

Lok Adalats under the Legal Services Authorities Act, 1987: A Gateway to Speedy and Equitable Justice

Dr. Kusum Chauhan

Associate Professor, H.P.U.I.L.S., Chaura Maidan, Shimla-4

ABSTRACT

Access to justice to everyone through efficacious justice delivery mechanism is a compulsion for the existence of a democratic system. Access to courts does not mean to give permission to enter into court room but in true sense it means to provide an opportunity to seek justice to all irrespective of their socio-economic differences. Therefore, there appears to be deep felt need to think of introducing changes in the mode, method and even the forum for settling disputes, before the existing judicial system itself is engulfed by its own weight of loads of cases. The search for new method has been completed by introducing Alternative Dispute Resolution (for brevity 'ADR') mechanism which also includes the Lok Adalat system. The introduction of Lok Adalats added a new beginning to the democratization of justice in India by providing an additional forum to the people for satisfactory settlement of their disputes. Lok Adalat (People's Court) is one of the alternative dispute resolution mechanisms, where the cases or disputes which are pending in a court or at pre-litigation stage are settled in an amicable manner. It is a legal body under the Legal Services Authorities Act, 1987. This system is based on Gandhian principles. Lok Adalats serve very crucial functions in India due to many factors like pending cases, illiteracy, poverty, high vacancy in courts etc. Lok Adalat has symbolized a human sensitive forum to provide amicable, speedy, cheap justice by adopting informal procedure and avoiding technicalities. The Lok Adalat system is widespread and has the potential to settle many more millions of disputes. As a means for dispute resolution, this system has the potential to relieve the overburdened dockets of more formal courts. Lok Adalats also provide people with opportunities for justice that they might not otherwise have in the formal court system.

This article is aimed at studying the prevalent state of affairs as regards the functioning of Lok Adalats under the Legal Services Authorities Act, 1987 and to have a more comprehensive understanding of the structural capacities and deficiencies. In addition to that, the article aims to identify the issues and factors which are impeding a more efficient functioning of the Lok Adalats, thereby also identifying the reformative measures through which the functioning of the Lok Adalats can be made more efficient.

Keywords: ADR, Lok Adalats, Speedy and Equitable Justice, Legal Services Authorities Act, 1987.

INTRODUCTION

Equal and fair justice is the hallmark of any democratic society¹. It is the foremost duty of State to ensure equal justice for all by regulating the dealings of citizens with one another, by checking disorder and high handedness of one class of people over others and by maintaining all those rights which are fundamental to the existence and upliftment of common man through establishing the effective administration of justice. Administration of justice means to adjudicate the rights and duties of the individuals on the basis of rules laid down by the State.

Constitution of India reflects the quest and expectations of the mankind for justice when its preamble speaks of justice in all its forms: social, economic and political. Those who have suffered physically, mentally or economically, approach the Courts, with great hope, for redressal of their grievances. But, inspite of all commands of the Constitution, benevolent provisions of other laws, we are not in a position to achieve the desired goal of establishment of effective judicial mechanism.

It is an evident fact that the British system of administration of justice in our country has alienated the ignorant and poor people from the system because of its foreign origin, technicality, extreme formalism, rigid rules of procedure and foreign language. The other known reasons which affected badly the administration of justice are delay, corruption, expensive litigation, non access, less number of courts, judges and official staff, lengthy process and lack of legal aid and legal awareness to the needy. So in the light of these weaknesses of the existing judicial system, the question arises whether the poor and weaker section is really being benefited to the desired extent and has meaningful access to the judicial system. The surprising drawbacks of judicial system has compelled the members of Law Commission of India to deliberate on the revival of indigenous legal system² and recommended its restructuring to provide a new model or mechanism for dissolving disputes on the principles of participatory justice. The dire need of the present day is that justice must not be operated in a sound-proof and light-proof court room with absolute technical procedures but justice delivery system must be redesigned, so as to accelerate the people's access to effective, quick and inexpensive justice and in its true perspective accomplish the principles of equality and justice enshrined in our Constitution.

Therefore, in the light of drawbacks of the justice delivery mechanism, there appears to be deep felt need to look forward for introducing changes in the mode, method and even the forum for settling disputes, before the existing judicial system itself is engulfed by its own weight. The search for new method has been completed after the introduction of Alternative Dispute Resolution (for brevity 'ADR') mechanism which also includes the Lok Adalat system. The ADR mechanism emerges not only because the adversarial formal court system is not much effective to provide justice to a large number of masses but also because ADR is the best mode for dispute resolution for certain classes of cases.

