

## LOK ADALAT IN INDIA : AN EFFECTIVE TOOL OF ALTERNATIVE DISPUTE RESOLUTION

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### **Abstract:**

Modern litigation model setting the disputes has been proved to be ineffective and traditional model has taken prominent place in the area of disputes settlement. Dis-satisfied with the disadvantages of court system, people are now resorted to Alternative Dispute Resolution (ADR) mechanism to get their problems solved. ADR includes arbitration, conciliation, mediation, negotiation and lok adalats. In, India, lok adalat has been proved to be a boon as alternative justice delivery system because of numerous problems inherent in litigation model. There problems include, backlog of cases, court packing, frequent transfer of judges, less number of courts, more number of litigations and expensive and intricate procedures of legal system to get justice through courts.

### **Introduction:**

Legal disputes are of different types ranging from intra-familial matters to international issues. In day-to-day world, various types of disputes like dispute on family, industrial, corporate and commercial subjects, non-profit enterprises, consumer's rights, international relations owing to business and non business matter are recognized and that require fair solution. Now-a-days present method of settlement of disputes has been proved to be ineffective and are not able to meet the demands of fast growing need of solution, therefore, Alternative Dispute Resolution (ADR) mechanism has been adopted by almost all the countries of the world through negotiation, conciliation, mediation, arbitration and lok adalats.

Alternative Dispute Resolution (ADR) is viewed as a set of process that serve as alternatives to dispute settlement through courts. The broad features of ADR are: it is voluntary informal, faster, cheaper, confidential and promoting substantial method of settling method of disputes in comparison to the litigation model. It is carried with the help of neutral third parties and supplements, the litigation-model resolution. It is generally based on interpretive approach.

Lok adalat is basically known as people's court or festival of justice because of informal method of dispute settlement. It is defined as a forum where voluntary effort aimed at bringing about settlement of disputes between the parties is made through conciliatory and pervasive efforts. It has the social goal of putting quarrels to an end, restoring family peace and providing succor to destitute.

Justice in even scale for all is a cardinal principles on which administration of Justice System is based entirely. It is rooted deeply in the body and spirit of common Law as well as civil law Jurisprudence. Justice in its true sense must be fair, impartial and equal. It is imbedded I Indian ethos of Justice-dharma-equality.

Effective justice and access to justice have thus come to be recognized as the most basic requirement, the most basic human right, in modern egalitarian legal system.

### **Legal Aid As a Human Right :**

Legal Aid as a human right is implicit in Articles 7, 8 and 10 of the Universal Declaration of Human Rights (UDHR) and more particular, it flows clearly and inevitably from clause 3(d) of Article of the International Covenant on Civil and Political rights (ICCPR). The state is to secure that operation of legal system promotes justice, on a basis of equal opportunity, and in particular provides free legal aid by suitable legislation or schemes.

The present adjudicatory system in India is the legacy of Anglo-saxon jurisprudence. The inherent shortcomings in this system are its formalities and technicalities. It is time consuming

and costly also. It is a fact that a large number of cases are pending in various courts at different levels. In many a case the state is either plaintiff or defendant. Long pendency of the cases frustrates the litigant public and a question on is also raised in the efficacy of justice administration system and consequently extra-judicial methods are resorted to have the dispute settled outside the courts or outside the process of law. Therefore, every one involved in the dispensation of justice needs to give deep attention for expeditious disposal of cases at the minimal cost.

The restructuring of the Judicial system forms part of an effective legal services programme as it tends to include every form of legal assistance which brings justice nearer to people, particularly rural people. The poor and disadvantaged are cut off from the legal system due to its expensiveness and dilatoriness. The Lok Adalats are an innovative form of voluntary efforts for amicable settlement of disputes between the parties. These are not similar to regularly constituted courts and are to supplement and not to supplant the present adjudicatory machinery. It provides speedy and cheap justice at the very door-step of the people and has become more popular both in rural and urban areas of our country. Cases in nature of civil, revenue, criminal disputes which are compoundable, motor accident claims, lands, land pattas, forest lands, bonded labour, land acquisition, matrimonial, family disputes and bank loan are settled through Lok Adalats.

