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Article

Adoption of Artificial Intelligence in the FinTech sector: A regulatory overview

By **Sameer Avasarala and Aryashree Kunhambu**

The evolution of partnerships between banks and financial technology ('**FinTech**') companies is facilitating the widespread adoption of advanced technologies, including artificial intelligence ('**AI**'), machine learning ('**ML**') and Generative AI ('**GenAI**') in the financial sector. The article in this issue of Corporate Amicus discusses how Banks and financial institutions are leveraging AI in the financial sector for customer onboarding, periodic monitoring, customer engagement, credit risk assessment, cybersecurity and compliance. The authors also discuss the regulatory and compliance risks like issues related to intellectual property, transparency, accountability, contractual risks, data privacy, and cyber risks. According to them, adopting a 'principles-based' and 'technology-neutral' framework that prioritizes transparency, explainability and privacy-by-design may likely be a suitable approach for regulating AI systems without inhibiting innovation and protecting customer interests.

Adoption of Artificial Intelligence in the FinTech sector: A regulatory overview

By Sameer Avasarala and Aryashree Kunhambu

The evolution of partnerships between banks and financial technology ('**FinTech**') companies is facilitating the widespread adoption of advanced technologies, including artificial intelligence ('**AI**'), machine learning ('**ML**') and Generative AI ('**GenAI**') in the financial sector. These innovations enable financial institutions ('**FIs**') to significantly improve operational efficiency, by enhancing risk management, fraud detection and customer engagement. Regulatory bodies, particularly the Reserve Bank of India, are actively leading efforts to promote technological innovation within the financial sector through various initiatives, including the RBI Innovation Hub, the EmTech Repository and regulatory sandboxes, while adopting a risk-based approach to the application of such emerging technologies in financial services.

Leveraging AI in the Financial Sector

Banks and FIs have leveraged AI and other technologies as part of various functions and processes. The use of such technologies has, in some instances, been recognized and enabled by regulations. For instance, the RBI Master Direction on KYC[1] enables the use of AI/ML solutions by regulated entities for periodic monitoring of transactions as well as for video-based customer identification.

1. ***Customer Onboarding***: Organizations have adopted ML models as part of onboarding customers and merchants to conduct automated KYC and AML checks including biometric and 'liveness' checks, document verification, data validation, geolocation verification and risk profiling. Such technologies are being utilized extensively in the FinTech sector[2], especially with the aid of Government stack and infrastructure.

2. ***Periodic Monitoring***: The use of AI/ML has aided many entities in undertaking continuous transaction monitoring, risk assessment and management, providing real-time alerts for fraud detection and identifying policy and legal non-compliances in cybersecurity and financial data processing. Most recently, the Ministry of Finance and the RBI have asked

[1] RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/14.01.001/2015-16

[2] Your Story report, as available here.

banks and FIs to use AI tools including 'MuleHunter.ai' developed by the RBI to rein in growing financial frauds.[3]

3. ***Customer Engagement***: The use of chatbots equipped with generative AI capabilities has ushered customer engagement and support significantly. These chatbots not only have capabilities to interact with customers, but also provide informational services and increase customer engagement with platforms. The RBI, in its Report on Trend and Progress of Banking in India[4] remarked upon the rapid rate at which chatbots had been adopted by public sector and other banks for customer support and engagement.

4. ***Credit Risk Assessment***: The use of emerging technologies for credit risk assessment is one of the most crucial implementations which can aid banks in making credit decisions based on verifiable data insights generated by AI / ML. While the introduction of Unified Lending Interface[5] may help in automation of disbursement, the use of such technologies may aid further in credit assessment and decision making.

5. ***Cybersecurity and Compliance***: AI/ML may also aid organizations in enabling real-time threat detection by monitoring traffic, identifying cybersecurity incidents and responding to them by taking proportionate measures. They may also aid in privacy compliance, for example, by supporting data integrity, identifying unauthorized use, enforcing minimization, and automating consent and privacy management systems.

