

**Search Query:** Judgments on whether parties can shift from institutional arbitration to ad-hoc arbitration despite a mandatory institutional clause

## 1. Sanjay Saigal vs. Ram Nanda and Co. and Ors. (06.12.2021 - DELHC)

Citation: [MANU/DE/3512/2021](#)

Court: Delhi High Court

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### Relevance

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This case is highly relevant as it directly addresses the core of the user's query: the ability of parties to mutually agree to a fresh arbitration process, including the appointment of a new arbitrator and governing rules, even after an initial award. The parties in this case explicitly consented to a *new* arbitration, with a *new* arbitrator appointed by the Delhi Stock Exchange Association Limited (DSE) and governed by DSE's extant rules, effectively shifting or modifying their dispute resolution mechanism by mutual consent. This demonstrates the paramountcy of party autonomy in arbitration, allowing for a consensual deviation from a prior or implied institutional framework, which is central to the user's question about shifting from institutional to ad-hoc or a different institutional setup.

### Facts

This Delhi High Court (DELHC) case, presided over by Rajiv Shakdher, J., concerns an appeal where both the appellant (represented by Mr. Rajat Bhalla) and respondents (represented by Mr. Jitender Gupta) agreed to a fresh arbitration [P1] [P2] [P3]. The parties stipulated that the new arbitration would be based on existing pleadings and evidence [P4] [P11].

They further consented to the Delhi Stock Exchange Association Limited (DSE) appointing a new Arbitrator, distinct from the one who issued the prior award [P5] [P9]. Crucially, the parties stipulated that the extant rules and bye-laws of the DSE would govern these new arbitration proceedings [P6] [P10]. The court acknowledged these agreements and issued specific, agreed-upon directions to facilitate this process [P7] [P8]. Procedural matters regarding Mr. Gupta's vakalatnama were also addressed and taken on record [P16] [P17] [P18].

## Issues

The central legal issue is whether parties to an arbitration can mutually agree to initiate a fresh arbitration process, governed by specific institutional rules (DSE's extant rules/bye-laws), after an initial award has been rendered [P4] [P5] [P6]. This involves questions of party autonomy in arbitration, the procedural validity of agreeing to a new arbitrator and governing rules, and the court's supervisory role in facilitating consensual dispute resolution under the Arbitration and Conciliation Act, 1996 (implied) [P9] [P10]. The court's task was to formalize this agreed-upon path forward.

## Petitioners Arguments

The petitioner, through counsel Mr. Rajat Bhalla, expressly consented to a fresh arbitration [P3] [P4]. The petitioner's legal strategy centered on agreeing to a new arbitral process, including the appointment of a new Arbitrator by the DSE [P5]. A key aspect of their position was the agreement that the DSE's extant rules and bye-laws would govern the new proceedings [P6]. The petitioner sought to proceed based on existing pleadings and evidence, with the possibility of filing limited further material if deemed necessary by the new arbitrator [P11] [P12].

## Respondents Arguments

The respondents, represented by Mr. Jitender Gupta, similarly consented to a fresh arbitration [P3] [P4]. Their arguments aligned with the petitioner's, agreeing to a new Arbitrator appointed by the DSE [P5] and the application of the DSE's extant rules [P6]. The respondents' stance was cooperative, aiming to establish a new arbitration framework based on mutual consent for efficient dispute resolution [P13]. Mr. Gupta also addressed and formalized his appearance through a vakalatnama [P16] [P17].

## Section Analysis

While specific sections of the Arbitration and Conciliation Act, 1996, are not explicitly cited, the court's actions are grounded in the Act's principles of party autonomy and the court's supervisory jurisdiction. The parties' agreement to a fresh arbitration, new arbitrator appointment, and governing rules reflects the flexibility inherent in arbitration law when parties mutually consent to procedural modifications [P4] [P5] [P6]. The court's issuance of agreed directions [P8] - [P14] exemplifies its role in facilitating consensual dispute

resolution.

## Courts Reasoning

The court's reasoning was primarily driven by the explicit consent and agreement of both parties to a specific procedural path [P4] [P5] [P6]. Recognizing this consensus, the court adopted a facilitative approach, issuing agreed directions to implement the parties' mutual decision for a fresh arbitration [P8]. The court's reasoning prioritized party autonomy and the efficient resolution of disputes by endorsing the parties' agreed terms for a new arbitral process.

## Ratio Decidendi

Where parties to an arbitration proceeding mutually agree to conduct a fresh arbitration, including the appointment of a new arbitrator and the governing procedural rules, the court will facilitate and order such a process. This principle underscores the paramountcy of party autonomy in arbitration and the court's supportive role in upholding consensual dispute resolution mechanisms [P4] [P5] [P6].

## Summary

This Delhi High Court (DELHC) judgment saw parties, represented by Mr. Rajat Bhalla and Mr. Jitender Gupta, agree to a fresh arbitration [P3] [P4]. They consented to the Delhi Stock Exchange Association Limited (DSE) appointing a new Arbitrator and governing the proceedings with its extant rules/bye-laws [P5] [P6]. The court disposed of the appeal with agreed directions, including the DSE appointing a new Arbitrator, conducting proceedings based on existing pleadings and evidence, allowing limited further evidence, and aiming for a four-month conclusion [P8] - [P13]. The case highlights party autonomy in arbitration, consensual dispute resolution, arbitration procedure, arbitrator appointment, and the court's supervisory role, touching upon arbitration law and procedural agreements.