



M.P. No.4181 of 2025

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

MISC. PETITION No. 4181 of 2025

ATHLETICS SANGH MADHYA PRADESH BHOPAL

Versus

UNION OF INDIA AND OTHERS

Appearance:

Shri Deepesh Joshi - Advocate for petitioner.

Shri Sanjay Kumar Malviya – Advocate for respondent No.1.

*Shri Ajay Gupta - Senior Advocates with Shri Rajeev Mishra –
Advocate for respondent No.4.*

ORDER

(Reserved on 17.11.2025)

(Pronounced on: 06.01.2026)

The present petition has been filed challenging the order of the Principal District Judge dated 25.06.2025, whereby the Principal District Judge has rejected application of the petitioner for transfer of the application under Section 34 Arbitration and Conciliation Act 1996, to the Court of District Judge from the Court of Civil Judge, Senior Division and it has been held by the Principal District Judge



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that the cases have rightly been transferred to the Court of Civil Judge, Senior Division.

2. The counsel for the petitioner has submitted that there is an arbitral award dated 17.06.2016 in the matter of management of Athletics Sangh, Madhya Pradesh and it was a dispute between rival sports bodies/associations that who would be the real athletic body of the State of Madhya Pradesh and would be entitled to be recognised by the Athletics Federation of India as the real athletic body of the State of Madhya Pradesh. The arbitral award declared M.P. Athletics Association, held entitled to be authorised by the Athletics Federation of India. This award was challenged by the present petitioner being Athletics Sangh, Madhya Pradesh, under Section 34 of the Arbitration and Conciliation Act 1996 and in this manner two cases i.e. MJC AV No.170054 of 2016 and MJC AV No.920068 of 2016 are pending before the Court at Bhopal. Initially, the said cases were proceeding before the District Court of VIIIth District Judge, Bhopal. However, later on, the said cases were transferred by the order of the Principal District Judge, Bhopal dated 29.08.2024 to the Court of Civil Judge Senior Division, Bhopal which has been nominated as Commercial



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Court of Civil Judge level in Bhopal. However, the case ought to have been continued before the Commercial Court of District Court at Bhopal and ought not to have been transferred to Commercial Court of Civil Judge at Bhopal.

3. It is argued that though in view of judgement of the Hon'ble Supreme Court in the case of **Jaycee Housing (P) Ltd. vs. High Court of Orissa**, reported in **(2023) 1 SCC 549**, it has been held that Commercial Court subordinate to rank of Principal Civil Court in District, has jurisdiction to hear all applications or appeals under the Act of 1996 and that the Commercial Courts Act, 2015 would have overriding effect in that matter on the Act of 1996, but, in the present case, since there is no specified value of the claim, therefore, the application could not have been transferred to the Commercial Court and it should continue only as per the Act of 1996 before the Court as defined in Section 2(e) as the Principal Civil Court of original jurisdiction, which shall be the Principal District Judge or any District Judge under him.

4. *Per contra*, the petition is vehemently opposed by learned counsel for the respondent on the ground that the Principal District



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Judge has not erred in passing the impugned order and that in view of judgement of the Hon'ble Apex Court in the case of **Jaycee (supra)** the case can continue before the Civil Judge who has been nominated as Commercial Court.

5. In the present case, the dispute is whether the applications filed under Section 34 of the Act of 1996 would continue before the Court as defined in Section 2(e) of the Act of 1996 or would be transferred to the Commercial Court of Civil Judge as per the Act of 2015. As per Act of 1996, "Court" is defined in Section 2(e) as under:-

"2(e) "Court" means—

- (i) *in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;*

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6. The expression "principal Civil Court of original jurisdiction" has been explained in Section 19 of the Civil Courts Act, 1977 to be the Court of District Judge. Section 19 of the Act of 1977 is as under:-

"19. District Court to be principal Civil Court of original jurisdiction.— The Court of the District Judge shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the district."



