

**Delhi High Court Rules Decides
the Relationship Between
Commencement of Arbitration
Proceedings and Date of
Amendment of Rules of The
Arbitral Institution**

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Delhi High Court imposed Costs on Food Corporation of India (A public Sector under Taking) for dragging a Delhi based Arbitral Institution (Indian Council of Arbitration), to Court in a recent judgment dated 25th May 2015 in the matter of **Food Corporation of India Vs Indian Council of Arbitration** & another reported in 2015 SCC Online Del 9695.

Brief Facts of the Case:

FCI filed a writ petition under Article 227 of the Constitution of India seeking a direction to first respondent (Indian Council of Arbitration) to conduct the arbitration proceedings on the basis of schedule of fee as in force at the time of registration of the arbitration case and appointment of arbitrators (in 2003) and not to demand the enhanced arbitration fee in terms of 2005 Rules.

It is pertinent to mention herein that arbitration proceedings commenced only in 2007. By such time, however, the rules of arbitration had been amended by ICA twice, once in 2003, and then, again in 2005. Apparently, the arbitrators earlier appointed (at the time when 2002 Rules was in position) were not inclined to take responsibility at the old rates of remuneration.

Decision of the Delhi High Court:

The Court ruled in favour of the ICA and held FCI accountable for the enhanced fees in accordance with ICA rules of arbitration as amended on 01.01.2005. It was held that the arbitrators who took up the cases some time in 2007 or thereafter cannot be denied the fee that would be payable to them for services rendered during the period for which 2005 Rules had become operative. The Court did, however, note that there may have been some merit in the objection raised by FCI to the amended fee being charged, if the arbitration proceedings had commenced before the Rules were amended.

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