

LOK ADALATS

Roop Chaudhary

Army Institute of Law, Mohali

"It is of fundamental importance that, justice should not only be done, but should manifestly and undoubtedly be seen to be done" / Lord Hewert CJ

The institution of Lok Adalat in India, as the very name suggests, means, People's Court. "Lok" stands for "people" and the term "Adalat" means court.

Introduction

The age old concept of dispute settlement by mediation, arbitration or negotiations popularly known as the "Nyaya Panch" has now been conceptualised in the philosophy of 'Lok Adalat.' It involves people who have been directly or indirectly affected by the said dispute. The advent of British in India had pushed back the concept of Lok Adalat. However, in the recent times it has once again become very popular with the Litigants. History is proof that this is very efficient and suitable for the Indian culture and societal interests. The evolution of this particular movement was a strategy to relieve the burden of the Courts and provide for speedy justice trials. It started out as camps in Gujarat from 1982, and now it sprawls all over the country! The first Lok Adalat was held on 14th March, 1982 at Junagarh, Gujarat. As we read through the statistics, it gives us a tremendous feedback. Upto 2004, more than 2,00,000 Lok Adalats were held, settling about 16 million cases.

Jurisdiction

A Lok Adalat shall have the power to settle any case in respect of:

1. Any case pending, or
2. Any matter falling within the jurisdiction of, and not brought before any court for which Lok Adalat is set up.
3. Even criminal cases which are compoundable under relevant laws can be settled by a Lok Adalat.

The one limitation to it is that it shall not have jurisdiction to consider a dispute relating to an offence not compoundable under any law or any matter where the pecuniary value of the property in dispute exceeds Rs 10 lakhs. But the Central Government can, by an appropriate notification in the official gazette, increase this limit anytime.

In **Venkatesh v. Oriental Insurance Co. Ltd**¹, it was held that, Court owe a duty to examine all cases to find out whether they are fit cases for reference to Lok Adalat and there is a need for constant efforts on the part of the Bar and the Bench to make litigation to the extent possible, pleasant, comfortable short and cheap.

In **Thomas v. Thomas Job**², it was held that the award of Lok Adalat is the decision of the Court itself though arrived at by the simpler method of conciliation instead of the process of arguments in the Court. It is final, permanent and equivalent to the executable degree and the same is ending to the litigation among parties. The award of Lok Adalat is also passed with the consent of the parties and is deemed to be a degree of Civil Court. Therefore, no appeal shall lie from the award of Lok Adalat. In this context, section of 96(3) of the Code of Civil Procedure, 1908 is worthy to be noted. It provides that, 'no appeal shall lie from a decree passed by the court with the consent of the parties'. Similarly, section 21 (2) of the Legal Services Authorities Act, 1987 also prescribe, that every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.'

The Constitutional Aspect

The State Authority and District Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee and Taluk Legal Services Committee (mentioned in Section 19 of the Act) can organize Lok Adalats at such intervals and Permanent Lok Adalats as may be deemed fit.

Every Lok Adalat so organized shall consist of:

- (a) Serving or retired judicial officers,
- (b) Other persons, as may be specified.

The experience and qualification of "other persons" in a Lok Adalat conducted by Supreme Court Legal Services Committee shall be prescribed by the Central Government in consultation with the Chief Justice of India. At present, Rule 13 of the National Legal Services Authorities Rules, 1995 prescribes such experience and qualifications as:

1. Member of Legal Profession
2. A person of repute with keen interest in the implementation of Legal Services Schemes and Programmes.
3. Social worker engaged in the upliftment of the poor and needy.

Below, I have further enumerated the cases suitable for Lok Adalat –

1. Compoundable revenue, criminal and civil cases

¹ 2002 (2) KLJ 519.

² AIR 2005 SC 3575.

2. Partition claim
3. Damages
4. Matrimonial and family related disputes
5. Mutation of Land
6. Bonded labour
7. Land acquisition
8. Bank's unpaid loan
9. Land Pattas
10. Cases that are not sub-judice
11. Retirement benefit

The Lok Adalat may take under its purview cases when, as per section 20 of the Legal Services Authority Act –

1. Both the parties have agreed
2. One of the parties makes an application for settlement and if the Court is satisfied that there are chances of such settlement
3. The Court finds the matter to be appropriate for the Lok Adalat.

Need for Lok Adalats

As Justice Ramaswamy said, “*Resolving disputes through Lok Adalat not only minimizes litigation expenditure, it saves valuable time of the parties and their witnesses and also facilitates inexpensive and prompt remedy appropriately to the satisfaction of both the parties.*”

We are in dire of need of such setups for these major reasons –

1. The number of Judges and Courts are very inadequate.
2. There has been an increase in the number of cases due to the various Acts passed by the Central and State governments.
3. High incidental costs involved in Court cases.
4. Delayed disposal of cases.

In 2002, the Parliament introduced a few changes in the Legal Services Authorities Act, 1987. It was done by way of adding Chapter VI – A to the Act, carrying the title “*Pre Litigation Conciliation and Settlement*”. Section 22(b) provides for the establishment of Permanent Lok Adalat, hereby referred to as PLA. These were established at different

places keeping in view the cases in respect of Public Utility Services (PSU). PLA has to be established by the National Legal Services Authority or the State Legal Services Authority. It conducts conciliation proceedings between the affected parties to bring about an amicable settlement. It is incumbent on the members to help the parties reach a suitable solution. Also, the parties should have full faith in the PLA. The working includes; formation of a suitable settlement agreement and have the parties read it. If the parties assent to it, the dispute is settled and award given. In case, the parties disagree with the terms so formulated, the PLA shall have full powers to adjudicate and decide the dispute. It has the same powers that are vested with the Civil Courts under the Civil Procedure Code, 1908. Although, the PLA may specify its own procedure for the daily business of the Adalat and these proceedings shall be considered to be of a judicial nature.

