

INDIA ADR WEEK 2026 – 08 SEP 2026

SESSION 7

**FIRESIDE CHAT WITH HON'BLE JUSTICE B.H. DANGRE (JUDGE, HIGH
COURT OF BOMBAY)**

MR. VIKRAM NANKANI (MCIA COUNCIL MEMBER AND SENIOR ADVOCATE)

ALISHA SHARMA: May we please request everyone to kindly settle down. The judge will be here any moment. Ladies and gentlemen, we are honoured and delighted to have Honourable Justice B. H. Dangre, Judge of Honourable Bombay High Court for an interactive Fireside Chat alongside Mr. Vikram Nankani, MCIA Counsel and a distinguished Senior Advocate. He is an India qualified lawyer since 1986. Mr. Nankani began by joining the chamber of Ashok Desai, Senior Advocate and a former Attorney General of India. Between 1986 and 2003, he appeared as a Counsel in a variety of matters concerning commercial disputes, corporate matters, economic offenses and criminal cases, tax, shipping and arbitration. He was a Partner in economic law practice until designated Senior Advocate in September 2014. He regularly appears before various High Courts and the Supreme Court of India and has to his credit several landmark judgments rendered by the courts that have been reported by various authoritative journals and reports. I would now request both of them to kindly join us on stage.

VIKRAM NANKANI: Good evening, friends, and thank you for staying for this last session of the day. But I'm sure this is going to be one of the most interesting ones. I have with me here, Her Ladyship, Justice Bharti Dangre of the Bombay High Court, inarguably the most versatile judge that we have. Just as she stepped out of the court today, she was hearing a confirmation case, which in India means confirmation of a death penalty, and you would wonder what is she doing amidst commercial arbitration lawyers here. But I'm sure she will surpass all expectations today, because her depth of knowledge in every field of law including commercial law, more so, arbitration law is well known. Mr. Google could testify whatever I have said. So, you can see the number of judgments that she has given. So, welcome Ladyship to this Fireside Chat.

Let me start with something personal in the sense that we know that you had your early education and early days of practice in Nagpur and before you moved... you got elevated and moved to Mumbai, which is supposed to be the commercial capital of the country. How did

you adapt yourself to the commercial law and the practice that is more prevalent in Mumbai as compared to Nagpur, because we've seen that you are equally at ease with matters relating to commercial disputes and more so, arbitration?

JUSTICE B.H. DANGRE: A very good evening. Actually speaking, I decided to accept the invitation for a very simple reason that I thought that my capacity to answer... I wanted to test my capacity to face some questions. Because since I have become a judge, in fact, I'm not used

2 to being questioned, but I only fire the questions. So, the idea was fantastic that somebody's
3 asking me questions and I'm responding to that. But indeed, it's a great pleasure to be amongst
4 you all today. Now about the first question, I was not told that I would be required to answer
5 something personal because some questions...

6 **VIKRAM NANKANI:** It is out of syllabus, yes.

7 **JUSTICE B.H. DANGRE:** So, it's something extempore, but I must tell you that I must
8 rather concede that all the while I was in Nagpur, I mean, born and brought up in Nagpur, I
9 did my five years law. I did my LLM and immediately joined the practice. But large part of my
10 practice I was on the government side. The government side for the simple reason and we
11 like... unlike in Bombay government side means both you are to do criminal matters as well as
12 civil matters. But I must concede to this fact that I even never knew 'A' of arbitration because
13 that was government side you hardly have any matters for arbitration. And Nagpur is a small
14 town where the commercial law or the commercial development is not much. So, I had very
15 little scope for commercial. But when I came here the only fascination for me to be at Bombay,
16 for some reasons I could not be Nagpur, but that was, that proved to be a boon in disguise for
17 me. And when in Bombay I got an opportunity when my first Chief Justice, when my Chief
18 Justice asked me whether you would take commercial... arbitration matters as a single judge,
19 I told him that I have no experience but I can give a try. And it's all with the assistance of the
20 Senior Counsels, the lawyers who appeared before me, I must say that I could do a little bit
21 development in the law. I don't know whether it amounts to development, but definitely, I
22 enjoyed every part of it because this was something new, something to learn. And I found that
23 there is so much of scope. The Act of... Arbitration and Conciliation Act, a small enactment of
24 I think barely 62 Sections, but the scope for interview, if you see the jurisprudence developed
25 over it, it's so humongous and still there is a scope to develop. So, I found it to be very
26 interesting. And of course I don't know whether I did well, did give the right decisions, but
27 anyway I tried my level best and I enjoyed every bit of it.

