



IN THE HIGH COURT OF HIMACHAL PRADESH AT  
SHIMLA

CARBA No. 14 of 2025  
Decided on : 17.04.2026

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The State of Himachal Pradesh and another

...Appellants

Versus

Sh. Hukam Singh Negi

...Respondent

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Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Whether approved for reporting?<sup>1</sup>

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For the appellants : Mr. Anup Rattan, Advocate General,  
with Ms. Ayushi Negi, Deputy  
Advocate General.

For the respondent : Ms. Minakshi Sharma, Advocate.

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**Ajay Mohan Goel, Judge (Oral)**

By way of this Appeal, filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the '1996 Act'), the State has assailed judgment dated 17.08.2024, titled The State of H.P. & anr. Vs. Sh. Hukam Singh Negi, passed by the learned District Judge, Shimla, H.P., in terms whereof, the objections preferred by the State under Section 34 of the 1996 Act, against the Arbitral Award dated

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<sup>1</sup>Whether reporters of the local papers may be allowed to see the judgment?



03.12.2019, passed by the Sole Arbitrator, was dismissed.

2. When the case was taken up for consideration today, it was urged that the judgment passed by the learned District Judge on the objections preferred before the said Court under Section 34 of the 1996 Act, was without jurisdiction as the objections under Section 34 of the 1996 Act against an arbitral award after coming into force of the Commercial Courts Act, 2015 could have been heard and adjudicated upon by the Commercial Courts only. The said Court not being the Commercial Court had no jurisdiction either to entertain or to decide the objections.

3. Learned Advocate General in order to assist the Court, drew the attention of the Court to Section 3 of the Commercial Courts Act, 2015 and submitted that in terms of said section, Commercial Courts at District level have to be established as provided and it is a matter of record that when the objections were preferred and decided by the learned District Judge, said Court was not a Commercial Court in terms of Section 3 of the Commercial Courts Act. Learned Advocate General Counsel submitted that, in fact, at the relevant time,



there only was Commercial Division of High Court, which was constituted in terms of Section 4 of the Commercial Courts Act and in the light of this fact, the adjudication by the learned District Judge is without jurisdiction.

4. Learned counsel for the respondent also states that this being an admitted actual position and further as there appears to be inherent lack of jurisdiction with the learned District Judge to have had entertained and decided the objections, appropriate orders be passed in the matter.

5. Having heard the learned Advocate General and learned counsel for the respondent and having perused the statutory provisions of the Commercial Courts Act and taking into consideration the fact that the dispute in hand relates to a commercial dispute, this appeal is allowed by holding that the judgment passed by the learned District Judge in the objections filed by the present petitioner under Section 34 of the 1996 Act against the arbitral award, details whereof are given herein above, is non est and without jurisdiction.

6. Sub-section (1) of Section 3 of the Commercial Courts Act, *inter alia*, provides that the State Government may,



after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under the said Act.

7. Sub-section (2) of Section 3 of the Commercial Courts Act further provides that State Government shall, after consultation with the concerned High Court, by notification specify, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

8. Similarly, Sub Section (3) thereof provides that State Government may, with the concurrence of the Chief Justice of the High Court, appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court either at the level of District Judge or a Court below the level of a District Judge.

9. Therefore, in order for a Court to excise the power of Commercial Court, the procedure prescribed under Section 3 of the Commercial Courts Act, should have been complied with.



As admittedly in the present case, neither at the time of filing of the objections or at the time of adjudication thereof, the Court in issue stood constituted as a Commercial Court, nor the provisions of Sub Sections (2) and (3) of Section 3 of Commercial Courts Act were complied with, the judgment under challenge passed by learned District Judge is per se without jurisdiction.

10. In the light of above observations, the appeal is allowed by setting aside the impugned judgment and by further ordering that the objections filed by the objector be returned back to the party, in terms of the provisions of Order VII, Rule 10 of the Civil Procedure Code, for its presentation before the appropriate Forum which shall deal with the objections *de novo*. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

**(Ajay Mohan Goel)**  
**Judge**

April 17, 2026  
(Shivank Thakur)