



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.28764 of 2025

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

Steel Authority of India Limited *Petitioner(s)*
(SAIL), Rourkela Steel Plant,
Rourkela

-versus-

M/s. Simplex Engineering and *Opposite Party (s)*
Foundry Works Limited, Kolkata

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Nirod Kumar Sahu, Adv.*

For Opposite Party (s) : *Mr. P.C. Nayak, Adv.*

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING:-21.01.2026

DATE OF JUDGMENT:-31.03.2026

Dr. SanjeebK Panigrahi, J.

1. In this Writ Petition, the petitioner seeks a direction from this Court to quash the impugned orders rejecting Section 34 application on the ground of lack of jurisdiction, and to hold that courts at Rourkela alone have territorial jurisdiction to adjudicate the challenge to the arbitral award.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

- (i) The Petitioner, Steel Authority of India Limited, entered into a composite contractual arrangement dated 13.06.1992 with multiple contractors



including the Opposite Party, Simplex Engineering & Foundry Works Ltd., for execution of a Splinter Plant project, wherein the original agreement provided for arbitration under the Arbitration Act, 1940 with venue at New Delhi and exclusive jurisdiction of courts at New Delhi.

- (ii) Subsequently, disputes arose between the parties leading to execution of a Memorandum of Understanding dated 03.03.2006, whereby the arbitration clause was amended to provide for a sole arbitrator under the Arbitration and Conciliation Act, 1996, with stipulation that the agreement shall be deemed to have been executed at Rourkela and that all legal proceedings shall be cognizable only by courts having territorial jurisdiction over Rourkela Steel Plant.
- (iii) Disputes remained unresolved despite conciliation, leading to invocation of arbitration on 20.09.2011, constitution of arbitral tribunal on 16.11.2011, and eventual passing of arbitral award dated 08.08.2014 at New Delhi allowing claims of the Opposite Party.
- (iv) The Petitioner filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the District Judge, Sundargarh, which was rejected on 02.12.2017 on the ground of lack of jurisdiction in view of the original contractual clause conferring jurisdiction on New Delhi courts.
- (v) The Petitioner preferred an appeal under Section 37, which was allowed by this Hon'ble Court on 20.06.2024, remitting the matter for fresh consideration; however, upon remand, the Commercial Court, Rourkela again rejected the Section 34 application on 06.08.2025 (as corrected on 13.08.2025), holding that New Delhi courts alone have jurisdiction.



(vi) Aggrieved by the repeated rejection of the Section 34 petition on the ground of territorial jurisdiction, the Petitioner has invoked writ jurisdiction under Articles 226 and 227 of the Constitution of India.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

3. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:

- (i) The impugned order suffers from patent illegality as the Commercial Court has completely ignored the binding effect of the amended arbitration clause dated 03.03.2006, which expressly superseded the original contract and unequivocally conferred exclusive territorial jurisdiction upon courts at Rourkela by fixing the juridical seat of arbitration there.
- (ii) The parties, by mutual consent, exercised autonomy under Section 20(1) of the Arbitration and Conciliation Act, 1996 to designate Rourkela as the seat of arbitration, and such determination of seat is determinative of jurisdiction, rendering reliance on earlier clauses of the 1992 agreement legally unsustainable.
- (iii) The admission of the Opposite Party in its statement of claim that the amended arbitration clause governs the dispute and supersedes the original clause conclusively establishes that the seat of arbitration stood shifted to Rourkela, thereby ousting jurisdiction of New Delhi courts.
- (iv) The finding that conduct of arbitral proceedings and passing of award at New Delhi determines the seat is contrary to settled law, as venue and seat are distinct concepts and mere holding of proceedings at a particular place does not confer jurisdiction unless it is the designated juridical seat.



- (v) The rejection and return of the Section 34 petition is not appealable under Section 37 of the Act and therefore leaves the Petitioner remediless, making invocation of writ jurisdiction under Articles 226 and 227 the only efficacious remedy available.
- (vi) The impugned order is thus vitiated by misinterpretation of contractual terms, disregard of party autonomy, and failure to apply settled principles governing seat versus venue, warranting interference by this Court.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY:

