

# Palmoor Vijay Kumar vs Aakash Educational Services Pvt. Ltd. & ... on 27 February, 2025

**Author: Yashwant Varma**

**Bench: Yashwant Varma**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO (COMM) 3/2024 & CM No. 780/2024

PALMOOR VIJAY KUMAR .....Appellant

Through: Mr. Mukesh Kumar & Mr.  
Madhup Kumar Tiwari, Advs.

versus

AAKASH EDUCATIONAL SERVICES

PVT. LTD. & ANR. ....Responde

Through: Mr. Sagar Shivam Jaiswal,  
Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE HARISH VAIDYANATHANSHANKAR

ORDER

% 27.02.2025

1. Quite apart from the dispute which appears to revolve around the service of the Award via registered post, we find that the respondents have along with their reply placed on our record an email communication vide which and according to them, a signed and scanned copy of the Award was sent to the appellant.

2. We note that the email address to which that communication was sent is not disputed by the appellant. We thus require the respondents to place the necessary certification as contemplated in terms of Section 65B of the Indian Evidence Act, 1872 insofar as the email communication is concerned on or before the next date fixed.

3. Insofar as the valid service of an Award via email is concerned, we had in Dwarka Projects Limited vs. Director of Civil Aviation & Anr. [FAO(OS) (COMM) 103/2024 decided on 06 February 2025] observed as follows:-

"7. As we view Section 31(3), we find no justification to This is a digitally signed order.

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Server on 01/03/2025 at 05:48:54 hold or declare that the only mode or manner in which the Act contemplates the delivery of award is in the physical format. In *Ministry of Youth Affairs & Sports v. Ernst & Young (P) Ltd.* 1, our Court held that the limitation period for filing a petition under Section 34 of the Act commenced when a scanned signed copy of the award was received via email and that the same would constitute a valid delivery under Section 31(5). The Court held that a subsequent physical collection of the signed copy would not extend the limitation period. The Court emphasized that technological advancements allow for authenticated digital copies to be considered valid for all legal purposes. We deem it appropriate to refer to the following passages from that decision:

"44. The contention on be half of the petitioner that signed copy of the Addendum to Award dated 17th May, 2018 was provided to the petitioner only on 01st June, 2018, is found to be without any merit. Email dated 17 th May, 2018 sent on behalf of the Arbitral Tribunal to the counsel for the petitioner clearly shows that the Addendum to the Award dated 17th May, 2018 was attached with the said email dated 17th May, 2018. Additionally, later signed copy of the Addendum to the Award was also collected physically on behalf of petitioner on 01st June, 2018 from the office of Arbitral Tribunal. Email dated 14 th August, 2018 sent by the Arbitral Tribunal to petitioner is reproduced as under:

"Arbitration between Ministry of Youth Affairs & Sports and E&Y/EKS MANJU K A R G E T I Tue 8 / 1 4 / 2 0 1 8 4 : 1 5 P M To : Neeraj Choudhary neeraj.lawyer@gmail.com: Dear Sir,

1. A Scanned copy of the award dated 11/12/2017 was transmitted to you on 11/12/2017 itself by email, while signed copy of the award was sent to the Department of Sports, Ministry of Youth Affairs & Sports, Govt. of India on 13/12/2017 by Registered AD Post. A copy of the postal receipt is attached herewith. Please note that a signed copy of the award was also collected by Mr. Jyoti Kumar Mangalam from this office on 21.01.2018.

2023 SCC OnLine Del 5182 This is a digitally signed order.

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2. I may also point out that a scanned copy of addendum to the award dated 17.05.2018 was sent to you on the same day by email. In this regard please refer to my email dated 17.05.2018, addressed to you and others. A signed copy of addendum to the award was also collected by Mr. Jyoti Kumar Mangalam on 01.06.2018 from this office.

Regards Manju P.A. to Mr. Justice Anil Dev Singh"

45. It may be noted that along with the email dated 17th May, 2018 sent on behalf of the Arbitral Tribunal to the counsel for petitioner and other parties, scanned copy of the Addendum to the Award dated 17th May, 2018 was also mailed, which was a duly signed copy. Once a duly scanned signed copy of the Addendum to Award dated 17th May, 2018, had been received by petitioner, the period of limitation for the purposes of filing petition under Section 34 of the Arbitration Act for challenging the Award commenced. Subsequent act on behalf of petitioner of physically collecting signed copy of the said Addendum on 01st June, 2018 will not in any manner extend the limitation period to 01st June, 2018.

