



2026:DHC:8705-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th September, 2026.

Uploaded on: 5th October, 2026.

CNR No. DLHC010190212025

+ **FAO (COMM) 91/2025 & CM APPL. 20542/2025**

SHIKHA GHOSH

.....Appellant

Through: Mr. Vishal Gupta, Mr. Ratneswar Das,
Ms. Barnali Deka Das and Ms. Swati
Singh, Advs.

versus

AXIS BANK LTD. & ANR.

.....Respondents

Through: Mr. Dayan Krishnan, Sr. Advocate
with Mr. Sanjay Kumar, Adv.
Mr. Ramesh Babu, Senior Adv. Along
with Ms. Manisha Singh, Advocate for
RBI

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE DINESH BHATT

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The issue that has arisen in this case is with respect to enforcement of Awards wherein the Respondent has not been properly served as also unilateral appointment of the same arbitrators made by Banks in thousands of disputes.
3. The present appeal has been filed challenging the impugned order dated 30th January, 2025 passed by the Id. District Judge (Commercial Court)-05, Tis Hazari, Delhi. *Vide* the impugned order the petition under Section 34 of

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FAO (COMM) 91/2025

Page 1 of 10



the Arbitration and Conciliation Act, 1996 (hereinafter “*the ACA, 1996*”) has been dismissed on the ground of limitation.

4. The brief facts of the case are that sometime in January, 2019 the Respondent Bank had disbursed a loan for a sum of Rs. 16,66,795/- to the Petitioner. The said loan was allegedly not repaid by the Appellant and accordingly the Respondent Bank initiated arbitration proceedings after communicating the same to the Appellant on 18th January, 2023. However, receipt of this communication is disputed by the Appellant.

5. On 6th February, 2023, the Id. Sole Arbitrator is stated to have accepted the reference of dispute to arbitration and allegedly issued notice to the Appellant. The receipt of this notice is, again, disputed by the Appellant. Accordingly, the matter proceeded *ex-parte* as against the Appellant in terms of order dated 16th May, 2023 passed by the Id. Sole Arbitrator.

6. Thus, the case of the Appellant is that the Award dated 26th May, 2023 was passed without the knowledge of the Appellant as to the existence of the said arbitral proceedings.

7. A copy of the said Award was received by the Appellant on 2nd June, 2023 and upon the award coming to the knowledge of the Appellant, a petition under Section 34 of the ACA, 1996 was filed before the Commercial Court.

8. This petition was dismissed *vide* the impugned order as being time barred.

9. The present appeal was considered on 7th April, 2025, on which date notice was issued and the TCR was called for. Thereafter, on 5th August, 2025, upon joint submission of the parties the matter was referred to the Delhi High Court Mediation and Conciliation Centre for amicable resolution



through mediation, but the same did not fructify.

10. On 3rd September, 2026, after hearing some arguments in this matter, the Court had put the following queries to the Respondent Bank:

“2. The Court has considered the matter and heard the ld. Counsels for the parties. Before proceeding further. Respondent Bank is directed to file an affidavit giving the following information:

i) Whether there is any proof of service of the Appellant in the arbitral proceedings?

ii) Whether Shri. Vikrant Bhardwaj, who was the Sole Arbitrator, is connected to the Respondent Bank in any manner?

iii) Number of arbitrations handled by Shri. Vikrant Bhardwaj, the Sole Arbitrator on behalf of the Respondent Bank.

iv) Whether any declaration in terms of Schedule VI and VII of the Arbitration and Conciliation Act, 1996 was given by the said Arbitrator.”

11. Thus, an affidavit was directed to be filed by the Respondent Bank in respect of the above queries. The said affidavit has been filed by the Respondent Bank answering the queries raised by the Court as under:

“3. In compliance with the above directions, the Respondent No.1, respectfully submits its answers to each of the queries as under:

a. Query (i) Proof of Service:



It is respectfully submitted that there exists clear and sufficient proof of service of the Appellant in the arbitral proceedings. The Ld. Sole Arbitrator, in the Award dated 26.05.2023, specifically recorded that notices of the arbitral hearings were issued to the Appellant at her last known address, service was held sufficient, and despite such service the Appellant failed to appear, resulting in her being proceeded against ex-parte. Significantly, the address reflected in the arbitral proceedings is the very same address repeatedly disclosed and admitted by the Appellant in her pleadings and documents filed before the courts.

