




# REMOVAL OF AN ARBITATOR



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**Q.5: Power of court to appointment of arbitrator and discuss the procedure of removal of an Arbitrator?**

**(2009)(2010)(2012)(2013)**

1. Concept of arbitration:

The Arbitration Act 1940 deals with the dispute between the parties, who entered into an agreement of arbitration, should be decided by one or more person who are called to be judges in the said dispute and not by a regular or ordinary court of law.

The decision of the said arbitrator is binding upon the parties whether they agree to the decision either upon law or fact, If the award is good on the face of it.

2. Relevant section:

**Section 11 of Arbitration Act 1940**

3. Arbitration agreement:

**Section 2 (a)**

Arbitration agreement means a written agreement to submit present or future difference to arbitration, whether an arbitrator is named therein or not;

4. Removal----connotation of:

5. Removal of an arbitration:

6. Modes of removal of an arbitrator:

- i. On application by the parties
- ii. Suo moto by court

7. Grounds for removal of an arbitrator:

Following are the grounds of removal of an arbitrator appointed by the parties.

- i. Failure to use reasonable dispatch**
- ii. Proceeding with the reference**
- iii. Delay in making award**
- iv. Arbitrator misconduct**

**v. Proceeding are misconduct**

8. Failure to use reasonable dispatch:

**I. What is a reasonable dispatch**

**II. Note:**

9. Proceeding with reference:

10. Delay in making award:

**i. Time for making an award:**

**First schedule clause 3**

The arbitrators shall make their award within four months after entering on the reference

The umpire shall make his award within two months.

11. Arbitrator misconduct:

**i. What is misconduct:**

12. Proceedings are misconduct:

13. Remuneration:

Where the parties have chosen their own arbitrator, they must be taken to have intended to pay him a fair remuneration.

**[AIR 1934 Nag 199],[Russell on Arbitration p.146]**

14. No remuneration:

**Clause 3 of section 11**

15. Discretionary power of court:

16. Appeal against order of removal:

An order removing an arbitrator passed under section 11 of Arbitration Act is unappealable.

**[PLD 1970 Dacca 69]**

17. Revision

A revision under section 115 of the code of civil procedure  
1908 would be competent in this case.

**[Providence of East Pakistan vs Abdul Rasheed supra]**

18. Conclusion: