

## **Role of Lok Adalat in the Administration of Justice: Constitutional and Judicial Perspective**

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Lok Adalat are one of the alternate dispute resolution mechanisms, it is a unique forum where dispute pending in court or at pre-litigation stage are settled in amicable manner. It lessens the burden of judiciary and implicate the Rule of Law in India. It has been given statutory status under legal services authority act, 1987. Constitution aims at providing justice to all irrespective of race, creed, color, religion etc. Judiciary plays active role in expanding the scope of lok adalat and keeps a check upon its working as well.

### **Introduction**

Lok adalat is a popular method of dispensing justice in present times due to its unique feature of cheapness, speedy and effective or amicable settlement. It is final, binding and enforceable mode opted by litigants and suggested by courts nowadays as it ensure less expenses or time. The concept gained statutory recognition by Legal Services Authority act 1987. These are working as a forum ensuring cost effective and speedy justice to common people. Herein, people come in direct contact with judges and are able to present their views or grievances without any fear or hesitation. It reduces the anxiety, ill-will and harassment involved in regular court system.

It administer justice in efficient, easy and accessible form. Justice is imparted in a natural way and if it fails everything fails. Lok adalat have proved as boon because justice is imparted in a reasonable time. People need not wait for much long time in courts as it is well stated that justice delayed is justice denied. However, the system needs to be improvised in accordance with change of time.

The Legal Services Authority Act 1987 contains provisions of organization of lok adalat , award and procedure or power of lok adalat . Its basic aim is to deliver justice at speedy pace in a cheap manner without creating much complexities or hurdles in the way of common man .Its award is final and binding or enforceable.

India is a country of 1.1 billion people . It has 12.5 judges for every million people compared with roughly 107 per million in united states and great Britain have 150 judges million of its population .In its 120 th report 1988 Law commission of India had recommended that “ state should immediately increase the ratio from 10.5 judges per million of Indian population to at least 50 judges per million within period of next five years.<sup>1</sup>Our justice delivery system is out bursting and nearly to collapse unless some immediate steps are adopted not only by judiciary but also by legislature and executive .It has been said by lord Delvin:”If our business methods were as antiquated as our legal system we would have become a bankrupt nation.

### **Definition**

**Lok Adalat:** It is one of the alternative dispute resolution mechanisms in India .It is a forum where cases pending on panchayat or at pre-litigation stage in court of law are settled. They have been given statutory status under Legal Services Authority Act ,1987.

Lok Adalat : means people court .Lok stand for people an adalat means court. It is based upon principles of panch-parmeshwar of gram panchayat which were proposed by Mahatma Gandhi.

### **Constitutional perspective**

Preamble to constitution is gist, heart and soul of constitution. It contains 11 lines and 85 words . It underlines sovereign, socialist and democratic , republic India . Thus , our country has own government with democracy which is ruled by people , for the people and of the people with a elected president. Citizens have a right of speech , expression, gestures , words or belief and worship. All the citizens are to be imparted with justice: social , economic

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<sup>1</sup> 120<sup>th</sup> Report *Law Commission of India On Manpower Planning in Judiciary :A Blueprint Ministry Of Law , Justice and Company Affairs* Government Of India(1987) P39

and political. There shall be equality of status and opportunity or sense or brotherhood among the citizens.

Thus , constitution emphasise upon ‘‘rule of law’’ where all are to be treated equally without any sort of discrimination .Constitution is supreme law of land and justice is the mandate of constitution. It also ensures an equal right to earn livelihood to every citizen. So , how could justice be denied to any citizen resulting in non-abeyance of very words of constitution . Now question arises whether it is possible to deliver justice or treat all equally .

How come justice could be provided to citizens. How could there be equality of status and opportunities to all?

‘‘Rule of law’’ emphasise about exercising of rights in a fair or non-arbitrary manner through the prescribed rules, regulation or law .In order to create peace or security laws there is emergent need to obey rules and law in uniform manner. Dicey states there (a) supremacy of law should be maintained and power should not be exercised in arbitrary manner. (b) There should be equality of law and no discrimination should be made with anyone (c) The constitution is made by ordinary law of land .Thus , people derive their rights not from the written constitution rather from rules as defined and enforced by courts.

Constitution is supreme law of land and various rights are given to citizens under it. It underlines fundamental rights , directive principles and welfare provisions. Those rights, duties and provisions describe a general phenomenon of law of land. However , such rights are enforced by courts while working in active manner . Its the working of court which gave actual form and shape to the rights of people. It allows them to make exercise of their rights and gave a life full of rights, privileges and dignity.

