

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION (L) NO.18350 OF 2025

Prof. Dr. Pankaj Kumudchandra Phadnis
Adult – age 65 resident of
Shivaji Park, Dadar (W), Mumbai-400 028
E mail drpankajphadnis@gmail.com

...Petitioner

Versus

Tata Education and Development Trust Bombay
House, 24 Homi Mody Street
Fort – Mumbai – 400 001

...Respondent

Dr. Pankaj Kumudchandra Phadnis, Petitioner in-person

*Mr. Karl Tamboly a/w Mr. Aditya Mehta, Ms. Namrata Parikh and
Mr. Pervez Rustom Khan for the Respondent*

CORAM : SHARMILA U. DESHMUKH, J.

RESERVED ON : APRIL 22, 2026

PRONOUNCED ON : MAY 6, 2026

JUDGMENT :

1. By this Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, "**the Arbitration Act**"), the challenge is to the Award dated 13th May 2025, whereby all claims of the Petitioner are rejected.

2. The claim arose out of the contract of appointment dated 2nd January, 2017 by which the Petitioner was appointed as Senior Advisor with Respondent No. 1. The Statement of Claim pleads that another agreement described as New York Agreement was entered into

between the Petitioner and the sister concern of the Respondent No 1 on 3rd January, 2017. The Statement of Claim repeats and reiterates that the present arbitration claim arises by and out of the agreement dated 2nd January, 2017 and the New York Agreement is not the subject matter of the claim in arbitration. The case set up was that post execution of the agreement on 2nd January, 2017, there were certain oral assurances given by Mr. Tata that the New York agreement and India agreement would be honoured for long enough duration which was expected to take 5 to 10 years and Mr. Tata had agreed for certain measures to ensure financial security for the Petitioner and his wife.

3. The termination on 7th October 2019 by the Respondent No.1 was challenged as being illegal being without cause and contrary to the oral assurances given by Mr. Tata. The monetary claim of Rupees Six Crores Forty Five Lakhs Twenty Thousand was calculated in the particulars of claim under Exhibit "G" as under:

"1 Professional Fees

April 7, 2020 to December 31, 2021 Rs 13,130,000 plus GST (@ Rs 650,000 pm+GST) plus interest

Basis: Contract dated January 2, 2017

January 1, 2022 - December 31, 2024 Rs 26,910,000 plus GST 15% Increase over Rs 650,000 pm i.e. Rs 747,500 plus GST plus interest upto date of award

Basis: Personal discussions with Mr. Ratan N. Tata of August 8, 2017

Total Balance Fees Rs 40,040,000 plus GST plus interest on fees payable upto June 2023 from date due to date of payment.

2 10 Year rental agreement Rs 24,480,000 for Financial Security of Claimant & His Wife

In Nashik 5,100 sq ft @ Rs 40 per sq ft pm for Abhinav Bharat to be used for setting up Madam Cama International University in the form of a grant to Abhinav Bharat Residence and Work from Home Use.
Basis: Personal discussions with Mr. Ratan N. Tata of August 8, 2017."

4. The Respondent filed its Statement of Defence opposing the grant of monetary reliefs and also filed an application under Section 16 of the Arbitration Act, raising an objection to the jurisdiction of the Tribunal on the ground that prayer clause (a) of the claim arises from an Agreement of 2nd January 2017, which termination was accepted by the Petitioner by raising two invoices towards fees in lieu of notice of 6 months as per Clause 8.1 of the Agreement, which has been duly paid. Hence there was discharge and/or accord and satisfaction of agreement as the cheques were encashed by the Petitioner. And secondly, insofar as the relief in prayer (a) to the extent of claim of rent for Abhinav Bharat is concerned, which is at Serial No. 2 of the Particulars of Claim at Exhibit 'G' to the Statement of Claim, are beyond the scope of the arbitration proceedings as they do not concern the Agreement dated 2nd January, 2017 and there is no arbitration agreement between the Respondent and Abhinav Bharat

Trust or the Petitioner's wife. The order of appointment of Arbitrator was to arbitrate the disputes and differences between the parties, i.e. the Petitioner and Respondent, and does not cover the disputes, if any, with Abhinav Bharat Trust and the Petitioner's wife.

