

GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
DEPARTMENT OF LEGAL AFFAIRS

RAJYA SABHA
UNSTARRED QUESTION NO. 591
ANSWERED ON THURSDAY, THE 7th DECEMBER, 2023

High Cost of Arbitration

591: Shri Vivek K. Tankha:

Will the Minister of *Law and Justice(I/C)* be pleased to state:

- (a) whether there are no prescribed guidelines to regulate the fees of the arbitrators and arbitration processes and if so, the details thereof?
- (b) whether the Government proposes to issue any guidelines to regulate the fees of arbitrators and arbitration processes; and
- (c) if so, the details thereof and if not, the reasons therefor?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE
MINISTRY OF LAW AND JUSTICE; MINISTER OF STATE IN THE
MINISTRY OF PARLIAMENTARY AFFAIRS; AND MINISTER OF
STATE IN THE MINISTRY OF CULTURE
(SHRI ARJUN RAM MEGHWAL)**

(a): No Sir. There are guidelines and parameters which exist for regulating fees of the arbitrators and arbitration processes. Party autonomy is central to the resolution of disputes through arbitration. The arbitral tribunal is required to conduct the arbitration according to the procedure agreed by the parties, which may be conducted under the aegis of an arbitral institution or in an ad hoc manner. In case the arbitration is conducted and administered under the aegis of an arbitral institution, the fees payable to the arbitrators would be in terms of the rules of the said institution. In case of ad hoc arbitrations, where the procedure is decided by the arbitral tribunal, on a case to case basis, the Hon'ble Supreme Court of India in the case of Oil and Natural Gas Corporation Ltd. vs Afcons Gunanusa JV (AIR 2022 SC 4413), has laid down the guidelines for deciding the fees of the arbitrators.

The Arbitration and Conciliation Act, 1996 further stipulates the Model Fee payable to arbitrators under the Fourth Schedule. Section 38 of the Act contains provisions relating to Deposits as an advance for costs under the Act and Section 31A contains provisions relating to costs in relation to arbitration proceedings.

(b) & (c): The Government presently does not propose to issue further guidelines to regulate the fees of arbitrators and arbitration processes.