There are three organs that is legislature, executive and judiciary. Legislature makes law and rules or regulations .It comprises of lok sabha & Rajya sabha. The executive comprises of cabinet ministers , president and vice president .Its duty is to pass law made by legislatures. Judiciary perform the task of solving conflict between legislative and executive . There are two types of law legislature made law and judge made law .Thus , legislature makes law and judges make law while deciding cases or conflict between people. Some laws are

made by parliament and rights are infringed by another individual to which remedy is sought through courts. Courts do take a wide step by enhancing scope and utility of particular provision in case there is non-implementation by executive.

It is pertinent to mention over here that various rights and directive principles are enumerated in the constitution for complying the very words of preamble and drafters of constitution to ensure equality, dignity and healthy life to the citizens of India. Article 14 which embodies that each person is to be given equality and law should provide its equal shelter to all. Thus, in case of violation of rights all have equal right to ingress and egress courts which would be possible if all are able to survive in equal atmosphere. Article 21 mentions about right to live that is to entail a dignified life includes the right of livelihood, right to food, free trial, medical care, protection of tank, right to family pension, right to legal aid, medical care and counsel. It also includes right to be defended by efficient lawyer of his choice and right to interview, torture or custodial violence.

Article 38: State shall make efforts for furthering welfare of people by ensuring a social order by which justice: social, economic & political needs to be imparted to institution of national life. Justice should be imparted to all irrespective of religion, caste, sex, creed, social, economic & political justice.

Article 39 (A): Provides equal justice & free legal aid. It states that state shall secure that operation of legal system promotes Justice on basis of equal opportunity & 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. To sum up; all these articles emphasize equal justice, free legal aid & equality are being provided by and embodied in the constitution. Various fundamental rights and directive principles are provided by the constitution. Free legal aid should be imparted to all. But, if a person is not able to hire the services of lawyer or bear the litigation expenses then he/she should be provided with the necessary help otherwise there would be no relevance of law or justice for that person. Now comes how far these aims of constitution are fulfilled. So, here come the role of judiciary to actively implement provisions of legal aid and ensuring free legal assistance to poor, weak, ignored and illiterate people so that a dignified life is assured to all without discrimination.

## **Judicial system**

Judiciary plays an active role in the administration of justice. It's one of mechanism to enhance the delivery of justice. There is a well-organized hierarchy of judicial system. At the apex is supreme court followed by High Courts at State level and District Courts at District Level. Also, there are Lok Adalats at Village and Panchayat level. Our constitution underlines a well-organized, integrated and independent judicial system. The so-called judicial system is very powerful and help the citizens to get rid of their problems. It has been set-up by the British as a copy of British Judicial System. Here it is important to discuss that cases or matters are prolonged in courts due to bulky, lengthy cumbersome procedures. So, in recent times a well-organized efforts have been made to solve matters of litigants in amicable manner. It has been made possible through mediation, conciliation, arbitration or negotiations and lok adalat .The purpose of such methods are to save time, money energy, costs of people and to help them lead a good, peaceful and cordial life. In pursuance of such efforts of judiciary, lok adalat have been very helpful. A lots of cases have been solved through this system. It's pertinent to mention over here that "Judicial Activism" has helped a lot to enhance to role of judiciary. This system was originated in India after the Emergency. In accordance with the concept of Judicial Activism Public Interest Litigation was devised by courts to reach directly to public. Thus, if aggrieved party himself could not file case then court itself can take an action "suo-motto "s at its own. Thus, Judiciary took a great initiative in recent past to help people solve their problems. The concept of lok adalat is very innovative like the 'zero' and is much helpful in our country with poor, illiterate and ignorant people. It is one of the famous method of alternate dispute resolution (ADR) and is working since 1982. In the beginning , it was started as a part of legal aid service program. State legal aid or advice boards and district legal aid advice boards used to organize lok adalats. Awareness was made with the help of electronic media or print. Cases pending in court , tribunal or executive were entertained by it.

**Judicial Activism** : Courts authority and power to interpret constitution in a broader way by giving decision based on its own opinion keeping in view the societal implications. It invalidates legislative or executive orders.

