

The Report of the Constitution and Arbitration Committee (2024-2025) presented to the 2<sup>nd</sup> Managing Committee of FPTA at Patna to be held on 17<sup>th</sup> and 18<sup>th</sup> March 2025.

I was nominated as the Convener of Constitution and Arbitration Committee of FPTA for the year 2024-2025 in the first meeting of Managing Committee of FPTA on the 29.09.2024 at Goa. In this connection I received a letter on 05.10.2024 from FPTA requesting to select my own team with the consent of members, preferably from Managing Committee Members of FPTA.

After careful consideration I selected a team with due representation of all the founder members, associations entitled to send 20 delegates and small associations. Shri. Bhavesh Gala, Mumbai was selected as the Co- Convener and Shri. P. Sriraman, Chennai, Shri. Nawin Kumar Sarawagi, Kolkata, Shri. Piyush Jain, Delhi, Shri. Ramesh Kumar Salecha from Bengaluru, Shri. Narayan Das Bang from Hyderabad, Shri Madhu Sudhan Bang, Vijayawada, Shri. S. M Tyagi, from Noida, Shri. A Radhasekharan from Sivakasi and Shri. S. Balaji Salem, as members. I have taken consent from all of them as well from the respective President of their association on 7.10.2024.

On 7<sup>th</sup> October 2024 I have sent a communication FPTA President Shri. Mehul Mehta and FPTA office the list of members of the committee and requesting President's consent for the same. On the same day President gave his consent for the list forwarded.

On 7<sup>th</sup> October 2024 I sent letter to all the members intimating their nomination to the committee. To ease the working of the committee I allotted the associations near to the members for co – ordination and intimated the same vide my letter dated 17.10.2024.

On 21.10.2024 I wrote to all FPTA Vice – Presidents requesting their co- operation for our committee members in their effort to have Arbitration in place in the Affiliated Associations where there is no Arbitration procedure.

The existing WhatsApp group “FPTA Arb and Cons.com 2024-2025” was updated with new members on 08.10.2024 and regular messages were posted. Few of the important judgement on Arbitration from High courts and Supreme Court were shared with members which is enclosed in the Annexure.

On 17.10.24 FPTA Constitution soft copy was sent to all FPTA Constitution Committee members and inviting their suggestions. At the request of our Committee member Mr. S. Balaji from Salem a hard copy of our FPTA Constitution was sent.

FPTA President Shri. Mehul Mehta Visited the Coimbatore Association on 3<sup>rd</sup> December 2024 and I discussed about the points received from the members regarding Amendment to our FPTA constitution.

7<sup>th</sup> Paperex South India 2024: On 5<sup>th</sup> December 2024. I attended Paperex Exhibition at Chennai Trade Centre, Chennai along with the FPTA President Mr. Mehul Mehta and FPTA Vice –President Mr. Pandiyan, I was present in the FPTA stall throughout the day and also participated in the discussion with the Paper mill owners in the evening.

In the FPTA advisory board meeting on 26.09.2024 the subject of amendment to the constitution could not be discussed due to time constraint. Now also this subject is given in the agenda no. 9 of the forthcoming Advisory Board Meeting on 16.3.25 at Patna. The time will not be sufficient for Amendment discussions. Hence I request the Advisory Board Convener Mr. A. Venkat to give a separate Advisory Board Virtual Meeting for discussing the amendment to the constitution of FPTA as the only subject. However the 10 points received from Mr. Mehul Mehta and Mr. Bhavesh Gala were sent to Advisory Board members as well as Constitution committee members inviting their suggestions.

On 8.2.25 another Virtual Meeting was organized at 4pm. The Meeting was attended by about Committee members including Mr. Bhavesh Gala co- convener and FPTA Hon. Secretary Mr. Raghav Kothari and myself. FPTA past Presidents Mr. Aseem Bordia and Mr. A. Venkat have requested for leave of absence. The points received from Shri .Mehul Mehta on Mr. Bhavesh Gala were taken for discussions. The meeting started at 4 pm and concluded at 5.30 pm. Due to paucity of time only 5 (five) points were discussed. The points were on outgoing members. Election of FPTA Honorary secretary and Honorary Treasurer, Index for the constitution, jurisdiction and Authorized person for legal proceedings, and FPTA life / patron member when ceases to be members of local Association. i.e if it was proposed to have few more virtual meetings every fortnight Saturday s in the evenings, next meeting was fixed on 22.2.25 Saturday at 4pm.

On 1.3.25 a Virtual Meeting was organized at 3.30 Pm Due to the non - availability of few members the meeting fixed on 22.2.25 was postponed to 1.3.25. my self , Mr. Venkat, Mr. Aseem Bordia former Presidents of FPTA, FPTA Hon. Secretary Mr. Raghav

Kothari, Committed Co- Convener Mr. Bhavesh Gala, Mr. Rajan Aythora former FPTA Vice President, FPTA Treasurer Mr. Kunal Shamji Karia and 6(six) Committee Members were present for Discussions The deliberations were on linking FPTA membership to local Association membership, increasing the fees of Delegate, Life, Patron members, other revenues to the FPTA like share collected by Local Association hosting AGM, fees for Publishing souvenir etc., Election of Managing Committee Members of FPTA, Designated area for Local Association, Registration of Local Associations under Societies Registration Act/ Companies Act, Representation to multiple members from one firm, Voting rights of Delegates, Delegates fees for upcoming AGM same fees for Delegates and MC members, Virtual AGM's etc.. The Meeting lasted for about two hours and concluded with a decision to have few more virtual meetings after Patna MC Meeting.