28 **VIKRAM NANKANI:** No, we are sure that you know what you... the law that you have laid
29 down is here for the posterity and I'm sure we are all going to gain out of that. Coming back to
30 the topic of commercial capital, Mumbai being a commercial capital, we still speak very often
31 about India being an international arbitration hub or an arbitration hub, without the word
32 "international". We don't say it should be Mumbai and we don't say it should be Delhi or
33 something like that. This has been an aspiration as far as India is concerned for a long, long
34 time. The earliest I think was when the NITI Aayog brought this topic up as part of the ease of

2 doing business in India. What are your views from a judge's perspective about shaping India
3 or one of these cities as an arbitration hub?

4 **JUSTICE B.H. DANGRE:** See, arbitration is not something new as far as India is concerned,
5 because the 1940 also we had a statute Arbitration Act. Of course, in 1996 we brought the new
6 Act to be, to commensurate with the unicycle code and the international conventions. But it
7 was always considered to be an Alternative Dispute Resolution mechanism because when
8 Section 89A was amended and Mediation, Conciliation and Arbitration were brought. I feel
9 that these three are completely different branches. Mediation was always considered to be
10 something which was voluntary because we never had a statute. As compared to mediation,
11 the arbitration since it had its roots in the 1940 Act, it was little easier. In 1996 and thereafter,
12 we find that there are so many amendments introduced in the Act. Every time, with the hope
13 to build up the institution of arbitration as such and to have a robust legal framework
14 supporting it. Now when we talk of a robust legal framework, you will... you will agree with me
15 that since the Act came into force, we have so many amendments. On every provision there is
16 so much of jurisprudence involved because every time like, for, take an example, like one of
17 the aspect which is now still under consideration in Amendment Bill is doing away with the
18 difference of venue and seat. Now, the amendment proposes "place" and the conundrum
19 hopefully would settle down. But you see, time and again from **BALCO**, the Constitution
20 Bench thereafter, time and again they are all variations. So, every time when it comes, every
21 provision is tested and definitely it gives rise to an interpretation which is what we can say,
22 which builds up a robust legal system.

23 **VIKRAM NANKANI:** That's right. And the way the new bill is proposed, the '24-25 bill, I
24 think now they want to replace even the word "place" by the word "seat" so that there is less of
25 ambiguity. So, there is no doubt that we have a very strong legal framework. There is also no
26 doubt that our judicial system, the justice dispensation system is very, very strong, but yet
27 there is something lacking because our neighbours and... maybe not neighbours, but maybe
28 other competing countries in the South-East Asia or Asia, really have a march over Mumbai,
29 and is a struggle that we see that there is something lacking to ensure that we attract the best
30 of arbitration cases in India or in Mumbai. And that is where, from a judge's perspective, when
31 you see awards, the quality of the awards and you test the awards, and also you see the time
32 taken for the passing of the awards, what are the reflections that you could share with us?

33 **JUSTICE B.H. DANGRE:** See, when you talk of arbitration, the most... when we look at...
34 because it is an Alternative mode of Dispute Resolution, definitely, it is not going to be... it is
35 not expected that it should run as long as a normal suit would run. The procedure prescribed

in the Act, one of the salient feature of the enactment is the minimum judicial interference. Now the amendment also focuses upon that, but when we say "minimum judicial interference", you find that why is it taking so much of time. Now of course, the new amendment, one most positive or optimistic approach of the new amendment is the timelines that have been framed. But Section 11 typically, despite the Supreme Court saying that Section 11 must be decided at the earliest, I remember when I was sitting, when I was given the arbitration assignment, I could see applications pending for two years, three years. You can just imagine for appointment of an Arbitrator if there is so much of a dispute or so much being a contest, then when the stage moves earlier, you find the disclosure made, it is again subjected to challenge. Of course, time and again, if you look at the strict enactment you will find that there the whole object is minimum judicial intervention. Section 9, challenge to it. Section 16 challenge to any order refusing though the Arbitral Tribunal is entitled to rule on its own jurisdiction, that is subjected to challenge. Minimum scope of Section 34 and 37. But somewhere the matters get stuck in the whole procedure. And that's why I feel one of the reason probably why we have not been successful in attracting more and more international arbitrations is because the delay is plaguing the system.

