



The Arbitration (Orissa Amendment) Act, 1983

Act 3 of 1983

Keyword(s):

Arbitrator, Alternate Dispute Resolution, Arbitration, Government Company, Statutory Corporation

Amendments appended: 1989, 3 of 1992, 20 of 1992, 8 of 1994

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ORISSA ACT 3 OF 1983

*THE ARBITRATION (ORISSA AMENDMENT) ACT, 1982

[Received the assent of the President on the 21st March 1983 first published in an extraordinary issue of the *Orissa Gazette*, dated the 26th March 1983]

AN ACT TO AMEND THE ARBITRATION ACT, 1940 IN ITS APPLICATION TO THE STATE OF ORISSA

BE it enacted by the Legislature of the State of Orissa in the Thirty-third Year of the Republic of India, as follows:-

Short title

1. This Act may be called the Arbitration (Orissa Amendment) Act, 1982.

Amendment of section 2.

2. In section 2 of the Arbitration Act, 1940 (hereinafter referred to as the principal Act),- 10 of 1940

(i) after clause (a), the following new clause shall be inserted, namely:-

“(a-1) “Arbitration Tribunal” means the Arbitration Tribunal constituted under this Act;”

(ii) after clause ©, the following new clause shall be inserted, namely:-

“(c-1) “Government Company” means a Government Company as defined in section 617 of the Companies Act, 1956 in which not less than Fifty-one per cent of the paid up share capital is held by the State Government;” 1 of 1956

(iii) after clause (e), the following new clause shall be added, namely:-

“(f) “Statutory Corporation” means any Corporation established by law which is controlled or managed by the State Government”.

Insertion of new section 41-A.

3. After section 41 of the principal Act, the following new section shall be inserted , namely:-

* For the Bill see *Orissa Gazette*, Extraordinary, dated the 21st September 1982 (1353).

Constitution of and references to the Arbitration Tribunal.

“41-A. (1) Notwithstanding anything contained in this Act or in any contract or any other instrument, but without prejudice to the provisions contained in section 47, in all cases where the State Government, a local or other authority controlled by the State Government, a statutory corporation or a Government Company is a party to the dispute, all reference to arbitration shall be made to the Arbitration Tribunal.

(2) The State Government shall constitute an Arbitration Tribunal consisting of the following members, namely:-

- (a) One member chosen from among the officers belonging to the Orissa Superior Judicial Service (Senior Branch);
- (b) One member chosen from among the officers of the Public Works Department of the State Government not below the rank of a Superintending Engineer;
- (c) One member chosen from among the officers belonging to the Orissa Finance Service not below the Superior Administrative Cadre in Class-I.

(3) The member chosen from the Superior Judicial Service (Senior Branch) shall be the Chairman of the Tribunal.

(4) The terms and conditions of appointment of the members of the Tribunal and the headquarters thereof shall be as may be determined by the State Government from time to time.

(5) The business of the Arbitration Tribunal shall be conducted in such manner as the Tribunal may determine.

(6) The Arbitration Tribunal constituted by the State Government under the Arbitration Tribunal Rules, 1979 with its members holding office immediately prior to the commencement of the Arbitration (Orissa Amendment) Act, 1982 shall be deemed to be the Arbitration Tribunal constituted under this Act and shall continue to hold office till the Tribunal is reconstituted by the State Government.

(7) All arbitration proceedings relating to a dispute of the nature specified in subsection (1) which are pending before any arbitrator on the date of commencement of the Arbitration (Orissa Amendment) Act, 1982 and in which no award has been made by the said date, shall stand transferred to and disposed of by the Arbitration Tribunal”.

The Arbitration (Orissa Amendment) Act, 1989

[Published vide Orissa Gazette Ext. No 105 Dated.25.1.1990.]

Assented to by the President on the 17th January, 1990

AN ACT TO AMEND THE ARBITRATION ACT, 1940 IN ITS APPLICATION TO THE STATE OF ORISSA.

