

Ministry of Law & Justice

Arbitration and Conciliation (Amendment) Bill, 2021 passed in the Lok Sabha

February 12, 2021

Relevant to all Mahindra Businesses

Features of the Bill

Qualifications of Arbitrators:

- It does away with the qualifications of the arbitrators under 8th Schedule of the Arbitration and Conciliation Act, 1996 which specified that the arbitrator must be:
- An advocate under the Advocates Act, 1961 with 10 years of experience, or
- An officer of the Indian Legal Service.
- The qualifications for accreditation of arbitrators is proposed to be prescribed by regulations to be framed by an arbitration council to be set up.

Unconditional Stay on Awards:

- If the Award is being given on the basis of a fraudulent agreement or corruption, then the court can grant an unconditional stay as long as an appeal under Section 34 of the arbitration law is pending.

Benefits

- Would bring about parity among all the stakeholders in the arbitration process.
- All the stakeholders get an opportunity to seek unconditional stay on enforcement of arbitral awards where the agreement or contract is "induced by fraud or corruption".
- Checking misuse of the provisions under Arbitration and Conciliation Act, 1996 would save the taxpayers money by holding those accountable who siphoned off of them unlawfully.

Drawbacks

- India already lags behind when it comes to the enforcement of international contracts and agreements. The Bill can further hamper the spirit of Make in India campaign and deteriorate rankings in Ease of Doing Business Index.

- India aims to become a hub of domestic and international arbitration. Through the implementation of these legislative changes, resolution of commercial disputes could take longer duration now onwards.

For Further Reading

1. <https://www.prsindia.org/billtrack/arbitration-and-conciliation-amendment-bill-2021>
2. <https://taxguru.in/corporate-law/arbitration-conciliation-amendment-bill-2021-introduced-lok-sabha.html>
3. <https://pib.gov.in/PressReleseDetailm.aspx?PRID=1602900>