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7. As per the Act of 2015 “commercial dispute” is defined as per Section 2(1)(c) as under:-

“2. Definitions.—

(1) In this Act, unless the context otherwise requires,—

(c) “commercial dispute” means a dispute arising out of—

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(x) management and consultancy agreements;

(xi) joint venture agreements;

(xii) shareholders agreements;

(xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;

(xiv) mercantile agency and mercantile usage;

(xv) partnership agreements;

(xvi) technology development agreements;



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(xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;

(xviii) agreements for sale of goods or provision of services;

(xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;

(xx) insurance and re-insurance;

(xxi) contracts of agency relating to any of the above; and

(xxii) such other commercial disputes as may be notified by the Central Government.

Explanation.—A commercial dispute shall not cease to be a commercial dispute merely because—

(a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions.”

8. As per Section 10 of the said Act, jurisdiction in respect of arbitration matters has been conferred to the Commercial Courts, which is as under:-

“10. Jurisdiction in respect of arbitration matters.—*Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—*

(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed in a High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

(2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such



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arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.”

9. As per the aforesaid Section 10, arbitration matters would be covered by the Act of 2015 and the Commercial Courts would have jurisdiction when it is a commercial dispute of a specified value. The determination of specified value is to be made as per Section 12, which is as under:-

“12. Determination of Specified Value.—

(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit,



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appeal or application, as the case may be, shall be taken into account for determining Specified Value; [and]

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value.

(2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.”

10. As per Section 12(2) above, in arbitration of a commercial dispute, the amount set out in statement of claim and counter claim, the aggregate thereof shall be the basis for determining whether the arbitration is subject to jurisdiction of Commercial Division, Commercial Appellate Division or Commercial Court.

11. In the present case, the dispute is as to which of the two rival bodies, would represent Madhya Pradesh in Athletics Association of India. The dispute is not a commercial dispute as it is not covered by any of the Clauses (i) to (xxii) of Section 2(1)(c) of the Act of 2015. The arbitration award in the present case, arose from a final order dated 12.02.2015 passed by this Court in WP No.14110/2012 wherein



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the Indian Olympic Association was a party and Indian Olympic Association had taken a plea that the dispute that which of the two rival bodies can represent the State of M.P. in athletics, can only be resolved through process of arbitration under the rules of Indian Olympic Association. In view of the said contention made by the Indian Olympic Association in the writ petition filed by the present petitioner, the parties were directed to resolve the dispute through arbitration and Indian Olympic Association was directed to constitute the Tribunal within four weeks. It is in background of these facts that the arbitration proceedings commenced in the present case and the Arbitral Tribunal gave its award on 17.06.2016.

12. The arbitration in the present case is not a commercial dispute, nor has any money value. There is no money claim made by one party and repudiated by the other party nor any counter claim has been made by one party and repudiated by the other party. The determination of specified value as per Section 12(2) of the Act of 2015, in arbitration matters would be the aggregate value of claim and counter claim. However, there is neither any value of claim nor any value of counter claim in the present case and the arbitration has been



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carried out only as per the rules of the Indian Olympic Association to carry out arbitration between rival sports associations.

13. So far as the judgement of the Hon'ble Supreme Court in the case of *Jaycee (supra)* is concerned, in the said judgement, it has been held by the Hon'ble Apex Court that the Act of 2015 will have overriding effect over the Act of 1996 and all suits and applications including applications under Act of 1996 relating to commercial dispute of specified value shall have to be transferred to Commercial Court. The result of the ration laid down therein is that jurisdiction under the Act of 2015 can be conferred on Civil Judge Senior Division and therefore, the arbitration matters can validly be decided by Civil Judge Senior Division. As per Section 3(3) of the Act of 2015, the commercial disputes can be filed before the Commercial Court which can either be at the level of District Court or a Court below the level of District Judge, and that would be that of Civil Judge.

14. In the present case, as the dispute in question is not a commercial dispute, nor has any specified value nor its value can be determined in accordance with Section 12(2) of the Act of 2015,



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therefore, in the considered opinion of this Court, in view of the peculiar nature of dispute in the present case, it cannot be taken cognizance by the Commercial Court and can only be decided by the “Court” as per Section 2(e) of the Act of 1996.

15. Resultantly, the petition is **allowed**. The order of the Principal District Judge dated 25.06.2025 is set aside. The Principal District Judge, Bhopal is directed to transfer the matters either to himself or to a District Court under him in terms of Section 2(e) of the Act of 1996 within 30 days of this order.

16. Petition is **disposed of**.

(VIVEK JAIN)
JUDGE

psm