

Run By Shorthand Dictation Legal Matters

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Krishna Shorthand Institute

कृष्णा आशुलिपिक संस्थान

(English Only) By. A.V. Kushwaha

(For Govt. Jobs, SSC (Group D & C), Supreme Court, High Court, District Courts, ASRB, CRPF, Railway, CBSC & all other departments requiring "English Stenographer/Personal Assistant/Private Secretary")

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

(Contact No. 7355504435)

Note: You will get following:

- 1. Passage (in two parts)**
- 2. Important Outlines**
- 3. Important Vocabulary**
- 4. Accuracy Building Tips etc.**

NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: Non-Maintainability of Section 34 Petitions Against Foreign Awards

Volume 1: Dictation No. 9

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

Before proceeding to adjudicate the application, it is pertinent to note that the two miscellaneous appeals are filed under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Indian Act'). The facts briefly are that an agreement dated 22.4.1993 was executed between the appellant and the respondent under which the respondent was to supply installed equipment for modernization and upgradation of the production facilities of the appellant at Korba in the State of Chhattisgarh. The agreement provided for settlement of disputes by arbitration. Certain disputes arose between the parties and were referred to arbitration. The arbitration was held in England and the arbitral tribunal made two awards dated 10.11.2002 and 12.11.2002 in England. The appellant, thereafter, filed applications under

Section 34 of the Indian Act for setting aside the two awards dated 10.11.2002 and 12.11.2002 in the Court of learned District Judge, Bilaspur which were numbered as MJC Nos. 92 of 2003 and 14 of 2003 respectively. By order dated 20.7.2004, the learned District Judge, Bilaspur held that the applications filed by the appellant under Section 34 of the Indian Act for setting aside the two foreign awards are not tenable and, accordingly, dismissed the same. Aggrieved, the appellant has filed these appeals.

Mr. Vivek Tankha and Mr. S. N. Mukherjee, learned counsel appearing for the appellant in the two appeals submitted that in the impugned order dated 20.7.2004, the learned District Judge has held that the application filed by the appellant under Section 34 of the Indian Act was not maintainable, but the learned District Judge has not recorded any reason whatsoever for coming to the aforesaid conclusion. They argued that the learned District Judge should have decided the issues of fact and law raised by the parties in their respective pleadings, but no such exercise has been undertaken by the learned District Judge in the impugned order. They submitted that since the impugned order is without any reason, it is liable to be set aside. In support of their submission, they relied on the decision of the Supreme Court in Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee,

2004 AIR SCW 102 and State of Punjab vs. Bhag Singh, 2004 Criminal LJ 916.

Learned counsel for the appellant next submitted that the learned District Judge has proceeded on the assumption that the provisions of Section 34 of the Indian Act are not applicable to a 'foreign award' and for this reason held that the applications filed by the appellant under Section 34 of the Indian Act to set aside the foreign awards were not maintainable. He submitted that this view taken by the learned District Judge is contrary to the decision of the Supreme Court in Bhatia International vs. Bulk Trading, in which it has been held that the Indian Act applied to the arbitration which are held in India between the Indian Nationals as well as to international commercial arbitrations whether held in India or out of India. He also cited the decision of the Gujarat High Court in Nirma Ltd. vs. GMBH, Germany, in which a Division Bench of the Gujarat High Court has taken a view that when the agreement between the parties was governed by the Indian law, then the application for setting aside the award made outside the country can also be filed in a Court in India under Section 34 of the Indian Act. He submitted that since the agreement between the parties was governed by the Indian law, the learned District Judge should have held that the applications for setting aside the awards could be filed under

Section 34 of the Indian Act before the learned District Judge at Bilaspur.

Total Words: 608

Outlines of all highlighted words and phrases.

Note: Adopt only those outlines which are better than yours.

proceeding

pertinent

adjudicate

miscellaneous

Arbitration and Conciliation Act, 1996

hereinafter referred to as the

Indian Act

hereinafter referred to as:

agreement dated 22.4.1993

executed

installed

supply

equipment

modernization

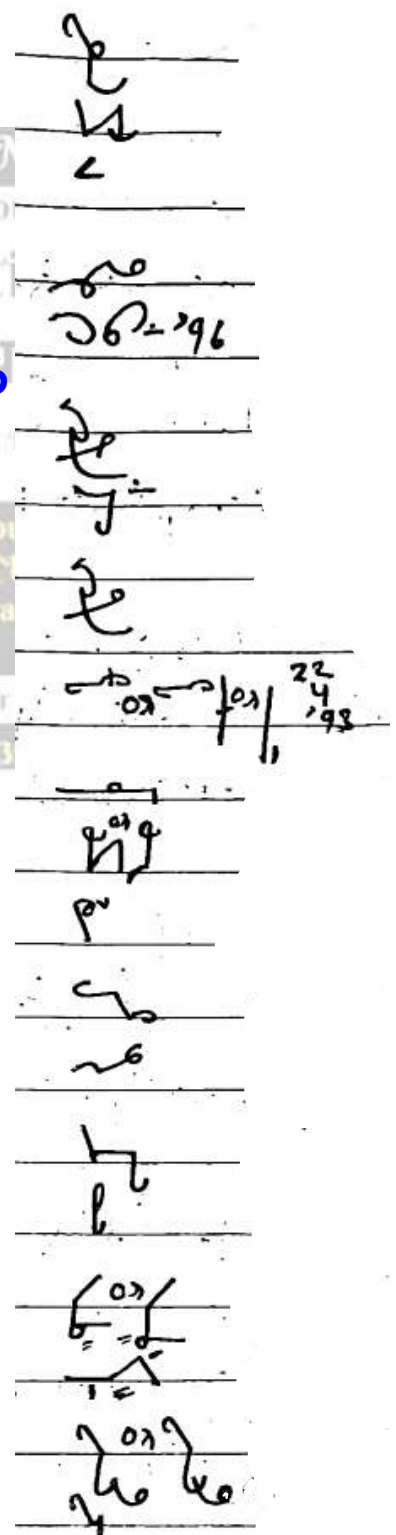
upgradation

State of Chhattisgarh.