Regulatory and Compliance Risks

1. ***Intellectual Property***: The adoption of AI in the FinTech sector necessitates careful consideration of ownership and licensing risks for FIs as well as for third-party technology service providers (TSPs) offering AI/ML services. This is especially important when proprietary information, such as source code, is involved, as it may be subject to regulatory scrutiny where adverse decisions could be made against individuals or where a potential threat to the stability of the financial sector exists.

2. ***Transparency***: Transparency is a crucial element of financial operations; however, it can present significant

[3] Economic Times report, as available here.
[4] Report on Trend and Progress of Banking in India, as available here.
[5] Unified Lending Interface Mission, as available here.

challenges and risks when integrating AI/ML products within the sector. As the complexity of AI systems increases, the explainability of their decision-making processes becomes more difficult to ascertain. This lack of clarity may impede organizations in providing necessary justifications for adverse decisions, thereby exposing FIs to potential legal liabilities.

3. ***Accountability for AI systems***: Regulators globally have consistently endeavoured to hold organizations accountable for the outputs produced by AI systems deployed by them. For instance, the Securities and Exchange Board of India (SEBI) has issued a consultation paper[6] proposing amendments to various regulations pertaining to the utilization of AI tools by regulated entities, including market infrastructure institutions, stockbrokers and other intermediaries. This step by SEBI aims to ensure that such entities assume responsibility for any outputs generated by AI tools, thereby safeguarding data integrity and enhancing investor security.

4. ***Contractual Risks***: FIs and other regulated entities must evaluate the contracting risks associated with engaging TSPs for the deployment of AI systems. Contracts executed with such third parties should explicitly delineate the functionality and limitations of AI models, as well as the rights related to audits, explainability and periodic compliance assessments, apart from other protective measures, such as indemnification clauses. It is imperative for entities to achieve a balance between protecting the intellectual property and proprietary interests of third parties while ensuring adherence to compliance requirements.

5. ***Data Privacy***: Entities implementing AI systems must factor risks associated with personal data, especially in view of increased regulatory interest in data privacy. Such risks must be factored in when training AI systems, as well as when such systems handle personal data in production environments. While the Digital Personal Data Protection Act, 2023 does not explicitly address automated processing and related decision-making, the implementation of 'privacy-by-design' principles during the product development stage can mitigate the risk of future non-compliance associated with the use of such models.

[6] SEBI Consultation Paper, as available here.

6. ***Cyber Risks***: The increasing reliance on third-party service providers, coupled with the growing interconnectivity of information technology systems, raises the potential for threat actors to exploit various vulnerabilities in AI systems used by regulated entities or their service providers. These threats may include data poisoning, model extraction and the exploitation of security vulnerabilities, highlighting the urgent need for a dynamic cybersecurity framework to protect such data and systems.

Way forward

While India has not officially enacted any legislation governing the use of AI systems, sectoral regulators such as RBI have endeavored to regulate AI systems, particularly to formulate guidelines for the ethical use of AI in financial services.[7] Global efforts in regulation of AI systems *(such as the EU's AI Act)* have indicated a risk-based approach to address the potential harmful effects of AI systems, by classifying such systems and applying differential obligations based on the risk classification. In many instances, AI systems deployed for credit assessments, biometric identification, insurance eligibility and pricing determinations have been classified as 'high-risk' systems, having significant regulatory oversight due to their potential impact on individuals and the broader financial system.

While such global laws provide insights into the regulation of AI systems basis risk, adopting a 'principles-based' and 'technology-neutral' framework that prioritizes transparency, explainability and privacy-by-design may likely be a suitable approach for regulating AI systems without inhibiting innovation and protecting customer interests. Furthermore, the implementation of alternative standards, such as benchmarking, can enhance the evaluation of the suitability of AI models provided by TSPs to banks and FIs, thereby facilitating more effective regulation, minimizing liability issues, and protecting intellectual property rights.

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[7] Indian Express news report, as available here.