Thus, this proves to be less expensive, efficient and friendly when it comes to resolving serious disputes. Another reason is that the PSU are driven by the corporate giants. In a developing economy like India, it is imperative to have a forum where ordinary men and women can vent their grievances.

Criticism

There has been many a times very strong criticism for the functioning and constitution of PLA. This far the main reasons have been –

1. Constitution of PLA
2. Power of PLA more than ordinary Lok Adalat
3. Absence of provision of appeal against the decision of PLA.

However, these have been rejected because they've no substance. The government does appoint the members of the PLA, but it is done only after due consideration and recommendations from the Legal Services Authority. Thus, it is ensured that the Government nominees don't get appointed. Secondly, it isn't true that no appeal can be constituted against the decision of the PLA. Usually, the award is based on the consent of the parties to the terms of the agreement. In cases where the PLA has announced its decision, there may be a chance of the aggrieved party to file an appeal. The decision of a PLA is just like that of a Civil Court and thus, it takes after the attributed of a Civil Court decree. It is true that no such provision has been laid down to make an appeal but, it has not been excluded entirely. The rules under Section 96(1) of the Civil Procedure Code, shall be relied on to prove that an appeal has not been excluded. The following section provides –

Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any court exercising original jurisdiction to the court authorized to hear appeals from the decisions of such court. " When the award of PLA is treated as a decree of civil court and as it is not otherwise

provided in the Legal Services Authorities Act that no appeal shall lie from such award, necessarily, that being deemed a civil court decree, an appeal shall lie from that decree³.

The Scope for Judicial Review

The main objective of a PLA is to settle disputes by way of arbitration, conciliation, negotiations and adopting humane approach to the given dispute. The masses of India have found the regular deliverance of justice inefficient and cumbersome. Given the condition of India, social and economic, a sensitized legal system is the need of the hour. The Lok Adalat is way past the experimentation stage. It has now become a huge success and should be replicated in abundant matters. Since, the PLA decided the dispute on consent or compromise basis, the litigation objective is fully achieved. This further dispenses the need to file an appeal and continue with the tiring process. However, if need be; an appeal can be filed. In **Punjab National Bank v. Lakshmidhand Rai**⁴ the High Court held that "The provisions of the Act shall prevail in the matter of filing an appeal and an appeal would not lie under the provisions of Section 96 C.P.C. Lok Adalat is conducted under an independent enactment and once the award is made by Lok Adalat the right of appeal shall be governed by the provisions of the Legal Services Authorities Act when it has been specifically barred under Provisions of Section 21(2), no appeal can be filed against the award under Section 96 C.P.C." The Court further stated that "It may incidentally be further seen that even the Code of Civil Procedure does not provide for an appeal under Section 96 against a consent decree. The Code of Civil Procedure also intends that once a consent decree is passed by Civil Court finality is attached to it. Such finality cannot be permitted to be destroyed, particularly under the Legal Services Authorities Act, as it would amount to defeat the very aim and object of the Act with which it has been enacted, hence, we hold that the appeal filed is not maintainable. In **Election Commission of India v. Union of India and Ors**⁵, the Apex Court while dealing with the powers of the Court under the Constitution to interfere with an order passed by the Election Commission, laid down: "There are no unreviewable discretions under the constitutional dispensation. The overall constitutional function to ensure that constitutional authorities function within the sphere of their respective constitutional authority is that of the Courts". The enunciation by the Apex Court making even an order by a constitutional authority reviewable should leave no doubt in any one's mind that a discretion exercised by a statutory authority would be well-within the review able discretion of this Court.

Advantages of Permanent Lok Adalats

1. Speedy trials ensured, because it can be conducted at various places, arrangements can be done very fast and proceedings can be carried out in local language.

³ http://www.legalserviceindia.com/articles/lok_a.htm.

⁴ AIR 2000 MP 301, 2000 (2) MPHT 25

⁵ 2000 (7) SCALE 368

2. Procedural Law and Evidence Law are not followed strictly when assessing the merits of the dispute. Thus, it has even earned the name “People’s Festivals of Justice.”
3. The people are free to either employ an advocate or just explain their stance to the members individually, which is not possible in a regular court.
4. This is the only institution that provides justice free of cost. There is no Court fee, if the case was earlier under a regular Court, the paid fees is refunded to the parties. It is a boom to the litigants, free and fast!
5. The award so made is final and binding. It is always enforced as a decree of a Civil Court. One important aspect would be, that the decision made here cannot be challenged even under Article 226, as it is by way of consent.
6. During proceedings, the Adalat acts as conciliator instead of an arbitrator. The main role is to persuade the parties to reach a solution and facilitates reconciliation. Not only the legal disputes are solved but, it also provides for retaining the cordial relations. Thus, it is a very healthy way of resolving disputes.

Conclusion

Lok Adalats, as I have again and again iterated through my work, hold an important place in the judicial system. They serve very crucial functions like pending cases, illiteracy, etc., as in our country illiteracy dominates each aspect of our governance. The most spoken about aspect is of clearing the backlog; which has been reported to be 3 crore pending cases. These institutions play an important role to advance and strengthen the heart of the Constitution of India – ‘access to justice.’ This contribution to the world ADR jurisprudence should be fully utilised and appreciated. Maximum number of such Adalats should be set up at almost all the places, as small as villages to achieve the Gandhian principle of **Gram Swaraj**.