

"Reforming public procurement in India"

GS - 2
Mint

Context The Supreme Court's ruling in *Central Organisation for Railway Electrification (CORE) vs ECI SPIC SMO MCML (JV)* & the finance ministry's new guidelines on public procurement dispute resolution are pivotal in India's arbitration framework.

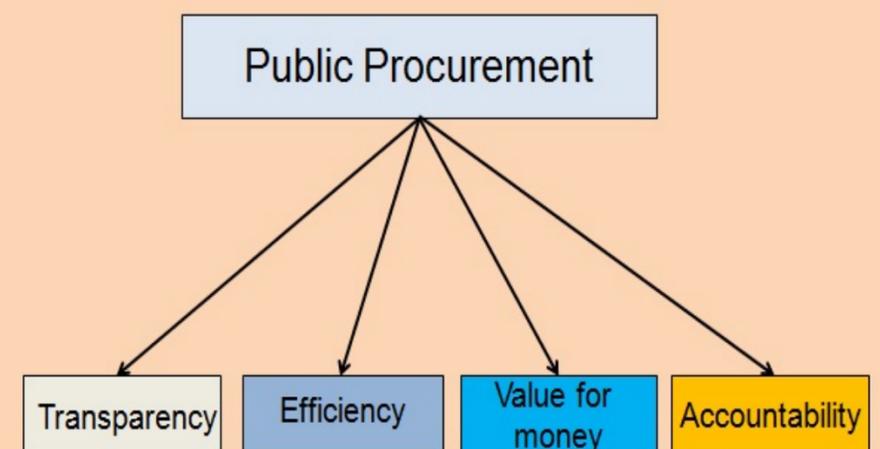


Public procurement

It refers to the process by which governments and state owned enterprises purchase goods and services from the private sector.

Public procurement in India is worth 15-20% of the country's GDP.

Four pillars of Public Procurement



Source : ilearn

Types of Public Procurement Disputes

Contract-Related Disputes

- Arbitrator appointment.
- Unilateral contract modifications.
- Breach of contract.

Financial Disputes

- Project cost overruns.
- Compensation claims.
- Billing disagreements.
- Payment delays.

Project Implementation Disputes

- Timeline violations.
- Performance conflicts.
- Scope of work interpretation.

Procedural Disputes

- Tendering challenges
- Selection controversies.
- Transparency & fairness concerns.

Lack of impartiality in dispute resolution mechanisms.

Challenges in dispute resolution

Unilateral arbitrator appointments.

Prolonged litigation processes.

Limited incentives for negotiated settlements.

Fear of official scrutiny during dispute resolution.

Supreme Court Judgment (CORE vs ECI SPIC SMO MCML)

Emphasized principle of equality between parties.

Aimed at reducing perceived bias in arbitration panels.

Struck down unilateral arbitrator appointment clauses in public contracts.

