



March 2026

## **No automatic substitution on mandate expiry: Supreme Court reins in expansive reading of Section 29A(4) of the Arbitration and Conciliation Act, 1996**

A Division Bench of the Supreme Court of India (“**Supreme Court**”), in *Viva Highways Limited vs. Madhya Pradesh Road Development Corporation Limited and Anr.*<sup>1</sup>, set aside an interim Madhya Pradesh High Court (“**MP HC**”) order which held that when the mandate of an arbitrator has expired, his continuation is impermissible under the Arbitration and Conciliation Act, 1996 (“**Arbitration Act**”). The Supreme Court further held that the MP HC erred in its interpretation of the Supreme Court’s precedents relating to substitution of arbitrators.

### **Brief facts**

Disputes arose between Viva Highways Limited (“**Appellant**”), Madhya Pradesh Road Development Corporation Limited and National Highway Authority of India, which were referred to arbitration. During the pendency of the arbitral proceedings, the statutory period prescribed under Section 29A of the Arbitration Act<sup>2</sup> for making the arbitral award was nearing expiry.

An application for extension of the arbitrator’s mandate under Section 29A(4) of the Arbitration Act was made before the Commercial Court, Bhopal (“**Commercial Court**”), which dismissed the application as being non-maintainable in view of Supreme Court’s decision in *Chief Engineer (NH) PWD (Roads) vs. M/s BSC and C and CJ V*<sup>3</sup>. Aggrieved by the Commercial Court’s decision, the Appellant filed a miscellaneous civil case before the MP HC seeking extension of the mandate.

The MP HC, by an interim order dated December 2, 2025, held that upon expiry of the mandate under Section 29A of the Arbitration Act, the arbitrator’s mandate stood terminated. The MP HC further directed the parties to propose the name of a substitute arbitrator for appointment. In arriving at this conclusion, the MP HC relied upon the Supreme Court’s decision in *Mohan Lal Fatehpuria vs. Bharat Textiles and Ors.*<sup>4</sup>, interpreting it to mean that expiry of the mandate necessarily results in substitution.

Aggrieved by the interim order, the Appellant filed a special leave petition before the Supreme Court, challenging the legal correctness of the MP HC’s interpretation and the resultant order directing substitution of the arbitrator.

<sup>1</sup> 2026 SCC OnLine SC 195 (decided on February 6, 2026)

<sup>2</sup> Section 29A of the Arbitration Act prescribes the time limit for making an arbitral award and regulates extension of the arbitral tribunal’s mandate. It empowers courts to extend the mandate, impose conditions (including fee reduction), and, where necessary, substitute the arbitrator to ensure expeditious completion of proceedings.

<sup>3</sup> 2024 SCC OnLine SC 1801

<sup>4</sup> 2025 SCC OnLine SC 2754

## Issue

Whether the expiry of an arbitrator's mandate under Section 29A automatically necessitates substitution of the arbitrator?

## Findings and analysis

The Supreme Court upheld the Appellant's challenge, set aside the impugned MP HC order and revived the application filed before the Commercial Court on the following key reasoning:

1. the Supreme Court noted that the MP HC erred in reading *Mohan Lal Fatehpuria* (supra) as imposing a mandatory obligation to substitute an arbitrator upon mandate expiry. In *Mohan Lal Fatehpuria* (supra), the Supreme Court merely explained the operation of Section 29A(6) of the Arbitration Act. It emphasised the court's power to appoint a substitute arbitrator where circumstances warranted, not an automatic substitution upon the mandate's expiry;
2. the Supreme Court further clarified that the expression '*obligates*' in *Mohan Lal Fatehpuria* (supra) must be understood contextually. The court may appoint a substitute arbitrator if warranted. However, it cannot treat mandate expiry as *ipso facto* termination necessitating substitution without reference to the arbitral framework and factual matrix;
3. the Supreme Court relied on *C. Velusamy vs. K. Indhera*<sup>5</sup>, wherein it has been clarified that *Mohan Lal Fatehpuria* (supra) does not mandate substitution of an arbitrator as an inevitable consequence of expiry of mandate;
4. further, the Supreme Court, relying on *Jagdeep Chowgule vs. Sheela Chowgule*<sup>6</sup>, confirmed that Section 11 of the Arbitration Act (appointment of arbitrators) does not bear upon the working of Sections 29A(4) of the Arbitration Act and related provisions. Therefore, an application for extension of time for an arbitrator's mandate is maintainable before the appropriate forum. It cannot be bypassed by treating the existing mandate as terminated and automatically inviting substitution; and
5. the Supreme Court noted that where the mandate of an arbitrator is about to expire, continuity and clarity serve the interests of justice. This is subject to the legal and factual prerequisites for extension or substitution are being appropriately considered. The MP HC's approach disrupted this continuity and lacked basis in statutory and precedential norms.

## Conclusion

The Supreme Court's decision realigns the law on expiry of arbitral mandate and substitution of arbitrator with statutory intent and judicial precedent. It set aside the MP HC's order, which had declared the arbitrator's mandate terminated based on a misinterpretation of precedent. The Supreme Court clarified that substitution is not an automatic consequence of mandate expiry under Section 29A(4) of the Arbitration Act, but an action contingent on legal criteria and contextual necessity. The ruling underscores judicial restraint in arbitration supervision and reinforces clarity on arbitrator appointment and extension.

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<sup>5</sup> 2026 SCC OnLine SC 142

<sup>6</sup> 2026 SCC OnLine SC 124

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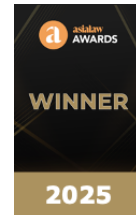
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