



GAYATRI BALASAMY V. M/S. ISG NOVASOFT TECHNOLOGIES LIMITED: A CRITICAL ANALYSIS OF JUDICIAL INTERVENTION AND ARBITRAL FINALITY IN INDIA

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INTRODUCTION

The change brought about by the Indian Supreme Court decision in *Gayatri Balasamy v. M/s ISG Novasoft Technologies Limited* has received considerable attention in the context of Indian arbitration jurisprudence. The five-judge Constitution Bench of the Supreme Court issued a landmark split decision of 4:1, resolving the persistent controversy on the jurisdiction of the courts to alter the awards of arbitration in a number of cases, shifting the balance of the legislative intention of the Arbitration and Conciliation Act of 1996.

The IACA 1996¹ intended to limit the jurisdiction of the courts to intervene in arbitration matters and encourage the independence of arbitral bodies. The courts' practices relating to sections 34 and 37 of the Act, which allow judicial review of awards, have been rife with inconsistencies, and this has resulted in the overwhelming uncertainty of the capability of courts to amend awards.

This report aims to analyse the *Gayatri Balasamy* decision in more detail and reflect upon the Court's argument regarding non-intrusiveness, the balance between judicial review and the discretion given to arbitrators, and the effects of this decision for India's reputation as a jurisdiction friendly to arbitration.

BACKGROUND OF THE DISPUTE AND LEGAL JOURNEY

The case *Gayatri Balasamy v. ISG Novasoft Technologies Limited* is important in the context of Indian Arbitration law. It centres upon the employment termination dispute between Balasamy and her employer, ISG Novasoft Technologies Limited. Balasamy contended an

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¹ The Arbitration and Conciliation Act, 1996

award given to her by the arbitral tribunal under section 34 of IACA, claiming that specific issues of determination were overlooked and further arguing that there were errors in the quantification of the award. The Madras High Court, diverging from traditional judicial practices, started blunting ‘adjusting’ the moderation award, which led to the involvement of the Supreme Court.

This started what is described by some as a never-ending battle in Indian arbitration case law. It conflicts with the position of the Supreme Court in *Project Director, NHAI v. M. Hakeem* (2021)² where the court held a pretty rigid position by stating that the exercise of section 34 IACA does not permit awards to be changed, which was heavily criticised. However, there was some latitude under that Stringent element of case law, as *ONGC Ltd. v. Western Geco International Ltd.* (2014)³ and *Tata Hydro-Electric Power Supply Co. Ltd. v. Union of India* (2003)⁴ showed.

The Gayatri Balasamy case marked a decisive moment for the court, where the Supreme Court sought to balance two diametrically opposite judicial philosophies. The conflict, enduring for years, between the rigid compliance with the IACA’s scheme and the need for judicial elasticity to surgically address “correctable flaws” instead of uselessly herding the parties towards expensive re-arbitration, was a source of strife for years. The Constitution Bench was meant to resolve the case and simultaneously focused on providing doctrinal balance, in the context of a larger judicial attempt to balance intent and functionality alongside the pursuit of ‘complete justice’. The main issues, alongside the *M. Hakeem* precedent, articulated for the bench centred on whether Sections 34 and 37 of IACA contain the grant of modification of an arbitral award.

THE SUPREME COURT’S DECISION: MAJORITY AND DISSENTING VIEWS

The Majority Opinion (4:1): The Supreme Court of India decided that there is a limited form of modification of an arbitral award that is granted under Section 34 of the IACA. This change moves away from a strictly literal reading of the statute, and it makes clear that the power is to be exercised only within a defined set of conditions. These conditions consist of the fixing of evident and unambiguous mistakes and removable invalid portions of an award, and the modification of interest that accrues post award. The Court also reiterated the use of inherent power under Article 142 of the Constitution of India, under which the Court may alter arbitral

² *NHAI v. M. Hakeem* AIR 2021 SC 3471

³ *ONGC Ltd. v. Western Geco International Ltd.* AIR 2015 SC 363

⁴ *Tata Hydro-Electric Power Supply Co. Ltd. v. Union of India* AIR 2003 SC1581

awards to advance the ends of justice and resolve disputes conclusively. That said, this power, as described, requires “utmost care and caution” when invoked so as not to shift from the awarded terms to judgment-based alteration.

As a result of this decision, the balanced approach to rationalist thinking aided in the reduction of costs and delays, as the rigid approach in this line of thought would force a party to re-arbitrate disputes, which in turn would be a costly and protracted legal battle. The majority invoked the doctrine of implied powers and the legal maxim *omne majus continet in se minus* (a larger power encompasses a smaller one), suggesting that the power to set aside an award inherently includes the lesser power to modify it, especially for severable defects. This approach could establish a precedent for future judicial action in statutory interpretation, where the Court might find implied powers to address practical inefficiencies arising from a rigid reading of the law.

