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RESIDENCE:
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GOURAB BANERJI

Senior Advocate & Barrister

CURRICULUM VITAE

Barrister; M.A. Cantab (Law Tripos), 1st Class;
Bundy Scholar, Norah Hunter Dias Prize in law;
Magdalene College, Cambridge University (1986-1989);
Called to the Bar in 1990 (Lincoln's Inn);
Practising before the Supreme Court and High Courts of India since 1989;
Designated as a Senior Advocate in 2003;
Additional Solicitor General of India (2009-2014).

NATURE OF PRACTICE

- Gourab is considered one of India's foremost arbitration practitioners-both as an arbitrator and as counsel. He has also been appointed an arbitrator by the Supreme Court of India in international commercial arbitrations.
- He was appointed as an *amicus curiae* by a Constitution Bench of the Supreme Court on the issue of validity of arbitration agreement embedded in an unstamped contract in *M/s N.N Global Mercantile Pvt Ltd v. M/s Indo Unique Flame Ltd and Ors*, Civil Appeal No. 3802-03 of 2020.
- Gourab appears as counsel in a large number of domestic and international commercial arbitrations, and investment arbitrations in India and overseas, and routinely appears before the Indian courts on behalf of clients seeking enforcement of foreign awards. He is regularly briefed by leading multi-national companies as also Indian Public Sector Undertakings.

- Gourab has developed his practice mainly before the Supreme Court of India as a Senior Counsel with an emphasis on commercial matters, and particularly commercial arbitration. Presently, a private legal practitioner, he has also been a government legal officer at the Federal and the Provincial levels.
- Gourab is currently representing the UNCITRAL National Coordination Committee for India (UNCCI) before a Constitution Bench of the Supreme Court in a matter concerning the procedure of appointment of arbitrators.
- Gourab has been appointed as a member of a Committee set up by Government of India (Ministry of Law and Justice) on 14 June 2023 to have a relook at the arbitration law in India.
- Gourab has been appointed as a Member of the Chamber of Arbitration of the India International Arbitration Centre, set up under Section 28 of the India International Arbitration Act, 2019.

SOME IMPORTANT ARBITRATION CASES

Gourab has appeared in numerous arbitration proceedings. Some recent cases (with subject matter in parentheses) pertaining to arbitration in which Gourab has appeared are –

- (i) *M/s N.N Global Mercantile Private Limited v. M/s Indo Unique Flame and Ors*, [Civil Appeal No. 3802-03 of 2020] (Was appointed as an *amicus curiae* by a Constitution Bench of the Supreme Court to assist the Court on the issue of the validity of an arbitration agreement in an embedded unstamped contract)
- (ii) Represented Amazon Inc. in its disputes against the Future Group. (Validity of emergency awards and enforcement of a domestic awards against the award debtor and related entities)
- (iii) *Government of India v Vedanta Limited & Ors*. [2020] 10 SCC 1 (Gourab was appointed as an *amicus curiae* to assist the Supreme Court in

interpreting the New York Convention and the interplay of Malaysian law and Indian law)

- (iv) *Glencore International AG v Hindustan Zinc Limited* [O.M.P. (EFA) (Comm.) 9/2019] (Territorial jurisdiction in enforcement of foreign awards in India)
- (v) *Centrotrade Minerals & Metals Inc. v Hindustan Copper Limited* [2020] 19 SCC 197 (Enforcement of foreign awards in India)
- (vi) *Jaiprakash Associates Limited v Tehri Hydro Development Corporation Limited* [2019] 17 SCC 786 (Levy of interest on arbitral awards)
- (vii) *Antrix Corporation Ltd. v. Devas Multimedia Pvt. Ltd.* (2018) 4 Arb. LR 66 (Delhi) (Challenge to a multi-million-dollar arbitration award). Also advised on enforcement of the Devas award in France and in the USA.
- (viii) *M/S. Centrotrade Minerals & Metal Inc. v Hindustan Copper Ltd.* [2017] 2 SCC 228 (Validity of multi-tier arbitration clauses).
- (ix) *XSTRATA Coal Marketing AG v Dalmia Bharat (Cement) Ltd* [2016] 6 ArbLR 270 (Delhi) (Enforcement of a foreign award in India).

Gourab has also appeared in numerous arbitration proceedings. Some international commercial arbitration proceedings in which he has participated, as arbitrator and counsel, in recent years are:

- (i) Appointed as the Sole Arbitrator in an International Commercial Arbitration by the Supreme Court of India by its order 10.2.2023 in *Optisol Business Solutions Pvt Ltd v The Chopras Global Holdings Pte Ltd*, Arbitration Petition (Civil) No. 10 of 2022.
- (ii) Appointed as the Sole Arbitrator in an International Commercial Arbitration by the Supreme Court of India, in a dispute between *April USA Assistance Inc* and *Oriental Insurance Company Ltd* in Arbitration Case No. 8-10 of 2018. The award delivered by him has been upheld by the Delhi High Court on October 28, 2021, in OMP (Comm) No. 14 of 2020.