46. Even receipt of photocopy of a signed Award from an Arbitral Tribunal has been held to be receipt of Arbitral Award in terms of Section 31(5) of the Arbitration Act. It has categorically been held that there is no requirement in Section 34 of the Arbitration Act for filing ink signed copy of the Award. Thus, in the case of Continental Telepower Industries Ltd. v. Union of India, it has been held as follows:

"14. I also find that the legislature has while re- enacting the arbitration law made a conscious change in the provision as existing in 1940 Act. Section 14(1) of 1940 Act merely required the arbitrators to make and sign the award and to give notice in writing to parties of the making and signing thereof. There was no requirement therein as in Section 31(5) of the Act, that upon making of the award, deliver a signed copy thereof to each party to arbitration as in Section 31(5). Under Section 14(2) of 1940 Act, a party to arbitration was required to request to the arbitrator to cause the award or a signed copy of it together with the arbitration record to be filed in the court, and whereafter the court was required to give notice to parties of filing of award. The award was required to be made rule of the court before being executable. However, under the 1996 Act, the award is executable This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2025 at 05:48:55 as such, after limitation for filing objections with respect thereto has expired. The grounds of challenge have been considerably restricted. The law, with a view to limit the time whereafter the award becomes executable as a decree of court, has done away with the application of Section 5 of Limitation Act qua the petition for filing of award in the court. Rather by use of the expression "but not thereafter" in proviso to Section 34(3), intent is clear, not to permit the execution of an award to remain in a state of suspended animation. In my view, if it is to be held that a photocopy of a signed award delivered by the arbitrator under cover of letter signed by him in evidence of authentication thereof is not sufficient compliance of Section 31(5), it will lead to indefinite delays in execution and in filing of petition under Section 34(3) and till when the award is inexecutable. Such an interpretation will be an impediment in expediency in arbitration matters, the purpose behind bringing about change in law.

15. I have recently in *Aktiebolaget Volvo v. R. Venkata Chalam*, (2009) 160 DLT 100 on an interpretation of various provisions of CPC held that Order 7 Rule 14 and Order 8 Rule 1A requiring filing of documents do not mean the original document and it is open to the parties to, in compliance thereof, file copies/photocopies of the documents. The requirement to "produce" as distinct from "file" the original document for inspection is only at the stage of admission/denial or tendering documents into evidence. In that context the definition of a document in Section 3 of Indian Evidence Act was also noted as including words printed, lithographed or photographed.

16. The Apex Court has been extending the meaning of primary as well as secondary evidence. It has been held in *Prithi Chand v. State of Himachal Pradesh*, (1989) 1 SCC 432 : AIR 1989 SC 702 that the carbon copy of the medical certificate bearing also the carbon copy of the signatures appended by the doctor on the original is primary evidence within the meaning of Section 62 of the Evidence Act and the judgments of the courts below holding otherwise were set aside. Similarly, in *Y.N. Rao v. Y.V. Lakshmi*, 1991 RLR 367 (SC) a photocopy of document has been held to be a secondary evidence within the meaning of Section 63 of the Indian Evidence Act. The judgment of the High Court refusing to see a This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2025 at 05:48:58 foreign judgment and decree for the reason of copy provided being a photocopy was set aside.

17. In the absence of there being any words in the Act to indicate the requirement of furnishing award in the form of primary evidence to the parties, the law if laid down so to require an 'ink signed' award would, in my opinion, lead to delays and also give a handle to the unscrupulous litigants to indefinitely delay the execution of the award by contending that the signed copies of the award had not been delivered.

18. Law has to evolve with changing technologies. In today's time it would be unfair to require the arbitrator to sign each and every copy of the award, especially when photocopy has become common place and is the accepted mode.

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21. I am also not inclined to believe the contention that the letter dated 31st December, 2001 of the arbitrator, copy whereof is on the arbitral record and vide which the arbitrator complied with the request of the petitioner in its letter dated 24th December, 2001, had not been received by the petitioner. The said letter appears to have been issued in the normal course and cannot be disputed. The petitioner, also in its letter dated 24th December, 2001, only indicated an intention to execute the award and did not indicate any intention to file objections to the award.

The petitioner appears to have decided to file objections after dismissal of the objections of the respondents-Union of India/BSNL to the award. As noticed above, there is no requirement in Section 34 of filing ink signed copy of the award therewith or of award being duly stamped before such petition can be preferred. In view of the pre-emptive language of proviso to Section 34(3), the petition under Section 34(1) ought to have been filed within three months of receipt of photocopy of the award. If the limitation for filing the petition under Section 34 of the Act is to be counted from say after a week of 26th November, 2001, then the petition is definitely barred by time and no application for condonation of delay is entertainable.

