

Delhi High Court explains public policy doctrine while allowing enforcement for foreign award.

Update by Editor
Published on 23 July 2023

Raffles Education Investment (India) Pte. Ltd and v. Educomp Professional Education Limited

Case Number: OMP (EFA) (COMM) 06/2017 | **Citation:** 2023 SCC OnLine Del 3936 | **Bench:** Yashwant Varma J | **Date:** 07 July 2023 | **Text of judgment:** Access court's version [here](#)

PROCEDURAL HISTORY

An award had been passed on 31 March 2017 in favour of Raffles India in a Singapore seated arbitration conducted under the rules of the Singapore International Arbitration Centre.

Raffles had applied for enforcement of this award in the Delhi High Court under Chapter-I, Part-II of the Arbitration and Conciliation Act, 1996.

SUMMARY

Raffles and Educomp, both for-profit groups, partnered in an educational joint venture company. Their representatives co-managed a not-for profit society registered under the Societies Registration Act, 1860 running an engineering college. In 2015, Educomp wished to exit, leading to a share purchase agreement for Raffles to buy Educomp's shares in the joint venture. so that Raffles' representative could take complete control). The consideration of the agreement also factored in the value of the society. Under the agreement Educomp was supposed to ensure the resignation of its representatives in the society (so that Raffles' representatives had full control) but failed to do so, breaching the agreement.

Raffles initiated arbitration and won damages. The arbitrator declined specific performance. Educomp did not challenge the award but resisted Raffles' enforcement on public policy grounds. It argued that the agreement improperly gave a for-profit entity control over a non-profit society and monetized the society's membership.

OUTCOME

Educomp's objections were rejected, and the award was held enforceable in law. The matter was directed to be placed before appropriate bench for taking further steps in the enforcement petition.

PRINCIPLE

Mere violation of a statutory enactment or a piece of subordinate legislation is not a violation of "public policy of India" or "fundamental principles of Indian law". An objection based on those grounds:

- (a) Must establish a patent violation of a foundational precept, an inviolable principle adopted by our courts and one which can neither be ignored nor condoned.
- (b) Would succeed provided "it is established that its enforcement would run contrary to well established legal tenets which brook of no exception."

Fundamental policy of Indian law is:

- (a) A rule or a principle which forms part of the core values of our jurisprudence itself and a violation of which would be considered abhorrent and shocking to the conscience of the court.
- (b) Public policy is “that broad set of overarching principles which are considered inviolable and form the very soul of the legal principles which courts in India enforce and uphold”.
- (c) Threads which hold together the fabric constituting our legal philosophy.

Indian law doesn't restrict for-profit entities from incorporating not-for-profit societies. Their incorporation does not violate any foundational legal principle. No express prohibition exists against foreign nationals being society members and, quite apart, their involvement in the affairs of a charitable society in Indian is not contrary to public policy.

NFRAL Categories: [New York Convention Awards](#) | [Conditions for Enforcement of Foreign Awards](#) | [Enforcement](#) | [Enforcement of Foreign Awards](#) | [Foreign Award](#) | [Fundamental Policy of Indian Law](#) | [Public Policy](#) | [Public Policy of India](#) | [Recognition and Enforcement of Foreign Awards](#) | [Section 48 ACA](#) | [Section 48\(2\)\(b\) ACA](#) | [Renusagar](#) | [Shri Lal Mahal](#) | [Ssangyong](#) | [Vijay Karia](#) | [Gemini Bay](#) | [Cruz City](#) | [Societies Registration Act](#) | [All India Council for Technical Institution](#)