

Lok Adalats: The New “Alternative” to Existing Indian Justice Dispensing System

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The mechanism of ADR (Alternative Dispute Resolution Mechanism) was evolved to solve the problem of overburdened courts. This paper will conduct a detailed analysis of the institution of Lok Adalat within the ADR mechanism. It will study the evolution and source of the concept of Lok Adalat. Further, it will delve into the procedures and practices of Lok Adalats in India and how it is different from the usual legal procedure. The paper will also discuss the advantages and challenges of Lok Adalats in present and near future. Through the above analyses the paper seeks to answer whether the Lok Adalats have attained significant institutional standing in the legal scenario in India and what needs to be improved to further reduce the problem of pending cases.

Introduction

Lok Adalat or ‘People’s Court’ in ordinary parlance is a forum where disputes pending in a court of law or at a pre-litigation stage are settled/compromised amicably. It is different from a ‘court’ because it does not strictly deal with adjudication of facts based on application of law. The award made by the Lok Adalats is deemed to be a decree of a civil court and is final and binding on all parties and no appeal against such award lies before any court of law. Lok Adalat, which is also referred to as one of the most essential components of the Alternate Dispute Resolution system operating in India¹, derives its essence from the Gandhian Principles.² It operates on indigenous lines whereby the Lok Adalat judge plays a suggestive and evaluative role while steering the parties

to the dispute towards a settlement. The major emphasis of the proceedings in the Lok Adalat is on conciliation rather than adjudication.³

Evolution of Lok Adalats

For ages, Panchayats were considered as the traditional forum for settling disputes. Nyaya Panchayats operated on indigenous lines for dispute settlement much before the advent of British justice system.⁴ After Indian independence, there was reorganization of Nyaya panchayats but this system failed to live up to the expectations of the general masses because of being formal and incomprehensible to the villagers.⁵ Now, the Constitution of India in its preamble aims at securing social, economic and political justice to the people of India⁶ and this goal provokes the search to find better, easier dispute resolution mechanism. In 1976, Article 39A was inserted in the Indian Constitution with the aim was to provide free legal aid services, promoting justice on the basis of equal opportunity through implementation of suitable legislations and schemes to ensure that opportunities for securing justice to any citizens is not being denied.⁷ Finally, in 1980, the government of India appointed a committee headed by Justice P.N. Bhagwati for Implementation of Legal Aid Schemes (CILAS).⁸ This committee was formed with the purpose of coordinating the implementation of legal aid programs, which inter alia recommended the establishment of Lok Adalats as a separate institution.⁹ The evolution of Lok Adalat is traceable to a noted social worker Harivallabh Parikh who ran a Lok Adalat in a tribal area Rangpur in Gujarat.¹⁰ These Lok Adalats were generally considered as a species of the legal aid programme which was meant specially to cater to the needs of the poor and weaker sections of the society. During early period, however, Lok Adalats were not considered as a viable substitute for courts.¹¹ Gradually, this institution came to be seen as a voluntary and conciliatory agency which succeeded in dispensing speedier justice.¹² This growing popularity accorded statutory recognition to the institution through the Legal Services Authorities Act, 1987 which transformed the objective of Article 39A of the Constitution of India into reality.¹³

¹ P. T. Thomas v. Thomas Job, AIR 2005 SC 3575; See also Chowbe, V.S. and Dhanokar, P.S., “Lok Adalat – A Strategic Forum for Speedy and Equitable Justice”, Also available at: <http://papers.ssrn.com> (Last assessed on: 5th May, 2018).

² Malik, M.A., “Concept of Alternative Dispute Resolution vis-a-vis Lok Adalat”, AIHC Journal 129 (Last assessed on: 5th May, 2018)

³ Bansal, A.K., “Arbitration and ADR”, 32 (Universal Law Publishing Co. Pvt. Ltd., Delhi, 2005).

⁴ Reddy K.J., “Alternative Dispute Resolution”, in P.C. Rao and William Sheffield (Eds.), Alternative Dispute Resolution 79 (Universal Law Publishing Company Pvt. Ltd., Delhi, 1997).

