

A CRITICAL ANALYSIS ON LOK-ADALAT IN INDIA

Dr. Deepa P. Patil

Assistant professor,
Ismailsaheb Mulla law College, Satara

ABSTRACT

The literal translation of the Hindi moniker, Lok Adalat, is 'People's Court'- Lok, means people, and Adalat means court. Hence, simply it means a court for the people, by the people, and of the people themselves. Indian Judiciary is moving towards a time when it will be impossible for the courts to cope up with the dockets. If something is not done, the result will be a production of line of justice that none of us would want to see. The seven hundred years old clarion call of the Magna Carta- To no one will we sell, to no one will we refuse or delay the right to justice very pertinently embodies the principle of legal aid. The institution of Lok Adalat has evolved as one of the most important modes of alternative dispute resolution. The first instance of a Lok Adalat system was in 1982, in the village of Una, in the district of Junagarh, Gujarat. Though this was in its developing stage, a fairly modern version of the Lok Adalat system that exists till date began in Chennai, in 1986. The institution has developed, since, by leaps and bounds, by the people themselves, in order to provide for equitable justice speedily at minimal cost. The crux of this mode of justice dispensation is that it is contrived to enable the common man to ventilate his grievances against other citizens or even state agencies, and successfully arrive at an amicable settlement. Lok Adalats are a blend of all three forms of traditional ADR: arbitration, mediation, and conciliation. Therefore, the researcher had undertaken this subject for contributing to the concept and explaining the difficulties in implementation and suggesting appropriate solutions for effective implementation of Lok adalat system.

Keywords: - Alternative Dispute Resolution, Legal Services Authority, Lok-Adalat etc.

INTRODUCTION

Lok-Adalat means, 'People's Court'. "Lok" stands for "people" and the term "Adalat" means court. Lok-Adalat is a system of alternative dispute resolution developed in India. India has long history of resolving disputes through the mediation of village elders. The system of Lok-Adalat is based on the principles of the Panch Parmeshwar of Gram Panchayats. The idea of Lok-Adalat was mainly advocated by Justice P.N. Bhagwati, a former Chief Justice of India. Lok-Adalat is a non-adversarial system, whereby mock courts (called Lok-Adalat) are held by the State Authority, District Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, or Taluk Legal Services Committee. They are held periodically for exercising such jurisdiction as they determine. The clogged courthouses have become an unpleasant compulsive forum instead of temples of speedy justice. Instead of waiting in queues for years and passing on litigation by

inheritance, people are inclined either to avoid litigation or to start resorting to extra judicial remedies. ¹

LOK ADALAT: NEED AND SIGNIFICANCE

The problem of delays and expensive litigation has engaged the attention and consideration of several legal luminaries, those connected with the management of the judicial system of the country. As per statistics available in India, it is unable to clear the backlog of cases. Take a look upon the pendency figures.[Source: www.supremecourtindia.nic.in, Bar & Bench News Network Jul 15, 2010 Google search]

Pending cases

Courts		2008	2009	2010
Supreme court*	Admission	26,863	30,834	33,352
	Regular	19,024	19,329	21,512
	Total	45,887	50,163	54,864
High Courts *		3,743,060	3,874,090	4,060,709
Lower Courts**		25,418,165	26,409,011	27,275,953
Total(All Courts)		29,207,112	30,333,264	31,391,526

*Statistics as of march 31, 2010

** Statistics as of December 31, 2009.

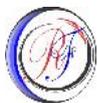
The backlog has been increasing at an average rate of 34 percent annually. This huge backlog of unsolved cases, experts claim, is directly proportional to a lack of judges. Statistics released by the Supreme court although shows a drop in vacancies of judges in the courts of the country, the number is still very high. Here are the statistics for past three years and vacancies that continue to exist

Vacancies in the Courts

Courts		2008	2009	2010
Supreme Court*	Sanctioned	26	31	31
	Vacancies	1	7	2
High Courts**	Sanctioned	876	886	895
	Vacancies	282	251	267
Lower Courts**	Sanctioned	15,917	16,685	16,880
	Vacancies	3,393	3,129	2,785

*Statistics as of march 31, 2010, ** Statistics as of December 31, 2009.

