



Jeevan Ballav Panda

Partner

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Practices:

Dispute Resolution

Education:

BA LLB (Hons.) from
Hidayatullah National Law
University, Raipur, (2008)

Professional Affiliations:

Bar Council of West Bengal
(2008)

Member of Incorporated Law
Society of Calcutta, Calcutta
High Court.

Member of Delhi High Court Bar
Association.

Life Member of Orissa High
Court Bar Association.

Member of National Green
Tribunal Bar Association
(Principal Bench), New Delhi

Member of International Law
Association (Regional Branch),
New Delhi, India.

Jeevan Ballav Panda is a Partner in the Dispute Resolution Practice Group in the New Delhi office. He brings with him ten plus years of experience in advising on complex commercial and civil disputes and arbitrations. Jeevan specialises at advising on labour and employment law related issues and environment law matters.

Jeevan's fora of practice primarily include the Supreme Court of India, Delhi High Court, National Green Tribunal (Principal Bench, New Delhi) and Arbitral Tribunals (both domestic and international).

Representative Matters:

In his areas of expertise, Jeevan has represented and advised some of the following clients:

Arbitration:

- **A global market leader in electrical, manufacturing and construction industry and its Indian subsidiary** on arbitrations with third parties arising out of different contracts (signaling and train control system with respect to India's first high speed metro airport line between New Delhi to Dwarka Sector 21 through the Indira Gandhi International Airport, and supply-installation of first of its kind automated mail processing systems for the Department of Posts, India);
- **A global market leader in electrical, manufacturing and construction industry and its Indian subsidiary** on arbitrations with third parties arising out of contract for construction of civil works for a thermal power plant;
- **Voestalpine Schienen GmbH** on arbitration proceedings and argued the matter before a 3 Member Arbitral Tribunal in a domestic seated *ad hoc* international commercial arbitration and obtained a favourable Arbitral Award against DMRC directing them for making payment of Euro 807,719.18 including *pendente lite* interest at the rate of 13.7% per annum and costs of arbitration to the extent of Arbitral Fees in a Contract for supply of 19,000 MT of Head Hardened Rails for Delhi Metro Phase III Project;
- **Voestalpine Schienen GmbH** on arbitration proceedings and argued the matter before a 3 Member Arbitral Tribunal in a domestic seated *ad hoc* international commercial



arbitration and obtained a favourable Arbitral Award against DMRC directing them for making payment of Euro 478,181.76 towards outstanding invoices, positive price variation amount due and payable, refund of EURO 783,200.00 towards Bank Guarantees illegally encashed along with *pendente lite* and future interest in a Contract for supply of 8000 MT of Head Hardened Rails for Delhi Metro Phase III Project;

- **GX Technology Corporation (An ION Group Company)** engaged in geophysical survey and processing of seismic data for hydrocarbon exploration before the Delhi High Court for setting aside of termination and blacklisting orders passed by Director General of Hydrocarbons (DGH), Ministry of Petroleum & Natural Gas, Government of India;
- **A prominent Indian exporter** of Agricultural Products before the ICC International Court of Arbitration, Singapore and successfully defended an international commercial arbitration initiated by a leading importer of Bangladesh under International Tender for import of 1,00,000 MT of par-boiled Basmati Rice from Vishakapatnam, India to Chittagong, Bangladesh for alleged short-landing involving claim of about US\$ 300,000.00 (plus interest). The claim was dismissed with costs;
- **India's largest natural gas processing, transmission, distribution and marketing PSU** on arbitration proceedings against its Contractor (a JV between a Russian and Indian Company) arising out of disputes in execution of Kochi-Koottanad-Bangalore-Mangalore Pipeline project for the purpose of transportation of natural gas involving a counter claim of about INR 100 Crores and connected proceedings before Delhi High Court regarding injunction on encashment of Bank Guarantee and contempt proceedings for breach of conditions of injunction by the Contractor.