Further, the Appellant has herself admitted receipt of the arbitral award at the same address and thereafter addressed applications to the Ld. Sole Arbitrator seeking copies of the arbitral record. At no stage in those communications did she raise any grievance regarding non-service of notices during the arbitral proceedings. The plea of non-service has therefore been raised belatedly and is contrary to both the record and the Appellant's own conduct.

b. Query (ii): Arbitrator's connection with the Bank:

That Shri Vikrant Bhardwaj, the Sole Arbitrator who adjudicated the said arbitral proceedings, is not connected to Respondent No.1/Axis Bank Ltd. In any manner whatsoever, whether by way of employment, engagement, consultancy, retainership, financial interest, or any other relationship of the nature contemplated under the Seventh Schedule to the Arbitration and Conciliation Act, 1996.

c. Query (iii): Number of arbitrations handled for the Bank:

As per the records maintained by Respondent No. 1 -



the number of Arbitrations conducted by Shri Vikrant Bharadwaj, over the span of 04-05 years, is 4155.

Presently there are no arbitration proceedings pending or being handled by Shri Vikrant Bharadwaj in which he has been appointed as the Sole Arbitrator by, or on behalf of, the Respondent Bank.

Accordingly, there is no subsisting or continuing appointment of Shri Vikrant Bharadwaj as an arbitrator in any matter on behalf of the Respondent Bank as on date.

It is further submitted that the Respondent Bank has discontinued the practice of initiating arbitration proceedings through unilateral appointment of arbitrators.

d. Query (iv): Schedule VI and VII declaration:

Yes. Shri Vikrant Bhardwaj had given the requisite declarations.

4. That the present affidavit is filed bona fide and in the interest of justice, and no part of it is false, and nothing material has been concealed or suppressed therefrom."

12. A perusal of the affidavit, as extracted above, would show that there is no proof of service except what is recorded by the Id. Sole Arbitrator in the Award dated 26th May 2023. Further, in respect of the Id. Sole Arbitrator - Shri Vikrant Bhardwaj the Respondent Bank claims that he does not have any relationship with the Bank of the nature as provided under Schedule 7 of the ACA, 1996. However, upon querying the official of the Respondent Bank, who is present in Court, it is stated that the said Arbitrator was paid his fees



through the concerned lawyer for the Respondent Bank.

13. The most shocking aspect uncovered from the affidavit of the Respondent Bank is that in a span of four to five years the said Arbitrator - Shri Vikrant Bhardwaj has acted as an arbitrator in a whopping **4155 cases** concerning the Respondent Bank.

14. This would clearly be in violation of various provisions of the ACA, 1996, especially those introduced through amendments in 2015 via the Arbitration and Conciliation (Amendment) Act, 2015. It is a matter of fact that Section 12 of the ACA, 1996 was amended in order to deal with such a situations, *albeit* the scale of conflict contemplated under the Fifth Schedule was of a far lower level than what has been unearthed here. Under the Fifth Schedule to the ACA, 1996, in total 34 grounds/circumstances have been mentioned which would give rise to a justifiable doubt as to the independence or impartiality of the arbitrator. The said grounds have been categorised under the following heads:

- (i) Arbitrator's relationship with the parties or counsel;
- (ii) Relationship of the arbitrator to the dispute;
- (iii) Arbitrator's direct or indirect interest in the dispute;
- (iv) Previous services for one of the parties or other involvement in the case;
- (v) Relationship between an arbitrator and another arbitrator or counsel;
- (vi) Relationship between arbitrator and party and others involved in the arbitration; and
- (vii) Other circumstances.

15. It is seen that the grounds/circumstances mentioned in respect of the



category (iv) above i.e., previous services for one of the parties or other involvement in the case, the following have been expressly contemplated by the Legislature:

*“22. The arbitrator has within the past three years been **appointed as arbitrator on two or more occasions** by one of the parties or an affiliate of one of the parties.*

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*24. The arbitrator currently serves, or has served within the past three years, **as arbitrator in another arbitration** on a related issue involving one of the parties or an affiliate of one of the parties.”*

16. The above amendments came into effect from 23rd October, 2015, however, the Court has been informed that up until 2023 such unilateral appointments were continued to be made by the Respondent bank.

17. Mr. Dayan Krishnan, Id. Senior Counsel appearing for the Respondent Bank submits that the Bank concedes that such arbitral awards, where the Respondent Bank had made unilateral appointment of arbitrators, are *void ab initio*, in view of the settled principle of necessity of neutrality at all stages of arbitration as settled by the Supreme Court in ***Perkins Eastman Architects DPC v. HSCC (India) Ltd., (2020) 20 SCC 760*** and ***Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV), (2025) 4 SCC 641***.