Finance Ministry Guidelines

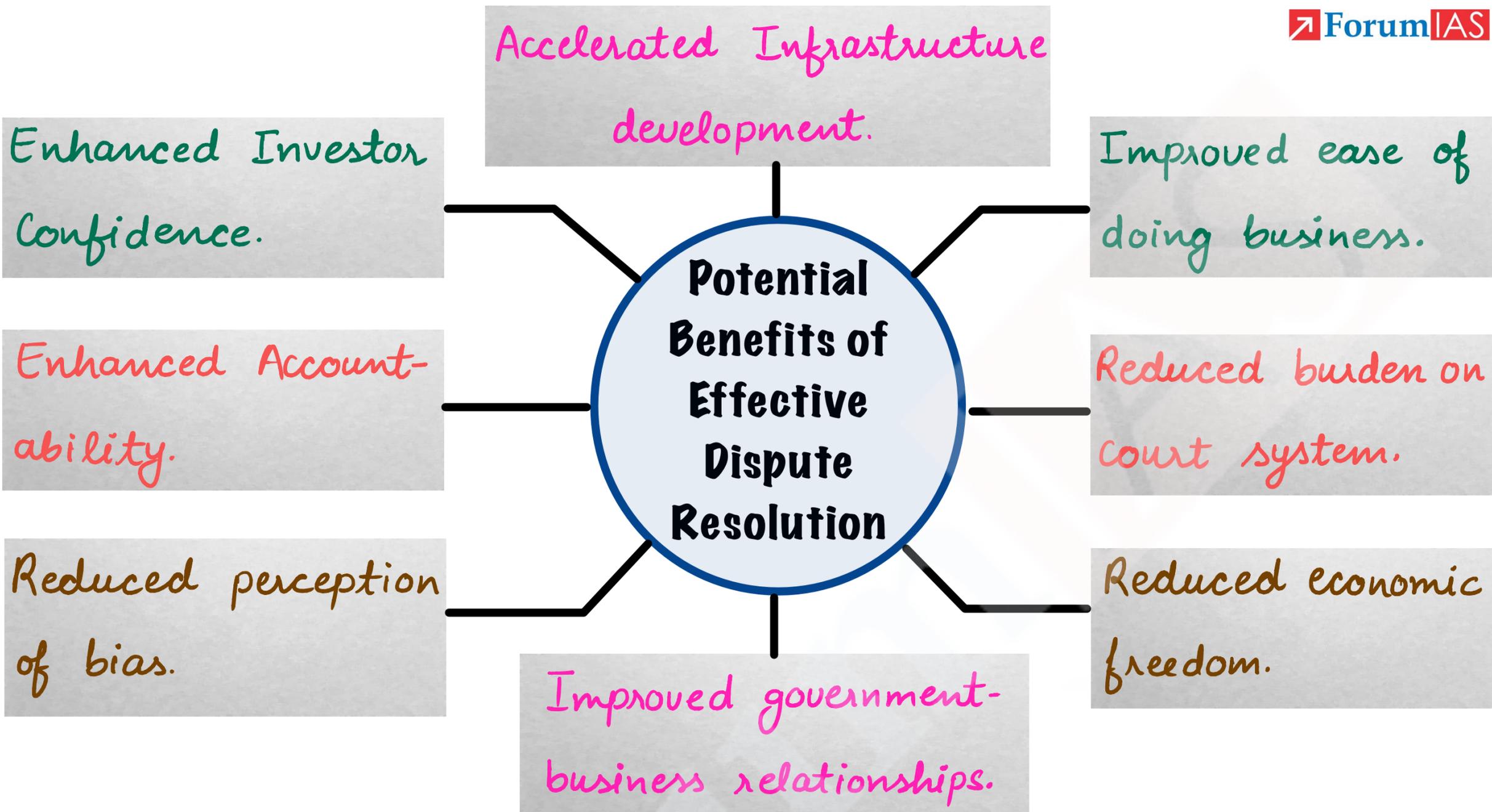
➔ In June 2024, the ministry introduced a hybrid dispute resolution framework, prioritizing institutional arbitration for smaller disputes and mediation for larger ones, followed by court litigation if necessary.

➔ The Mediation Act, 2023 provides a structured framework for mediation.