### Scope of Judicial Activism

Judicial Activism is that way of exercising judicial power which seeks fundamentally re codification of power relations among dominant institution of state manned by members of ruling classes.<sup>2</sup> Judiciary is independent organ of government under Government of India Act , 1935. People rely upon courts like god and they are respected and relied by general public. When there comes a disappointment from all sides or adjudicatory bodies , police officials or authorities people do make access to courts in order to redress their grievances in legalized manner. Judiciary opt ‘judicial activism’ due to the following reasons:

A When there is failure of government that is legislature fails to make law and executive is unable to implement it . Democracy states that there should be a responsible government able to promote the welfare of people . Its only when there is failure of government , judiciary has to actively participate.

B Judiciary should take a step ahead in order to protect the rights and promote welfare of people . Its considered as a guardian of people’s right and its ironical for a guardian to remain silent as spectator.

C People have lots of faith upon the working of courts and their sentiments are attached to words or opinion of courts. There is lot of public confidence in judiciary which is a reason of higher rate of public interest litigation or social action litigation by people. When all hopes go in despair , people want to have access to courts for resolution of their disputes because matters are solved by way of evidences, documents and precedents .

D If legislature makes laws for the whole year even how much laws it could make .So courts are there to help or fill the vacuum and take participation in effective implementation of laws. Courts always act in direction to fill the void created by legislatures abdication of legislative responsibility .<sup>3</sup>

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<sup>2</sup> Upendra Baxi *Courage Craft & Contention Indian Supreme Court In Eighties* (Bombay1985) P10

<sup>3</sup> Vishaka vs State of Rajasthan 1997 (s cc) 241

E Constitutional scheme evoked the concept of fundamental rights and its enforcement under Article 32 of the constitution. Whenever there occurs a violation of fundamental rights courts are approached for redressal . Thus, courts help general public in efficient and effective method and promote their welfare . Laws made and enumerated by constitution are interpreted by judiciary while actively participating in the administration of justice. Three organs are separate that is legislature , executive and judiciary which though are separate but overlaps the functions of each other in order to create a welfare state.

In *M.H. Haskot V/s State of Maharashtra*<sup>4</sup> Iyer Justice focused on the significance and necessity of voluntary legal services and legal aid in poverty ridden country like India. He observed that free legal aid should be made available to the accused in criminal trials whenever the accused not in position to afford the same because of his indigence or otherwise.

In *Hussainara Khatoon V/s State of Bihar*<sup>5</sup> called for a nation wide legal services programmer to provide free legal services to poor and indigent. The court reiterate the absence of legal representation would initiate fair trial and provide which would be contrary to article 21. Quoting Douglas<sup>6</sup> the court observed that without the legal aid and assistance of counsel the indigent accused may be put on trial whether a proper charge and convicted upon incompetent or irrelevant evidence.

Thus, it was initiative of court to provide free legal aid to illiterate, poor, ignorant and downtrodden segment of society, because' if such segment could not be able to get-rid of their personal problems due to reasons of being poor then relevance of Article 14 & 21 could be really futile.

In *Khatri & others V/s State of Bihar*<sup>7</sup> it was after two years of Hussainara Khatoon 's judgment the court again reiterated similar views and held "It is difficult to understand how this state of affairs could be permitted to continue despite the decision of this court in case. This court has pointed out that right to free legal aid is clearly an essential ingredient of reasonable, fair and just procedure for a person accused in offence and it must be held implicit in guarantee of Article 21

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<sup>4</sup> (1978) 3 SCC 544.

<sup>5</sup> AIR 1979 SC 1369.

<sup>6</sup> Douglas J. in John Richard Arger Singer V/s Raimondi Hainlin 1972 (407) u/sec 25.

<sup>7</sup> AIR 1981 SC 928

and states under constitutional mandate to provide a lawyer to accused person if circumstances of case & needs of justice so require. It aimed to ensure free and efficient legal services to poor section and also to make it sure that uniform justice should be allocated to all and one should not be deprived of it due to economic or other disability. An individual needs food, shelter and cloth with free breathe in fresh air. He may get governmental schools and hospital then why should he be denied of right to get free legal assistance

Court decided it to be unfortunate that so many states have not obeyed the decision of court. Court also directed Magistrate & Session Judge to inform the accused about availability of legal aid whether/ whenever they need.

Various committees were formed as Bombay legal aid committee, Trevor Harries committee, Central Government Act, Report of law commission, 3<sup>RD</sup> All India Lawyer conference, procesual justice to people (expert report) 1973, National judicare: social justice and equal justice report 1977. Then came CILAS that is committee for implementing legal aid scheme.