The Lok-Adalat has not been an unknown institution of Indian justice delivery system. Now, it is no longer an experiment in India, but it is an effective and efficient, pioneering and palliative alternative mode of dispute settlement which is accepted as a viable, economic, efficient, informal, expeditious

¹ S.C. Singh; "Criminal Justice: An Overview" *CrLJ* 44(1999).

² Law Commission of India, 114th Report on Gram Nyayalaya (1986).

form of resolution of disputes³. Lok Adalats, or literally People's Courts, have their roots in the tradition of participatory justice in India⁴ and at the same encompass elements suitable for the dispensation of justice in modern times. A unique Indian contribution to world jurisprudence,⁵Lok Adalats seek to resolve disputes through conciliatory methods expeditiously and inexpensively. The literal translation of the Hindi word Lok Adalat, is 'People's Court'- Lok, meaning people, and Adalat meaning court. Thus, it simply means a court for the people, by the people, and of the people themselves. It is a contemporary process for dispute resolution that is rooted in ancient tradition. The system of justice dispensation by people's Court has deep roots in Indian legal history and close allegiance to the culture and perception of justice in Indian ethos.

HISTORICAL BACKGROUND OF LOK ADALATS

Lok Adalat is fairly an old form of adjudicating system which prevailed in ancient India. Lok Adalat has long tradition and history to settle the disputes on basis of principles of honesty, fair play and moral character as embodied in Indian culture and civilization. The institution prevailed in the Indian society at the grass root level by the name of People's Court or Popular Court or Panchayats. The village Panchayats or People's Court, as an integral part of justice delivery system, played a very remarkable role in ancient as well as medieval India also.

The ancient concept of settlement of dispute through mediation, negotiation or through arbitral process known as "People's Court Verdict" or decision of "Nyaya-Panch" is conceptualized and institutionalized in the philosophy of Lok Adalat⁶. There is no doubt that People's Court or today's Lok Adalats was in existence in our country since time immemorial. The ancient periods as well as medieval period were the period of Lok Adalat. However, the advent of British regime made all such people oriented and participatory forms of dispute resolution dysfunctional⁷.

The law was present in ancient period in the form of rules, ethics, culture, thoughts and afterwards in terms of *Dharma*. The principle of law was based and developed through the principle of *Dharma*. *Dharma* provides various duties which are essential for human civilization and its progress. The ancient judicial system rather dispute resolution mechanism is based on these principles of *Dharma*. The principles of *Dharma* were strictly followed and implemented by the society and the same proved very effective for dispute settlement. The principle of *Dharma* was interpreted according to existing situation and dispute which proved very effective for common people. Furthermore, it is not erroneous to articulate that this antique organization made significant contribution for developing the judicial system for amicable settlement of dispute at village level. These village level organizations afterward prospered as *Panchayats* which were unceremonious institutions for harmonious settlement of dispute between the people.

In the villages, the local village councils dispensed justice to the villagers. Every body of persons exercising a particular activity seemed to have been invested with the legal right to hear disputes

³ Jitendra N. Bhatt, "A Round Table Justice through Lok -Adalat (People's Court) – A Vibrant ADR in India"1 SCC 11(2002).

⁴B.M.Gandhi, V.D. *Kulshreshtha's Landmarks in Indian Legal and Constitutional History* 543 (Eastern Book Company, Lucknow, 9th Edition, 2009)

⁵Madhava Menon., "Lok Adalat: An Indian Contribution to World Jurisprudence" *Nyaya Path* December 56 (2000),

⁶ Anurag K. Agarwal, "Strengthening Lok Adalat Movement in India," AIR 35 (2006)

⁷ Sarfaraz Ahmed Khan, *Lok Adalat: An Effective Alternative Dispute Resolution Mechanism* 10 (APH Publishing Corporation, New Delhi, 2006).

between its members. While this position indicated “legal” competence on account of specific or specialized skill and knowledge, there was on the other hand, a more general competence attributed to bodies called the *kula, sreni, gana or puga*. Mostly customary in origin, these bodies did not administer justice by virtue of delegation from the king but by virtue of their own powers which was organically attached to the very existence of the body itself⁸. The Panchayats were courts that were popular in the villages. Invested with judicial powers, these courts played a prominent part almost throughout the long course of Indian history⁹. These courts performed judicial functions and settled disputes among the inhabitants of the village¹⁰.

During Muslim period in India, these people's court with different names as panchayats continuously functioned with minor variations. Throughout the Muslim rule there was no direct or systematic state control of the administration of justice in the villages where most of India lived¹¹. At that time, these panchayats were empowered to dispense justice in all petty civil and criminal matters in accordance with the custom or usages of the locality, caste, trade or family¹². These People's Court or Village Panchayats worked for a long time and existed even at the time of commencement of the British rule in India.