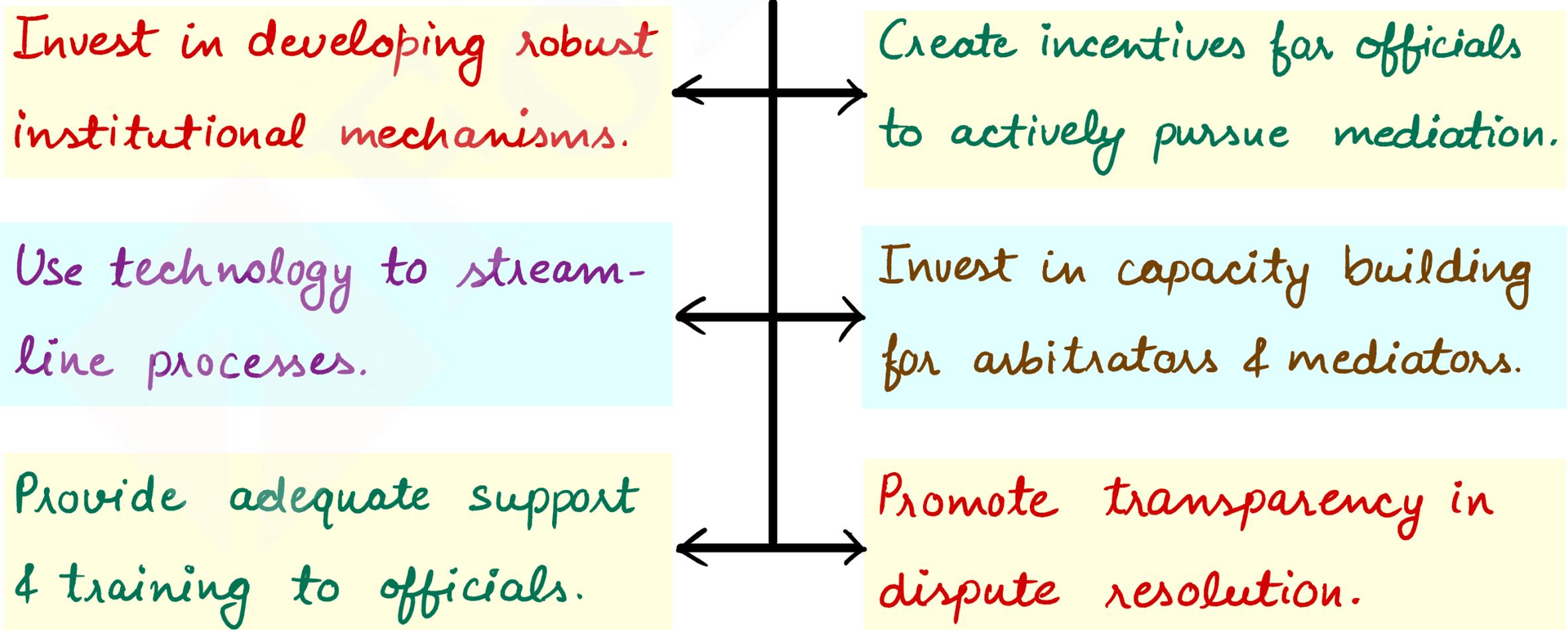
VIVAD SE VISHWAS II (CONTRACTUAL DISPUTES) Source : PIB

- > This scheme was launched for settling pending public procurement related contractual disputes of Central Government.
- > This Scheme was launched on 29th May, 2023. Last date for submission of claims was 31.10.2023.
- > More than 900 claims worth Rs. 20,000 crore received. Claims worth Rs. 1,652 crore have already been settled and remainder is under examination by the respective Ministries/ Departments/ Organisation.

➔ For high-value disputes, the government may form an High Level Committee (HLC) to oversee mediation process.



Way forward & Recommendations



Government e-Marketplace (GeM) facilitates online procurement of common use Good & Services required by PSUs, Government Organisations and departments.

Practice Questions

Q: Which of the following statements about the Supreme Court's judgment in the CORE vs JV case is/are correct?

1. The judgment struck down clauses in public contracts allowing unilateral appointment of arbitrators.
2. It upheld the principle of minimal judicial interference in arbitration.
3. The judgment aims to ensure equality between parties in the arbitration process.

Select the correct answer using the codes given below: C

- (a) 1 only
- (b) 1 and 3 only
- (c) 2 and 3 only
- (d) 1, 2, and 3

Ans : (b)

Q: Consider the following statements regarding the Finance Ministry's 2024 guidelines for public procurement dispute resolution:

1. Institutional arbitration is limited to disputes below ₹10 crore.
2. High-value disputes are resolved only through mediation.
3. The guidelines aim to reduce reliance on court litigation in large-scale disputes.

Which of the statements is/are correct?

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2 and 3 only
- (d) 1, 2, and 3

Ans : (b)