

## **STRENGTHENING JUSTICE DELIVERY THROUGH ALTERNATIVE DISPUTE RESOLUTION**

Author- ADITYA KUMAR, STUDENT LL.M, NUSRL, RANCHI

### **ABSTRACT:**

As is rightly claimed “justice delayed is justice denied”, which holds good in today’s legal world as dispensation of justice seems distant reality due to over burdening of court with piles of cases. There are certain classes of people for whom, accessing justice through proper court mechanism is still a distant reality, under those circumstances, we need something to address their issues and one of best mechanisms is Alternative Dispute Resolution. The need of hour is the elimination of delays, speedy clearance of arrears, and simplification of procedure, which could ultimately help speedy justice and improvement of standards of all concerned with the administration of justice. The Alternative Dispute Resolution is one such method, which can be resorted to for speedy delivery of justice and access of justice to everyone and thereby strengthening the concept of social justice enshrined under the Preamble of Indian Constitution itself. Therefore, to strengthen judicial administration it is mandatory to change the mindset of the people to bring in terms with accepting the new and changing norm.

### **KEYWORDS:**

Social Justice, Speedy Justice, Arbitration, Negotiation, Mediation, Conciliation, ADR, Administration of justice.

### **INTRODUCTION:**

The Indian judiciary is now frequently associated with being the machine for causing inordinate delay. It definitely sounds offensive but the main reason behind delayed justice is overburdening of courts with cases and their slowed disposal. It is difficult to analyze the very reason behind the delayed disposal of cases because its reasons are numerous and it is rooted deep inside the system only. The quotation, “justice delayed is justice denied” holds true in current legal parlance since delayed justices have greatly hampered the quality of justice delivered and thereby in a way results in denial of complete justice also. The core problem is not only with the lack of institutional facilities but also lies with the mentality of the legal community.

Looking at the ubiquitous nature of the problem, which is now considered as parallel to the existing judicial system, there is an enormous need for a sequence of reforms in the existing legal framework of the country. In order to secure a better position the Ministry of Law and Justice launched the National Mission for Justice Delivery and Legal Reforms in 2011,<sup>1</sup> keeping in view the need for making justice accessible.

The most prominent loophole that is required to be addressed by the current justice system is the lack of institutional facility. The reason behind late disposal of cases is that we have comparatively a meagre number of judges than what actually is required. As of 1<sup>st</sup> June, 2020 there remains a total vacancy of two Judges in Supreme Court and total of near about 388 vacancies in various High Courts.<sup>2</sup> Also, as per a submission made by the Ministry of state for law in Parliament in December 2018,<sup>3</sup> there are over 5000 vacancies in district and sub-ordinate courts, which are not been properly filled as of now, too.

Quoting an article from the Economic Times based on a data from Law Ministry it is made clear that India has 19 Judges per 10 lakh people on an average, which is an alarming rate as compare the United States of America, which has 108 Judges per million citizens. On the bare perusal of data on record, it is quite clear the root cause of delaying in dispensation of justice is due to lack of institutional facilities.

But as it is said that it is easier said than done, worrying over the problem is not going to fetch us the solution rather we need to think and come up with various reforms in order to address the prevalent issue. One of the welcoming step towards addressing the issue is Alternative Dispute Resolution mechanism. Others are introduction of Communication and Information Technology (CIT) systems, attitudinal change in legal community etc.

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<sup>1</sup> Justice V Gopala Gowda, STRENGTHENING THE JUSTICE DELIVERY SYSTEM: TOOLS AND TECHNIQUES, Karnataka Judicial Academy, <https://kjablr.kar.nic.in/sites/kjablr.kar.nic.in/files/02.%20Strengthening%20the%20Justice%20Delivery%20System%20-%20Tools%20and%20Techniques.pdf>.

<sup>2</sup> [https://doj.gov.in/sites/default/files/Vacancy%2001.06.2020\\_2.pdf](https://doj.gov.in/sites/default/files/Vacancy%2001.06.2020_2.pdf).

<sup>3</sup> Pradeep Thakur, Over 5,000 vacancies in district & subordinate courts: Govt., (Dec 12, 2018, 08.43PM), <https://timesofindia.indiatimes.com/india/over-5000-vacancies-in-district-subordinate-courts-govt/articleshow/67063373.cms>.

## **ALTERNATIVE DISPUTE RESOLUTION MECHANISM- A WAY TO SPEEDY JUSTICE DISPENSATION:**

Once a dream, this has now turned into a reality, Alternative Dispute Resolution is believed to be a changing tool in the scheme of reducing the number of cases and mitigating the burden that the court is overloaded with. The aim with which it was started was that through this mechanism a lot of civil and family matters could be settle outside the court and thereby reducing the number of cases. Outside the court settlement is one good method for settling the disputes in order to save time and money both.