Notifications & Circulars

- SEBI LODR Regulations amended for third time in 2024
- Regulatory arbitrage with respect to Offshore Derivative Instruments and FPIs addressed
- SEBI introduces relaxation from the ISIN restriction limit for issuers desirous of listing originally unlisted ISINs
- Corporate Debt Market Development Funds classified as Category I Alternative Investment Funds
- Interest rate ceiling for Foreign Currency (Non-resident) Accounts (Banks) [FCNR(B)] deposits increased
- Industry Standards for reporting of Business Responsibility and Sustainability Report (BRSR) Core released

SEBI LODR Regulations amended for third time in 2024

Securities and Exchange Board of India *vide* Notification No. SEBI/LAD-NRO/GN/2024/218, dated 12 December 2024 has issued amendments to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('**LODR Regulations**'). The major amendments have been listed below:

1. The definition of Related Party Transaction ('**RPT**') has been expanded to include transactions of bank deposits and retail purchases from a listed entity or its subsidiary by its directors or its employees under uniform terms. Additionally, corporate actions such as dividend issue, rights issue and buybacks and uniform deposits offered by banks and NBFCs are excluded from the said definition.

2. Under Regulation 6, amendments have been made to the appointment and responsibilities of a Compliance officer, stating that a Compliance Officer must be a full-time employee, designated as a KMP, not more than one level below the board. Furthermore, during insolvency resolution, vacancies to this position must be filled within three months, with a full-time KMP managing daily affairs on an interim basis.

3. Under Regulation 23, remuneration and sitting fees to directors, KMPs, or senior management (excluding promoters) will now require audit committee approval only if the same are found to be material transactions under Regulation 23(1). The audit committee may ratify non-material RPTs within three months if the transaction value does not exceed INR 1 crore, if the reasons for not seeking prior approval are presented.

4. Regulation 23(5) exempts certain RPTs from audit committee or shareholder approval, including payments of statutory dues to the government and transactions between public sector companies and government entities. Additionally, Regulation 23(9) mandates listed entities to disclose RPTs biannually in SEBI-prescribed formats, publishing them on stock exchanges and the entity's website alongside financial results.

5. Regulation 31A (3) introduces a structured process for promoter reclassification, setting the following timelines: 30 days for stock exchange decisions, 5 days for no-objection applications, and 60 days for shareholder approval, excluding promoters from voting.

6. The amendments to Schedule III, Part A, Sub-para 6, under Regulation 30, clarify disclosure requirements for listed entities. Fraud by senior management is required to be disclosed only if it directly affects the entity, while defaults now include instances like revolving credit facilities exceeding sanctioned limits for over 30 days.

7. The requirement to send proxy forms will not apply to general meetings conducted exclusively through electronic means under the newly amended Regulation 44.

8. Under Regulation 46, listed entities are required to upload key documents like the Memorandum and Articles of Association, board profiles, and Employee Benefit Scheme documents (with approved redactions). All presentations for analysts must be shared before events, with earnings call recordings uploaded within 24–48 hours and transcripts of the same uploaded within five days. Direct links to stock exchange pages are also permitted for certain disclosures.

Regulatory arbitrage with respect to Offshore Derivative Instruments and FPIs addressed

The Securities and Exchange Board of India *vide* Circular No. SEBI/HO/AFD/AFD-POD-3/P/CIR/2024/176, dated 17 December 2024, modifies certain requirements as provided under the 'Master Circular for Foreign Portfolio Investors (**'FPI'**), Designated Depository Participants and Eligible Foreign Investors' (**'FPI Master Circular'**) as follows:

1. ***Offshore Derivative Instruments ('ODIs') Issuance Conditions****:* FPIs can issue ODIs only through a separate dedicated FPI registration with no proprietary investments, adding 'ODI' as a suffix under the same PAN. However, this requirement does not apply to ODIs with government securities as the underlying assets. Furthermore, FPIs cannot issue ODIs with derivatives as the underlying or hedge ODIs with derivative positions in India, and must be fully hedged one-to-one with securities (other than derivatives) throughout their tenure.