The Committee For Implementing Legal Aid Schemes (CILAS), 1981 was appointed by Government of India under the chairmanship of P.N Bhagwati, chief justice of India. It aimed at organizing legal literacy program for legal awareness to poor and setting up legal Aid camps in universities and colleges. Focus was made upon the legal literacy and promoting public interest litigation through class action. It was emphasised that legal aid boards in state and union territories should be established in order to ensure justice at grass root level. Legal services should be provided at rural and urban areas. In pursuance of this committee, model of legal aid started working and various legal aid and advice boards were set up in states and union territories. The aim of government was to spread awareness and deliver legal services to all citizens on equal basis. However with the passage of time some deficiencies were found in its working and need arose to establish legal services at national, state and district level to deliver legal services on uniform basis. Thus, legal services authorities act 1987 came into existence. Act was made by parliament with a purpose to establish local authorities and lok adalat so as to ensure justice to all on equal and uniform basis.

### **Suo-motto cognizance of cases**

In *Kamgar Union V/s Union of India*<sup>8</sup> Letter was converted into a writ petition by court and on basis of letter written (epistolary jurisdiction) by member of public or voluntary organization working under organizations of oppressed people; cognizance was taken.

### **Role of court in enforcement of Act**

In *Supreme Court Legal Aid Committee vs Union of India*<sup>9</sup> Court adhered importance to the concept of adopting guidelines framed under legal services authority act, 1987. Taking an strict or urgent action; Apex Court gave direction to all states and union territories (who failed) to frame rules relating to Lok Adalat as per section 28 and notify or announce it within time span of two months. State and union territories were directed for constitution of "High Court Legal Service Committee" and other committee within a time span of two months. Compliance report was called by 3<sup>rd</sup> February, 1998 to which most of states did not comply at initial stage and next hearing was made on the 10<sup>th</sup> February, 1998. The court threatened to initiate contempt proceedings against chief secretary of concerned state. However, some time –extension was given and court again directed union territory and state government to comply with it saying "we give in meanwhile time till 30.04.1998 to all defaulting states union territory administration to comply full direction."<sup>10</sup>

In *Abdul Hassan and N.L.S.A v. Delhi Vidyut Board and other*<sup>11</sup> Importance of LS Act, 1987 was highlighted by Delhi High Court and gave observation that – prime aim of the Act is to conduct lok adalats in order to ensure that the operation of uniform legal system on equal basis and promote justice in equivalent manner. Act gives statutory recognition to the resolving of disputes through compromise or settlement under the concept of lok adalat. It was emphasised by court that PLA must be established in government departments for resolving disputes or matter pertaining to citizen inter se and government or between government & employees. The court directed all such government agencies to establish "Lok Adalat. Amendment Act of 2002 of

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<sup>8</sup> AIR 1981 S.C. 344

<sup>9</sup> AIR 1998 (5)SCC762

<sup>10</sup> Ibid

<sup>11</sup> AIR 1999 Del 88.

Legal Service Authority Act” makes the constitution of permanent Lok Adalat mandatory for resolving disputes in public utility service .

### **Compromise as basis of Lok Adalat**

In *Union Bank of India v. Narendra Plastic*,<sup>12</sup> the Gujarat High Court set aside civil court's decree upon the compromise made before lok adalat. The appellant alleged that they did not agree on compromise imposed on them. The High Court justifiably set aside the order. However, carefulness needs to be exercised so that litigant with bad intention could not take same pleas.

Thus, parties should not be pressurized to do compromise and their consent needs to be taken strictly .If however court induce parties to make settlement even when they don't opt for it. Then ,remedy is available to set aside those proceedings by way of writ petition.

In *P.T Thomas VS Thomas Job*<sup>13</sup> The Supreme Court held that it is mandatory for lok adalat to follow legal principles , equity and natural justice while making efforts to reach a consensual settlement .In lok adalat best efforts are made only to see that disputes or differences are curtailed down and make the final settlement so that parties are not again driven to further litigation or any dispute. Award of lok adalat is the result of compromise and is not a contest on merits .It is valid , legal and enforceable as like a decree of formal court. The award passed by lok adalat is final and binding which is arrived at by conciliation and results in an end to litigation.

### **Finality of award delivered by lok adalat**

In *P K Rajeswari v. P K Sooraj Kumar*,<sup>14</sup> “the court observed that when award is passed by the lok adalat organized in pursuance of act by authorities, it cannot be questioned through the regular remedies available under the law including Article 226 of the constitution .