#### **Guidelines for organizing Lok Adalats:**

Lok Adalats are organized primarily by the state Legal Aid and Advice Boards with the help of District Legal Aid and Advice Committees. However, some of the Lok Adalats are sponsored by voluntary legal-aid agencies, law colleges, law universities and Bar associations. Lok Adalats are run and manned by the experienced and talented persons who are drawn from retired judges, public-spirited lawyers and persons and law teacher selected on the basis of their reputation in the community, professional integrity and aptitude for social work. The Legal-Aid Boards draw up ponds for each district in consultation with each high court and

district court judges as well as Bar association. The required number of judges for the Lok-Adalats organized in the district are invited from amongst those included in the panel. Beside, the key personnel for Lok-Adalats, Para legal- social activities, the local administration officials and members of the bar and the bench are to render social and legal service free of cost and without taking any remuneration.

The procedure in the Lok Adalats is informal, flexible and noncontroversial. It is to ensure minimum standards of fairness and justice. It is run on the sprit of 'live' and 'let live', 'give' and 'take'. There is neither a loser nor a conqueror in the cases settled through Lok Adalats.

#### **Position of Lok Adalats Under the Legal Services Authorities Act, 1987 :**

Legal Services Authorities Act, 1987 came in to force with effect from 9<sup>th</sup> November, 1995. The said Act provides the statutory base to the Lok Adalats. It shall now have :-

- (a) Power of a civil court under the Code of Civil procedure, 1908.
- (b) All proceedings before a Lok-Adalats should be deemed to be judicial proceedings within the meaning of section 193, 219 and 228 of the India penal code.
- (c) Every Lok Adalat shall be deemed to be a Civil Court for the purpose of section 195 and chapter XXVI of the code of Criminal procedure, 1973.
- (d) The members of the Lok Adalats, in terms of the provisions of Section 23 of the Act, shall be deemed to be public servants within the meaning of section 21 of the Indian penal code.
- (e) Every award made by a Lok Adalat shall be final binding and non appealable.

Lok Adalats under the Act shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of :-

- (1) Any case pending before, or
- (2) Any Matter which is falling within jurisdiction of and is not brought before. Any court for which Lok Adalat is organized.

The Lok Adalats shall, however have no jurisdiction in respect of any case or matter relating to an offence which is not compoundable under any law. So both types of cases that in pre-litigative and post litigative and now brought before Lok Adalats for determination. The Lok Adalats are court-oriented programme as supplement ADR to the regular trial procedure.

(1) In order to lesser the burden of the courts and provide pre-litigation conciliation and settlement machinery, chapter-VI-A, added by the legal Services Authorities (Amendment) Act, 2002 provides for the establishment of permanent Adalat in respect of Public Utility services, Under this chapter of VI-A, Sections 22-A to 22-E have been inserted which describe the composition, organization procedure and award of permanent Lok-Adalat. Public Utility Services include the following :-

- (i) Transport Service, or
- (ii) Postal, Telegraph or telephones service, or
- (iii) Supply of power, light or water to the public by any establishment or,
- (iv) System of public conservancy or sanitation, or
- (v) Service in hospital or dispensary, or
- (vi) Insurance or
- (vii) Any service which might be included in public interest by Central or State Government's notification in public utility service.

Thus insofar as the dispute arising out of or form public utility services is concerned, permanent Lok Adalat scan pass an award even without a compromise having been arrived at between the parties. (case ref-life Insurance Corpn. Of India V. State of Rajasthan) in permanent Lok Adalats.

**(1) Establishment and composition :**

As per sec-22-B, the Central authority or State Authority may by notification establish permanent Lok Adalat in respect of oner or more Public Utility Service it shall consist of –

- (a) A chairman, who is or has been, a district judge or Additional District Judge or, has hold Judicial office higher in the rank that of a District judge, and
- (b) Two other persons having adequate experience in public utility service, nominated by centre or, State government on the recommendation of the central a state authority.