2. ***Additional Disclosures by ODI subscribers that fulfil certain objective criteria****:* FPIs issuing ODIs must collect detailed ownership and control information from ODI subscribers exceeding specific thresholds, such as holding more than 50% equity positions in a single Indian corporate group or equity positions over INR 25,000 crore in Indian markets. Exemptions will apply to government-related investors, public retail funds, ETFs, and certain pooled investment vehicles.

3. ***Monitoring and Compliance:*** Depositories and FPI issuers are tasked with tracking ODI subscribers' exposure, ensuring adherence to disclosure requirements, and mandating realignment if thresholds are breached.

4. ***Realignment and Disclosures:*** If ODI positions exceed set thresholds, realignment must occur within prescribed timelines (e.g., 10 trading days for some cases). Non-compliance may result in ODI subscription ineligibility, and such positions must be redeemed within 180 days.

SEBI introduces relaxation from the ISIN restriction limit for issuers desirous of listing originally unlisted ISINs

The Securities and Exchange Board of India *vide* Circular No. SEBI/HO/DDHS/DDHS-PoD-1/P/CIR/2024/173, dated 13 December 2024, granted certain relaxations in the International Securities Identification Number (‘**ISIN**’) restriction limit for issues listing originally unlisted ISIN (Outstanding as of 31 December 2023) by way of modification to Chapter VIII of the Master Circular for the issue and listing of non-convertible securities, securitised debt instruments, security receipts and municipal debt securities (**‘NCS Master Circular’**). SEBI states in this Circular that unlisted ISINs outstanding as of 31 December 2023, which are converted to listed ISINs subsequent to the introduction of Regulation 62A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, shall be excluded from the maximum limit of ISINs specified in Clause 1 of Chapter VIII of the NCS Master Circular. The same has been mentioned under Clause 4A of the NCS Master Circular.

Corporate Debt Market Development Funds classified as Category I Alternative Investment Funds

The Securities and Exchange Board of India *vide* Circular No. SEBI/HO/IMD/PoD2/P/CIR/2024/174, dated 13 December 2024, issued a clarification regarding the classification of Corporate Debt Market Development Fund (‘**CDMDF**’) as Category I Alternative Investment Fund (**‘AIF’**). SEBI clarified that even though CDMDF operates under a separate framework outlined in Chapter III-C of Regulation 19 of the SEBI AIF Regulations 2012, they showcase broader economic objectives related to the development of the corporate bond market and act as a backstop facility. Therefore, this Circular clarifies that CDMDFs fall under Category I AIFs, under Regulation 3(4)(a) of the SEBI AIF Regulations 2012.

Interest rate ceiling for Foreign Currency (Non-resident) Accounts (Banks) [FCNR(B)] deposits increased

The Reserve Bank of India *vide* Notification No. RBI/2024-25/94, DoR.SPE.REC. No.51/13.03.00/2024-2025, dated 6 December 2024, has notified an increase in the interest rate ceiling for Foreign Currency (Non-resident) Accounts (Banks) (‘**FCNR(B)**’) deposits. The revised ceiling rates for deposits of 1 year to less than 3 years will be the overnight Alternative Reference Rate (‘**ARR**’) for the respective currency/swap + 400 basis points. For deposits of 3 years and above and up to 5 years, it will be the overnight ARR for the respective currency/swap plus 500 basis points. It is further clarified that the changes will apply to fresh FCNR(B) deposits raised by banks effective from 6 December 2024 and the relaxations will be available up to 31 March 2025.

Industry Standards for reporting of Business Responsibility and Sustainability Report (BRSR) Core released

The Securities and Exchange Board of India *vide* Circular No. SEBI/HO/CFD/CFD-PoD-1/P/CIR/2024/177, dated 20 December 2024 has released industry standards formulated by three industry associations in consultation with SEBI, for the effective implementation of the requirement to disclose Business Responsibility and Sustainability Report (‘**BRSR**’) as required under Regulation 34(2)(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Chapter IV-B of SEBI's Master Circular for compliance of listed entities. It is provided that industries which are part of Industry Standard Forum *viz.* ASSOCHAM, FICCI, CII and stock exchanges shall publish the aforesaid industry standards on their websites and all the listed entities shall follow such standards to ensure compliance with SEBI BRSR core disclosure requirements.

