



Jeevan Ballav Panda

Partner

Max Towers
7th & 8th Floors
Sector 16B, Noida
Uttar Pradesh 201 301
India

M: + 91 98308 27233

E: jeevan.ballav@khaitanco.com

Practices:

Dispute Resolution
Employment, Labour & Benefits

Education:

B.A. LL.B. (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.
Empaneled as Arbitrator at the Delhi
International Arbitration Centre (DIAC).

Jeevan Ballav Panda is a Partner in the Dispute Resolution and Employment, Labour & Benefits practice groups in the NCR office. He brings with him more than 14 years of experience with a focus on commercial litigation, arbitration and employment. Jeevan is also empaneled as an Arbitrator at the Delhi International Arbitration Centre (DIAC).

Jeevan focuses on handling complex civil and contractual disputes, commercial litigation and arbitration and related pre litigation advisory. Jeevan also regularly argues matters before Courts and arbitral tribunals. Recently, Jeevan has successfully acted for MNCs and PSUs in high stake arbitration and litigation against government entities and private parties and between private players particularly in the railway, construction, infrastructure, power and hospitality sector.

Jeevan also focuses on labour and employment advisory and litigation involving structuring senior management contracts and exits, disciplinary/ domestic inquiries, sexual harassment at workplace, reorganisation and trade union related issues, compliances under various labour legislations including those relating to social security benefits, industrial disputes, termination, transfers, confidentiality, non-solicitation and non-compete clauses. Recently, Jeevan has successfully represented MNCs in civil suits against trade unions disrupting business operations through strikes and anti-social activities and in writ petitions and quasi-judicial proceedings involving high stake provident fund inquiries and exemption issues relating to provident fund trusts.

Representative Matters:

In his areas of expertise, Jeevan has advised and represented several prominent clients which include:

Arbitration | Contractual Disputes

- **Siemens AG & Siemens Limited** before a 3 Member Arbitral Tribunal in two separate domestic seated adhoc international commercial arbitration against Delhi Airport Metro Express Private Limited (DAMEPL) on outstanding claims for work done under the Power Supply, Distribution Traction Electrification and Control (PST) and Signalling and Train Control Systems (SIG) Contract executed for the high-speed metro airport line from New Delhi Railway Station to Dwarka Sector 21 passing through the Indira Gandhi International Airport Terminal 3;
- **Siemens Limited** before a 3 member arbitral tribunal in a domestic seated adhoc arbitration against Paharpur Cooling Towers Limited in

relation to disputes under a Contract for detail engineering civil works, supply and erection of three Natural Draught Cooling Towers on turnkey power project in Dahej, Gujarat;

- **Voestalpine Schienen GmbH** before 3 member arbitral tribunals in two separate domestic seated adhoc international commercial arbitration against Delhi Metro Rail Corporation Limited in respect of Contracts for supply of Head Hardened Rails for Delhi Metro Phase III Project; and
- **GX Technology Corporation, USA (An ION Group Company)** before a 3 member arbitral tribunal in domestic seated adhoc international commercial arbitration against Directorate General of Hydrocarbons (DGH), Ministry of Petroleum and Natural Gas, Government of India in respect of disputes under Agreement to carry out Speculative Geophysical Survey in West Coast and East Coast of India.