VIKRAM NANKANI: From what you say, I think immediately in my mind three or four questions arise, and I'm not sure what is the sequence in which I should pose those questions. But you raised some very interesting points. So, let me first talk about the delays at the arbitration level, at the level of the Arbitral Tribunal. You said somewhere that, you know, it's as if you're conducting a trial, and that is something that you find very often in the awards that are passed. What I hear from various Arbitrators, including some of the retired judges who are now conducting arbitration, is that, sometimes they are in a dilemma that if we do not follow the due process of law and their definition of due process of law is really wide. So, they bring in all the baggage of a civil court and they say, if we don't allow evidence to be recorded, if we don't allow unlimited time for cross-examination, you think this is a mindset issue or is it some fear that their award will be set aside?

JUSTICE B.H. DANGRE: See, one thing when we compare the international arbitration specifically conducted at Singapore, and we have some... we attended some conferences and we have the views as to what is happening there. Now, there probably it's not like that that the longish procedure we followed. It's not that the procedure should not... procedure is only the handmaiden of justice. Ultimately, an Arbitrator has to be so thoroughly prepared, I mean, when on the first day of meeting if you see all those Procedural Orders, I mean, we come across so many awards. When we come across Procedural Orders and specifically when we when the

2 applications for Extensions of Time come before us, then we see so many dates are just wasted.
3 I mean, I'm not critical. I'm not critical about anything. But what I feel that when you initiate
4 the arbitration, the Arbitrator must have a clear framework of what are the points for
5 contention, what are the contentious issues, what is the evidence that the Parties are going to
6 lay down. I mean, the framework should be decided on Day-1. and this is where I find probably
7 now you must have been participating in various international arbitrations. The experience
8 says that they are very structured. So, what happens? You find that in India it's like this all
9 right, not today another Party moves a frivolous application, you grant.

10 Another thing which is most significant and which is of great importance is the, I mean, the
11 examination, cross-examination of Witnesses. I have seen such voluminous questions and
12 volume... apart from volume of the questions, it's like a trial. And I mean, you have to unless
13 and until you know what is this Witness cited for and with the Parties are able to understand
14 and let it... the Arbitrator knows on what point is this then you start from he's a citizen of India,
15 he's not a citizen of India. That all from that basic things. So, I think when if the Parties the
16 lawyers also restrict and the Arbitrator is able to control the proceedings about cross-
17 examination, about vociferous pleadings, then only we can reduce it because then there will
18 be no distinction between our civil suit where the first paragraph is the "Plaintiff is the citizen
19 of country" and the denial WSS it is denied that the plaintiff is the citizen of country. So this is
20 not expected the Arbitrator must be in complete control of the proceedings in my view,
21 correct? Then only this can be reduced.

22 **VIKRAM NANKANI:** Yeah, in a lighter vein, I must tell you on this cross-examination, I had
23 a very amusing experience in one of the cases where I told the Tribunal there should be a chess
24 clock system and you should restrict the time for cross-examination for each of the Witnesses.
25 And the other side, not being so familiar in a pure domestic arbitration, really went helter-
26 skelter and berserk to say what is all this and why should we introduce games... rules of a
27 different game, namely chess into arbitration. So, sometimes it happens. But anyway, coming
28 back to the point that you also made about appointment and Section 11 petitions or
29 applications pending for a very long time. Would you think that relegating that responsibility
30 to institution is a perfect solution, or would you still like the course to retain that jurisdiction?

