet he didn't take.

The shopkeeper seeing that the child is not taking the sweets, he himself took the sweets and gave to the child. The child was happy to get two hands full of sweets.

While returning home, the Mother asked the child, "Why didn't you take the sweets, when the shop keeper told you to take?"

Can you guess the response: The child replies, "Mom, my hands are very small and if I take the sweets I can only take few, but now you see when uncle gave with his big hands, how many more sweets I got!"

Moral: When we take we may get little but when God gives... HE gives us more beyond our expectations, more than what we can hold!!

The Narrow Approach of Judiciary: The Renusagar Case

The case is related to illegality of patent it was said that as long as the illegality in question is not contrary to the public policy in India it cannot be revoked and award given in favor of the patent illegality cannot be set aside.

In this case the court adopted narrower view, it is narrower because illegality is subjective question what might be illegal at one place might not be illegal at other as long as illegality is not of such degree or level as it is against the very idea of human existence. The court answer the issue related to public policy i.e. public policy as a ground of non enforcement of foreign award under section 7(i)(b)(2) of foreign award act 1961.² Supreme Court in this case has given a narrower meaning to the term public policy. The court observed that,

“The Foreign award act is concerned with recognition and enforcement of foreign awards which are governed by the principles of private international law, the expression ‘public policy’ must necessarily be construed in the sense of the doctrine of public policy as applied in the field of private international law. Applying the said criteria the apex court held that the enforcement of foreign award would be refused on the ground of public policy if such enforcement would be contrary to (i) fundamental policy of Indian law; or (ii) the interests of India; or (iii) justice or morality.”³

The Wider Approach of Judiciary: ONGC v. Saw Pipes

But on the other hand in ONGC v SAW pipes it was observed that the term public policy should be given wider connotation rather than giving the narrower meaning to it.

In Oil and Natural Gas Corporation Ltd. v. Saw Pipes Ltd.⁴, the award was challenged on the ground that the arbitral tribunal has indirectly applied the liquidator’s damage which is a flawed. It was held that the expression ‘public policy’ should be given a wider and not a narrower meaning. In this case, it was also held that the court can set aside the award if it is-

(i) Contrary to-

- (a) Fundamental policy of Indian law; or
- (b) The interest of India; or
- (c) Justice or morality; or

(ii) Patently illegal; or

(iii) If the given award is unfair and unreasonable that it shocks the conscience of the court.

In this ONGC v SAW pipes the fourth point, patent illegality has been added to the list, which the subject matter of the award to be in clear contravention with public policy, thus in the case it was held that a patent illegality is an illegality which goes to the root of the matter and if the illegality is of a trivial nature, it cannot be said that the award is against the public policy, but if it is not of trivial nature then it is against public policy. In *Kesar Enterprises v. DCM Sriram Industries Ltd.*⁵, the arbitrator, a former Chief Justice of India, did not return a finding on every question that was raised. It was contended that the arbitrator did not appreciate and duly consider all the questions

(Footnotes)

² AIR 1994 SCC 860.

³ O.P.Melhotra. “The Scope Of Public Policy Under Arbitration And Conciliation Act 1996” Available at :www.manupatra.com

⁴ (2003) 5 SCC 705.

⁵ 2001 (1) RAJ 378 (Del),

raised before him. It was held that failure of the arbitrator to return a finding on every question raised before him did not amount to infraction of public policy. In such circumstances, it would be deemed that the arbitrator rejected the contention. Where the arbitrator is a former Chief Justice of India, it would be extremely sanguine to predicate that he had not appreciated and duly considered all the questions rose before him.

Jurisprudence behind Making Public Policy as an Exception to Award Passed by the Arbitration Tribunals

The entire objective of law is to benefits its citizens from all possible means, law is to govern people it is to protect people from all unfair action of the third party. And public policy is one of the mechanisms for that governance. Here the word itself suggests the idea of protecting the interest of the people, which is similar to the objective of law, which is to govern people and providing them with benefits.

Laws are made by state i.e. legislature and judiciary give action to those law by enforcing them but many a time enforcement done by the judiciary or law made by the state comes in contravention with the benefits or interest of people because judges or legislatures are after all human which gives the vast scope of committing an error.

When it comes to validity of the exception of public policy then it can be traces back to the UNICTRAL model and New York Convention because both of these consider public policy as a defence for setting aside the arbitral award.

Given the innate ambiguity of “public policy,” it is clear that the legislature intended for the Indian courts to play some role in the development of a jurisprudential interpretation of the phrase. Whether or not the scope of interpretation is correct, it is undeniable that the Supreme Court was not overreaching the bounds of its power in interpreting public policy as applied.

(to be continued.....)



A stingy man has just moved to a new town, when he is taken ill and decides that he needs to see a doctor.