5. The Minutes of the Meeting held on 27th February 2024 records that the Respondent's application under Section 16 of the Arbitration Act was partly heard and it was agreed that the application may be deferred to the hearing of the main Reference, keeping all rights and contentions of the parties open. The Minutes of the Meeting held on 1st July, 2024 records that apropos Minutes of the Meeting held on 27th February, 2024, it is submitted that the statement made by the Petitioner on that day, namely that he would not be pressing prayer clause (d) along with paragraph 2 of Exhibit 'G' [forming part of prayer (a)], was not recorded in the Minutes through oversight. The Minutes of the Meeting further records that the learned Counsel for the Petitioner accepted the position and it is ordered accordingly. The Minutes of the Meeting held on 22nd October, 2024 deals with the contention of the Petitioner that in the meeting of 27th February, 2024, the Petitioner gave up prayer clause (d) and not paragraph 2 of Exhibit 'G' [forming part of prayer (a)], which was not accepted by the Arbitral Tribunal.

6. By the impugned Award, the Arbitral Tribunal upheld the validity of termination of the Agreement dated 2nd January, 2017. It further

held that the Petitioner's case of oral promise of Mr. Tata that the Agreement dated 2nd January, 2017 will be honoured for the period necessary to attain the object of the Agreement i.e. between 5 to 10 years, is not proved and there is no oral or documentary evidence in support of the case. The Arbitral Tribunal further held that the Tata Code of Conduct on which reliance is placed by the Petitioner does not contain anything to support the Petitioner's case challenging his termination and dismissed the claim.

7. The Petitioner, who appears in-person, submits that the claim raised before the Arbitral Tribunal at Exhibit 'G' was in respect of the professional fees as well as for rental agreement for financial security of the Petitioner and his wife in the context of Abhinav Bharat and setting up of Madam Cama International University based on personal discussions with Mr. Ratan Tata in the year 2017. He submits that he had not given up the claim in paragraph 2 of Exhibit 'G' [forming part of prayer (a)] and in fact had given up prayer (d) of the Statement of Claim. He points out to the Minutes of the Meeting and would submit that he is entitled to challenge the order declining his request to adjudicate the claim in paragraph 2 of Exhibit 'G' in a Petition under Section 34 of the Arbitration Act. He would further submit that by email of 28th February, 2024, he had written to the learned Arbitrator and specifically pointed out that the Petitioner and his Advocate had

made a statement that the Petitioner is not pressing prayer (d) of the Statement of Claim, which is not recorded in the Minutes of the Meeting dated 27th February, 2024, and therefore, in the Minutes of the Meeting dated 1st July, 2024, there could not be inclusion of concession of more than what he had himself recorded in his own mail of 28th February, 2024. He would further submit that the interim order is contrary to the factual position and is a case of fraud.

8. He would submit that insofar as the validity of termination is concerned, Clause 8 of the Agreement dated 2nd January, 2017 has to be read along with Clause 9, which deals with the Rules and Regulations and provides that the Petitioner would be governed under the provisions of the Tata Code of Conduct. He would further point out that the Tata Code of Conduct sets out the core principles as well as encourages the employees to raise concerns and that there would be no termination against any form of retaliation against anyone reporting legitimate concerns. He submits that despite the said Rules and Regulations contained in the Code of Conduct, the termination has been effected as the Petitioner had raised certain concerns by his letter dated 15th May, 2025. He submits that the learned Arbitrator has erred in relying only on Clause 8 of the Agreement of 2017.

9. *Per contra*, Mr. Tamboly, learned Counsel appearing for the Respondent would submit that the Petitioner had made it clear in his

Statement of Claim that the instant arbitration proceedings are limited to India Agreement only. He would further submit that the claim of the Petitioner was for performance of oral agreement and damages and no evidence was led by the Petitioner. He would further point out the points for determination framed by the learned Arbitrator and that the learned Arbitrator had answered the issue of jurisdiction against the Respondent. He submits that the learned Arbitrator has interpreted the provisions of Clause 8.1 of the Arbitration Agreement that the said Agreement provided for termination at will and under Section 34, the interpretation being a plausible interpretation ought not to be interfered with. He submits that the learned Arbitrator has come to a specific finding that there is no oral or documentary evidence led in support of the oral agreement and therefore has rejected the claim.