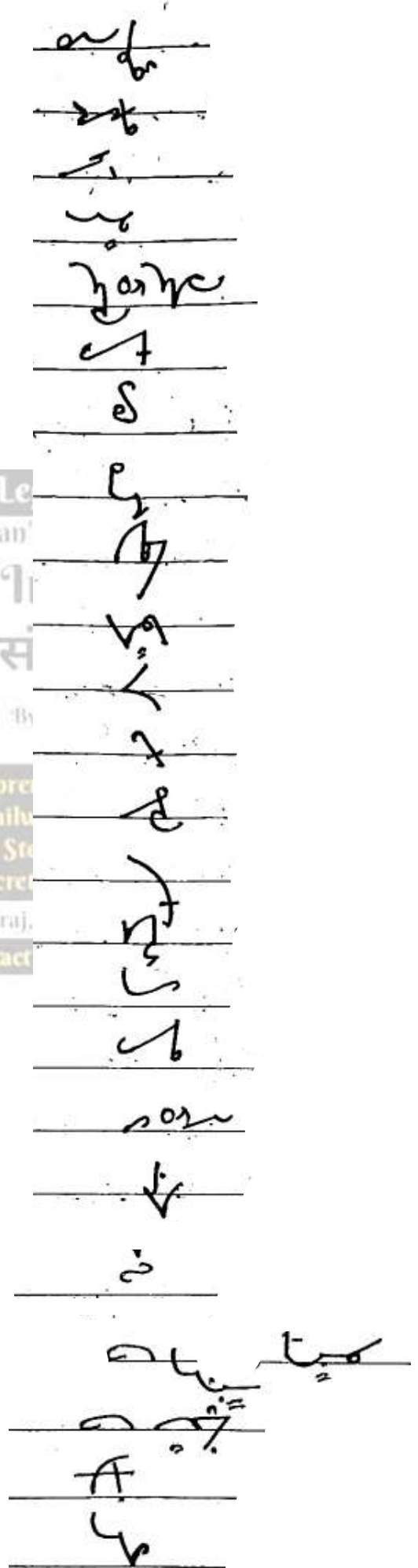
Korba

production facilities

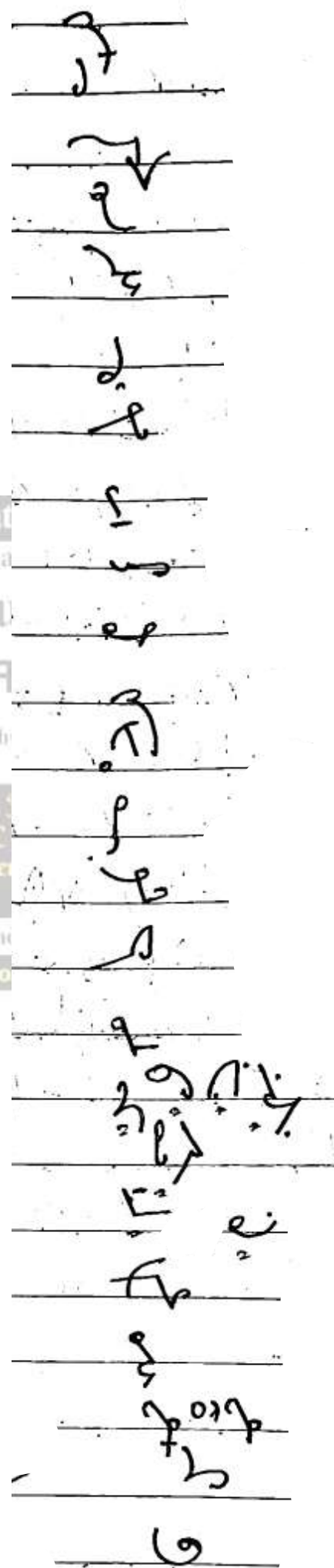
provided



certain disputes
 between the parties
 referred to
 in England
 arbitral tribunal
 awards dated
 applications
 setting aside the
 learned District Judge
 Bilaspur
 which were
 numbered
 respectively.
 order dated
 held that the
 foreign
 awards
 are not
 tenable
 accordingly,
 Aggrieved,
 Mr. Vivek Tankha
 Mr. S. N. Mukherjee,
 learned counsel appearing
 for the appellant



impugned order dated
was not
maintainable
whatsoever
argued that the
issues
respective
pleadings
undertaken
since the
impugned order
is liable
set aside
in support of
relied on
Supreme Court
Smt. Swaran Lata Ghosh
Harendra Kumar Banerjee
State of Punjab
Bhag Singh,
learned counsel for the appellant
submitted that the
proceeded
assumption
provisions



are not
applications
this view
contrary
Bhatia International
vs.
Bulk Trading
in which
it has been
Indian Nationals
as well as
international
commercial
arbitrations
cited
Gujarat High Court
Nirma Ltd
GMBH, Germany
Division Bench
between the parties
governed
outside the
could be
should have

NOTE: Very important latest created passage for Supreme Court/High Court/District Court/Tribunal etc. related skill tests apart from speed building.

Topic: Non-Maintainability of Section 34 Petitions Against Foreign Awards

Volume 1: Dictation No. 9

Note: Outlines of all highlighted words/phrases are given at the end of the passage. Adopt all better outlines than yours.

Mr. Mukherjee, learned counsel appearing for the appellant further submitted that Article 22 of the agreement between the parties provided that the agreement will be governed by the prevailing law of India and, therefore, parties to the agreement have chosen the prevailing law of India as the law governing the rights of the parties. He submitted that since the substantive rights of the parties to the agreement are to be governed by the law prevailing in India, even though the arbitration has taken place and the awards have been made in England can be challenged in a Court in India by an application under Section 34 of the Indian Act. He submitted that in the case of Bhatia International vs. Bulk Trading (supra), the Supreme Court has laid

down the test that if a Court has jurisdiction to entertain an application under Section 9 of the Indian Act, it would also have jurisdiction to entertain an application under Section 34 of the Indian Act to set aside an award made by the arbitrator. He argued that in the present case since the cause of action in connection with the subject matter of the jurisdiction arose within the jurisdiction of the District Judge at Bilaspur. The District Judge at Bilaspur had the jurisdiction to entertain the application under Section 9 of the Indian Act and accordingly also under Section 34 of the Indian Act to set aside the award. He submitted that Part-II of the Indian Act provides for enforcement of certain foreign awards and Section 48 therein stipulates the conditions for enforcement of the foreign awards. He submitted that it will be clear from Section 48(1)(e) of the Indian Act that a foreign award can be set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made and hence a foreign award can be set aside or suspended not only by the competent authority of the country in which the award is made but also by a competent authority of the country under the law of which the award was made. He vehemently submitted that since it is the law of India which governs the agreement between the parties, the awards have been made under the law of India and the competent authority in India can under Section