Ratio Decidendi

- ‘Performance Pay’ is not covered within the definition of ‘Operational Debt’ under IBC Section 5(21) – *NCLAT, Chennai*
- Company or the new management cannot be prosecuted for offences by erstwhile management before approval of Resolution Plan – *Delhi High Court*
- Funds deposited in Court prior to initiation of CIRP remain assets of the corporate debtor, subject to collective insolvency proceedings, despite debtor not being in physical possession – *Bombay High Court*
- ‘Maintainability’ and ‘Jurisdiction’ are distinct legal concepts and cannot be conflated when deciding an application under Section 20 of Arbitration Act, 1940 – *Bombay High Court*
- Scope of jurisdiction with respect to contempt of court does not extend to execution of orders – *Supreme Court*

‘Performance Pay’ is not covered within the definition of ‘Operational Debt’ under IBC Section 5(21)

The National Company Law Appellate Tribunal (‘**NCLAT**’), Chennai Bench has held that the performance pay is contingent upon various performance assessments and does not constitute a guaranteed entitlement, thus failing to meet the statutory definition of ‘debt’ as outlined in Section 5(21) of the Insolvency and Bankruptcy Code (‘**IBC**’). The Tribunal held that claims for performance pay cannot be classified as fixed dues owed to an employee, ultimately rejecting the Appellant’s entitlement to the claimed amount.

The Appellant was working for the alleged Corporate Debtor until his retirement in April 2018 and asserted that he was entitled to performance pay for the financial year 2017-18 based on a policy communicated to him in August 2017.

The Appellant issued notices under Section 8 of the IBC requesting payment of his performance pay. Following a lack of response from the Corporate Debtor, he filed a petition under Section 9 of the IBC. The Appellant asserted that the claim for performance pay should be classified as an ‘operational debt’ under the IBC, as it pertained to employment dues. The Appellant further pointed out that the definition of operational debt includes claims arising from employment, thereby making his claim valid for consideration in insolvency proceedings.

The Corporate Debtor asserted that the Appellant does not qualify as an ‘operational creditor’ because no legally enforceable debt is owed to him by the Corporate Debtor. It was highlighted that the definition of ‘debt’ under Section 3(11) of the IBC requires a liability or obligation that is due from any person. The Corporate Debtor argued that since the performance pay was subject to variable factors and assessments, it did not meet this definition. They further stated that the appellant's claim, based on his expectations of receiving performance pay despite poor company performance in 2017-18, was unfounded and arbitrary. The dismissal order of NCLT was challenged before NCLAT by the Appellant.

The NCLAT also ruled against Appellant’s application for insolvency proceedings. The tribunal determined that his claim for performance pay did not meet the criteria of operational debt as defined under Section 5(21) of the IBC. It observed that performance pay is not a fixed entitlement but rather dependent on company and individual performance assessments.

[*M Ramakanth* v. *Nagarjuna Fertiliser and Chemicals Limited* – Order dated 21 November 2024 in Company Appeal (AT) (CH) (Ins) No.213/2024, NCLAT, Chennai]

Company or the new management cannot be prosecuted for offences by erstwhile management before approval of Resolution Plan

The Delhi High Court has quashed a First Information Report filed by the Central Bureau of Investigation against a company, ruling that it cannot be prosecuted for offences committed before the approval of its resolution plan. The Court noted that Section 32A of the Insolvency and Bankruptcy Code provides immunity to the Corporate Debtor from prosecution for offences committed prior to the approval of the resolution plan.

