

NEWSLETTER 7

Impartiality Under the Microscope: Supreme Court Redefines Bias in Arbitration

The Supreme Court of India delivered a judgement that reverberated through the halls of justice and arbitration chambers alike. **Vinod Bhaiyalal Jain & Ors. Versus Wadhvani Parmeshwari Cold Storage Pvt. Ltd. & Anr** seemingly a routine contractual dispute, unravelled a deeper narrative – a challenge to the very foundation of arbitration: impartiality. This newsletter delves into the essence of this landmark judgement, analysing its impact and potential to reshape the future of arbitration in India.¹

The Crucible of Doubt: A Case Tested by Perceived Bias:

At the heart of the petition lay a contractual dispute, entrusted to the arbitral process. However, the award's legitimacy was shrouded in doubt. The petitioner alleged the arbitrator harboured perceived bias, citing pre-existing relationships and questionable communications. This wasn't just a challenge to the award; it was a stark reminder that even a hint of bias can erode the bedrock of impartial adjudication.

The Court's Lens: Scrutinising Impartiality with New Standards:

The Supreme Court, ever the guardian of fairness, meticulously examined the claims. Recognizing the need for both due process and impartiality, the Court crafted a judgement with lasting implications.

Shifting the Paradigm: The "Reasonable Apprehension of Bias" Test:

Moving beyond the binary of actual bias or its absence, the Court embraced the "reasonable apprehension of bias" test. This principle emphasises that even the mere perception of bias, the flicker of doubt in a fair and reasonable mind, is sufficient to challenge an award. This elevates the bar for arbitrator conduct, demanding unwavering transparency and scrupulous impartiality throughout the proceedings.

Beyond Speculation: Objective Standards and Materiality:

¹ Civil Appeal No.6960 of 2011.

However, the Court refused to endorse frivolous challenges. It emphasised that the determination of bias must be grounded in objective standards, meticulously considered in the context of each case's unique circumstances. Mere speculations or unfounded accusations would not suffice. Additionally, the materiality of the alleged bias, its potential impact on the outcome, would be rigorously scrutinised. This ensures that unsubstantiated claims don't impede swift dispute resolution while guaranteeing that even subtle instances of bias are not overlooked.

Disclosure: The Cornerstone of Trust:

Recognizing the critical role of transparency in dispelling the fog of doubt, the Court reaffirmed the arbitrator's duty to disclose any potential conflicts of interest or circumstances that could raise even the possibility of bias. This includes past dealings with any party, pre-existing relationships, and any personal or professional connections that could create an unfair advantage. Failure to disclose such conflicts, the Court warned, could be a potent ground for setting aside the award, a powerful deterrent against any attempts to shroud the arbitration process in secrecy.

Best,

Shivangi Desai

IV BA.LLB

Arbitration Cell, ILSCA.