31 **JUSTICE B.H. DANGRE:** I feel some or the other time we'll also have to realize that we
32 need to delegate. When it said that Chief Justice and the powers of the Chief Justice... In
33 institutional when you have some prestigious institutions, then what's the difficulty because
34 they know what are the type of Arbitrators they are, the panel which they are maintaining, they
35 know the nature of the dispute and who would be the best suited Arbitrator. So, I think we

2 should not be very touchy that it should be only at the hands of the court. Now like in
3 institutional arbitration you find that it's sometimes you have, rather in many times these they
4 possess an expertise to choose the appropriate Arbitrator. I think that will help a lot. I mean,
5 why should we all feel that it is only our prerogative, of course, the Act unless and until we
6 bring something because it is a prerogative of the Chief Justice and his companion judges. Of
7 course we have a lot of jurisprudence developed that on that also. We took such a long period
8 of time to settle whether a...

9 **VIKRAM NANKANI:** *Konkan Railway* and all of those, yes.

10 **JUSTICE B.H. DANGRE:** You have to give a lot, when you look back you realize.

11 **VIKRAM NANKANI:** Correct. So, Madhukeshwar and Neeti take some solace from what
12 Justice Her Ladyship Justice Dangre says, but unfortunately, you can't have a back in a Section
13 11 court because now she's senior and she will be only heading a division bench. So you can't
14 unfortunately you can't hold her on to the words that she said, but remember this. So, I know
15 I could then, you know, probably go into a slightly sensitive issue, but I'm sure there is an
16 answer to that. You know, Parliament has designed Section 29A to keep a check on ensuring
17 that arbitral awards are delivered within time. We find that the courts have really not enforced
18 that section with any kind of vigour. Seldom have I seen any court really coming down on an
19 Arbitral Tribunal and imposing sanctions, although 29A does provide for that. What could be
20 the reason for not doing so?

21 **JUSTICE B.H. DANGRE:** No, the reason is very simple. I remember one matter very
22 particularly. I don't want to name the judge, a retired Chief Justice. From 2016, the matter was
23 going on. One extension, two extension, three extension, you know. I was I could see a lot I
24 mean, a lot of arguments made that this is height of it and I could realize. But then what
25 crossed my mind was a simple thing I mean, if I turn it down today and appoint a new
26 Arbitrator, what happens to all that efforts, all that resources which have gone for all these
27 years?

28 **VIKRAM NANKANI:** Fair point.

29 **JUSTICE B.H. DANGRE:** I mean starting that that's only whenever we deal with
30 applications under 29A what crosses our mind is all that has been done should it go a waste?
31 Or granting another three months, four months if it really helps the cause then why not?

32 **VIKRAM NANKANI:** Very well. I think that's a fair point because a medicine can't be worse
33 than the disease. So, that that's the point I think.

2 **JUSTICE B.H. DANGRE:** Yes.

3 **VIKRAM NANKANI:** You also mentioned about the fact that there is a apart from the delay
4 in making the awards in its well known that the real problems or the real pain of the litigant
5 starts after the award because execution and enforcement is one area where again, we have
6 not paid much attention to. So, what do you think should be done within the system of course
7 to see that this kind of criticism is not levelled and arbitral... sorry, awards are enforced or
8 executed at the earliest possible?

9 **JUSTICE B.H. DANGRE:** Now, can I put a counter question to you as a Counsel?

10 **VIKRAM NANKANI:** Sure, sure. As you said, but that you so...

11 **JUSTICE B.H. DANGRE:** Sometimes the judge in me refuses to die. So, see what happens
12 you must have realized when it comes for enforcement before the court. What sort of
13 objections? I mean, of course all legal, but we have to go through the layer of the objections
14 and you know then how time consuming it becomes.

15 **VIKRAM NANKANI:** If I may confess I may have to plead guilty to that.

16 **JUSTICE B.H. DANGRE:** So, that's the reason, why enforcement has become because... at
17 that moment also and the scope is there it's not that it's all the section is formulated in the
18 negative terminology. So in that case you are it's all open for you to cut slice it go by slice by
19 slice.

20 **VIKRAM NANKANI:** I mean to be fair...

21 **JUSTICE B.H. DANGRE:** Particularly in international arbitrations.

22 **VIKRAM NANKANI:** Right. I mean to be fair the law has evolved pretty good distance, like
23 in *Lmj International* Supreme Court said you don't have to have a separate application for
24 execution, it can be a composite one under section 48A. Similarly in I think *Sundaram*
25 *Finance* they have said...