As per 222<sup>nd</sup> Report of Law Commission of India the need for justice dispensation through Alternative Dispute Resolution mechanism was felt. Though people tend to have a stern belief in the traditional way of justice delivery system through physical access to proper and conventional courts, but owing to various barriers like social stigma, political constraints, economic crisis, remote inaccessibility, educational backwardness such a traditional way of accessing justice seems a distant reality. Time and again judicial administration has failed to secure the removal of inordinate delay, maintaining cost effectiveness, and also reduction in technical errors. Though it is not a new concept, the roots of settling the dispute without resorting to courts was traced way back since vedic period, Panchayat's Raj, Lok Adalat are few instances which proves the existence of the concept of Alternate Dispute Resolution since ancient times. The adage here is that justice delayed is justice denied, and speedy justice has now been accepted as a constitutional guarantee.<sup>4</sup>

The very basis of Preamble of the Indian Constitution speaks that justice: social, economic and political that must be rendered to each and every individual of the country, and it is possible only if the three organs of the state i.e. legislature, executive and judiciary join together to find ways to provide immediate access to justice to all thereby assuring equal justice to all and hence conforming with social justice. Following the same in the case of Sheela Barse .v. State of Maharashtra,<sup>5</sup> the Supreme Court emphasized that the provision of legal assistance for a poor or indigent accused arrested and put in jeopardy of his life or personal liberty was a constitutional imperative mandated not only by Art. 39A but also by Art. 14 and 21 of the Constitution. In the

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<sup>4</sup> Krishna Agrawal, Justice Dispensation through the Alternative Dispute Resolution System in India, Russian Law Journal ISSN 2312-3605, Vol. II.

<sup>5</sup> AIR 1983 SC 378 (India).

absence of legal assistance, injustice may result. Every act of injustice corrodes the foundation of democracy and rule of law.

In the case of Maneka Gandhi<sup>6</sup>, as enunciated by the Indian Supreme Court, that fundamental rights do not constitute separate islands unto themselves but constitute a continent ushered in what Krishna Iyer, J. terms the jurisprudence of access to justice. He said:

*"We should expand the jurisprudence of access to justice as an integral part of social justice and examine the constitutionalism of court-fee levy as a facet of human rights highlighted in our nation's Constitution. If the State itself should travesty this basic principle, in the teeth of Articles 14 and 39A, where an indigent widow is involved, a second look at its policy is overdue. The Court must give the benefit of doubt against levy of a price to enter the temple of justice until one day the whole issue of the validity of profit-making through sale of civil justice, disguised as court-fee is fully reviewed by this Court".<sup>7</sup>*

Besides Constitutional arrangement that provides for speedy justice there are other legislations as well like Nyaya Panchayat, Lok Adalats, Legal services authority which talks about speedy justice to people by resorting to ways other than that of regular Court procedure. Basically, there are four ways to Alternative Dispute Resolution; negotiation, mediation, conciliation and arbitration and these are familiar and widely preferred. So, arbitration is the process of sorting the disputes by appointing an arbitrator to collect evidence and decide. The object behind adopting this method is expeditious settlement of dispute and also at a private level thereby reducing the complexities of future litigation. Mediation is basically hiring a third party, who assists the two parties in arriving at a conclusion, thereby settling the dispute outside the court. Another way is conciliation, which is statutorily recognized as an effective method of dispute resolution. It is basically applicable to industrial disputes. Another way is negotiation, which is also one of the methods of settling the dispute outside the court.

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<sup>6</sup> (1978) 1 SCC 248.

<sup>7</sup> Law Commission Report No. 222, Government of India, <http://lawcommissionofindia.nic.in/reports/report222.pdf>.

In *Rajasthan State Road Transport Corporation v. Krishna Kant*<sup>8</sup> the Supreme Court observed that the policy of law emerging from Industrial Disputes Act and its sister enactments is to provide an Alternative Dispute Resolution mechanism to the workmen, a mechanism which is speedy, inexpensive, informal and unencumbered by the plethora of procedural laws and appeals upon appeals and revisions applicable to civil courts. Indeed, the powers of the courts and tribunals under the Industrial Disputes Act are far more extensive in the sense that they can grant such relief as they think appropriate in the circumstances for putting an end to an industrial dispute.

### **CONCLUSION:**

Man is not made for law, but the law is made for man. Law is a regulator of human conduct. No law works smoothly unless the interaction between the two is voluntary. An act is justified by law, only if it is warranted, validated and made blameless by law

As we all know to get the justice in today's world man has to go through the complex, lengthy and expensive procedure that is involved in litigation. The judiciary is playing an important role in providing justice to the under-privileged, needy and helpless by adopting to new methods of outside the court settlement and resorting to other convenient methods. No legislations would strengthen the country's condition unless we make sure that justice is made accessible to each and every individual of the country. With the development of Alternative Dispute Resolution method there is generation of new avenue for the people to settle their disputes, for the same there is a requirement that more and more ADR centers should be set up. Technological advancement is definitely going to contribute towards a faster and cheaper delivery of justice. Alternative dispute resolution methods will really achieve the goals of rendering social justice to the people, which really is the goal of successful judicial system. There is an urgent need for justice-dispensation through ADR mechanisms, in order to strengthen the justice delivery system.

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<sup>8</sup> 1995 (5) SCC 75 (India).