¹ Mediation and Case Management- Their co-existence and correlation- A paper presented during Indo-US Judicial exchange at U.S. Supreme court by Niranjana Bhatt on 15/12/2002.



The vacancies in the Supreme court have been reduced by new appointments this year and last year. The High Court's statistics however, show some concerns. There have been nearly 30 percent vacancies in High Courts as well as lower courts

In Maharashtra state , total pending cases as of 31 December, 2009 in Lower Courts is 4,158,458, i.e. 15 percent of total pendency and 338,183 in High courts i.e. 8 percent of total pendency

Ratio of Judges to Population *

Country	Ratio of judges to population (per 10 Lac population)
USA	107 Judges
Canada	75 Judges
Australia	57.7 Judges
England	50.9 Judges
India	10.5 Judges

*As per the Law Commission of India Report, 1987

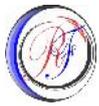
The United Nations Development Programme reveals that approximately 20 million legal cases are pending in India. India is a country of 1.1 billion people. Presently it has approximately 12.5 judges for every million people compared with roughly 107 per million in the United States and Great Britain have around 150 judges for million of it's population.[Google search] In its 120th Report in 1988, the Law Commission of India had recommended that “ the state should immediately increase the ratio from 10.5 judges per million of Indian population to at least 50 judges per million within within the period of next five years.”[120th Report of the Law Commission of India on Manpower Planning in the Judiciary: A Blueprint, Ministry of Law, Justice and Company Affairs, Government of India (1987) 39.] the recommendation is yet to be implemented.

Our justice delivery system is bursting at the seams and may collapse unless immediate remedial measures are adopted not only by the judiciary but also by the legislature and executive. It has been said by ford Devlin:

“If our business methods were as antiquated as our legal system, we would have become a bankrupt nation long back”.

Thereby various Committees were appointed. Law Commission of India also in its various reports, have considered this problem in all its facets and have suggested some remedial measures. Accordingly, a few procedural amendments were carried out, a piece of substantial law emerged and other improvements in the working of the system have also been introduced. Many tribunals, forums have been created to reduce workload in Courts. Besides, many mechanisms for harmonious settlement of disputes such as negotiation, conciliation, mediation, arbitration. Lok Adalat have been set up to provide fast, active and cheap remedies that can be made available to the people along with Traditional Legal System and to confirm guarantee of equal access to justice.

Lok Adalats are usually presided over by retired judges, social activists, or other members of the legal profession. The Lok Adalat can deal with all Civil Cases, Matrimonial Disputes, Land Disputes, Partition/Property Disputes, Labour Disputes etc., and



compoundable criminal Cases. The first Lok Adalat was held in 1985 in Delhi where more than 150 cases were solved within a day.

LOK-ADALAT IN INDIA

With 42nd amendment act of constitution of 1976, Article 39-A, has been inserted which requires the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The entire mechanism of Lok Adalat designed and evolved is with the object of promoting justice. Justice has three connotations namely social, economic and political. ‘Access to Justice’ means an ability to participate in the judicial process. It is that human right which covers not only bare court entry but has many dimensions including time consuming factor².

“Lok Adalat” 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”. Though initially, Lok Adalat camps were started at Junagarh District in Gujrat by 1982, the first Lok Adalat was held in Chennai in 1986. Soon this programme was adopted by several other states, such as Bihar, Haryana, Karnataka, Maharashtra etc. and now gained popularity throughout the country. The Legal Services Authorities Act, 1987 implemented in its true spirit has created popularity for and utility of Lok Adalat for speedy resolution of disputes. It is believed that the "Lok Adalat" is an old form of arbitrating system which had been prevailing in early India and its validity has not been taken away even in the modern days too. This system is based on Gandhian Principles. It is one of the components of ADR system. As the Indian Courts are overburdened with the backlog of cases and the regular Courts are to decide the cases involve a lengthy, expensive and tedious procedure. The Court takes years together to settle even petty cases. Lok Adalat therefore provides alternative resolution or devise for expeditious and inexpensive justice³.