48(1)(e) of the Indian Act also set aside or suspend the awards in the present case though the same have been made in England. In support of his submission, he relied on the decision of the Division Bench of Calcutta High Court in White Industries Australia Limited vs. Coal India Limited, reported in 2004 (2) Calcutta LJ 197 in which it has been held that where the express choice of the parties with regard to the law of the contract is Indian Law and the contract was signed in India and was performed in India, there is no reason for the Court to hold that the expression 'under the laws of which that award was made' in Section 48(1)(e) of the Indian Act would mean nothing but Indian Law.

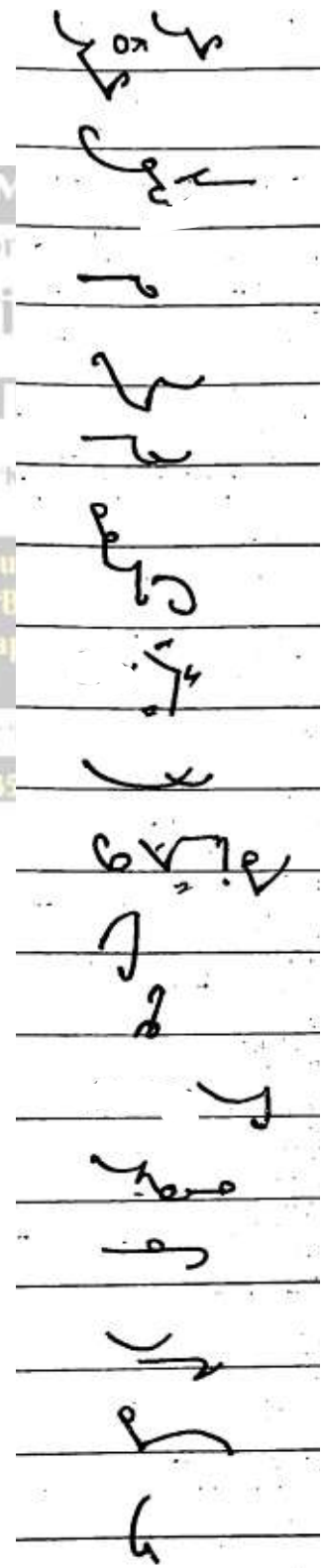
Thus, where parties to the agreement have subjected the agreement only to the Indian law and do not indicate in the agreement that the English Law will apply in case of arbitration, then the expression 'the law to which the parties have subjected' the agreement in Section 48(1)(a) of the Indian Act and the expression 'under the law of which the award is made'. We have, therefore, no doubt in our mind that the applications of the appellant under Section 34 of the Indian Act before the learned District Judge, Bilaspur for setting aside the two awards dated 10.11.2002 and 12.11.2003 which were made under the English Act were not maintainable and the two appeals filed by the appellant are liable to be dismissed.

Total Words: 643

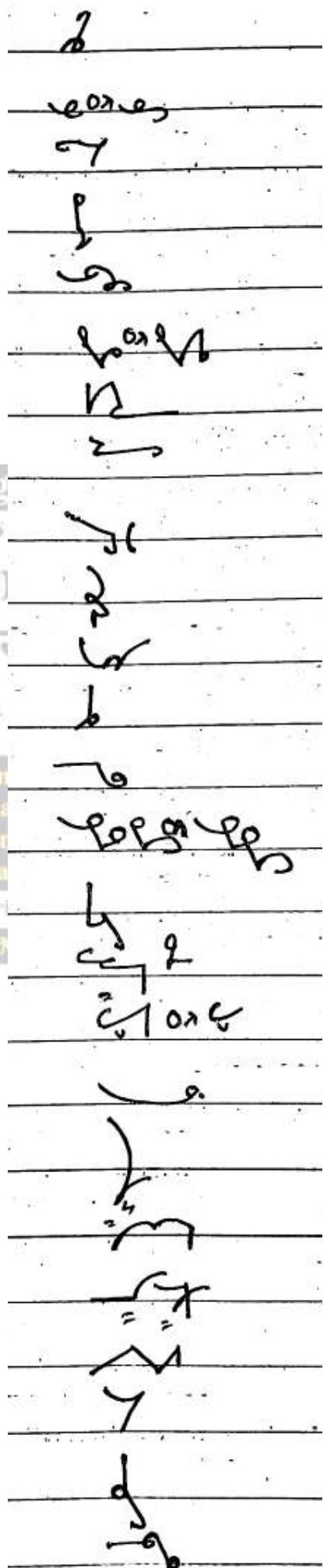
Total 601+634=1235

Outlines of all highlighted words and phrases.
Adopt only those outlines which are better
than yours.