The British rulers discouraged administering of justice through People's Courts or village Panchayats and established their own hierarchy of formal courts to render justice in civil and criminal matters. They moulded the ancient Indian legal system according to their vested interest with the result that the functioning of people's court withered away and became empty and suffocating with engulfing nothingness¹³. In this way, they gave a death blow to the functioning of people's courts.

COSTITUTIONAL MANDATE FOR EQUAL ACCESS TO JUSTICE

The Indian Constitution as a form of social document is a significant symbol of the hopes and aspirations of the people. The philosophy of equality enshrined in article 14 of the Constitution says that the State shall not deny to any person equality before law or the equal protection of laws within the territory of India. The provision of equality contains two principles of justice viz. equality before law and equal protection of laws. In the light of the principle embodied in article 14, it is implied that aim of equality can be achieved only when the long established phenomena of inequalities and injustices in name of creed, caste, religion, status and wealth, are weeded out from the Indian society. But, in fact, the principle of equality before law can really be made meaningful only when the price of admission to opportunities for justice can be equally paid. There can hardly be said equal access to justice where one litigant is rich and other poor because the rich litigant may purchase justice with his heavy purse while the poor may not do so. Article 38 of the Constitution is other important provision which refers to social, economic and political justice. This article emphasizes that the State should strive to promote

⁸ Lingat Robert, *The Classical Law of India* 246 (Oxford University Press, New Delhi, 1998)

⁹ HM Murthy Sreenivasa, *History of India* 201 (Eastern Book Company, Lucknow, 2011)

¹⁰ *Ibid.*

¹¹ Sen Gupta, *Evolution of Ancient Indian Law* 112 (1953)

¹² U.C. Sarkar, *Epoches in Hindu Legal History* 250 (1958)

¹³ P.Parameswaran, "Dispensation of Justice: Problem of Cost, Quality and Delay" *AIR* 31 (1991)

the welfare of people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political, shall be implemented in all the institutions of society.

The spirit of article 38 intends to secure to all its citizens, trilogy of justice-social, economic and political. In order to achieve the goal of trilogy of justice, article 39A¹⁴ has been embodied in the Constitution of India with an intention to provide free legal aid and to strengthen equal justice to weaker section of society. Another important directive of the Constitution is article 40 which is concerned with the distribution and decentralization of powers at village level. This Article says that the State shall take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as unit of self government. The objective of this article is also to dispense justice at the doorsteps of all especially of villagers. In order to achieve this objective, the Law Commission¹⁵ suggested that at village level the 'Nyaya Panchayats' should be constituted with the purposes to provide expeditious justice to the villagers as well as for decentralization of the system of administration of justice. So, these provisions of the Constitution lay down emphasis directly or indirectly on the concept of justice and need of efficient and effective justice delivery system.

The Report of Law Commission reveals that the Commission was not agreed with the idea of abolition of Nyaya Panchayats while stressed that they should be strengthened by adopting the proper safeguards. It also advocated the introduction of conciliation as the method of resolution of disputes to be undertaken at the discretion of Nyaya Panchayats. The commission was also inspired by the working of Lok Adalat which was effectively dispensing justice in Gujarat under the guidelines of a voluntary organization named Anand Niketan Ashram.¹⁶ The experiment of new kind of Lok Adalat in India was for the first time made in State of Gujarat by Shri Harivallabh Pareek, one of the disciples of Mahatma Gandhi. He was very much disturbed by the miserable conditions of the tribal adivasis of Rangpur (Baroda) on account of their involvement in various types of litigation which seriously affected their life style and financial position. In order to provide relief to these adivasis he started the alternative mode of Lok Adalat for dispensing justice in the year 1949 in Rangpur and continued the same for number of years. The system was very effective and was acclaimed by all concerned¹⁷.

The system is based on Gandhian principles because it gives a practical shape to the twin concept of Swaraj and Sarvodaya propounded by the Father of the Nation. The concept of the Swaraj implies not merely liberation from the foreign yoke but also emancipation from backwardness, poverty and illiteracy. The concept of Sarvodaya means well-being of all, obliteration of distinction between haves and have-nots. The system casts duty upon us to work constructively and actively to uplift the downtrodden from the deep mire of poverty and ignorance in which centuries of subjugation has immersed them.

¹⁴ Art.39A reads as: "The State shall 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 citizens by reason of economic or other disabilities."