Litigation:

- **Voestalpine Schienen GmbH** before the Supreme Court challenging the Panel of Arbitrators given by Delhi Metro Rail Corporation (DMRC) in relation to an International Commercial Arbitration seated in New Delhi on the grounds of independence and impartiality. The judgment is the first landmark judgment on interpretation of the legislative intent of the 2015 Amendment to the Arbitration and Conciliation Act, 1996 in the context of appointment of 'neutral', 'impartial' and 'independent' arbitrators. Judgment reported in (2017) 4 SCC 665.;
- **GAIL (India) Limited** before the Supreme Court and successfully defending challenge made by HRD Marcus, a US based multinational to the mandate of the nominee arbitrator of the PSU and the presiding arbitrator. The judgment laid down the law on the issue as to whether an arbitrator can be said to be independent and impartial if he/she has acted as an arbitrator in a prior arbitration



between the same parties arising from the same contract involving similar issues. The judgment also laid down the broad principles of law relating to Sections 12, 13 and 14 read with the 5th and the 7th Schedule of the Arbitration and Conciliation Act, 1996 post the 2015 Amendment. Judgment reported in **2017 (10) SCALE 371: 2017 (5) Arb. LR 1 (SC)**;

- **Essel Mining & Industries Limited (Aditya Birla Group)** before the Supreme Court for modification of an order suspending mining operations of 102 entities arising out of a Public Interest Litigation alleging illegal mining of iron ore and manganese in the State of Odisha. Judgment reported in (2016) 11 SCC 455;
- **A High Networth Individual (HNI)**, as the landlord in a Second Appeal before the Calcutta High Court arising out of eviction proceedings initiated against tenants where the Trial Court had passed a decree of eviction confirmed by the First Appeal Court and obtained favourable orders. Judgment reported in AIR 2013 Cal 104: 2013 (3) CHN 116;
- **Texmaco Limited Employees' Provident Fund Trust**, an exempted Provident Fund Trust before the Calcutta High Court in a suit (filed in the year 1988) against their Banker (UCO Bank Limited) and claiming an amount equivalent to the amount of a cheque which was stolen, forged and encashed and succeeded in establishing negligence of Bank and/or its officials and obtained favourable judgment and decree directing recovery of the amount from the Bank. Judgment reported in **(2013) 4 CAL LT 192 (HC)**;
- **Wockhardt Limited** before the Calcutta High Court in writ petitions challenging show-cause notices issued by Drugs Control authorities for cancellation of its drug license to manufacture "ZEDEX" Drug (a well-known brand of cough syrup) and stopping further sale and use. Judgment reported in **(2012) 2 CAL LT 211 (HC): 2012 (4) CHN 432**; and
- **Hindustan Motors Limited** before the Division Bench and Special (3 Judge) Bench of the Calcutta High Court in an appeal arising out of an order of dismissal of suit for insurance claim arising out of fire on the ground of delayed service of writ of summons on the Defendant (National Insurance Company Limited). Succeeded in obtaining favourable orders wherein a delay of more than 15 years was condoned by the Court on the ground that procedural latches cannot affect substantial right of plaintiff in claiming reliefs on merit and it was held that the defendant did not acquire any valuable right on that account. Judgment reported in **2009 (2) CHN 846**.

Publications and Presentations:

- Co-authored a Chapter titled "*Securities Arbitration: An Indispensable Need for the Indian Securities Market*", published in the Book titled **Securities Arbitration: A Road**