The Dissenting Opinion (Justice K.V. Viswanathan): In his dissenting opinion, Justice K.V. Viswanathan contended that Section 34 of the International Arbitration Convention (IACA) does not grant courts the authority to modify arbitral awards; rather, it only allows them to set them aside. He refuted the idea of an implied power, claiming that the 1996 Act purposefully left out clauses allowing courts to change awards, demonstrating the legislature's desire for little judicial involvement. Additionally, Viswanathan made a clear distinction between "setting aside" (legal invalidation) and "modification" (altering or varying an award), contending that the two are not the same thing. He voiced worries about possible judicial overreach, the decline in party autonomy, and the negative effect on international enforceability.

He cautioned that without explicit statutory support, judicial improvisation could cause interpretive instability, erode predictability, and jeopardise the integrity of the arbitration framework. Viswanathan also emphasised that Sections 33 and 34(4) already offer adequate procedures for fixing flaws, negating the need for a court-driven modification power that the legislature purposefully left out. A fundamental jurisprudential debate concerning the separation of powers and the appropriate role of the judiciary in lawmaking is highlighted by

his emphasis on legislative command and the 1996 Act's purposeful omission of modification power.⁵

ANALYSIS OF CORE PRINCIPLES IN LIGHT OF THE JUDGEMENT

Minimal Judicial Intervention: The goal of Section 5 of the IACA is to limit judicial intervention and bring Indian arbitration into compliance with the UNCITRAL Model Law⁶ by outlining the principle that no judicial authority should intervene unless specifically permitted in this Part. This idea is fundamental to contemporary arbitration systems, which are intended to promote party autonomy and effective dispute settlement. By interpreting an implied power to modify into Section 34, the Gayatri Balasamy ruling reinterprets the limits of judicial intervention in an effort to achieve a delicate balance between minimal curial intervention and judicial efficiency.

The dissenting opinion supports "complete justice," whereas the majority favours the latter. A more complex definition of "intervention" in India is produced by the ruling's attempt to strike a balance between "minimal judicial intervention" and "efficiency" and "complete justice." In the past, "minimal intervention" meant that courts would only step in to revoke awards on specific grounds, implying a generally hands-off approach. In order to avoid the more disruptive and expensive result of a complete setting aside and re-arbitration, the Gayatri Balasamy ruling proposes a more active, albeit limited, curative or corrective role for courts. This method reinterprets "minimal judicial intervention" as optimised intervention, preserving the arbitral process overall by only getting involved enough to correct obvious mistakes and stop more inefficiencies.

Finality and Certainty of Arbitral Awards: A key tenet of arbitration is the finality of arbitral awards, which guarantees that decisions are definitive and enforceable. Nonetheless, the Gayatri Balasamy ruling raises questions about the predictability and finality of arbitral awards. The dissenting opinion cautions that once modification power is acknowledged, containment becomes difficult and may result in redrawing quantum, interest, or other operative reliefs, despite the majority's claim that modification power is limited. Because parties may be subject

⁵ Judicial Modification of Arbitral Awards: Navigating Between Statutory Intent and Practical Necessity: An In-depth Analysis of Supreme Court's Landmark Decision in Gayatri Balasamy. (SCC Online, 02 June 2025) <https://www.sconline.com/blog/post/2025/06/02/judicial-modification-arbitral-awards-gayatri-balasamy/>

⁶ UNCITRAL Model Law on International Commercial Arbitration (United Nations Document A/40/17, annex I)

to judicial alteration even after a final award has been made, this could make the outcome less predictable. The inclusion of "manifest errors apparent on the face of the record" by the majority as a basis for modification creates interpretive elasticity that litigants may use to recast substantive complaints as technical flaws. This could expand the scope of Section 34 applications and burden the judiciary, undermining the goals of expedited dispute resolution and finality that arbitration seeks to achieve. The tension between the majority's pragmatic approach and the dissent's textual rigidity could create a "litigation trap," leading to a new layer of litigation focused solely on determining whether an error is sufficiently "manifest" to warrant modification, contradicting the stated objective of efficiency and potentially prolonging disputes and adding to costs.

INDIA AS AN ARBITRATION-FRIENDLY JURISDICTION: A GLOBAL PERSPECTIVE

The interpretation of the Indian arbitration law in *Gayatri Balasamy* marks a jurisprudential shift away from the more textually conservative methods used in a number of the world's most prominent arbitration jurisdictions.

In the United States, courts have a limited role under the Federal Arbitration Act (FAA), specifically Section 11.⁷ Without interfering with the award's merits or substantive reasoning, they may only amend awards for "evident material miscalculations," clerical errors, or situations in which arbitrators overreached their authority. In a similar vein, the arbitral tribunal in the United Kingdom is empowered to rectify administrative errors or ambiguities under Section 57 of the Arbitration Act 1996.⁸ Courts may remit an award for clarification or correction due to "serious irregularity" under Section 68, but they do not possess independent authority to alter the content or substantive merits of an award.

Parties may ask the tribunal to interpret, amend, or grant additional awards under Articles 33 and 34 of the UNCITRAL Model Law, which serves as the foundation for the IACA. Although courts have the authority to remit awards for procedural flaws, they are not able to modify or rewrite substantive matters. In contrast to other jurisdictions like England and Singapore, which have limited provisions in their arbitration statutes, the dissenting opinion in *Gayatri Balasamy* made it clear that the IACA did not expressly give courts the authority to alter awards.