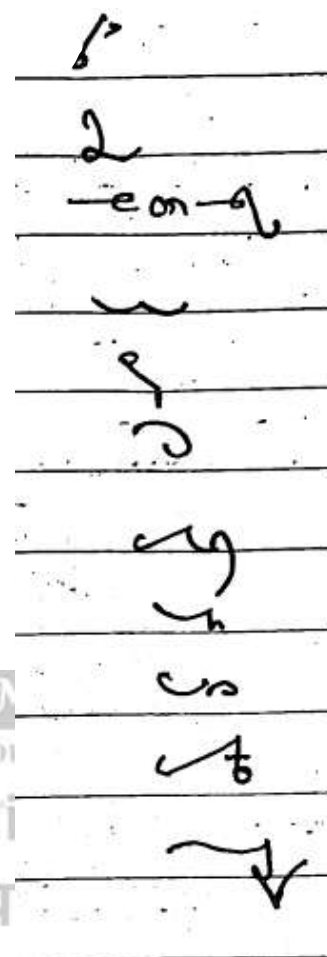
for the appellant
further submitted that
Article
governed
prevailing
governing
substantive
arbitration
Bhatia
International
v. Bulk Trading (supra),
laid down
jurisdiction
entertain
in the present case
cause of action
in connection with the
subject matter
within the



jurisdiction
under Section
accordingly
set aside the
enforcement
stipulates
it will be clear
of the country
competent authority
suspended
vehemently
it is the
governs
in support of his submission
Division Bench
Calcutta High Court
White
industries
Australia
Limited
Coal India Limited
reported
in which
it has been
express



choice
there is no
expression
nothing
subjected
arbitration
we have, therefore
no doubt
in our mind
awards dated
maintainable



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other departments requiring "English Stenographer/
Personal Assistant/Private Secretary"

(87, Sulem Sarai, Prayagraj, Uttar Pradesh)

(Contact No. 7355504435)

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Keep revising all new words learned.

Legal/General Matter (Legal Vocabulary Building)

1. **Proceeding:** (noun) legal action in court कार्यवाही
2. **It is pertinent:** (phrase) it is relevant यह प्रासंगिक है
3. **Adjudicate:** (verb) to decide officially निर्णय देना
4. **Miscellaneous:** (adjective) various types विविध
5. **Arbitration and Conciliation:** (noun phrase) dispute resolution method मध्यस्थता और सुलह
6. **Hereinafter referred to as:** (phrase) hereafter called इसके बाद संदर्भित
7. **Executed:** (verb) signed formally निष्पादित किया
8. **Installed:** (verb) set up स्थापित किया
9. **Equipment:** (noun) tools/machines उपकरण
10. **Upgradation:** (noun) improvement उन्नयन
11. **Arbitral tribunal:** (noun phrase) arbitration panel मध्यस्थता न्यायाधिकरण
12. **Awards:** (noun) arbitrator's decisions पंचाट

13. **Setting aside:** (verb phrase) cancelling रद्द करना
14. **Respectively:** (adverb) in order mentioned क्रमशः
15. **Foreign awards:** (noun phrase) awards made abroad विदेशी पंचाट
16. **Tenable:** (adjective) defensible रक्षणीय
17. **Aggrieved:** (adjective) wronged पीड़ित
18. **Impugned order:** (noun phrase) challenged order विवादित आदेश
19. **Maintainable:** (adjective) legally sustainable स्वीकार्य
20. **Whatsoever:** (adverb) at all कुछ भी
21. **Respective:** (adjective) belonging separately संबंधित
22. **Pleadings:** (noun) formal court statements अभिवचन
23. **Undertaken:** (verb) carried out किया गया
24. **Set aside:** (verb phrase) to cancel रद्द करना
25. **Relied on:** (verb phrase) depended on भरोसा किया
26. **Proceeded:** (verb) continued आगे बढ़ा
27. **Contrary:** (adjective) opposite विपरीत
28. **Vs.:** (abbreviation) versus बनाम

29. Arbitrations: (noun) dispute settlements
मध्यस्थताएं

30. Cited: (verb) referred to उद्धृत किया Example: He cited a Supreme Court case.

Accuracy Mantra: Don't confuse or transcribe following words and be very attentive while transcribing above word.