Litigation

- **OYO Hotels and Homes Private Limited (OYO Hotels)** before the Supreme Court of India and National Company Law Appellate Tribunal (NCLAT), New Delhi in the appeal proceedings relating to insolvency admitted against OYO Hotels with multiple parties (other Hotel Partners and Federation of Hotels & Restaurants Association of India) proposing to intervene and opposing the setting aside of insolvency process;
- **BT (India) Private Limited** before the Delhi High Court in a writ petition against the Ministry of Labour and Employment and the Provident Fund authorities directing them to consider application for grant of exemption (pending for more than 8 years) from the Employees' Provident Funds Scheme, 1952 and a decision be taken in a time bound manner and in the interim to treat BT's private provident fund trust as an exempted fund and that no coercive action be taken;
- **FIS Payment Solutions and Services India Private Limited** before the Calcutta High Court restraining the Trade Unions (All Bengal Contract Security Workmen's Union & 5 Ors.) from obstructing the free ingress and egress of the members of the public and officials in around 348 ATMs spread across the State of West Bengal and interfering in any manner with the day-to-day functioning and operations. Successfully represented **CMS Info Systems Limited** before the Calcutta High Court and obtained similar orders against Trade Unions involving around 1248 ATMs spread across the State of West Bengal;
- **MyPreferred Transformation and Hospitality Private Limited** before the Delhi High Court wherein, the Court held that place of arbitration was akin to the seat of arbitration and in the absence of any contrary indicia, the Delhi High Court will have the jurisdiction to appoint an Arbitrator notwithstanding an exclusive jurisdiction clause added by way of an addendum providing for Bangalore Courts to have exclusive jurisdiction;
- **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 blacklisting order passed by Directorate General of Hydrocarbons (DGH), Ministry of Petroleum & Natural Gas, Government of India for alleged breach of agreements;
- **Voestalpine Schienen GmbH** before the Supreme Court challenging the Panel of Arbitrators provided 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)**; and
- **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**.

Publications and Presentations:

Jeevan has authored / co-authored the following contributions:

- **Juxtaposing Seat of Arbitration vis-à-vis Exclusive Jurisdiction Clauses: Judicial Trend Thus Far**” published by SCC Online Blog, Op Ed Section, (7 August 2021);
- **“Civil or Criminal Liability: Are legal cases the new pressure tactic?”** published by BW Legal World (17 November 2020);
- **“Arbitration under Special Statutes with regard to Contractual Stipulations”** published by International Law Office - Arbitration & ADR Newsletter - India (9 July 2020);
- **“The dynamic workplace in a work from home era: Operation of the Sexual Harassment of Women at Workplace Act, 2013”** published by Bar & Bench (31 May 2020);
- **“Applicability of Force Majeure and Frustration to Lease Deeds: A Critical Analysis in light of Covid-19”** published by SCC Online Blog, Op Ed Section (20 April 2020);
- **“Coronavirus Outbreak & Force Majeure: An Indian Perspective”** published by LiveLaw (12 March 2020);
- **“Appointment of Arbitrators & Unilateral Arbitration Clauses: The Debate Continues”** published by Dispute Resolutions – The Bi-Monthly Newsletter of the Nani Palkhivala Arbitration Centre, Volume 3 Issue 1 (February 2020);

- **“Terminating arbitrator’s mandate: Can Tribunal proceed with truncated tribunal”** published by International Law Office - Arbitration & ADR Newsletter - India, (25 July 2019);
- **“Enforcement of foreign awards: Does violation of legal provision equate to contravention of fundamental policy”** published by the International Law Office - Arbitration & ADR Newsletter - India, (18 April 2019);
- **“Liquidated Damage Clauses: Did Kailash Nath Dilute the Saw Pipes Position?”** published by Bar & Bench (14 March 2019);
- **“Supreme Court on Employees' Provident Fund Contributions: Universality Is The Test To Consider Allowances As ‘Basic Wages’”** published by Wolters Kluwer Employment and HR - Asia Pacific Employment Law - Featured Articles, Issue 3 (4 March 2019) and republished in Mondaq (12 March 2019);
- **“Liquidated Damages Saga: What does Fateh Chand, Maula Bux and Saw Pipes lead to?”** published by Bar & Bench (20 December 2018); and
- **“SC: Employee of a party allowed as ‘arbitrator’ in proceedings initiated prior to 2015 Amendment to the Arbitration and Conciliation Act”** published by Lexology (21 September 2017) and Mondaq (20 September 2017) and republished in Resolution, New Zealand Dispute Resolution Centre (NZDRC) (15th Issue, November 2017).

Recognitions and Accomplishments:

Jeevan has been acknowledged for his experience and expertise by:

- **Asian Legal Business (ALB) India’s Super 50 Lawyers** in 2020 and 2021;
- **The Legal 500 (Legalease) Asia Pacific** as a recommended lawyer for Labour and Employment in 2021 and 2022; and
- **Asian Legal Business (ALB)** as one of India’s 50 Rising Stars in ALB’s India Rising Stars Ranking 2021.