In the present case, UCO Bank, as the lead bank in a consortium of lenders, filed a complaint alleging financial irregularities by the Corporate Debtor/Company and its former management. A forensic audit uncovered allegations of fund diversion and account misrepresentation, leading to the account being classified as a non-performing asset and subsequently marked as fraudulent. Based on these findings, the CBI registered an FIR against the company. However, the company successfully completed the Corporate Insolvency Resolution Process ('**CIRP**'), with its resolution plan receiving approval from the National Company Law Tribunal ('**NCLT**'). The Petitioner contended that the resolution process had extinguished all liabilities for past offences under Section 32A of the IBC. The High Court clarified that Section 32A of the IBC mandates that any prosecution initiated during the CIRP against a corporate debtor is discharged upon approval of the resolution plan.

The Delhi High Court observed that prior to the registration of the FIR in 2023, the Petitioner company had already initiated its CIRP through an order dated 10 October 2019, passed by the NCLT. While the investigation related to the FIR was ongoing, the resolution plan submitted by M/s Six Sigma Investment Fund was approved by the NCLT on 17 February 2023. The Court observed that the alleged offences in the complaint and FIR predated the commencement of the CIRP. It further noted that the resolution plan had been approved without any objections or appeals, and the CBI had not raised any concerns suggesting that the resolution applicant was connected to the accused individuals. This provided sufficient grounds to invoke Section 32A of the IBC.

The Delhi High Court held that a corporate debtor cannot be prosecuted for offenses committed prior to the CIRP if the resolution plan results in a change of management to unrelated parties. The Court emphasized the 'clean slate' principle, ensuring that the corporate debtor's new management is shielded from past liabilities to encourage effective resolution. However, it clarified that Section 32A does not absolve erstwhile directors or individuals responsible for misconduct.

[*Gangakhed Sugar and Energy Ltd.* v. *Central Bureau of Investigation & Ors* – Judgement dated 23 December 2024, 2024:DHC:9907]

Funds deposited in Court prior to initiation of CIRP remain assets of the corporate debtor, subject to collective insolvency proceedings, despite debtor not being in physical possession

The Bombay High Court has held that funds deposited in a Court prior to the initiation of CIRP do not cease to be the corporate debtor's assets, as they are recorded in the corporate debtor's balance sheet. The Court clarified that such deposits constitute 'security interests' as defined under **Section 3(31)** of the IBC and are subject to the moratorium imposed under **Section 14(1)(a)** of the IBC, which prohibits enforcement actions outside the CIRP. It further affirmed that decree-holders, as creditors under **Section 3(10)** of the IBC, cannot seek preferential treatment for their claims outside the insolvency framework.

Siti Networks Limited was undergoing a resolution process. The dispute originated from a judgment in 2016, directing Siti Networks to pay certain amount along with interest. Pursuant to an interim order, the corporate debtor deposited an amount with the Court as security and preferred an appeal against the judgement.

While the appeal was pending, CIRP commenced under the IBC, leading to a moratorium under Section 14 of IBC, prohibiting enforcement actions against the debtor's assets. Siti Networks sought permission to withdraw the appeal and reclaim the deposited funds, arguing that the said funds constitute their assets under the CIRP framework. The respondent contended that the funds, being in *custodia legis*, did not belong to the debtor. The matter revolved around the interplay between judicial deposits and the IBC's moratorium provisions.

The Court ruled in favor of Siti Networks, determining that funds deposited as security do not cease to be assets of the corporate debtor, even if held with the court. It emphasized that any enforcement of the respondent's decree is subject to the moratorium under Section 14 of the IBC. Consequently, the deposited funds must be released to the corporate debtor for administration under CIRP, adhering to IBC's resolution or liquidation framework.

This judgment highlights the primacy of the IBC in resolving claims against corporate debtors. The court's interpretation underscores the distinction between ownership and possession of assets during insolvency. While the respondent's decree established a crystallized claim, the IBC's moratorium prohibits its execution, ensuring all creditors are treated equitably under the insolvency resolution or liquidation process. This decision reaffirms the IBC's objective of preserving corporate assets and prioritizing collective creditor interests over individual recoveries.