Both pre-litigation and post-litigation efforts are invited by Lok Adalat to enable the entire society to create peace and harmony. The Legal Services Authorities Act, 1987 makes provision for free legal aid which can be availed both before the Courts and Lok Adalat so constituted. The Court has to give guidance to parties (when parties are opting for any mode of ADR) by drawing their attention to the relevant factors which parties will have to take into account, before they exercise their opinion as to the particular mode of settlement⁴.

THE LEGAL SERVICES AUTHORITIES ACT, 1987

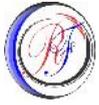
Lok Adalat is a forum where the disputes/cases pending in the court of law or at pre-litigation stage are settled/compromised amicably. The Lok Adalat has been given statutory status⁵ under the Legal Services Authorities Act, 1987. Under the said Act, the award made by the Lok Adalat is deemed to be the decree of a civil court and is final and binding on all parties and no appeal lies before any court against its award.

² Law of Arbitration and Conciliation & ADR systems , by Avatar Singh, Eastern Book Company

³ ‘Lok Adalat’ by Om Prakash Tewari 2002, Pioneer Books

⁴ Arbitration and Conciliation Law of India, 7th Edn. (Reprint) by Kwatra G. K.

⁵ Sections 19,20,21 of the Legal Services Authorities Act 1987



Nature of cases to be referred to Lok Adalat

1. Any case pending before any court
2. Any dispute which has not been brought before any court and is likely to be filed before the court

Provided that any matter relating to an offence not compoundable under the law shall not be settled in Lok Adalat.

How to get the case referred to the Lok Adalat for settlement

A) Case pending before the court:

1. If the parties agree to settle the dispute in Lok Adalat or
2. One of the parties makes an application to the court or
3. The court is satisfied that that the matter is an appropriate one for settlement in Lok Adalat

B) Any dispute at pre-litigative stage

The State Legal Services Authority or District Legal Services Authority as the case may be on receipt of an application from any one of the parties to any pre-litigation stage matter refer such matter to the Lok Adalat for amicable settlement

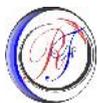
The Permanent Lok-Adalat⁶ is advance version of Lok-Adalat with additional features of having residuary powers. As, Permanent Lok-Adalat is statutory body and its decision is binding and it can decide the matter even if, the parties fails to arrive at settlement and compromise. Therefore, the permanent Lok-Adalat has residuary jurisdiction, in addition to the jurisdiction enjoy by the Lok- Adalat, to decide dispute by virtue of S.22C (8) even if dispute between parties failed after conciliation. The Amendment has been introduced in Section 22 of the said Act in 2002, which provides for setting up of Permanent Lok Adalat to provide compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services, like postal, telegraph or telephone service etc. Award of the Permanent Lok-Adalat is open to challenge and subject to judicial review on the following grounds,

- i. Offence of non-compoundable in nature
- ii. Permanent Lok-Adalat cannot take cognizance of the case, if it is pending before any court. Such pending cases could be only referred to Lok Adalat as per S. 20 and not to Permanent Lok Adalat - Order passed by Permanent Lok Adalat would be without jurisdiction and liable to be set aside.

ADVANTAGES OF LOK ADALAT

1. In Lok Adalat Court fee is not required to be paid and if Court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat according to the rules.
2. There is procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws like Civil Procedure Code and Evidence Act while assessing the claim by Lok Adalat.

⁶AVTAR SINGH, Law of Arbitration & Conciliation, Ninth Edition(2010), Easter Book Company
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3. Parties to the dispute have chance of participation and also can directly interact with the Presiding Officer through their Counsel which is not possible in regular Courts of law.
4. The award by the Lok Adalat is final and binding on the parties and it has the status of a decree of a Civil Court and it is non-appealable which does not cause the delay in the settlement of disputes finally.
5. Lok Adalat system is a boon to the common man as they can get their disputes settled fast and free of cost amicably.
6. Though the Lok-Adalat have no adjudicatory or judicial functions, their functions relate purely to conciliation and try to arrive at compromise and settle the dispute.