- 4. The Learned Counsel for the Opposite Party earnestly made the following submissions in support of his contentions:
 - (i) The present Writ Petition is not maintainable as the Arbitration and Conciliation Act, 1996 is a self-contained code providing a complete mechanism of appeal under Section 37 read with Section 13 of the Commercial Courts Act, 2015, and therefore recourse to writ jurisdiction is barred in view of availability of an efficacious alternative remedy.
 - (ii) The original agreement dated 30.06.1992 explicitly confers exclusive jurisdiction upon courts at New Delhi, and since the arbitral proceedings were conducted and the award was rendered at New Delhi, the juridical seat of arbitration must be deemed to be New Delhi, thereby excluding jurisdiction of courts at Rourkela.
 - (iii) The judgment of this Court dated 20.06.2024 in ARBA No.13 of 2018 has already affirmed that New Delhi courts have exclusive jurisdiction in terms of the contract and arbitral proceedings, and the said finding has



attained finality, binding the parties and precluding re-agitation of the issue.

- (iv) The principle of res judicata and issue estoppel squarely applies as the question of territorial jurisdiction has already been conclusively decided between the same parties in earlier proceedings, and the present writ petition is an attempt to reopen settled issues.
- (v) The amended MOU dated 03.03.2006 does not displace the original jurisdiction clause in absence of proof of approval by the competent authority, and therefore reliance upon the said document to alter jurisdiction is misconceived and legally untenable.
- (vi) The writ petition is a device to circumvent execution proceedings and avoid compliance with the mandatory requirement of deposit under Section 36(3) of the Act for stay of arbitral award, and therefore deserves to be dismissed on grounds of abuse of process.

IV. JUDGMENT AND ANALYSIS:

- 5. Heard Learned Counsel for the parties and perused the documents placed before this Court.
- 6. The petitioner (SAIL) entered into a contract in 1992 with Simplex (and others) providing for arbitration under the 1940 Act, with the arbitration to be held at New Delhi and New Delhi courts having exclusive jurisdiction. By a subsequent 3.3.2006 MoU, the parties agreed to amend the arbitration clause: invoking Section 20(1) of the Arbitration and Conciliation Act, 1996, they stipulated a sole arbitrator and fixed the juridical seat of arbitration at Rourkela, with Rourkela courts having exclusive jurisdiction.



7. Disputes arose, arbitration was invoked in 2011, and an award was passed in 2014 at New Delhi in favour of Simplex. The petitioner challenged the award under Section 34 (filed in Sundargarh), which was initially rejected for lack of jurisdiction, relying on the original New Delhi clause. On appeal (Section 37), this Court allowed the appeal on 20.6.2024 and remanded for fresh consideration. On remand, the Commercial Court, Rourkela again held New Delhi to have exclusive jurisdiction (6.8.2025). Aggrieved, SAIL has filed the present writ petition under Articles 226/227.
8. The core issues are:
- a) the maintainability of a writ in view of the statutory appeal remedy
 - b) whether, on the merits, the amended arbitration clause fixed the seat at Rourkela (ousting New Delhi courts) or whether the locus of proceedings/award (New Delhi) determines jurisdiction.
9. The Arbitral Conciliation Act, 1996 is a self-contained code designed to minimize court intervention. As the Supreme Court held in *S.B.P. and Co. v. Patel Engg. Ltd.*¹, Article 226/227 cannot be used to attack arbitral awards or interim orders if a statutory remedy is available. The relevant excerpts are produced below:

“45. It is seen that some High Courts have proceeded on the basis that any order passed by an arbitral tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution of India. We see no warrant for such an approach. Section 37 makes certain orders of the arbitral tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating his grievances

¹(2005) 8 SCC 618



against the award including any in-between orders that might have been passed by the arbitral tribunal acting under Section 16 of the Act. The party aggrieved by any order of the arbitral tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act. The arbitral tribunal is after all, the creature of a contract between the parties, the arbitration agreement, even though if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the arbitral tribunal. It will still be a forum chosen by the parties by agreement. We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the arbitral tribunal is capable of being corrected by the High Court under Article 226 or 227 of the Constitution of India. Such an intervention by the High Courts is not permissible."

10. Likewise, in ***Bhaven Construction v. Sardar Sarovar Narmada Nigam Ltd.***², three-judge Bench of the the Supreme Court considered a similar filing and held as follows:

"It is therefore, prudent for a Judge to not exercise discretion to allow judicial interference beyond the procedure established under the enactment. This power needs to be exercised in exceptional rarity, wherein one party is left remediless under the statute or a clear "bad faith" shown by one of the parties. This high standard set by this Court is in terms of the legislative intention to make the arbitration fair and efficient."