⁵ Galanter, M. & Krishnan, J.K., “Bread for the Poor: Access to Justice and Rights of the Needy in India”, 55 Hastings L.J. 789 (March, 2004).

⁶ The Preamble of Indian Constitution.

⁷ Inserted by the Constitution (Forty Second Amendment) Act, 1976, S. 8 (w.e.f. 03.01.1977).

⁸ See <http://nalsa.gov.in> (last assessed on: 5th May, 2018).

⁹ Bansal, A.K., “Arbitration and ADR”, 32 (Universal Law Publishing Co. Pvt. Ltd., Delhi, 2005).

¹⁰ Baxi, U., “From Takrar to Karar: The Lok Adalat at Rangpur (1976)”, Also available at: <http://upendrabaxi.net> (last assessed on: 5th May, 2018).

¹¹ Paranjape, N.V., “Public Interest Litigation, Legal Aid & Services, Lok Adalats and Para Legal Services”, 273 (Central Law Agency, Allahabad, 1st Edn. 2006).

¹² Bhatia, R.L., “Recent Developments in ADR: Permanent Lok Adalats”, The Chartered Accountant 757 (December 2004).

¹³ The Legal Services Authorities Act, 1987; See also Law Commission of India, 222nd Report on Need for Justice-dispensation through ADR, etc (2009).

Procedure & Practices of Lok Adalats

Section 19 of the Legal Services Authorities Act, 1987 stipulates that every legal services authority, be it at the District, High Court or Supreme Court level, should organize Lok Adalats at regular intervals and at such places for exercising such jurisdiction as it may think fit.¹⁴ The constitution of members in Lok Adalats comprise of retired or serving judicial officers and any other such members which is prescribed by the Legal Services Authorities Act, 1987.¹⁵ If there is any matter which is pending before any other court but if all the parties agree or if one of the parties makes an application before the court and the court is prima facie satisfied that there are possible chances of settlement, the pending case before the court may be referred to the Lok Adalat. Further, the Court can *suo moto* refer a matter to the Lok Adalat.¹⁶ The most important condition to be considered before referring the matter to the Lok Adalat is the existence of possibility of settlement. In *Commissioner, Karnataka State Public Instruction (Education) Bangalore v Nirupadi*, the court held that before referring the matter to Lok Adalats, the court is bound to give a reasonable opportunity of being heard to both the parties.¹⁷ Further, the Court can refer the matter to the Lok Adalats if an application is made by any one of the parties but the case will only be referred after hearing both the parties.¹⁸ The Lok Adalat can proceed to dispose the case on the basis of settlement arrived at between the parties. Reliance is not placed on evidence as there are no legal findings. The most important objective of the Lok Adalat is to promote a culture of conciliation whereby the dispute is settled through the participation of the parties and if the parties fail to come to a settlement, the case shall be returned back to the court for the disposal as per law.¹⁹ If an award is made, it is final and binding between the parties.²⁰ Further, there is no appeal which lies after an award is passed by the Lok Adalat, giving finality to the decisions of the Lok Adalat.²¹ The finality of this award is so unchallengeable that even the review of this award by the court which referred the case to this Lok Adalat is not permissible.²² The challenge to this award can only be done under Articles 226 and 227 of the Constitution of India on limited grounds.²³ The Lok Adalat is vested with requisite powers to specify its own procedure. Some powers of Lok Adalats are equivalent to that of civil court under the Code of Civil Procedure Code, 1908 (CPC). These powers include the discovery and