**(2) Cognizance of cases :**

Any party may an application to the permanent Lok Adalat for the settlement of dispute before the dispute is referred to any court. However, the permanent Lok Adalat shall not have jurisdiction in respect of offence not composable or where the value of property in dispute exceeds ten lakhs. No party to that application shall invoke jurisdiction of any court in the same dispute when an application has already been made to permanent Lok Adalat. The provision relating to cognizance are laid in Section 22-c.

**(3) Procedure :**

As per Sec-22-D, it is laid down that in conducting conciliation proceeding or deciding a dispute under the Act of 1987, the permanent Lok Adalat shall be guided by the principles of nature justice, objectivity, fair play, equity and principles of Justice. It has been clearly laid down that it shall not be bound by the Code of Civil Procedure, 1908 and Indian Evidence Act, 1872. Where an application is made before permanent Lok Adalat under Section 22-C(1), the procedure in followed:

- (i) The permanent Lok Adalat directs each party to file a written statement starting therein facts and nature of dispute, prints of issues in the dispute and the ground relied in support or in opposition to such points or issues.
- (ii) The statement made may be supplemented with any document and other evidence which seems appropriate.
- (iii) The permanent Lok Adalat may require any party to file additional statement of any stage of conciliation proceeding.

- (iv) Documents or statements received are communicated to the opposite party to prepare reply.
- (v) When statements, additional statements and reply, are filed to the satisfaction of permanent Lok Adalat, Conciliation proceedings are conducted taking into consideration facts and circumstances of the case. During the conciliation proceedings it shall assist the parties in reaching an amicable settlement in an independent impartial manner with the co-operation of parties.
- (vi) If there are chances of settlement, permanent Lok-Adalat may formulate the terms of a possible settlement and give to the parties for their observations.
- (vii) If an agreement is reached on the settlement of the dispute, the parties shall sign the settlement agreement.
- (viii) Permanent Lok Adalat passes an award in terms of the settlement and furnish the copies to each of the parties concerned.
- (ix) If the parties do not reach to an agreement the permanent Lok Adalat decides the dispute.

The above procedure is incorporated in sec-22-c(3) to 8.

#### **(4) Award :**

The Award of permanent Lok Adalat under Section 22-E is:

- (i) Final and binding
- (ii) Deemed to be decree of civil court
- (iii) By a majority of persons constituting permanent Lok Adalat
- (iv) Not to be called in question in any original suite application or execution proceeding.
- (v) To be executed as if it were a degree made by a civil court if the award is transmitted to a civil court having local jurisdiction for execution.

The answer to a question, can a Lok Adalat pass on ex parte award was given in a case oriental insurance Co. Ltd. V. Calcutta High Court Legal Services committee [AIR 2007

(NOC) 1177 (Cal)], the courts deliberated on the powers of the Lok Adalats especially power to pass an ex parte award.

In the present case in spite of notice given, the party chose not to participate in the Lok Adalat proceedings. Irrespective of the fact that the matter was referred to the Lok Adalat only for computation of amount to be paid by insurance company, the High Court held that the Lok Adalat in the absence of compromise or settlement between parties is not competent to pass an ex parte award. On the contrary, it is under a statutory obligation to return the case record to the court.

### **Conclusion :-**

Needless to say that in the existing scenario of justice-administration in the country, the alternative dispute resolution system to which Lok Adalat movement is one of the components, has gained great importance. The Lok Adalat system has now-days become a regular feature and has become a living, fruitful and continuous movement. Day by day, large number of even private litigants are getting their cases disposed of in Lok Adalats. These days, public has become more conscious about their rights and are resorting to ADR for expeditions and inexpensive disposal of their disputes. It is thus clear that Lok -Adalat movement has become viable, efficacious and expeditions ADR system in India.

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**Key words** : Alternative Dispute Resultion, Lok Adalat, Human Right, Adjudicatory system, Informal, Legal-Aid.

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