- Map**, (Edited by Ms. L. Padmavathi), The ICFAI University Press, Hyderabad, INDIA (2008), [ISBN: 978-93-80120-12-6];
- Co-authored an Article titled "*Analysis of Section 11(6A): A conundrum*" published in **International Law Office - Arbitration & ADR Newsletter - India**, [11 October 2018] and **Lexology** [11 October 2018];
 - Co-authored an Article titled "*Arbitration and Conciliation (Amendment) Bill 2018: Coherence or Chaos*" published in **International Law Office - Arbitration & ADR Newsletter - India**, [13 September 2018] and **Lexology** [13 September 2018];
 - Co-authored an Article titled "*Procedural Amendments Affecting Vested Substantive Right of a Litigant Are Prospective in Application Unless Specifically Made Applicable Retrospectively*" published in **Mondaq** [17 May 2018];
 - Co-authored an Article titled "*SC: Scope of Interference of Courts While Appointing Arbitrators Limited To Determining Existence Of Arbitration Agreement*" published in **Mondaq** [16 November 2017];
 - Co-authored an Article titled "*SC: Arbitrator Cannot Award Pendente Lite Interest When Specific Provision in Contract Bars Payment of Interest*" published in **Lexology** [10 October 2017] and **Mondaq** [10 October 2017];
 - Co-authored an Article titled "*SC: Employee of a party allowed as 'arbitrator' in proceedings initiated prior to 2015 Amendment to the Arbitration and Conciliation Act*" published in **Lexology** [21 September 2017] and **Mondaq** [20 September 2017] and republished in **Resolution, New Zealand Dispute Resolution Centre (NZDRC)** [15th Issue, November 2017];
 - Co-authored an Article titled "*Delhi High Court Reinstates Substantive Right to Appeal Post Transition from Commercial Courts Ordinance to Commercial Courts Act*" published in **Lexology** [19 July 2017] and **Mondaq** [18 July 2017];
 - Co-authored an Article titled "*Supreme Court interprets legislative intent to appoint 'neutral', 'impartial' and 'independent' arbitrators*" published in **Lexology** [16 February 2017] and **Mondaq** [16 February 2017];
 - Co-authored an Article titled "*Significance of Independence and Impartiality in Constitution of Arbitral Tribunals: Critical Analysis*" published in **International Law Office - Arbitration & ADR Newsletter - India**, [22 December 2016];
 - Co-authored an Article titled "*Claiming Both Liquidated Damages and Risk Purchase Costs: A Myth or a Reality?*" published in **Lexology** [2 June 2016] and **Mondaq** [3 June 2016];



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Advocates since 1911

- Co-authored an Article titled “*Transition from Commercial Courts Ordinance to Commercial Courts Act: ambiguities and implications*” published in **International Law Office - Arbitration & ADR Newsletter - India**, [26 May 2016]; and
- Co-authored an Article titled “*Ambiguities in Arbitration and Conciliation (Amendment) Ordinance, 2015*” published in **International Law Office - Arbitration & ADR Newsletter - India**, [19 November 2015].

Recognitions and Accomplishments:

- Acknowledged for assisting the Author in writing a Chapter titled **Rectification of Jurisdiction to Entertain Arbitration Applications in the Commercial Courts Act 2015: Pending Re-alignment to Restore the Statutory Right to Appeal?**, published in the Book titled “**Alternative Dispute Resolution: The Indian Perspective**” (Edited by Mr Shashank Garg), Oxford University Press, New Delhi (2018), [ISBN-10: 0199483612, ISBN-13: 978-0199483617].
- Authored a Chapter titled **Prisoners’ Rights in India: Time for a Humane Approach**, published in the Book titled “**International Perspectives of Crime and Justice**”, (Edited by Dr. K. Jaishankar), Cambridge Scholars Publishing, London, UK (2009), [ISBN (10): 1-4438-0198-4, ISBN (13): 978-1-4438-0198-0] and republished in the Book titled “**Indian Prisons: Towards Reformation, Rehabilitation and Resocialization**” (Edited by Dr. K. Jaishankar & Ors.), Atlantic Publishers, New Delhi, India (2014).
- Co-authored a Chapter titled **Striking the Right Balance: Urban Planning and Environment- A Victim of Urbanization**, published in the Book titled “**Dynamics of Modern Democracy**” (2 Volumes), (Edited by Dr. M.R. Biju), Kanishka Publishers, New Delhi, India (2009), [ISBN: 978-81-8457-110-3 (Set)].
- Associated as **Peer Reviewer** for International Journal of Criminal Justice Sciences (IJCJS).