10. He would further submit that insofar as the withdrawal of the claim under paragraph 2 of Exhibit 'G' is concerned, the application under Section 16 objected to the jurisdiction of the Arbitrator to arbitrate the claims in paragraph 2 for the reason that there was no arbitration agreement in the oral agreement set up by the Petitioner and would be outside the scope of the Arbitrator's jurisdiction. He submits that the other objection under Section 16 was on the basis of accord and satisfaction as the termination had been accepted by the Petitioner and payments received, which objection was deferred to the

final hearing in view of the claim under paragraph 2 of Exhibit `G' having been withdrawn. He submits that as the Petitioner was represented by an Advocate, the absence of the Petitioner on any particular date of Meeting is immaterial. He submits that there is no affidavit which is filed by the Advocate that the claim was not withdrawn. He submits that having engaged a lawyer, it is not open for the Petitioner to say that he had not authorized his Counsel to make the said statement. In support, he relies on the following decision :

(i) Ramesh Kumar Jain vs. Bharat Aluminium Company Ltd.¹

11. In rejoinder, Mr. Phadnis would submit that on 1st July, 2024, he was not present and on 11th July, 2024, he was present. He submits that the New York Agreement was not the subject matter of the arbitration proceedings and that his Advocate had incorrectly submitted about withdrawal of paragraph 2 of Exhibit `G'. He submits that the said issue was sought to be assailed before the learned Arbitrator, but was not accepted, thereby vitiating the Award as it amounts to fraud.

12. After the hearing was concluded, written submissions were tendered by Mr. Phadnis, which travel beyond the arguments canvassed. The written submissions make references to various

1 2025 SCC OnLine SC 2857

documents and about invalid constitution of the Board of Trustees. It is not demonstrated that these documents were part of the record before the learned Arbitrator and in any event, the scope of arbitration was clearly defined and no extraneous material can be considered.

13. Rival contentions now fall for determination:

14. The Petitioner came to be appointed under a contract of appointment dated 2nd January, 2017 which sets out the terms and conditions of the appointment including the duration, the professional charges, the termination etc. Insofar as the term of the contract is concerned, the contract sets out that the term is from 2nd January, 2017 till 31st January, 2021, which will then be mutually reviewed.

15. The contract of appointment came to be terminated by invoking Clause 8 of the Agreement, which reads as under:

"8. Termination of Contract

8.1. The trust shall be entitled to terminate this contract at any time by giving 6 months of notice or fees in lieu of notice.

8.2. You shall be entitled to terminate the Contract at any time by giving 6 months of notice or one month's fees in lieu of notice.

8.3. In case the Trust terminates this contract for any misconduct found on your part during your contractual period, your contract shall stand terminated with immediate effect and you shall not be entitled to any compensation as mentioned in sub-clause 3.1 above."

16. The contractual agreement gave right to both the parties to terminate the contract and if the termination is by the Respondent by giving 6 months notice or fees in lieu of notice and if the termination is by the employee by giving 6 months notice or a month's fees in lieu of notice. Clause 8.3 entitles the Trust to terminate the contract for any misconduct found on part of the Petitioner with immediate effect, in which case the Petitioner shall not be entitled to any compensation.

17. The learned Arbitrator has considered the submission of the Petitioner that the termination under Clause 8.1 is not "at will" termination and it implies "with cause" termination. The learned Arbitrator has interpreted Clause 8 of the Agreement to mean that the termination under Clause 8.1 is termination at will and without any reason. The interpretation placed by the learned Arbitrator on Clause 8.1 is a plausible interpretation and, in fact, it is the only interpretation upon a reading of the said clause contained in the contract of appointment. There is no question of implied "with cause" termination when the wordings of Clause 8.1 are clear and unambiguous. The learned Arbitrator was within his jurisdiction to interpret the terms of the contract and it is impermissible to interfere with the interpretation placed on the terms of the contract unless the error is apparent. In my view, as the clause has been rightly interpreted by the learned

Arbitrator, there is no reason to interfere with the same under Section 34 of the Arbitration Act.

