

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Commercial Appeal (Filing) No.649 of 2025

1. M/s Bharat Coking Coal Limited, through its Chairman-cum-Managing Director, having its office at Koyla Bhawan, P.O. Koyla Bhawan, P.S. Koyla Bhawan, Town & District Dhanbad (Jharkhand), represented through Shri Kumar Sharat Sinha, Deputy General Manager (Legal), aged about 58 years, son of Late Kumar Chandra Shekhar Sinha, having office at Koyla Bhawan, Koyla Nagar, Dhanbad, P.O. Dhanbad, P.S. Dhanbad, District Dhanbad (Jharkhand) 826 006.
2. General Manager, Bharat Coking Coal Limited, having its office Govindpur Area-III, P.O. & P.S. Sonardih, District Dhanbad (Jharkhand).

... Respondents/Applicants

Versus

1. M/s ALLIED-GCC (Joint Venture) entity and its partners, having its office at P-6, Bentick Street, 3rd Floor, A.C. Mansion, P.O. & P.S. Bentick Street, Kolkata (West Bengal), through its Authorized Signatory, namely, Anindya Sanyal, son of Late Subhendu Sanyal, resident of Kaikhali, P.O. & P.S. Kaikhali, District Kolkata (West Bengal)-700001.

Claimant-Petitioner/Opposite Party

2. M/s. RITES Limited, through its Group General Manager (Personnel), having its office at Regional Project Office, 56, C.R. Avenue, Kolkata-700012 (West Bengal).

... Respondent/Proforma Opposite Party

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Appellant: Mr. Arpan Mishra, Advocate
Mr. Ankit Vishal, Advocate

05/Dated: 20.04.2026

1. Heard learned counsel for the appellant.
2. This appeal challenges judgment and order 16.04.2024 dismissing appellant's Commercial Arbitration Case No.31 of 2023 by which the appellant's application under Section 34 of the Arbitration

and Conciliation Act, 1996 (said Act) was dismissed a barred by limitation.

3. This appeal was filed on 17.01.2025 after a delay of 216 days. However, the appellant did not even bother to file any application seeking condonation of delay.

4. Accordingly, an objection was raised by the Registry. The learned counsel for the appellant sought for two weeks' time to clear the office objections on 03.03.2025, but still, the same was not cleared. Further opportunities were granted on 26.06.2025, but still, the office objections were not cleared. After all this, the matter has now come up on the cause-list.

5. The learned Counsel for the appellant submits that an appeal under Section 37 of the said Act can be preferred within 90 days under the provisions of the Limitation Act or 60 days under the provisions of the Commercial Courts Act.

6. Even if we accept the above contention and apply the longer limitation period, the record shows that this appeal was filed after a delay of 216 days, and that, too, without the appeal memo being accompanied by an application for condonation.

7. In the case of **Government of Maharashtra (Water Resources Department) v. Borse Brothers Engineers and Contractors Private Limited**, (2021), 6 SCC 460, the Hon'ble Supreme Court at paragraph 63 has held as follows: -

“63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial

Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.”

8. This decision of the Hon'ble Supreme Court was followed by a Co-ordinate Bench in the case of **Jharkhand Urja Utpadan Nigm Ltd. v. M/s Bharat Heavy Electricals Limited** (*Commercial Appeal No.01 of 2025, decided on 14.02.2025*).

9. The decision of the Hon'ble Supreme Court clarifies that condonation in such matters shall be by way of an exception and not by way of a rule. Only in a fit case in which the party has otherwise acted upon *bon fide* and not in a negligent manner, a short delay beyond such period can, in the discretion of the Court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.

10. In the present case, much needs to be set about the *bona fides* of the appellant, apart from the fact that the application under Section 34 was itself filed beyond the prescribed period of limitation; this

appeal was also instituted 216 days beyond the prescribed period of limitation. After instituting the appeal, the office objections, *inter alia*, in relation to the non-filing of any application seeking condonation of delay, remained unaddressed. This was despite the fact that the appellant was given opportunities to clear the office objections.

11. Significantly, to date, presumably on the ground that a Section 34 petition was pending and that this appeal is now pending, the appellant has not bothered to honour the award it impugns.

12. Undue advantage is being reaped by the Appellant merely by keeping this appeal pending. Based on the pendency, attributable entirely to the Appellant's failure to clear the office objections or even to file an application explaining the delay, the Appellant has avoided making payments under the award it now impugns. The delay is inordinate and not at all explained. Under such circumstances, the discretion cannot be exercised in favour of the Appellant.

13. All this clearly reflects on the *bona fides* or, rather, the lack of *bona fides* on the part of the appellant. Any further indulgence, therefore, is uncalled for.

14. This appeal is accordingly dismissed without any order for costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

April 20, 2026

N.A.F.R.

Manoj/ Sharda/Cp.2

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