production of any documents, summoning and enforcing the witnesses' attendance, requisitioning of any public record, reception of evidence on affidavits etc. All the proceedings by Lok Adalat are deemed to be judicial proceedings.²⁴ Along with the mentioned procedures, the Lok Adalat is expected to follow the universal principles of natural justice, fair play, equity and other legal principles.²⁵ The institution has come a long way to provide relief to the overburdened state of judiciary in India. Since the award passed by the Lok Adalat is based on a conciliation between both the parties, it results in a win-win situation for both the parties. It is said that during the course of proceedings in Lok Adalats, there are no victors and vanquished and, thus, no rancor.²⁶ Lok Adalat has provided an important juristic technology and vital tool for easy and early settlement of disputes. It has been proved to be a successful and viable national imperative and incumbency, best suited for the larger and higher sections of the present society and Indian system. However, there is a growing need for improving the quality of legal aid which is being provided by the legal aid advocates. Considering that fact that millions of marginalized people in India face hardship in the legal battles because of reasons like costs, delays etc, an institute like Lok Adalat comes as a ray of hope. However, there is still scope of great improvement in this system for making a fullproof dispute settlement mechanism. There is an ardent need to revise the payment schedule for the legal aid panel advocates and also compress the panels so that panel advocates get more work and better remuneration from legal services authorities and thus get encouraged to render effective legal assistance to aided persons.²⁷ Further, since the Lok Adalat proceedings are held in an open court and any member of public may witness the proceedings, important questions of confidentiality of the proceedings are often raised. Individual sessions which is a time-consuming process would be antithetical to the idea of Lok Adalats. Thus, there is no statutory guarantee of confidentiality of Lok Adalat proceedings which is provided in the Act. Another loophole in the Lok Adalat proceeding is the aura of formal court proceedings. Even though Lok Adalat proceedings claim to be easy and informal, they usually end up not being so. To say that the proceedings in a Lok Adalat are completely informal and easy for the laymen would be a fallacy as atleast some amount of formality is still remains attached with the Lok Adalats. To conclude, Lok Adalat have successfully become

¹⁴ S. 19(1), Legal Services Authorities Act, 1987.

¹⁵ S. 19(2), Legal Services Authorities Act, 1987

¹⁶ S. 20(1), Legal Services Authorities Act, 1987. *Sau. Pushpa Suresh Bhutada v. Subhash Bansilal Maheshwari*, AIR 2002 Bombay 126.

¹⁷ *Commissioner, Karnataka State Public Instruction (Education), Bangalore v. Nirupadi Virbhadrapa Shiva Simpi*, AIR 2001 Karnataka 504.

¹⁸ S. 20(2), Legal Services Authorities Act, 1987.

¹⁹ *B.P. Moideen Sevamandir v. A.M. Kutty Hassan*, 2009 (2) S.C.C. 198.

²⁰ S. 21, Legal Services Authorities Act, 1987; *See also M. I. Ibrahim Kutty v. Indian Overseas Bank*, AIR 2005 Madras 335.

²¹ *P. T. Thomas v. Thomas Job*, AIR 2005 SC 3575; The provisions of the Act override the provisions of section 96 CPC

providing for appeal generally from a decree. *See also Punjab National Bank v. Lakshmi Chand Rai*, AIR 2000 Madhya Pradesh 301.

²² *New India Assurance Company Ltd. v. Ponnamma Thomas*, AIR 2008 Kerala 4 (DB).

²³ *See Parmod v. Jagbir Singh*, 2003 (2) R.C.R. (Civil) 184.

²⁴ S. 22, Legal Services Authorities Act, 1987.

²⁵ Sen, T., "Natural Justice and Lok Adalats", (2007) PL February 7; *See also Moni Mathai v. The Federal Bank Limited*, AIR 2003 Kerala 164.

²⁶ *P. T. Thomas v. Thomas Job*, AIR 2005 SC 3575.

²⁷ Bharucha, S.P. (Justice), Executive Chairman, NALSA while writing in 'Nyaya Deep' and in the course of his keynote address in the meeting of the Member Secretaries held in NALSA office on February 19, 2000.

important institutes in judicial mechanism in India. They have attained significance in timely dispensing of justice and reducing the burden of the courts. But, it is also important to note that certain changes within their structure would work for an improvement for the benefit of the society and for the fulfillment of the objective enshrined in Preamble and Article 39A of the Constitution efficiently.