31. Sited: (verb) located स्थित किया Example: The plant was sited in Korba.

32. Sighted: (verb) seen देखा Example: The document was sighted by the judge.

By Sir AV Kushwaha,

Principal,

Krishna Shorthand Institute,

via online Telegram Class through

7355504435

Accuracy Builder: following words occurred in the dictation is to be capitalized;

1. Personal Names and Titles:

- Mr. Vivek Tankha
- Mr. S. N. Mukherjee
- Smt. Swaran Lata Ghosh
- Harendra Kumar Banerjee
- Bhag Singh
- District Judge

2. Place Names (Geographical Locations):

- Korba
- State of Chhattisgarh
- England
- State of Punjab
- India
- Bilaspur
- Germany
- Gujarat

3. Court Names:

- Supreme Court
- Gujarat High Court

- Court (when referring to specific judicial body)

4. Case Names:

- Bhatia International vs. Bulk Trading
- Nirma Ltd. vs. GMBH
- Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee
- State of Punjab vs. Bhag Singh

5. Legislation/Statute Names:

- Arbitration and Conciliation Act, 1996
- Indian Act
- Section 34
- Section 37(1)(b)

6. Law Report Abbreviations:

- AIR SCW
- Criminal LJ
- MJC Nos.

7. Nationality/Demonym:

- Indian Nationals
- Indian (when referring to Indian law/nationals)

8. Company/Organization Names:

- Bhatia International

- Bulk Trading
- Nirma Ltd.
- GMBH

Accuracy Builder: Analysis from the passage dictated today.

1. "Before proceeding to adjudicate the application, it is pertinent to note..."

- Reason: Separates introductory phrase from main clause

2. "...Arbitration and Conciliation Act, 1996..."

- Reason: Sets off the year as additional information. Always put a comma just before the year as indicated above.

3. "The appellant, thereafter, filed applications..."

- Reason: Sets off transitional adverb "thereafter"

4. "...the learned District Judge, Bilaspur held that..."

- Reason: Separates title from location (appositive)

5. "Aggrieved, the appellant has filed these appeals."

- Reason: Separates participial phrase from main clause

6. "Mr. Vivek Tankha and Mr. S. N. Mukherjee, learned counsel appearing for the appellant..."

- Reason: Sets off appositive phrase

7. "...in their respective pleadings, but no such exercise has been undertaken..."

- Reason: Separates independent clauses joined by "but"

8. "...since the impugned order is without any reason, it is liable to be set aside."

- Reason: Separates dependent clause from independent clause

9. "...Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee, 2004 AIR SCW 102..."

- Reason: Separates case name from citation details

10. "...Bhatia International vs. Bulk Trading, in which it has been held..."

- Reason: Separates case name from relative clause

11. "...since the agreement between the parties was governed by the Indian law, the learned District Judge should have held..."

- Reason: Separates dependent clause from independent clause

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Matter)

Keep revising all new words learned.

Legal/General Matter

1. **Article vs. article:** In legal writing, "Article" is capitalized when referring to a specific numbered section of Constitution (e.g., "Article 22 of the Constitution/Agreement"), while "article" remains lowercase when used as a common noun.

Examples:

- **Capitalized:** "under Article 356 of the Constitution, President's Rule can be imposed."
- **Lowercase:** "This is an article of clothing" or "I read an interesting article in the newspaper."

2. **Governed:** (verb) (past participle) to be controlled or regulated by rules or laws; शासित होना, नियंत्रित होना

3. **Prevailing:** (adjective) existing or most common at a particular time; प्रचलित, वर्तमान

4. **Governing:** (verb) (present participle) controlling or regulating according to rules or laws; शासन करना, नियंत्रित करना

5. Substantive: (adjective) relating to the essential or fundamental rights and duties; मूलभूत, सारभूत

6. supra: (adverb) (Latin term) mentioned or cited above in the text; उपर्युक्त, पूर्वोक्त

Accuracy Mantra: When this word comes in the middle of a dictation referring to citation/ruling referred above, it is written within bracket as (**supra**).