[*Siti Networks Ltd.* v. *Rajiv Suri* – Judgement dated 13 November 2024, 2024:BHC-OS:18434]

'Maintainability' and 'Jurisdiction' are distinct legal concepts and cannot be conflated when deciding an application under Section 20 of Arbitration Act, 1940

The Bombay High Court has held that 'maintainability' and 'jurisdiction' are concepts that serve distinct purposes and hence, cannot be conflated when deciding applications under Section 20 of the Arbitration Act, 1940 ('**1940 Act**'). The Court noted that while 'jurisdiction' pertains to the Court's authority to adjudicate a dispute and render a binding agreement, 'maintainability' refers to procedural compliance. It was ruled that the trial court erred by conflating these concepts and dismissing the application on jurisdictional grounds.

The Petitioner and Respondent No. 1 had entered into an arbitration agreement in 1995 under the 1940 Act. A dispute arose and an arbitrator was appointed. The arbitrator submitted a draft arbitration award, which was rejected by Respondent No. 1 and no final award was issued. Subsequently, the Petitioner filed an application under Section 9 of the Arbitration and Conciliation Act, 1996. This application was appealed before the Supreme Court, which ultimately dismissed the appeal. In 2000, the Petitioner sought recourse under Section 20 of the 1940 Act. However, the trial court dismissed this application, citing lack of jurisdiction due to the repeal of the 1940 Act, prompting an appeal before the High Court of Bombay.

The Court concluded that the trial court had incorrectly framed the issue of jurisdiction and conflated the provisions of Section 20 with the maintainability of the application. Jurisdiction should be assessed based on the pleadings in the application. The Petitioner's assertions regarding the arbitration agreement and the purported consent by Respondent No. 1 to appoint the arbitrator established a *prima facie* case for jurisdiction under the 1940 Act. The issue of whether Respondent No. 1 consented to the arbitrator's appointment, or the draft award, is a matter for substantive adjudication and does not impact the Court's jurisdiction to entertain the application. Hence, the impugned order was quashed, and the application was restored for adjudication on merits.

[*Deepak Manaklal Katariay* v. *Ahsok Motilal Katariya and Ors.* – Judgement dated 29 November 2024 in Writ Petition No. 2315 of 2015, Bombay High Court]

Scope of jurisdiction with respect to contempt of court does not extend to execution of orders

The Supreme Court while observing that the contempt jurisdiction must only be invoked when willful disobedience of the judgement/order passed is established and held that contempt jurisdiction cannot be utilised as a weapon to execute a decree and/or implement an order.

In the present case, six contempt petitions were filed for which three orders dated 21 November 2014, 17 May 2022 and 19 March 2024 (**'Court Orders'**) were passed. The Supreme Court clubbed these analogous petitions and passed a common order dated 10 December 2024, due to common facts. The instant matter pertains to land formerly owned by the Maharaja of Mysore, with his legal heirs challenging the Bangalore Palace Act, 1996. The Supreme Court, vide the 21 November 2014 order, permitted the widening of roads using 15 acres of palace grounds, with compensation provided through Transfer of Development Rights (**'TDR'**) in accordance with applicable rules. The Petitioners in all six petitions alleged contempt of court by their respective Respondents for failing to comply Court Orders, which directed the issuance of TDR to landowners whose properties were acquired for widening of the roads. The Petitioners stated that despite utilization of the acquired land, the Respondents failed to issue TDR and attempted to justify their non-compliance citing financial hardship through Government Orders dated 23 March 2021 and 8 December 2022, which were issued after the dismissal of a modification plea. The Petitioners contend that the same constituted an overreach and deliberate disobedience of the Court Orders.

The Supreme Court observed that the essential ingredient for contempt of Court is a 'willful' disobedience of the order, such that the contemnor must knowingly, intentionally, consciously, and deliberately with full knowledge of consequences flowing therefrom, omit to comply with the order and directions of the Court. Contempt jurisdiction cannot be invoked for casual, accidental, bona fide, unintentional, or genuine inability to implement the directions of the Court.

