

CASE LAW UPDATES

Case Brief: M/s. Bharat Udyog Ltd. v. Ambernath Municipal Council.

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Case Details

- **Case Name:** M/s. Bharat Udyog Ltd. (Formerly known as M/s. Jai Hind Contractors Pvt. Ltd.) v. Ambernath Municipal Council through Commissioner & Anr.
- **Citation:** 2026 INSC 288 | 2026 LiveLaw (SC) 291
- **Court:** Supreme Court of India
- **Decided On:** March 24, 2026
- **Bench:** Hon'ble Justice Pamidighantam Sri Narasimha and Hon'ble Justice Alok Aradhe
- **Relevant Law:** Arbitration Act, 1940; Section 143-A(3) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

1. Introduction & Core Dictum

The **Supreme Court of India** ruled that a valid arbitration agreement fundamentally requires the **mutual consent of both parties**. A generic statutory provision empowering the State Government to issue administrative or policy directions cannot be extended to unilaterally compel an autonomous local body into arbitration.

Crucially, the Court established that **mere participation in arbitral proceedings does not estop a party** from challenging an inherent, foundational lack of jurisdiction.

2. Facts of the Case

1. **The Contract:** In March 1994, the Ambernath Municipal Council ("Council") issued a public tender for the collection of octroi for the financial year 1994-1995. The tender set a minimum reserve price of ₹6,74,00,000/-.

2. **Successful Bid:** The petitioner, M/s. Bharat Udyog Ltd. ("BUL"), emerged as the successful bidder with an offer of ₹6,75,00,000/-. A formal contract was executed between BUL and the Council on March 30, 1994. **Notably, this underlying contract did not feature any arbitration clause.**
3. **The Dispute:** Shortly after taking over operations on April 1, 1994, BUL wrote to the Council requesting a reduction in the reserve price by over ₹40 Lakhs, claiming the initial pricing calculations deviated from state government norms. The Council's Chief Officer summarily rejected this request.
4. **State Government Intervention:** After withdrawing a writ petition from the Bombay High Court, BUL bypassed the Council and approached the Urban Development Department of the Government of Maharashtra.

Relying on its statutory power to issue directives under the Maharashtra Municipal Councils Act, the State Government unilaterally issued a Government Resolution (GR) appointing the Commissioner of the Konkan Division as an Arbitrator to resolve the dispute.

1. **Arbitral Award & Litigious History:** The appointed Arbitrator ruled in favour of BUL, lowering the contract's reserve price. ***The Civil Court in Thane subsequently made this arbitral award a "Rule of the Court" (decree).***

The Council appealed to the Bombay High Court, which set aside the award and the decree on the ground that there ***was no valid arbitration agreement to begin with. BUL subsequently filed a Special Leave Petition before the Supreme Court.***

3. Core Issues

1. Whether a ***valid arbitration mechanism can be triggered by a unilateral State Government order under the guise of statutory "policy directions"*** when the primary contract between the parties completely lacks an arbitration clause.
2. Whether the ***Council's subsequent participation in the state-mandated arbitral proceedings operates as an estoppel***, thereby curing the lack of an original arbitration agreement or impliedly conferring jurisdiction on the arbitrator.

4. Arguments by Both Sides

Arguments by the Petitioner (M/s. Bharat Udyog Ltd.):

- **Statutory Legitimacy:** *The State Government possessed absolute statutory authority under Section 143-A(3) of the 1965 Act to issue policy directions to municipal councils.* The reference to arbitration via the Government Resolution was a legitimate exercise of this regulatory power.
- **Estoppel by Conduct:** The Council entered the arbitral arena, presented its case, and actively participated throughout the proceedings. Therefore, it was precluded under the ***doctrine of waiver and estoppel*** from challenging the arbitrator's jurisdiction after an adverse award was passed.

Arguments by the Respondent (Ambernath Municipal Council):

- **Absence of Consent:** The commercial contract signed between the Council and BUL had no arbitration framework. ***Arbitration requires a meeting of minds (consensus ad idem), which was entirely absent.***
- **Misuse of Statutory Power:** The state's power to issue administrative policy directives cannot be weaponized to *unilaterally force an independent public body into a private dispute resolution system*, effectively modifying concluded tender conditions via a **"backdoor" mechanism**.
- **Jurisdiction Cannot be Conferred:** An arbitral proceeding conducted without an arbitration agreement is ***coram non judge (before a judge without jurisdiction)***. Participation in a fundamentally void proceeding cannot legalise an absolute lack of inherent jurisdiction.

5. Analysis by the Court

- **Arbitration is a Product of Mutuality:** The Supreme Court emphasized that *arbitration is fundamentally a consensual, contract-based alternate dispute mechanism*.

A valid arbitration agreement under Indian law relies strictly on the explicit, shared intent of the contracting parties to refer disputes to a private tribunal.

- **Limits of Statutory Directions:** The Court dissected Section 143-A of the Maharashtra Municipal Councils Act, 1965. *It observed that general supervisory or administrative control vested in the State Government does not extend to creating an arbitration agreement where*

none exists.

Public administration directives cannot substitute the fundamental requirement of contract law - mutual consent.

- **Participation Does Not Equal Jurisdiction:** The Bench **rejected the petitioner's argument on estoppel.** The Court observed that if the very foundation of an arbitration - the agreement - is non-existent, the entire process is a nullity from its inception (non-est).

An active defence by a public authority under a forced government directive *does not create a valid legal submission to an arbitrator's authority.*

6. Judgment & Ratio Decidendi

Judgment: The Supreme Court dismissed the Special Leave Petition, upholding the **Bombay High Court's decision to strike down the arbitral award.** The Court declared the entire arbitration process and the resulting award void and non-est.

Ratio Decidendi:

An arbitration proceeding initiated without a valid arbitration agreement or the explicit mutual consent of the parties is completely void ab initio.

General statutory powers of the State to issue policy or administrative directives to local bodies cannot be used to unilaterally force arbitration upon an unwilling party.

Furthermore, a party's subsequent participation in such an invalid proceeding cannot create an estoppel or cure an inherent, foundational lack of jurisdiction.