In *Bar Council of India vs. Union of India*<sup>15</sup> held that provisions specified in LS Act 1987 are fair, legal and enforceable. Since, there is provision of no appeal against the decision of lok adalat it could not be a ground of alleging violation of constitutional provisions. Bar

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<sup>12</sup> AIR 1991 Gujarat 67.

<sup>13</sup>AIR 2005 SC 3575

<sup>14</sup> AIR 2006 Ker 137

<sup>15</sup> 2012 AIR SC (CIVIL) 2382

council of India filed writ petition under Article 32 of constitution and challenged the provisions of section 22A , 22B , 22C , 22D and 22E of legal services authority act 1987 ; introduced by legal services authorities amendment act 2002. It was alleged that sec22a to e are invalid, arbitrary to Article 14 as they are opposed to fair ,unbiased and even-handed justice. It was alleged that award given by lok adalat is valid, final and conclusive which cannot be challenged in any forum or court of law under sec22-e (1)and (4). There is no provision of appeal. Absence of right to appeal makes these provisions unconstitutional. The writ petition was dismissed with no order as to costs.

### **Lok Adalat cannot exceed jurisdiction allocated to it**

In *Gram Panchayat Vs State Of Haryana*<sup>16</sup>:The present petition is filed for the issuance of a writ of certiorari was filed for quashing of impugned award passed by permanent lok adalat, Ambala dated 23.8.2011 whereby shamilat Deh measuring 6 marla land has been ordered to be exchanged with a land of private person in the present case. The dispute arose regarding the exchange of shamilat Deh measuring 6 marla with land of respondent measuring 6 marla situated within the revenue estate of village Garnala , tehsil and district Ambala.

The order of permanent lok adalat was challenged and thus writ petition was allowed. As per the regulations of state government , it is mandatory to follow rule 5 which states that prior approval of state government is mandatory for exchange of shamilat .Thus award passed by permanent lok adalat is non est in the eyes of law and set aside.

Certiorari is a writ issued by superior court to inferior court to review its decision. It is issued in order to remove the irregularities committed by inferior court .It can be inferred that High court exercises supervisory jurisdiction upon working of lok adalat , as it (high court) may exercise upon any other court. Theme behind mechanism of lok adalat is to curtail arrears of cases as to further the welfare of people .Parallel to it there is a check upon its activities in order to secure the operation of justice.

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<sup>16</sup> 2019 (1)PLR 684

### Relevancy Of Compromise In Quantum Of Sentence

In *Manjit Singh vs State Of Punjab*<sup>17</sup> Supreme court held that “ the compromise entered into between parties is indeed a relevant circumstance which the court may keep in mind for considering the quantum of sentence” .The bench comprising Justice R .Banumathi and Justice A.S Bopanna stated “ that at the time of sentencing accused for a non-compoundable offence , the compromise entered between parties is very relevant for considering the quantum of sentence .”

judgment and order was passed by Punjab and Haryana ,High Court, Chandigarh whereby accused Ranjit singh was acquitted under benefit of doubt and Manjit singh was sentenced of imprisonment with a enhanced fine from Rs 100 to 50000\-.Accused were convicted under section 307,34,324 IPC . An appeal was filed against such decision. Parties entered into a compromise during the pendency of appeal .Parties presented a compromise letter signed by complainant and appellant accused on 15 and 29 july respectively. Taking into consideration compromise between parties and the relationship of parties and facts and circumstances of case, sentence undergone has been reduced and fine is also set aside.

Supreme court relied upon *Ishwar singh versus state of Madhya Pradesh* 2008, 15 SCC66: Supreme court of India has “ held that in non-compoundable offence the compromise entered into between parties is indeed relevant circumstance which the court may keep in mind for considering the quantum of sentence.

### Conclusion

Lok adalat are need of time and much relied by litigants or courts as well . Its considered as popular method among all the alternate dispute resolution which include negotiation , conciliation, mediation or arbitration. It enhances quality of justice as it tends to settle matter as per wishes of party to suit and award is final, binding or enforceable .Its a popular phenomenon nowadays and judiciary plays vital role for its furtherance . Parallel to it a check is kept by judiciary upon its working so that provisions of LS Act 1987 are not violated and legal rights of people are not infringed as well. It helps to solve matter of people in amicable , speedy and cheap manner.

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<sup>17</sup> 2019 criminal appeal 1090