In the instant matter, the Supreme Court added another elemental observation restricting contempt jurisdiction to only determining a 'willful' disobedience of the order which does not involve deciding on any ambiguity existing within the directions issued, since the same will be decided by the court passing the order in question. The Hon'ble Court further held that a remedy under contempt jurisdiction cannot be extended to the execution of the order as it does not empower the Court to examine the feasibility of such execution, but only the *mala fide* disobedience by the party to comply with the order passed. Therefore, all contentions of the Respondents were rejected in the instant matter, and the Court held that the TDRs must be issued to the Petitioners, in accordance with the Court Orders passed in this regard.

[*Chaduranga Kanthraj Urs and Ors.* v. *P. Ravi Kumar and Ors.* – Decision dated 10 December 2024, 2024 INSC 957]

News Nuggets

- SEBI refuses to clear PUSTA regulations
- Labour Ministry mulls bringing social security coverage for gig and platform workers
- Surveillance on Chinese companies disguised as RMG operators intensified
- Government joins hands with Flipkart to boost startup growth in the country
- CCI approves India Cements acquisition

SEBI refuses to clear PUSTA regulations

As per reports, the Securities and Exchange Board of India has refused to approve the SEBI (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations (‘**PUSTA Regulations**’) proposed as an item in its board meeting held on 18 December 2024. Notably, the PUSTA Regulations were proposed by SEBI on 18 May 2023 pursuant to one of its consultation papers. The PUSTA Regulations received roaring dissent from the stakeholders as it basically required that if there was any suspicious activity detected in the market, the burden of proof was on the individual or entity to prove their innocence, which was against the principles of natural justice.

[*Source:* Money Control, published on 19 December 2024]

Labour Ministry mulls bringing social security coverage for gig and platform workers

Union Labour Secretary, while addressing the CII Global Economic Policy Forum has stated that the Ministry of Labour & Employment is working on a scheme to provide various benefits of social security to gig and platform workers in the country. According to the Labour Secretary, though there is no traditional employer-employee relationship defined for the gig and platform workers but there is a need to bring social security coverage for them so that they can be more productive and support the country's economy and the e-commerce and services sector more effectively.

[*Source:* Economic Times, published on 11 December 2024]

Surveillance on Chinese companies disguised as RMG operators intensified

The Ministry of Home Affairs reportedly, has initiated to actively monitor illegal Chinese companies engaged in gambling disguised in the garb of legal Real Money Gaming (‘**RMG**’) companies. The Chinese entities owning the gambling apps and websites have turned out to be a money-laundering hub in India thereby causing issues such as posing a potential threat to national security and contributing to gambling addiction among the citizens of the country. Notably, the Ministry of Electronics and Information Technology has been rigorously banning the illegal Chinese apps and websites, however, they continue to resurface under new identities warranting the much-needed action from the Home Ministry.

[*Source:* Storyboard18, published on 12 December 2024]

Government joins hands with Flipkart to boost startup growth in the country

The Department for Promotion of Industry and Internal Trade ('**DPIIT**') has entered into a Memorandum of Understanding with India's homegrown e-commerce giant Flipkart Private Limited (**Flipkart**) for empowering tech startups in the country by providing them with the necessary resources, opportunities, and networks to grow and thrive. The Ministry of Commerce and Industry, in its statement regarding the collaboration, said that the collaboration will enable access for startups to industry reports, research papers, datasets and other studies published by the government authorities for market research and fast-track patent applications filed by startups for timely opportunities. Notably, the collaboration is an extension of Flipkart's Leap and Ventures initiative, which includes a USD 100 million venture fund to enhance the growth of startups.

[*Source:* Live Mint, published on 10 December 2024]

CCI approves India Cements acquisition

The Competition Commission of India has cleared the acquisition of India Cements Limited by UltraTech Cement Limited. Under the proposed acquisition, UltraTech aims at acquiring a stake of 32.72 per cent of the paid-up equity share capital of India Cements. Notably, since the acquisition shall trigger the requirement of an open offer as per the relevant laws, the CCI has also granted approval for acquisition upto 26 per cent of the paid-up share capital through an open offer.

[*Source:* Times of India, published on 20 December 2024]

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