- (iii) Acted as a co-arbitrator, nominated by the ICC, in an international commercial arbitration governed by English law. (reported in *Balasore Alloys Ltd. v. Medima LLC*, (2020) 9 SCC 136)
- (iv) Presently acting as a sole arbitrator in an international commercial arbitration between a Qatar based party and an Indian Party, seated in New Delhi.
- (v) Acted as sole arbitrator in a multi-jurisdictional LCIA arbitration seated in London and governed by English Law.
- (vi) Expert Witness on issues relating to equitable setoff before the Business and Property Court of England and Wales, Technology and Construction Court (QBD).
- (vii) Expert Witness on issues relating to Indian law of damages before an Arbitral Tribunal seated in Singapore.
- (viii) Expert Witness on issues relating to Indian law before a Singapore Court.
- (ix) Represented the Republic of India in its Bilateral Investment Treaty arbitrations.
- (x) Represented a South African PSU as the lead counsel in a multi-party arbitration concerning a dispute in relation to sale and purchase of shares.
- (xi) Represented a leading Chinese company as the lead counsel in an ICC arbitration concerning a dispute arising between the parties in relation to a contract for manufacturing.
- (xii) Represented a major Indian conglomerate as lead counsel in an international commercial arbitration in a dispute arising from a contract for the import and supply of coal.
- (xiii) Representing a Norwegian company as lead counsel in an international commercial arbitration in relation to disputes arising out of contracts for exploring and producing hydrocarbons in India and overseas.

- (xiv) Represented an Indian PSU as the lead counsel in an arbitration concerning a dispute arising between the parties under the Contract of Affreightment, where the PSU was the charterer.
- (xv) Represented an English company against an Indian textile manufacturer in respect of disputes arising out of a finance agreement.
- (xvi) Represented an Indian oil company in a major international arbitration dispute pertaining to charter-hire of a drilling vessel.
- (xvii) Represented a consortium of foreign companies against a public sector undertaking, in a construction dispute regarding the construction of New Delhi's new underground metro rail.

APPOINTMENTS

- Member of a Committee set up by Government of India (Ministry of Law and Justice) on 14 June 2023 to have a relook at the arbitration law in India.
- Member of the Chamber of Arbitration of the India International Arbitration Centre, set up under Section 28 of the India International Arbitration Act, 2019.
- Appointed as a delegate to the ICC Commission on Arbitration and ADR.
- National Correspondent of India for the UNCITRAL CLOUT System.
- Vice Chairman of the UNCITRAL National Coordination Committee for India (UNCCI); one of the only three UNCITRAL National Coordination Committees constituted world over under the mandate of the United Nations.
- Additional Solicitor General for the Union of India at the Supreme Court (2009-2014): *The Constitution of India provides for Law Officers at the Federal and Provincial levels of Government. At the Federal level, the Union of India is represented by the Attorney General for India, the Solicitor General for India and a team of eight Additional Solicitors General.*
- Honorary Adjunct Professor at Jindal Global Law School. Taught a course on the 'Recognition and Enforcement of Foreign Awards in India'.

- Vice-Chairman of the Permanent Court of Arbitration India Conference Committee.
- Appointed/called upon by the PCA to exercise power as an Appointing Authority at the PCA.
- Appointed as a delegate to the ICC Commission on Arbitration and ADR.
- National Correspondent of India for the UNCITRAL CLOUT System.
- Part of the sub-committee of experts on Investment treaties and Investment treaty arbitrations that assisted the Law Commission of India in its 260th report on India's Model Bilateral Investment Treaty.
- Contributed to the Law Commission's 246th report on Amendment to the Indian Arbitration and Conciliation Act, 1996.
- Part of the Attorney General's Committee set up in 2010 to suggest changes to the Indian Arbitration and Conciliation Act, 1996.
- The Government of India's representative at the UNCITRAL Working Group on Arbitration in Vienna in October 2011.
- Additional Advocate General for the State of Uttarakhand in the Supreme Court (2002-2007).
- Additional Advocate General for the State of Haryana at the Supreme Court (2007- 2009).
- Member, National Legal Services Authority (NALSA), New Delhi (2004-2009).
- Delegate of the Supreme Court of India in the Indo Canadian Legal Forum Meet, 2001; in the Indo-US Legal Forum Meet, 2001 and in the Indo-British Legal Forum Meets, 2003 and 2008.

SELECTED RECENT PUBLICATIONS

Author of the India chapter of the Encyclopaedia of International Commercial Litigation published by Wolters Kluwer (2023).

- Authored an article titled '*Doctrine of Kompetenz-Kompetenz – Determining the jurisdictional challenge*', Arbitrator's Handbook, Lexis Nexis (2022).
- Editor, 'International Arbitration and the Rule of Law: Essays in Honour of Fali Nariman', a Permanent Court of Arbitration publication (2021).
- Authored an article on Third Party Funding in International Arbitration in India for International Arbitration and the Rule of Law: Essays in Honour of Mr. Fali Nariman, a Permanent Court of Arbitration publication (2021).
- Author of the '*India Investment Treaty Know-How*' chapter in the Global Arbitration Review in 2016 and 2017.
- Chapter titled '*Enforcement of Foreign Arbitral Awards in India: Recent Developments*', in 'Commercial Arbitration: International Trends and Practice', published by Thomson Reuters and Maharashtra National Law University (2021).

RECENT RECOGNITIONS

- Awarded the 'Senior Counsel of the Year' Award at the 11th Annual Legal Era Indian Legal Awards, 2022.
- Awarded the '*Counsel of the Year – Independent Practice*' Award, at the Business World **Legal World Global Legal Leaders Awards, 2020.**