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47. When scanned signed copy of order dated 07th March, 2018 was received by petitioner by email dated 22nd May, 2018 and scanned signed copy of Addendum to Award dated 17th May, 2018 was received by the petitioner on 17th May, This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/03/2025 at 05:49:00 2018 itself, the same was valid delivery in terms of Section 31(5) of the Arbitration Act. The law has to keep its pace in tandem with the developing technology. When service by email is an accepted mode of service, then sending scanned signed copy of the award/order of the Arbitral Tribunal to the parties would be a valid delivery as envisaged under Section 31(5) of the Arbitration Act.

48. A Division Bench of this Court in the case of Delhi Urban Shelter Improvement Board v. Lakhvinder Singh has held that the expression 'signed copy' in Section 31(5) of the Arbitration Act indicates the legislative intent that a copy authenticated by the Arbitrator is served on each party. It was held that authenticity of correspondence in the technologically advanced times of today does not necessarily pertain to only signatures in writing, and it would be adverse to read the expression 'signed copy' of the award/order in a restrictive manner so as to connote a copy bearing the original signatures of the Arbitrator in his hand writing. Thus, it was held as follows:

"15. The reference to the case of ARK Builders Private Limited (supra) where there was a dispute as to the delivery of a copy of the award by the arbitrator, by the Appellant would be inapplicable since, in the present case, the delivery of the copy of the award is not in contention. The only question is whether the copy of the impugned award, delivered to DUSIB by the arbitrator was a signed copy. Similarly, the decision in Tecco Trichy Engineers & Contractors (supra) contemplates the initiation of the limitation described under Section 34 in the light of the delivery of the arbitral award to the party once the party "receives" the award; the same not being in dispute in the present case.

16. As observed by the Single Judge, the expression 'signed copy' in Section 31(5) clearly indicates the legislative intent that a copy authenticated by the arbitrator is served on each party. The purpose of enacting the said provision is clearly to ensure

that the parties receiving the award are in a position to act on the same. Emphasizing on this legislative intent, the Single Judge elaborated on how the authenticity of correspondence in the technologically advanced times of today does not necessarily pertain to only signatures in writing, and it would be adverse to read the expression "signed copy of the award" in a restrictive manner as to connote a copy bearing the original signatures of the arbitrator in his handwriting. The Single Judge cited Section 3(56) of the General Clauses This is a digitally signed order.

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"(56) - "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;"

17. and also the various definitions of "sign" and "signature" as provided in Black's Law Dictionary, Eighth Edition, to demonstrate the utility of such a sign or a signature, which is primarily for authentication purposes.

18. National Agricultural Co-operative Marketing Federation of Indian Ltd. v. R. Piyarelall Import and Export Ltd. AIR 2016 Cal 160, a Division Bench of the Calcutta High Court upheld the decision of the Single Judge rejecting the petition under Section 34 of the Act for setting aside an award on the ground of limitation, was also cited by the Single Judge, where the arbitral award was duly signed by all the three arbitrators and a certified copy of the award was forwarded to each of the parties by the Registrar of the Indian Council of Arbitration but the photocopy of the signed award was not signed in original by the arbitrators. Here, the Court held that:

"24 it was not the intention of legislature that all the copies of the award,- dispatched to the respective parties would have to be separately signed by the Learned arbitrators. A certified photocopy of the original award along with the signatures of the members of the Arbitral Tribunal would suffice.

25. Had It been the legislative intent that all copies of the award required to be furnished to the respective parties to a multiparty arbitration, should actually be signed by members of the arbitral tribunal themselves and/or in other words, each of the copies should contain : the original signatures of the arbitrators. Parliament would perhaps, not have used the expression 'signed copy of the award' but used the expression 'a copy of the award, duly signed by the arbitrators', in Section 31(5) of the 1996 Act."

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49. Considering the aforesaid, it is clear that valid delivery of the Addendum to Award dated 17th May, 2018 and order dated 07th March, 2018 took place respectively on 17th May, 2018 and 22nd May, 2018 in terms of Section 31(5) of the Arbitration Act. Thus, the period of limitation for filing of This is a digitally signed order.

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8. It becomes pertinent to observe that before us it is not disputed that the e- mail attached a scanned copy of the signed Award. We, consequently, and bearing in mind the observations of the Court in Ministry of Youth Affairs & Sports, find no ground to interfere with the view taken by the learned Single Judge."

4. List again on 18.03.2025.

YASHWANT VARMA, J HARISH VAIDYANATHAN SHANKAR, J FEBRUARY 27, 2025/neha This is a digitally signed order.

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