I am in regular contact with our FPTA President Shri. Mehul Mehta and FPTA, Hon. Secy Mr. Raghav Kothari and updating the activities of our committee. I thank both of them, my committee members and all the members of FPTA MC for their continuous support in discharging my duties as the convener of the committee.

Copy to

1. FPTA Mumbai.
2. FPTA President, Mumbai.
3. FPTA Vice-President, Chennai. ( C. Balasubramanian)

Annexure

12.10.24 : The Expert witness Guidance.

13.10.24 : Managing and Strategizing Pre- Dispute phase

18.10.24 : Draft Arbitration Amendment Bill 2024.

- 20.10.24 : Misconduct before Arbitral Tribunal can constitute contempt of court : Delhi High Court
- 28.10.24 : Webinar on Draft Arbitration Amendment Bill 2024 organized by Center for Alternate Dispute Resolution (CADR) at NLUD on 28.10.24 at 4.30Pm online.
- 8.11.24 : Stamp Duty on Arbitral Awards
- 8.11.24 : Unilateral Arbitrator Appointment clauses in Public- Private contract Invalid, can't compel section of Arbitrators from PSU's Panels: Supreme Court.
- 9.11.24 : Appointment of Arbitrators : Judgement of five judge bench.
- 16.11.24 : Rajasthan High Court upholds Arbitration despite procedural lapses.
- 16.11.24 : Scope of appeals under section 37 of Arbitration and Conciliation Act 1996 –A case for consistency.
- 16.11.24 : Punjab State Civil Supplies Corporation limited and ANR Versus M/s Sanman Rice Mills and other – Supreme Court.
- 17.11.24 : Arbitration Awards without deciding questions of fraud suffers from patent illegality – Gujrat High Court .
- 19.11.24 : Pre Arbitral step can't be a bar to sec.11 application for the Appointment of an Arbitrator.
- 20.11.24 : If the arbitrator travels beyond the terms of the Arbitration agreement, the award rendered is liable to be set aside under sec 34

of the Arbitration Act.

20.11.24 : Karnataka withdrawals Arbitration clauses in government Tenders/ Contracts.

21.11.24 : Costs of the Arbitration be borne by the Party which the Tribunal ultimately finds to have abused by the process of Law- Supreme Court of India **(Sent by Mr. Piyush Jain, Delhi)**

23.11.24 : Application for Extension of time U/s 29 A of Arbitration and Conciliation Act can be filed before or after Termination of Arbitral Tribunals mandate.

23.11.24 : High Interest rate in an Arbitral Award cannot be said to violate the fundamental policy of Indian laws- Delhi High Court.

26.11.24 : MSME Act does not restrict any independent Arbitration Proceeding - Kolkata High Court.

30.12.24 : The Court is powerless to modify the interest awarded by the Arbitrator – Supreme Court of India.

24.1.25 : Five Judge bench of Supreme Court to decide on power of Court to modify award under Arbitration and Conciliation Act.

25.1.25 : The Supreme Court affirmed the principle that the jurisdiction of the Arbitral Tribunal cannot be challenged after submission of the statement of defense.

28.1.25 Arbitration and Conciliation Act –Sec 34- A great deal of restraint is

required to be shown while examining the validity of an Arbitral Award when such an Award has been upheld, wholly or substantially, under Sec. 34 of the 1996 Act. Frequent interference with Arbitral Awards would defeat the very purpose of the 1996 Act( part 42) – the Court exercising jurisdiction under section 34 does not sit as a court of appeal over the decision of an Arbitration Tribunal.

1.2.25 : Madras High Court held that executing court cannot dismiss the Execution Petition (EP ) suo moto on the ground of unilateral appointment of Arbitrator on a revision filed by Sundaram Finance against such an order by a Coimbatore Court . The High Court has categorically directed all the lower Courts not dismiss the EP's suo moto on the ground of Arbitrator being appointed unilaterally  
**(Sent by Mr. A. Venkart, Chennai).**

13.2.25 : In the High Court of Delhi : Bhadra International India Pvt Ltd and others Versus Airports Authority of India : Challenging the Award by the sole Arbitrator appointed by the consent of both the parties.

14.2.25 : Enable Courts to modify Arbitral Awards, SC told **(News Paper clippings sent by Mr. Narayan Das Bang, Hyderabad )**

15.2.25 : Award cannot be sent aside at belated stage on the ground of Arbitrator Appointment after participating in proceedings without Objecting : Delhi HC **(Sent by Mr. Piyush Jain, Delhi)**

26.2.25 : MSMED Act will prevail over Arbitration Act in Disputes pertaining to a

party which is an MSME: Delhi High Court.

6.3.25 A Sec 16 ( A and C Act 1996) Application was rejected by an order of Arbitration Tribunal and award was passed finally in favor of the claimant. Now , when the respondent file an application U/s Sec.34, can he file sec.34 application without filing a copy of sec 16 order and raise the some grounds as in sec 16 application?

7.3.25 : Execution Petition pending in various courts shall be decided and disposed of the within a period of six months without fail otherwise the concerned presiding officer would be answerable to the High Court – Supreme Court of India.