CRITICAL ANALYSIS OF LOK ADALAT

Presently, Lok Adalat is considered to be one of the best Alternative Disputes Resolution Systems. Just like every other system, Lok Adalat is also having several virtues and it suffers from few ill as well. As it is rightly said that, “Justice delayed is a Justice denied but Justice hurried is a Justice buried”. Keeping this fact in mind, the higher judiciary in many of its judgments directed that, the speedy proceeding conducted by way of Lok Adalat should not impair the right of any party.

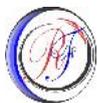
The lawyers are sometimes reluctant to refer the matter for settlement in Lok Adalat. Sometimes parties may pressurize their lawyer to stick up to the strict process of court. The High Court⁷ observed, “In the name of the speedy resolution of disputes, the fair interests of the parties cannot be sacrificed, more importantly when the petitioners involved are minors, insane and disabled.” While expressing its lamented remark about the present Lok-Adalat system, the Kerala High Court pointed out the drawback as –

“However, the major drawback in the existing scheme of organization of the Lok Adalat under Chapter VI of the Legal Services Authorities Act is that the system of Lok Adalat is mainly based on compromise or settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is either returned to the court of law or the parties are advised to seek remedy in a court of law. This causes unnecessary delay in the dispensation of justice. If Lok Adalat has given power to decide the cases on merits in case parties fail to arrive at any compromise or settlement, this problem can be tackled to a great extent”. However this defect has been removed in permanent Lok-Adalat. It has also been observed that since the forum of Lok-Adalat are headed by the person from judiciary, they assume the role of Lok-Adalat as judicial forum and deviate from the basic objectives for which it has been formed. The Supreme Court has also lamented on this issue.

SUGGESTIONS FOR EFFECTIVE IMPLEMENTATION OF LOK ADALAT

1. Legal literacy and legal aid programmes need to expand to take care of poor and ignorant by organizing awareness camps at grass-root level besides, the mass media like newspapers, television, radios can also be desirable for this purpose.
2. To increase its utility, the concerned Legal services Authority or Committee should disseminate information to the public about the holding of various Lok Adalat by it and success achieved thereby in providing speedy, equitable and inexpensive justice.

⁷Manju Gupta V National Insurance Company, I (1994) ACC 242, 1994 ACJ 1036
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3. There is need for improvement in quality of legal aid provided by lawyers and advocates. The remunerations offered from legal services authorities to lawyers should be revised and thus encouraged to render effective legal assistance to needy persons.

3. It is observed that, there is need for enactment of more statutory provisions allowing justice through Lok Adalat.

4. The Lok Adalat Movement can be successful only if the people participate on voluntary basis in the functioning of Lok Adalat. This can be achieved by restraining themselves from invoking the jurisdiction of traditional Courts in trifle disputes.

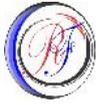
CONCLUSION

The Legal Service Authority Act, 1987, which provides for the Lok Adalat for speedy and early settlement of dispute among the parties, is boom for Indian legal system. Majority of India population which is illiterate seek justice through regular court which is disadvantageous to both, the parties as well as to the courts as such on which an amicable settlement can be reached overburdens the courts and the procedure at the courts are expensive, ineffective and time consuming. With respect to the present condition prevailing in the society and the gap between the economic conditions of the people of the society asks for an effective and strong legal service for poor and needy people. The system of Lok Adalat are no more new to the legal system of India, it has become an effective part of Indian legal system and now is the time to bring such matters under the jurisdiction of Lok Adalat which do not fall under its domain. It is high time for law makers, jurists, lawyers and judges to help modifying the current model law governing Lok Adalat and include such areas under its jurisdiction like business disputes or conflicts where public at large is involved and the matters where government is involved in one or the other way.

It will go a long way in strengthening our diverse, democratic values and rule of Law. The working of Lok Adalat seems to be both fruitful and successful and has achieved those objectives, for which it has been meant. The overall functioning and achievement of Lok Adalat appears to be appreciable though not remarkable.. So there is a need strengthen the system of Lok Adalat in recent context, which in turn, help to realize the Constitutional goals of 'equal and social justice' to its fullest extent. It will, in turn, helpful to regain to reaffirm the public confidence in the judiciary.

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