In the waiting room at the surgery, he decides to find out a bit about the doctor. He asks the man sitting next to him if the doctor is a specialist. The man replies that the doctor specializes in everything.

The stingy man thinks about this and looks nervous. He asks the man if the doctor's fees are expensive. The man says: "Well, he is and he isn't. You see, he charges you one thousand dollars for your first visit.

The stingy man looks even more worried now and exclaims in amazement "A thousand dollars?" The man replies "Yes, but all your visits after that for the rest of your life are free!"

The stingy man thinks about this, and then gets called by the nurse to go in to see the doctor. On entering the doctor's office he says casually, "Hello doc, here I am again!"

NEWS & EVENTS



CIARB – CENTENARY YEAR CONFERENCE 2015

Chartered Institute of Arbitrators (East Asia Branch) is organizing a two day conference to celebrate its centenary year in 2015. The Conference is widely perceived as one of the major events on the international arbitration and dispute resolution calendar. It is used as a platform by many prominent members of the ADR community from across the globe to address important issues and developments in international arbitration. The theme for the Conference is: “A Century - Shaping the Future of Arbitration”. This two day conference will be held on 20 & 21 March 2015 at Marriot, Hong Kong. Indian Institute of Arbitration & Mediation (IIAM) is a supporting organization for this event. For details see: <http://www.arbitrationindia.org/hm/events.html>

ORIENTATION ON ALTERNATE REDRESSAL OF COMMERCIAL DISPUTES, PUNE

Indian Institute of Arbitration & Mediation (IIAM) and Pune International Arbitration Centre (PIAC) will be jointly conducting a training program - ‘Orientation to Alternate Redressal of Commercial disputes’ on the 12th & 13th of December 2014 at Pune. For details, please contact Mr. Nishikant Deshpande, Course Director, PIAC – Email: nishikant.deshpande@gmail.com.

SINGAPORE INTERNATIONAL MEDIATION INSTITUTE LAUNCHED

Singapore International Mediation Institute (SIMI), a professional body to apply and enforce world-class standards of mediation as well as to provide impartial information about mediation and to make tools available to parties to make basic decisions about mediation was officially launched by the Honourable Chief Justice Sundaresh Menon of Singapore on the 5th of November 2014. SIMI was incorporated as a non-profit organisation, with support from both the Ministry of Law as well as the National University of Singapore, SIMI is headed by an international Board of Directors with representatives from both mediation practitioners as well as corporate users of mediation.

Singapore International Mediation Centre (SIMC), the service provider under the norms of SIMI has started functioning at Maxwell Chambers at Singapore. SIMC is signing an MOU with IIAM for mutual cooperation of mediation services in India and Singapore.

UNCITRAL 3RD ASIA PACIFIC ADR CONFERENCE, SEOUL

The UNCITRAL Regional Centre of Asia Pacific, Ministry of Justice, Republic of Korea and the Korean Commercial Arbitration Board had jointly conducted the 3rd Asia Pacific ADR Conference at Seoul, South Korea on the 17-18 November 2014. The theme of the conference was designed to explore the trends and challenges of ADR both of the region and the world. There was also a side event which discussed about ADR in Asia Pacific – Post 2015: Prospective Views. UNCITRAL-RCAP will prepare a report of the meeting, which may be used as a regional contribution for global discussions within UNCITRAL, namely during the coming session of the Commission in Vienna, July 2015. Mr. Anil Xavier, President IIAM presented the paper on the Relevance of Mediation in Investor-State Disputes.

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IIAM will be conducting a Certificate Program in Arbitration Law at Kochi, India on 9th & 10th of January 15. The program is designed for 2 days – 15 hours.

The program offers the participants to know the underlying theory of arbitration law and practice, with emphasis of the Indian law, drafting of arbitration clauses and agreements, procedure of arbitration, important case laws and institutional arbitration methods. The program will provide a solid foundation in the ADR process of arbitration and to serve as an arbitrator or arbitration counsel.

For further details about the training program, please see the link: <http://www.arbitrationindia.org/htm/events.html>.

CERTIFICATE IN DISPUTE MANAGEMENT (CDM)

CDM is an ongoing distance learning course of IIAM, valid for six months from the date of enrolment. You can enroll at any time of year and you study entirely at your own pace, submitting your assignments when you are ready. Your tutor will be available to mark your assignments and give feedback on your progress for a period of six months from the date of enrolment. You will be sent four 'reading and study assignments' with your course materials, and these form an essential part of your distance learning course. They are designed to help you to work through the course manual and understand the concepts. The course will provide a good basic knowledge of ADR – Negotiation, Mediation & Arbitration – in theory and practice. On successfully completing the assignments included in the course a certificate will be awarded. For more details mail to training@arbitrationindia.com

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