26 **JUSTICE B.H. DANGRE:** Every time even arguments that have advanced on the
27 enforceability also...

28 **VIKRAM NANKANI:** Right. So...

29 **JUSTICE B.H. DANGRE:** Then you go to the root of that all that has gone into a foreign
30 award...

2 **VIKRAM NANKANI:** True.

3 **JUSTICE B.H. DANGRE:** ...you dissect that to make it enforceable and then comes the
4 execution.

5 **VIKRAM NANKANI:** I think the recent judgment in *Nagarathna* Supreme Court has said,
6 Justice Sanjay Kumar has said that you can't have... There is an issue estoppel with all of these
7 arguments that you want to reagitated. And so, there is sufficient law to back up I think it's
8 somewhere is just the docket explosion of the system, which probably is the... but we have
9 designated courts for execution. And I think at least in Mumbai and Delhi there are roster
10 assignments specially for these kind of... Now, having said all of this, what is that one big
11 change that you want to see for providing the real impetus to arbitration in India?

12 **JUSTICE B.H. DANGRE:** The procedure is, I must say 1996 Act, and thereafter 2015, '19
13 Amendment and even the present amendment which we are what I'm most happy about the
14 new proposed amendment. The proposed amendment is the timelines. The timelines which
15 are very prescribed for everything right from Section 11 the timelines are prescribed. One
16 disturbing provision is that 29A can be exercised by the institutions also. We don't know what
17 is going to be the impact. I mean, whether it's going to be strictly enforced or it will be casual.
18 But the mindset what we have that when the arbitration proceedings should be conducted in
19 a manner as if you are conducting a civil suit. I think in the mind of the lawyers, in the mind
20 of the Arbitrators also.

21 Another thing what I feel is that arbitration, those who are involved in arbitration, it's a... It's
22 not something which is part time. I mean, I'm not critical about it, but I don't approve of...
23 because I was blamed by someone when I was of course, sitting as a single judge taking...
24 working in the court till 07:00, 07:30. So, every time the senior Counsel says no, no, we have
25 then slowly I came to know why is this hesitancy to be in the court after. Then I was told that
26 we have arbitrations to attend. So, I feel that arbitration is a full time, a wholesome business;
27 it's not something that I will do it on Saturday, Sunday. And I understand the irritation faced
28 by the Arbitrators. One of the Arbitrator, a former Chief Justice and a good colleague of mine,
29 he told me "*Main kab arbitration karoon, tum 7:00 baje tak toh court mein bitha deti ho, toh*
30 *log bolte hain, abhi koi Counsel bolte hain Dangre mandam ke court mein the.*" So, I feel there
31 should be a completely different Bar. I mean, that's something it's not a part time thing that
32 evening, only Saturday Sundays, it can't happen, that mindset has to change in my view.

33 **VIKRAM NANKANI:** You're right. It has to be a collaborative effort both from the Bar and
34 the Bench. We cannot just point at the fact that there are delays in courts and delays in the

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2 arbitral Tribunal. The Bar is equally responsible and I think the Bar should also be proactive
 3 in ensuring that arbitration does reach its pinnacle in India. I think with that we have come to
 4 the end of this session. Thank you. Thank you so much for sparing your time and sharing your
 5 candid thoughts with us. I'm sure that we all have a message to take home. And each one of us
 6 carries the onus of seeing that India achieves its aspiration of being one of the compelling
 7 arbitration centres. Thank you very much. Thank you Justice Dangre.

8 **JUSTICE B.H. DANGRE:** Thank you very much.

9 **ALISHA SHARMA:** Thank you, Justice and Mr. Nankani, for such an illuminating and
 10 reflective exchange. It was indeed a very intellectually stimulating session. I would now
 11 request you both to kindly join the audience as we now have a very special address for the day.
 12 Ladies and gentlemen, we now come to a very special address of the day as I mentioned earlier,
 13 we are delighted to share that Honourable Chief Minister Shri Devendra Fadnavis was very
 14 keen on joining us today as MCIA commemorates ten years since its inception. However,
 15 owing to Prime Minister's presence in town, he is unable to be with us in person today.
 16 Nevertheless, he has been gracious enough to share a very special video message with us. May
 17 I now request everyone's attention to the screen for his special address?

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