7. Laid down: (phrasal verb) (past tense) to establish or formulate a rule or principle; निर्धारित करना, स्थापित करना

8. Jurisdiction: (noun) the official power or authority to make legal decisions; अधिकार क्षेत्र, न्यायाधिकार

9. Entertain: (verb) to give consideration to or deal with (a legal application); विचार करना, सुनवाई करना

10. Cause of action: (noun phrase) the facts that give a person the right to seek judicial relief; वाद कारण, मुकदमे का आधार

11. Subject matter: (noun phrase) the main topic or issue being dealt with; विषय-वस्तु, मुद्दा

12. Set aside: (phrasal verb) to cancel or annul a legal decision or award; रद्द करना, निरस्त करना

13. Enforcement: (noun) the act of compelling observance of or compliance with a law or order; प्रवर्तन, लागू करना

14. Stipulates: (verb) (present tense, third person singular) to specify as a condition or requirement; शर्त लगाना, प्रावधान करना

- 15. Competent authority:** (noun phrase) a body or person having legal authority and qualification to act; सक्षम प्राधिकारी, सक्षम अधिकारी
- 16. Suspended:** (verb) (past participle) to temporarily halt or stop the operation of something; निलंबित करना, स्थगित करना
- 17. Vehemently:** (adverb) in a forceful, passionate, or intense manner; जोरदार ढंग से, प्रबलता से
- 18. Governs:** (verb) (present tense, third person singular) to control or regulate according to rules; शासन करता है, नियंत्रित करता है
- 19. Limited:** (adjective/noun) restricted; or a type of company with limited liability; सीमित; लिमिटेड (कंपनी)
- 20. Reported:** (verb) (past participle) published or officially recorded in law reports; प्रकाशित, रिपोर्ट किया गया
- 21. Expression:** (noun) a particular phrase or term used in legal context; अभिव्यक्ति, शब्द-समूह
- 22. Subjected:** (verb) (past participle) to cause to undergo or experience; अधीन किया गया, निर्भर किया गया
- 23. Maintainable:** (adjective) capable of being sustained or supported in law; ग्रहणीय, स्वीकार्य

Accuracy Builder: Capitalization

Following words to be written in capital letters;

1. Mr. Mukherjee

- **Reason:** Title (Mr.) before a proper noun (name of a person)
- **Rule:** Personal titles and names are always capitalized

2. Article 22

- **Reason:** Specific numbered provision in a legal document
- **Rule:** When referring to a particular clause/section with a number, capitalize

3. India/Indian

- **Reason:** Proper noun - name of a country/adjective derived from country name
- **Rule:** Names of countries and their derivatives are capitalized

4. Indian Act

- **Reason:** Proper noun - official name of legislation (Arbitration and Conciliation Act, 1996)
- **Rule:** Names of specific statutes/acts are capitalized

5. England

- **Reason:** Proper noun - name of a country
- **Rule:** Geographical names are capitalized

6. Court

- **Reason:** Refers to a specific judicial institution

- **Rule:** When referring to a particular court (not courts in general), capitalize

7. Section 34, Section 9, Section 48

- **Reason:** Specific numbered provisions of the statute
- **Rule:** Legislative sections with numbers are capitalized

8. Supreme Court

- **Reason:** Proper noun - official name of the highest judicial body
- **Rule:** Names of specific courts are capitalized

9. Bhatia International vs. Bulk Trading

- **Reason:** Case name/title of legal precedent
- **Rule:** Case names are capitalized (italicized in formal citations)

10. District Judge

- **Reason:** Official title/designation of a judicial officer
- **Rule:** Formal titles of officials are capitalized when referring to specific office

11. Bilaspur

- **Reason:** Proper noun - name of a place/city
- **Rule:** Geographical locations are capitalized

12. Part-II

- **Reason:** Specific division of the legislation
- **Rule:** Numbered parts of statutes are capitalized

13. Division Bench

- **Reason:** Specific judicial formation
- **Rule:** Official court formations are capitalized

14. Calcutta High Court

- **Reason:** Proper noun - name of a specific court
- **Rule:** Names of particular courts are capitalized