11. The petitioner has already invoked Section 34 and availed the statutory appeal under Section 37. Even assuming the Section 34 petition failed after remand, an appeal under Section 37 read with Section 13 of the Commercial Courts Act, 2015 remains available, as Section 13(1A) expressly provides for such appeals. The grievance therefore lies within the statutory appellate framework under the arbitration law and cannot

²(2022) 1 SCC 75



be carried into writ jurisdiction. Permitting such recourse would defeat the objective of the Act of ensuring minimal judicial interference.

12. Further, Section 5 of the Act limits judicial intervention to the grounds expressly provided therein, and the respondent has rightly pointed to the requirement under Section 36(3) of deposit as a condition for stay of execution of the award. The filing of the writ petition may therefore be viewed as an attempt to bypass these statutory requirements and, in that sense, an abuse of process. In the absence of any case of fraud or other public law element, grant of writ relief would not be justified.
13. Still, for the sake of completeness, this Court notes the parties' competing contentions on the seat. The petitioner invokes the 2006 MoU, which, by mutual consent, fixed Rourkela as the seat/juridical place of arbitration. Section 20(1) of the Act empowers parties to designate the seat, which in turn determines the forum of courts with supervisory jurisdiction.
14. Multiple judicial precedents have made it clear that an agreement to hold proceedings at a particular place generally indicates a seat, not merely a convenient venue. In *BGS SGS Soma JV v. NHPC Ltd.*³, the Court held that a clause stating that arbitration "shall be held at New Delhi/Faridabad, India" was a choice of seat, not mere venue. It held as follows:

"Given the fact that if there were a dispute between NHPC Ltd. and a foreign contractor, clause 67.3(vi) would have to be read as a clause designating the "seat" of arbitration, the same must follow even when sub-clause (vi) is to be read with sub-clause (i) of Clause 67.3, where the dispute between NHPC Ltd. would be with an Indian Contractor. The arbitration

³AIRONLINE 2019 SC 1720



clause in the present case states that “Arbitration Proceedings shall be held at New Delhi/Faridabad, India...”, thereby signifying that all the hearings, including the making of the award, are to take place at one of the stated places. Negatively speaking, the clause does not state that the venue is so that some, or all, of the hearings take place at the venue; neither does it use language such as “the Tribunal may meet”, or “may hear witnesses, experts or parties”. The expression “shall be held” also indicates that the so-called “venue” is really the “seat” of the arbitral proceedings. The dispute is to be settled in accordance with the Arbitration Act, 1996 which, therefore, applies a national body of rules to the arbitration that is to be held either at New Delhi or Faridabad, given the fact that the present arbitration would be Indian and not international. It is clear, therefore, that even in such a scenario, New Delhi/Faridabad, India has been designated as the “seat” of the arbitration proceedings.”

15. Thus, if the 2006 MoU is valid, it supplanted the original clause. The “juridical seat” was plainly Rourkela, and all courts at Rourkela would have exclusive jurisdiction. New Delhi’s jurisdiction could only be justified if both parties had “chosen” New Delhi by conduct. In *BGS SGS Soma JV (Supra)*, the fact that the parties later held hearings and signed the award in New Delhi led the Court to conclude New Delhi was chosen as seat under Section 20(1).
16. Here, however, there is no clear evidence that the parties consciously abandoned Rourkela in favour of New Delhi. The award was delivered in New Delhi, but the Arbitral Act looks at the agreed seat. A mere reference to “venue” does not by itself establish an intention to designate the seat, and the intention of the parties must be gathered from the arbitration clauses and their conduct. On this basis, the MoU expressly fixing



Rourkela, along with the respondent's admission in its pleadings that the amended clause governs, indicates that Rourkela is the seat.

17. However, this Court need not resolve this contest finally in a writ petition. Even if one were to agree with the petitioner that Rourkela is the seat, the remedy would still be by way of Section 34/37 proceedings. The Commercial Court, Rourkela, could (and perhaps should) have upheld jurisdiction under the 2006 clause. But any error on that score is not remediable via Article 226. The parties will have the opportunity to agitate the seat issue in appeals.

V. CONCLUSION:

18. For the foregoing reasons, the Writ Petition is **dismissed**. The petitioner had a complete and efficacious remedy under the Arbitration Act (Section 34/37) to raise its jurisdictional objections, and cannot now seek relief under Article 226/227.
19. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 31st March, 2026/