Be it enacted by the Legislature of the State of Orissa in the Fortieth Year of the Republic of India, as follows:

1. Short title and commencement- (1) This Act may be called the Arbitration {Orissa Amendment} Act, 1989. (2) It shall come into force at once.

2. Amendment of Section 41-A- In Section 41-A of the Arbitration Act, 10 of 1940,-

- (i) in Sub-section (1), the proviso shall be deleted;
- (ii) in Sub-section (5), the words “or Special Arbitration Tribunal” shall be deleted;
- (iii) in Sub-section (7), the proviso shall be deleted;
- (iv) after Sub-section (7), the following new Sub-section shall be inserted, namely:
“(8) All arbitration proceedings relating to a dispute of the nature specified in Sub-section (1) and which are pending before any Special Arbitration Tribunal on the date of commencement of the Arbitration (Orissa Amendment) Act, 1989 shall stand transferred to and disposed of by the Arbitration Tribunal”,

ORISSA ACT 3 OF 1992

THE ARBITRATION (ORISSA SECOND AMENDMENT) ACT, 1991

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ORISSA ACT 3 OF 1992

***THE ARBITRATION (ORISSA SECOND AMENDMENT) ACT, 1991**

[Received the assent of the President on the 22nd January 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 23rd January 1992]

**AN ACT TO AMEND THE ARBITRATION ACT, 1940 IN ITS APPLICATION TO THE
STATE OF ORISSA**

BE it enacted by the Legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows :—

Short title
and commence-
ment.

1. (1) This Act may be called the Arbitration (Orissa Second Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 24th day of September, 1991.

Amendment
of
section 41-A.

2. In the Arbitration Act, 1940 in its application to the State of Orissa (hereinafter referred to as the principal Act), in section 41-A, after sub-section (1), the following sub-section shall be deemed to have been inserted with effect from the 26th day of March, 1983 and in force during the period between the said date and the 24th day of January, 1990 (both the days inclusive), namely :—

“(1-a) No reference to arbitration of any dispute specified in sub-section (1) involving a claim of rupees one crore or above shall be made under the said sub-section to a Special Arbitration Tribunal, unless the amount agreed to by the parties in the contract out of which such dispute has arisen is more than half the amount of such claim.”

Application
and conse-
quences of
amendment.

3. Notwithstanding anything to the contrary in the principal Act, or in any award made by Special Arbitration Tribunal in relation to any dispute, or in any judgement, decree or order passed by any Court in relation to any such dispute or award,—

- (i) the amendment made by section 2 shall apply to and in relation to every dispute in respect of which award has been made by Special Arbitration Tribunal, whether such award has been, or is pending to be, made the rule of the Court under section 17 of the principal Act ;
- (ii) any reference made to Special Arbitration Tribunal in respect of a dispute referred to in clause (i) inconsistently with the provision of sub-section (1-a) of section 41-A of the principal Act as inserted by section 2 of this Act shall be deemed to be invalid as if the said sub-section (1-a) of section 41-A was in force at the time when such reference was made; and
- (iii) in the case of every dispute, the reference in respect of which is so deemed to be invalid under clause (ii), a fresh reference to arbitration shall be made to the Arbitration Tribunal within ninety days from the date of publication of the Arbitration (Orissa Amendment) Ordinance, 1991 in the official Gazette.

Orissa Ordinance No. 7
of 1991.

Explanation—For the purposes of this section, the expression “Special Arbitration Tribunal” shall mean a Special Arbitration Tribunal constituted under sub-section (1) of section 41-A of the principal Act as it stood prior to the 25th day of January, 1990.

Repeal and
savings.

4. (1) The Arbitration (Orissa Amendment) Ordinance, 1991 is hereby repealed.