15. White Industries Australia Limited vs. Coal India Limited

- **Reason:** Case name with company names
- **Rule:** Case names and company names are capitalized

16. Calcutta LJ (Law Journal)

- **Reason:** Name of a law reporter/publication
- **Rule:** Titles of publications are capitalized

17. English Act/English Law

- **Reason:** Adjective derived from country name + statute/legal system
- **Rule:** National legal systems and their acts are capitalized

18. We (at beginning of sentence)

- **Reason:** First word of a sentence
- **Rule:** Always capitalize the first word of a sentence

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Accuracy Builder: Comma (Punctuation)

COMMA USAGE - SIMPLE EXPLANATION

1. Comma after a person's name when describing them

Example: "Mr. Mukherjee, learned counsel appearing for the appellant further submitted..."

Simple Rule: When you give extra information about a person right after their name, put commas around that information.

Easy Example:

- "My teacher, Mrs. Sharma, is very kind."
- "Rahul, my best friend, loves cricket."

2. Commas around connecting words like "therefore," "however," "moreover"

Example: "...of India and, therefore, parties to the agreement..."

Simple Rule: When you use words like "therefore," "however," "moreover" in the middle of a sentence, put commas before and after them.

Easy Example:

- "I studied hard and, therefore, I passed the exam."
 - "It was raining. I, however, still went to school."
-

3. Comma after a long beginning part of a sentence

Example: "Since the substantive rights are to be governed by the law prevailing in India, even though the arbitration has taken place..."

Simple Rule: If your sentence starts with a long phrase (especially with words like "since," "because," "although"), put a comma before starting the main part.

Easy Example:

- "Because it was raining heavily, we stayed at home."
- "After finishing my homework, I played video games."

4. Comma after introductory phrases

Example: "In the case of Bhatia International vs. Bulk Trading (supra), the Supreme Court has laid down..."

Simple Rule: When you start a sentence with phrases like "In the case of," "In support of," "According to," put a comma after them.

Easy Example:

- "In my opinion, pizza is the best food."
 - "According to the weather report, it will rain tomorrow."
-

5. Comma to separate two parts of a sentence

Example : "He submitted that in the present case, since the cause of action arose..."

Simple Rule: Use a comma to separate the introduction from the main information.

Easy Example:

- "In the morning, I always brush my teeth."
 - "During summer vacation, we went to Goa."
-

6. Commas around extra information in the middle

Example: "...in which, or under the law of which, that award was made..."

Simple Rule: When you add extra or alternative information in the middle of a sentence, put commas around it.

Easy Example:

- "My brother, or perhaps my sister, will come with me."
 - "The book, which I bought yesterday, is very interesting."
-

7. Comma before "though," "although," "but" (to show contrast)

Example (SHOULD BE): "...in the present case, though the same have been made in England."

Simple Rule: When you want to show opposite or contrasting ideas, use a comma before words like "though," "although," "but."

Easy Example:

- "I wanted to go out, but it was raining."
 - "She is young, though very intelligent."
-

8. Comma after "In support of," "In conclusion," etc.

Example: "In support of his submission, he relied on the decision..."

Simple Rule: After phrases that start with "In...", put a comma.

Easy Example:

- "In conclusion, we should protect the environment."
 - "In addition, I also play the guitar."
-

9. Comma before extra details about something

Example: "White Industries Australia Limited vs. Coal India Limited, reported in 2004..."

Simple Rule: When you add extra details that are not essential to understand the sentence, put a comma before them.

Easy Example:

- "My dog, a golden retriever, loves to play fetch."
 - "Delhi, the capital of India, is a big city."
-

10. Comma before the conclusion after a long opening

Example: "The contract was signed in India and was performed in India, there is no reason..."

Simple Rule: After a very long opening part with many details, put a comma before starting your conclusion.

Easy Example:

- "After I woke up, brushed my teeth, ate breakfast, and got dressed, I left for school."
- "Because he studied hard, attended all classes, and did his homework regularly, he got first rank."

REMEMBER THESE 5 MAIN COMMA RULES:

1. **After introductions** → "In the morning, I went to school."
2. **Around extra information** → "My friend, who lives nearby, came over."
3. **Before contrasting words** → "I tried hard, but I failed."
4. **Around interrupting words** → "I am, however, very happy."

5. After long beginnings → "Because it was my birthday, everyone came to my party."

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