⁷ Federal Arbitration Act 1925, US

⁸ Arbitration Act, 1996, UK

COMPARATIVE OVERVIEW: JUDICIAL INTERVENTION IN ARBITRATION (INDIA VS. KEY JURISDICTIONS)

Jurisdiction	Governing Law	Court's Power to Modify Award	Basis of Power	Intervention Scope	Legislative Clarity
India (post-Gayatri Balasamy)	Arbitration and Conciliation Act, 1996	Limited, implied power under Section 34 (severable, clerical, computational, typographical, manifest errors, post-award interest); Article 142 for "complete justice."	Judicial interpretation (implied powers, purposive), efficiency rationale.	Curative, non-merits-based.	Judicially implied, not explicitly codified.
United States	Federal Arbitration Act (FAA), Section 11	Narrowly defined (evident material miscalculations, clerical mistakes, arbitrators exceeding powers).	Explicit statutory provision.	Rectification of clear, objective errors.	Explicitly codified.
United Kingdom	Arbitration Act, 1996, Sections 57 & 68	An arbitral tribunal can correct clerical slips (Sec 57); Courts can remit for "serious irregularity" (Sec 68). Courts do not independently alter content.	Explicit statutory provision.	Correction by tribunal, or remand by court for serious irregularity.	Explicitly codified.

UNCITRAL Model Law	Articles 33 & 34	Tribunal can interpret/correct/issue additional award (Art 33); Courts can remit for procedural defects (Art 34). No power to modify/rewrite substantive matters.	Explicit model law provisions.	Correction by tribunal, or remand by court for procedural defects.	Explicitly outlined in the Model Law.
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India's judicial interpretation in *Gayatri Balasamy* establishes a unique "hybrid" model of judicial intervention, resulting in a "two-speed" system for international enforcement. Modified Indian awards may be successfully settled domestically but encounter difficulties or delays abroad if not accepted as a legitimate "arbitral award" under the NYC. This could impede India's aspirations to become a global arbitration hub for truly international disputes. The ruling aims to increase efficiency by lowering re-arbitration, but the added interpretive latitude and potential litigation over "manifest errors" may unintentionally lengthen the time needed to enforce awards seated in India. This could make India less predictable for international arbitration and add new complications for foreign parties. The decision emphasises the importance of clear legislation and prudent restraint when applying arbitration law.

PRACTICAL IMPLICATIONS FOR BUSINESS AND LEGAL PRACTITIONERS

Implication of Judicial Recognition of Limited Modification of Arbitral Awards under Section 34 IACA: A unified perspective for Business and Legal Practitioners: Recent judicial recognition of the limited power of courts to vary arbitral awards under Section 34 of the Indian Arbitration and Conciliation Act has infused new meaning into businesses and legal practitioners. While ostensibly a move towards greater efficiency, in reality, it translates into opening up more scope for litigation since parties shall be entitled to apply for modification on "manifest errors" rather than setting aside awards. This will further round strategic litigation, adding time and cost, making the line between narrow judicial review and full appeal even more blurred.

For Business, this denotes an increased danger of procedural abuse and judicial involvement. Arbitration provisions and arbitral awards, therefore, need to be framed with meticulousness

more than ever before, particularly in cases that are complicated by calculations or interest components. Parties should also make proactive use of Section 33 IACA, which allows corrections or interpretations by the tribunal itself within a stipulated period, reducing the need for post-award litigation.

For legal practitioners, the change necessitates a strategic recalibration. Practitioners must now assess not just the grounds for setting aside an award but also identify errors that are "manifest" and "severable" for potential modification. This requires a deep understanding of the judgment's scope and careful client advisement to prevent misuse of this new avenue, which could otherwise convert Section 34 into a quasi-appellate mechanism. There is a critical need for judicial restraint in exercising this power to uphold the integrity of the arbitral process.

In both domains, the ruling underscores a paradigm shift in arbitration practice to emphasise meticulous drafting and timely invocation of internal remedies while vigilance on abuse of procedures. It also opens up legislative amendment possibilities about codifying and further clarifying the scope of this newly recognised jurisdiction to restore some balance between arbitral finality and judicial oversight.

CONCLUSION

The Gayatri Balasamy judgment in India opened up a limited power for Indian courts to vary awards under Section 34 of the International Arbitration Act (IACA). The decision was directed towards efficiency by avoiding re-arbitration, and thus allowing correction of clear, severable, and non-merits-based errors that include adjustment of post-award interest. But this ruling does not match with a strict textual interpretation of the Act and is a departure from even more conservative approaches found in other leading arbitration jurisdictions across the globe. The Supreme Court tried to balance minimal judicial intervention with arbitral finality on one hand and efficient dispute resolution plus "complete justice" on the other. The legacy of the judgment will depend on the judicial discipline and consistency exercised by lower courts in applying this newly recognised power.