18. The submission of Mr. Phadnis is that Clause 8 should be read with Clause 9 of the contract which provides that the Petitioner shall be governed under the provisions of the Tata Code of Conduct, which according to him constitutes an agreement between the parties and, as the Code of Conduct permits the Petitioner to raise concerns and protects the Petitioner from any retaliation, there could not be any termination for raising concerns. The learned Arbitrator has considered the Tata Code of Conduct to hold that there is nothing in the said Code of Conduct which supports the Petitioner's case challenging the termination. It held that the Petitioner's case is that some of the Trustees are requiring him to make a defamatory complaint against an individual, whereas in the Statement of Claim there is not even a whisper of any such case. The learned Arbitrator has further held that in the Statement of Claim, the Petitioner has attributed the purported unilateral and arbitrary revocation of the Agreement to the trigger point of "affirming affidavits complaining about the manner in which he was treated in August 2019", which details as to the stoppage of performance of the New York Agreement leading to several problems for the Petitioner. The learned Arbitrator has held that there is no evidence, besides the bare production of the affidavit of August 2019

to support the Petitioner's case that he was actually required by any of the Trustees of the Respondent Trust to file a false or defamatory affidavit or complaint against the said individual. There was no evidence led by the Petitioner and therefore the learned Arbitrator has rightly negated the claim of the Petitioner as being unsupported by any evidence. There is no material demonstrated to have been produced before the learned Arbitrator to support the claim of the termination being the consequence of non complying with the purported requests of the Respondent of filing defamatory affidavits against a third party. As the Petitioner failed to step into the witness box and did not lead any oral or documentary evidence, the learned Arbitrator has rightly considered the terms of the contract to uphold the validity of the termination.

19. The termination which had taken place was specifically under Clause 8.1 of the contract, which provided for termination at will and without any evidence on record to show that it was not a termination at will but for a cause due to the refusal of the Petitioner to do certain acts at the instance of the Respondent, there is no reason to hold the termination invalid. It is well settled that the Arbitrator has to arbitrate as per the terms of the contract and there is nothing in the Tata Code of Conduct which would qualify Clause 8 of the contract governing the termination. As the termination was held to be valid, there was no

question of damages being granted to the Petitioner. The view which is taken by the learned Arbitrator is a plausible view which does not deserve any interference within the limited scope of Section 34 of the Arbitration Act.

20. The second ground of challenge to the impugned Award is the refusal of the learned Arbitrator to consider paragraph 2 of Exhibit `G' [forming part of prayer (a)], which raises monetary claims on behalf of the Petitioner and his wife on the basis of purported personal discussions with Mr. Ratan Tata on 8th August, 2017.

21. The contention is that the Petitioner had given up prayer clause (d) of the Statement of Claim and not paragraph 2 of Exhibit `G' [forming part of prayer (a)]. The Arbitral Tribunal held that it is not permissible to go behind the record and question the statement made before the Tribunal, particularly if based on the statement, the Respondent has altered its position to its detriment. It held that one of the main objections to the jurisdiction of the Tribunal was on the ground that the purported promises made to Abhinav Bharat or for setting up Madam Cama International University were clearly outside the underlying contract between the parties which contained the arbitration agreement involved in the present case. It held that the Respondent's acceptance of deferral of the hearing of Section 16 application was primarily based on the concession made by the

Petitioner insofar as the promises made to Abhinav Bharat or setting up of Madam Cama International University are concerned and the Petitioner cannot now be permitted to withdraw the concession and insist on the prayers which were offered to be given up. It further held that the parties have participated in the hearing before the Tribunal on 11th July, 2024 and 25th July, 2024 after the Meeting of 1st July, 2024 and none of the so-called errors in recording the Petitioner's concession in the meeting of 1st July, 2024 were pointed out. The Arbitral Tribunal therefore held that paragraph 2 of Exhibit 'G' [forming part of prayer (a)] shall be treated as non-est inasmuch as prayer (d) of Statement of Claim, is concerned.

22. The Minutes of the Meeting which are placed on record would indicate that on 1st July, 2024, it was specifically recorded that a statement was made on 27th February, 2024 that the Petitioner would not be pressing prayer (d) along with paragraph 2 of Exhibit 'G', which position was accepted by the learned Counsel who was appearing for the present Petitioner. The Minutes of the Meeting does not indicate the presence of the Petitioner in the Meeting of 1st July, 2024. The submission was accepted by the duly authorised Advocate who was engaged by the Petitioner to act on his behalf and it is not permissible for the Petitioner to resile from the said statement on the specious ground that his Advocate had incorrectly made such submission. The

learned Arbitrator has specifically held that based on the statement, the Respondent had altered its position as it did not press its objection to the jurisdiction of the Tribunal and deferred it to the final hearing.

