

**H.P. Power Corporation Ltd. Vs. M/s Hindustan
Construction Company Ltd.**

CARBC No.105 of 2025

16.12.2025 Present: Mr. Ajay Kumar, Senior Advocate, with
Mr. Rohit, Advocate, for the petitioner.

M/s Pawan Upadhyay, Anmol Wadhwa and
Abhishek Sharma, Advocates, for the
respondent.

CARAP No.108 of 2025

By way of this application filed under Sections 20
and 31 (4) Arbitration and Conciliation Act, 1996, the
applicant/petitioner has prayed for

the following relief:-

*“It is, therefore, prayed that this application may
very kindly be allowed and the Sole Arbitrator, Shri
Kranti Kumar Gupta resident of House No.470,
Sector 8, Panchkula Haryana 134 109 be directed to
swear an affidavit as to where the amended Award
dated 15.5.2024 was written and announced and he
should also be directed to supply to the Hon’ble
Court copy of this passport and visa for the months
of May, June, July, 2024 or such other order as this
Hon’ble Court deems fit be also passed on this
application in the needs of law and justice.”*

Learned Senior Counsel for the petitioner
submitted that in the present case after the Award was
announced by the learned Arbitrator, an application was
filed by the respondent herein, seeking certain corrections

therein under Section 33 (1) and 33 (4) of the Arbitration and Conciliation Act. Post filing of this application, learned Arbitrator passed the Supplementary Award without hearing the present petitioner. Learned Senior Counsel submitted that a strange procedure was adopted by the learned Arbitrator to deal with the application. Learned Arbitrator sent an e.mail, intimating the date to the present petitioner for the disposal of the application. To this, a counter e.mail was sent by the petitioner, mentioning therein that the petitioner had a right to file reply to the application. Thereafter, 4 days time was granted by the learned Arbitrator to the petitioner to file response thereto. A response was prepared and filed to the application and sent to the address of the learned Arbitrator at Panchkula, but the same was received back with the report that the learned Arbitrator was abroad. Thereafter, when the Supplementary Award was passed by the learned Arbitrator again without hearing the petitioner, the Arbitrator was called upon to intimate the petitioner, as to what was the place of the Award, to which there is no response by the Arbitrator till date and this, according to the learned Senior Counsel has necessitated the filing of the application. Learned Senior Counsel further submitted that even the hard copy of the Supplementary Award does not contain the place of the Award, which was supplied to the petitioner in the month of July, 2025.

Opposing the application, learned Counsel for the non-applicant submitted that the application is

misconceived, for the reason that by way of this application an endeavor is being made by the petitioner to garner evidence in support of the contentions raised by the petitioner by using the Court as a tool. Learned Counsel further submitted that there is no provision in the Arbitration and Conciliation Act that in the Award the place of the Award has to be mentioned. It is the place of arbitration which has to be decided by the Arbitrator and the parties and which was duly decided in the present case. Learned Counsel further submitted that there is no provision under Section 33 of the Arbitration and Conciliation Act that in case an application is filed under the said Section, then mandatorily hearing has to be given to the parties as the arbitrator has got *suo moto* powers to deal with the application. He submitted that *de hors* this fact, in the present case, not only opportunity was granted, the contentions of the applicant were taken note of as it stands reflected in the Supplementary Award. Learned Counsel further submitted that the corrected copy of the Award was supplied to both the parties through e.mail, which is a well recognized Principle of supplying of the Award. Accordingly, he submitted that as there is no merit in the application, the same be dismissed.

I have heard learned Senior Counsel for the applicant as well as learned Counsel for the non-applicant and have also carefully gone through the averments made in the application.

This Court is of the considered view that in light of

the fact that this application has been filed in a petition preferred under Section 34 of the Arbitration and Conciliation Act, the same is not maintainable. The Award, including the Supplementary Award that has been passed by the learned Arbitrator has to be assailed under Section 34 of the Arbitration and Conciliation Act. Whatever the objections are of the aggrieved party viz-a-viz the Award have to be raised in the petition filed under Section 34 of the Arbitration and Conciliation Act. Whether or not, learned Arbitrator has misconducted himself, as is the allegation of the applicant/petitioner, shall be adjudged and adjudicated by this Court in the course of deciding the petition filed under Section 34 of the Arbitration and Conciliation Act. However, presently at this stage, no observation with regard to the conduct of the Arbitrator can be made by this Court and no relief as is being prayed for by way of this application can be granted to the petitioner. It is the allegation of the petitioner that there is misconduct on the part of the Arbitrator, as is alleged in the application as well as the petition under Section 34 of the Arbitration and Conciliation Act. Therefore, the onus to prove the same is upon the petitioner.

The Court obviously cannot be used as a tool by the petitioner to garner evidence in its favour, nor the Arbitrator can be issued any such directions as are being prayed for by the petitioner, because once the Award stands announced by the Arbitrator, he becomes *functus officio* and now it is for this Court to go into the legality of the Award on

the touch stone of the provisions of Section 34 of the Arbitration and Conciliation Act.

In light of the above observations, this application is dismissed, but with the observation that whatever has been observed by this Court in this order, is only for the purpose of deciding this application and same will have no bearing as far as the adjudication of main petition is concerned.

CARBC No.105 of 2025

As prayed for, list on **06.04.2026**.

Ajay Mohan Goel)
Judge

December 16, 2025
(Rishi)