

48th AGM of Indian Council of Arbitration

**Justice Sikri urges legal and judicial community to reflect on need for code of ethics
for arbitration judges for speedy and cost-effective dispute resolution**

NEW DELHI, December 19, 2013. Mr. Justice Arjan Kumar Sikri, Judge, Supreme Court of India, today urged the legal and the judicial fraternity to reflect on the need to evolve a code of ethics for arbitrators which enjoins on them to restrict the time frame for arguments and pleadings so that arbitration awards are given expeditiously.

Such a code could instill faith and trust of the parties in dispute on a fair and speedy resolution which is the main motivation for going in for arbitration. It would also restore the confidence of domestic and international commercial community in arbitration in India as a mechanism for ensuring speed, flexibility and confidentiality of the justice.

Inaugurating a seminar here on '**Arbitration in India: The Road Ahead**', by the **Indian Council of Arbitration, an allied body of FICCI**, Justice Sikri, however, felt that arbitration awards and their enforcement in India needed a relook despite the fact that 97 per cent of these are upheld by courts.

Justice Sikri said that India would do well to emulate the arbitration system for commercial dispute resolution prevalent in Singapore, which has the active support of the Supreme Court of the country.

In order to make arbitration a credible and inexpensive process for settling commercial disputes, Justice Sikri emphasized that institutional arbitration should be promoted as the preferred mechanism as against ad-hoc arbitration.

Responding to the concerns expressed by **Mr. Sidharth Birla, President-Elect, FICCI**, Justice Sikri said that in order to dispose of arbitration awards that are brought in appeal to high courts credibly and speedily, each high court could be mandated to have at least two judges to exclusively deal with such cases.

In his welcome address, **Mr N G Khaitan , President, Indian Council of Arbitration**, painted a bright future for arbitration in India. China and India in Asia and Africa, he said, would account for the bulk of the human population by 2030, and that will attract business to these regions. Business will bring in its train disputes which would lend themselves to settlement through arbitration.

The resolution of commercial disputes through the medium of Institutional arbitration assumes significance as India fares extremely poorly in the World Bank's latest report on "Ease of doing business". While overall India is ranked 134 out of 189 economies, its position in 'enforcing contracts' is even worse at 186, just two ranks from being the worst.

Although the National Litigation Policy Document of June 2010 strongly recommends arbitration as a mode of dispute resolution, it is observed that the ad hoc arbitrations, popular in India today, are plagued with innumerable obstacles. These include exorbitant, costs inordinate delays and cumbersome procedure, which can be attributed to the fact that ad hoc arbitrations in India are most often presided over by retired judges who bring the problems of Indian courts with them. Institutional arbitration brings with it trained staff, a prescribed fee structure and most importantly a standardized set of rules with an international dimension, thus greatly improving the chances of efficacious disposal of justice.

The legislature, it states, ought to take notice of the limitations upon the judiciary and provide support to the arbitral process through amendments in the 1996 Act, some of which were suggested in the consultation paper release by the Ministry of Law & Justice, Government of India and by enacting significant legislations like the pending commercial Division of High Court Bill, 2009 and National Litigation Policy in order to guide the courts to have a consistent approach in administering and adjudicating upon issues arising from disputes subject to arbitration.

The silver lining, however, is that a recent survey reveals that 92% of the commercial entities in India prefer arbitration as the principal medium for dispute resolution. The time is ripe for adoption of institutional mechanism with rules for ensuring time-bound and cost-effective redressal on a larger scale, in place of ad-hoc arbitration

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