



S.D. SINGH'S LAW OF ARBITRATION (10th ed. 1994). By G.C. Mathur.
Eastern Book Company, Lucknow. Pp. xcvi + 1054, Price Rs.475.

ARBITRATION IS a mode of adjudication of disputes between the parties to it by a forum of their choice. It has great merit. It is cheap, speedy and free from legal technicalities. For the settlement of commercial disputes this is the most efficacious mode.

In India this kind of institution, *i.e.*, *panchayat* has existed since ancient times. However the present law of arbitration had its origin during the British rule.

Earlier, provision for arbitration was contained in Regulations framed by British rulers but afterwards it formed part of the enactment governing civil procedure.

The Act VIII of 1895 which was the first enactment to regulate procedure of civil courts contained provisions for arbitration. The said Act was repealed by Act X of 1877. The law of arbitration as it existed in the earlier Act, remained a part of it.

Again, the Act of 1877 was revised by Act XIV of 1882 and, as earlier, the law of arbitration continued to form a part of it. In the said law of arbitration there was no provision for reference of future disputes to arbitration. An effort was made to make up this shortcoming by Act IX of 1899 but this did not sufficiently serve the purpose. In the Civil Procedure Code of 1908, which replaced the Act of 1882, the provisions relating to arbitration were shifted to the end of the Code as Second Schedule without effecting any substantial change in the law. It continued to remain deficient in many respects. This was repeatedly pointed out by courts. Accordingly, steps were taken to effect change in the law. Ultimately it came to be enacted in the form of an independent Act, *i.e.*, Arbitration Act 1940. It consolidated and amended the existing law on the subject.

The Act is self-contained and includes provisions for procedure, appeals, jurisdiction, *etc.* While most of its provisions have been taken from the repealed enactment, several have been adopted from the English Arbitration Act 1934.

The book under review¹ is a pioneer and most popular work on the subject. Its first edition came out in the year following the passing of the Act. It is a commentary on the Arbitration Act, but contains considerable information relating or relevant to the subject. The main objectives of the book are stated in the preface (to the first edition) as follows:

An attempt has been made in this book to present before members of the legal profession an analytical and exhaustive commentary on the Act in as concise a form as possible.²

1. G.C. Mathur, *S.D. Singh's Law of Arbitration* (10th ed. 1994).

2. *Id.* at viii.



The book starts with a general Introduction which is very informative. It includes the history of law of arbitration and deals with the entire present law of arbitration.

The book contains sizeable appendices. These include, the Arbitration (Protocol and Convention) Act 1937, Foreign Awards (Recognition and Enforcement) Act 1961, the Rules framed by several High Courts under section 44 of the Arbitration Act, Arbitration Rules of Chambers of Commerce, Rules of the London Court of Arbitration, Rules of the Indian Council of Arbitration, latest State Amendments of the Arbitration Act and specimen forms, *etc.* The Table of Cases in the beginning and Subject Index in the end are other important features of the book.

The comments on sections are very exhaustive. It is preceded by a synopsis which sets out the salient points to be discussed. Then these have been discussed exhaustively in that order. It includes corresponding provisions of earlier law on the subject and also of the English arbitration law and related and relevant provisions of the Civil Procedure Code and Limitation Act. This gives a comparative view of the provision under discussion and also indicates the gradual reform made in the law. It is followed by a summary which underlines the main features of the provision. All questions that may arise in connection with the provision under discussion have been included in the commentary. Views of the various High Courts on a particular point have been stated to give a full picture of the law.

The present edition (tenth) is considerably enlarged and thoroughly revised. Upto date case law has been incorporated.

Though the book is mainly meant for lawyers, it is useful to all those who are interested in the study of the subject.

The work suffers from certain shortcomings also. There are casual printing mistakes. So far as content is concerned, neither the shortcomings in a particular provision have been pointed out, nor light has been thrown on the emerging shape of things.

It is a matter of common knowledge that the Arbitration Act has become out of date. It is no longer able to serve adequately the purpose meant to be served. The law's grievous delays and pendency of a staggering number of cases in courts underlines the urgent need of making this institution more popular and effective, so as to become a vital organ of administration of justice. Therefore reform of arbitration law is a crying need of the time.

The need for reform has been emphasised by the Supreme Court in *Food Corporation of India*.³ It observed:

We should make the law of arbitration simple, less technical and more responsible to the actual realities of the situation, but must be responsive to the canons of justice and fair play and make arbitrator adhere to such process and norms which will create confidence, not only by doing justice between the parties but by creating sense that justice appears to have been done.

3. *Food Corpn. of India v. Joginderpal Mohinderpal*, A.I.R. 1989 S.C. 1263 at 1269.



It is to be noted that in UK the law of arbitration has been simplified and scope for interference by courts with arbitration awards and arbitration proceedings has been substantially reduced by recent legislation.

In India the need for reform has been fully realised and steps have been taken in this regard. The Law Commission of India in its 76th Report made recommendations for change in the law of arbitration, Another Report on the subject has been in process with the last Law Commission. Several forums and organisations have voiced the need for a change in the law and have made suggestions in this regard. A Bill has already been drafted by the government to re-enact the law of arbitration but it has not been possible to introduce it in Parliament so far. With the liberalisation of economy and impending growth in international trade and commerce the field of arbitration is to increase immensely. An effective and efficacious law of arbitration will greatly contribute to the further expansion of that trade and commerce. The law of arbitration is to shape itself to meet the emerging requirement. In order to facilitate the recourse to arbitration and enforcement of awards there is a move for an internationally uniform law of arbitration. It is hoped that the next edition of the book (if the Arbitration Act is not re-enacted by that time) will reflect this emerging shape of things.

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