23. It is submitted by Mr. Tamboly that the application under Section 16 raises two objections: first, on the basis of accord and satisfaction, which would disentitle any claim for invalid termination of contract; and secondly, that paragraph 2 of Exhibit 'G' was outside the scope of Arbitration. A perusal of the application filed under Section 16 of the Arbitration Act would indicate that there was a specific objection which has been taken to prayer (d) and prayer (a) to the extent of claim of rent to Abhinav Bharat on the ground that the same also refers to a claim being made for the benefit of the Petitioner's wife, which is beyond the scope of the Arbitration proceedings as they do not concern the Agreement. It was, therefore, a specifically pleaded ground that the learned Arbitrator would have no jurisdiction to arbitrate in respect of the claims which are outside the Agreement dated 2nd January, 2017 containing the arbitration clause and include parties apart from the Petitioner and the Respondent. The learned Arbitrator has specifically recorded that it is only by reason of giving up the reliefs beyond the agreement of 2nd January, 2017 that the Respondent agreed to defer the hearing of Section 16 application to the main reference.

24. I find no reason to interfere with the findings of the learned Arbitrator, which are based on the statements made before the learned Arbitrator and form part of the record of arbitration proceedings. The email dated 28th February, 2024 sent by the Petitioner states that the Minutes of Meeting dated 27th February, 2024 do not record that the Petitioner is not pressing prayer (d) of the Statement of Claim. In the next meeting held on 1st July, 2024, the statement made was that the Petitioner would not be pressing prayer clause (d) along with paragraph 2 of Exhibit `G', which was not corrected by the Petitioner or his Advocate in the subsequent meetings of 11th July, 2024 and 25th July, 2024. Perusal of prayer clause (d) of the Statement of Claim would indicate that prayer clause (d) seeks relief of grant of funds by the Respondent to Abhinav Bharat, a registered Public Charitable Trust, of which the Petitioner is the settlor and lifetime trustee, of an amount sufficient to set up Madam Cama International University for the benefit of Indian youth as a substitute to the relief (a) to (c) above. At the cost of repetition, paragraph 2 of Exhibit `G' of computation of claim is reproduced below:

"2 10 Year rental agreement Rs 24,480,000 for Financial Security of Claimant & His Wife

In Nashik 5,100 sq ft @ Rs 40 per sq ft pm for Abhinav Bharat to be used for setting up Madam Cama International University in the form of a grant to Abhinav Bharat Residence and Work from Home Use. Basis: Personal discussions with Mr. Ratan N. Tata of August 8, 2017."

25. Perusal of the prayers would indicate that both the prayers made a reference to Abhinav Bharat, which was a registered Public Charitable Trust of the Petitioner, and sought grant for setting up Madam Cama International University and, therefore, it stands to reason that when the objection was raised to the jurisdiction of the Arbitral Tribunal to consider such a relief, which was outside the contract of appointment dated 2nd January, 2017, there would be withdrawal of all the claims pertaining to the said Abhinav Bharat. The learned Arbitrator has considered the record of the Minutes of the Meeting and the statement which was made during the Meeting to hold that the Petitioner cannot be permitted to withdraw the concession and insist on prayers which were offered to be given up by him. The said findings, in my view, do not suffer from any patent illegality.

26. In the case of *Ramesh Kumar Jain* (supra), the Hon'ble Apex Court has considered the entire gamut of Sections 34 and 37 of the Arbitration Act in light of the settled legal position. It has reiterated the well-settled principle that the Courts exercising jurisdiction under Section 34 do not sit in appeal over the Arbitral Award. Hence, they are not expected to examine the legality, reasonableness or correctness of findings on facts or law unless they come under any of the grounds mandated in the said provision. It held that the scope of interference for a judicial body is extremely narrow. The Hon'ble Apex Court further

held that the terminology of patent illegality indicates more than one scenario such as the findings of the Arbitrator must shock the judicial conscience or the Arbitrator took into account matter which should not have or he must have failed to take into account vital matters, leading to an unjust result, or the decision is so irrational that no fair or sensible person would have arrived at it given the said facts.

27. In light of the above discussion, none of the grounds for interference under Section 34 of Arbitration Act are made out. Resultantly, the Petition fails and stands dismissed.

[SHARMILA U. DESHMUKH, J.]