18. In fact, in similar matters, this Court has also rendered judgments setting aside arbitral awards on the ground of unilateral appointment of arbitrators, including in ***M/s. Satyaprakash and Brothers (P) Ltd. v. Union***



of India [2025:DHC:6615-DB], M/s. Sidharth Construction Co. v. Indian Tourism Development Corporation & Anr. [2025:DHC:2313-DB]. In addition, the Coordinate Bench of this Court in *Ram Kumar and Anr. v. Shriram Transport Finance Co. Ltd., [2022 SCC Online Del 4268]* has also held similarly.

19. Mr. Krishnan, Id. Senior Counsel further concedes that out of the 4155 cases, where Shri Vikrant Bhardwaj was an arbitrator, in almost 65 per cent of the awards settlements have been effected, *i.e.*, the disputes have been resolved in about 2700 cases. Further, in about 1264 cases no execution petition has been filed and no fresh arbitral appointment has also been made.

20. On instructions from the bank, it is further submitted that from 2023 no unilateral appointment has been made and upon being queried, it is submitted that there are a total of 76,000 awards which have been passed by such sole arbitrators pan India concerning the Respondent Bank.

21. Heard. The clear impression that the Court gathers from the above is that this is nothing but the tip of an iceberg.

22. Arbitrators who were appointed in thousands of matters like this without filing proper declarations cannot be said to be independent and impartial arbitrators. Even judging by the unamended Section 12(1) of the ACA, 1996, handling thousands of the arbitrations by the very same arbitrator appointed by one single party would give rise to justifiable doubts as to independence and impartiality. Clearly, such lawyers who are appointed as arbitrators cannot be considered as lacking bias. Repeated appointments of the same arbitrators in thousands of cases goes against the core of Neutrality which is at the soul of any arbitral process.



23. The Respondent Bank - Axis Bank which is the party in the present case is answerable as to how this situation could be permitted and the Bank also requires to take some remedial measures without doubt.

24. Accordingly, let a fresh affidavit be filed by the Respondent Bank giving the reasons as to why thousands of arbitration cases were being given to the same arbitrator. The Bank shall also file an affidavit as to what is the future course of action that the bank wishes to adopt in respect of such awards which have been passed by unilaterally appointed arbitrators, including enforcement of such awards and steps taken for recovery of loan amounts.

25. Banks being the custodian of the public money cannot avail remedies which are contrary to law to recover loans. There can be no doubt that the defaulting borrowers also cannot be allowed to go scot free.

26. Notwithstanding the public interest in recovery of the loans, the route adopted by the Respondent Bank for the same which is in complete lack of adherence to statutory provisions has come as a double blow to the Respondent Bank – on the one hand Awards which are passed in unilateral appointments are void and unenforceable, while on the other hand the Respondent Bank's hands are tied as it cannot enforce such awards or recover such monies. Thus, the Respondent Bank is totally in a fix as to how to recover the monies or even invoke fresh arbitration.

27. A solution would need to be carved at an institutional level in a centralised manner by the Respondent Bank failing which substantial amounts of public money will go unrecovered and a significant number of awards would be rendered void and unenforceable.

28. Under these circumstances, let a fresh affidavit be filed as to the manner



in which the Respondent Bank wishes to proceed in such cases.

29. Notice was issued to the Reserve Bank of India which is today represented before the Court. The RBI being the sector regulator, shall also caution all banks in this regard, so that if any remedial measures need to be taken by other banks and financial institutions in respect of unilateral appointments, the same can also be looked into and some guidance issued in respect thereof.

30. The RBI also to file its affidavit by 16th November, 2026.

31. Coming to the merits of this case, since on behalf of the Respondent Bank the stand is that the award is *void ab initio*, therefore, it is declared that the award dated 26th May, 2023 is unenforceable against the Appellant.

32. The appeal accordingly succeeds, however, in order to take this issue to a logical conclusion, let the Respondent bank file its affidavit by 16th November, 2026.

33. In respect of recovery of the loan disbursed to the Appellant, the Respondent Bank is free to take steps afresh, in accordance with law, if so permissible.

34. List on 17th November, 2026.

35. This matter shall be treated as part-heard.

PRATHIBA M. SINGH
JUDGE

DINESH BHATT
JUDGE

SEPTEMBER 30, 2026/ss/msh