Orissa Ordinance No. 7
of 1991.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

ORISSA ACT 20 OF 1992

THE ARBITRATION (ORISSA THIRD AMENDMENT) ACT, 1991

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ORISSA ACT 20 OF 1992

***THE ARBITRATION (ORISSA THIRD AMENDMENT) ACT, 1991**

[Received the assent of the President on the 27th April 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 2nd May 1992]

AN ACT TO AMEND THE ARBITRATION ACT, 1940 IN ITS APPLICATION TO THE STATE OF ORISSA.

BE it enacted by the Legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows : —

Short title.

1. This Act may be called the Arbitration (Orissa Third Amendment) Act, 1991.

Amendment of section 13.

2. In the Arbitration Act, 1940 (hereinafter referred to as the principal Act), section 13 shall be renumbered as sub-section (1) thereof and, after sub-section (1) as so renumbered, the following sub-section shall be and shall be deemed always to have been inserted and in force till the 25th day of March, 1983, namely: —

10 of 1940.

“(2) No arbitrator or umpire shall pass a non-speaking award in relation to any dispute of the nature specified in sub-section (1) of section 41-A, if the amount of such award is more than double the amount agreed to by the parties in the contract out of which such dispute has arisen.”

Application and effect.

3. Notwithstanding anything to the contrary in the principal Act, or in any contract, or in any award made by any arbitrator or umpire in relation to any dispute, or in any Judgement, decree or order passed by any court in relation to any such dispute or award,—

- (i) the amendment made by section 2 shall apply to and in relation to every dispute of the nature specified therein in respect of which award has been made by an arbitrator or umpire, whether such award has been, or is pending to be, made the rule of the Court under section 17 of the principal Act;
- (ii) any reference made to an arbitrator or umpire in respect of a dispute in relation to which a non-speaking award has been passed inconsistently with the provision of sub-section (2) of section 13 of the principal Act as inserted by section 2 of this Act, whether such award has been, or is pending to be, made the rule of the Court, shall be deemed to be invalid; and
- (iii) in the case of every such dispute, the reference in respect of which is so deemed to be invalid under clause (ii), a fresh reference to arbitration shall be made to the Arbitration Tribunal within ninety days from the date of publication of the Arbitration (Orissa Third Amendment) Act, 1991 in the Official Gazette.

ORISSA ACT 8 OF 1994

*THE ARBITRATION (ORISSA AMENDMENT) ACT, 1994

[Received the assent of the Governor on the 28th April 1994, first published in an extraordinary issue of the *Orissa Gazette*, dated the 29th April 1994.]

AN ACT FURTHER TO AMEND THE ARBITRATION ACT, 1940 IN ITS APPLICATION TO THE STATE OF ORISSA.

BE it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows:—

Short title

1. This Act may be called the Arbitration (Orissa Amendment) Act, 1994.

Amendment
of
Section 41-A

2. In the Arbitration Act, 1940 to sub-section (1) of section 41-A, the following proviso and Explanation shall be added, namely:—

“ Provided that the State Government may, by notification, exempt from the operation of this sub-section any arbitration agreement to which a Company incorporated outside India or a subsidiary thereof which is incorporated in India is a party, if the Government is satisfied that:—

- (i) such party to the agreement has expressly agreed to adjudication of the dispute by arbitration conducted in accordance with the arbitration rules of the United Nation's Commission on International Trade Law; and
- (ii) any of the authorities specified in this sub-section being a party to such agreement has, in the public interest, agreed to such a condition of adjudication;

and, in every case where such exemption is made, the notification shall as soon as it is published in the Gazette, be laid before the Legislative Assembly for a total period of fourteen days which may comprise in one or more sittings.

Explanation—For the purposes of this sub-section,—

- (a) ‘Company’ includes anybody corporate; and
- (b) ‘Subsidiary’ means a subsidiary company within the meaning of section 4 of the Companies Act, 1956”.

1 of 1956.

* For the Bill see *Orissa Gazette*, Extraordinary, dated the 29th April 1994