¹⁵ *Supra note 2*

¹⁶ *Ibid*

¹⁷ S.S. Sharma, *Legal Services, Public Interest Litigation and Para-Legal Services* 184 (2003)

The modern version of Lok Adalat, therefore, arose out of the concern expressed by the Committees¹⁸ set out to report on organizing the legal aid to the needy and poor people and the alarm generated by judicial circles on mounting arrears of cases pending for long at different levels in the country system. The introduction of Lok Adalat may thus be said an offspring of the Reports of these Committees. The first Committee on “Processual Justice to the People” headed by Justice V.R. Krishna Iyer, highlighted in its Report that “law and justice can no longer remain distant neighbours. Such a consummation is possible only through an activist scheme of legal aid, conceived wisely and executed vigorously¹⁹. In 1976 the Report on “National Juridicare: Equal Justice –Social Justice” was submitted making more focused recommendations regarding legal aid and the establishment of conciliation cells to minimize litigation, under the chairmanship of Justice P.N. Bhagwati. The Committee also recommended that access to justice must be made easy²⁰.

Justice P.N. Bhagwati and Justice Krishna Iyer, laid emphasis on need for revival of the informal system of dispute resolutions including the Nyaya Panchayats. They mobilized social action groups, public spirited citizens and a section of lawyers to experiment settlement of disputes outside the courts. They were of the opinion that to have an effective system it must be informal, least expensive, generally deprofessionalized, expeditious and justice oriented. Justice Desai, to encourage participation of people in the system, circulated a paper to all the Bar Associations in the country in which he cautioned, “*If we fail in this endeavour, history is not going to pardon us, the time is running out for all of us.*”²¹ In 1980, a Committee at the national level was constituted to oversee and supervise legal aid programmes throughout the country under the Chairmanship of Hon’ble Mr. Justice P.N. Bhagwati, the then Judge of the Supreme Court of India. This Committee came to be known as *CILAS (Committee for Implementing Legal Aid Schemes)* and started monitoring legal aid activities throughout the country²². During the 1980’s Lok Adalats were generally regarded as a species of legal aid programme meant specially to cater to the needs of poor and weaker sections of society and not as a viable substitute for courts²³. The institution of Lok Adalats had been functioning as a voluntary and conciliatory agency without any statutory backing for its decisions and had become very popular in providing for a speedier system of administration of justice²⁴. This demand for affording statutory recognition to Lok Adalats and the zest to transform into reality the salutary objective and mandate of Article 39A of the Constitution of India culminated in to the enactment of the Legal Services Authorities Act, 1987²⁵.

¹⁸ Sunil Deshta, *Lok Adalats in India* 93 (Deep & Deep Publications, New Delhi, 1995).

¹⁹ An important outcome of the Report was the inclusion of Article 39-A by virtue of 42nd Constitutional Amendment, 1976.

²⁰ M.P.Jain., *Outlines of Indian Legal History* 263 (Wadhwa and Company, Nagpur, 5th edn., 2008).

²¹ P. Bhargava, *Lok Adalat : Justice at the Door Steps* 16-17(1998)

²² *Supra* note 18 at 237

²³ N.V. Paranjape, *Public Interest Litigation, Legal Aid & Services, Lok Adalats and Para Legal Services* 273 (Central Law Agency, Allahabad, 1st edn., 2006).

²⁴ R.L. Bhatia, “Recent Developments in ADR: Permanent Lok Adalats”, *The Chartered Accountant* 757 (December 2004).

²⁵ (39 of 1987) was however enforced w.e.f. 9th of November, 1995, see Gazette of India, Extraordinary, Part II, sec. 3(ii).

THE LEGAL SERVICES AUTHORITIES ACT, 1987

The Lok Adalats, which were functioning on an informal basis, had got statutory recognition under the Legal Services Authorities Act, 1987 (for brevity 'the Act'). The Act came into force on account of several amendments on November 9, 1995. The Act contains the detailed provisions about the set-up of Lok Adalats, their jurisdiction, powers, procedure and functioning, etc. The Act has been again amended by the Parliament, with the intention to constitute 'Permanent Lok Adalats' for deciding the disputes concerning 'Public Utility Services'. The objective of bringing this Act into existence was to devise more ways of reaching the poor man and evolving speedy and less expensive system of administration of justice. Now, the Lok Adalat system is working in accordance with the provisions of the Act.

This Act provided free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity²⁶. As the purpose was not fulfilled the Act was amended in 2002. The new amended Act provides competence as well as effective method of amicable settlement by establishing permanent Lok Adalat. All the methods which are defined under the Act for amicable settlement play vital role for providing the justice to all. The Legal Services Authorities Act is a concise enactment consisting of thirty sections only. The first part of the Act deals extensively with the constitution and functions of various authorities and legal aid. The second part outlines the framework for the organization, procedure and functioning of Lok Adalats. Its strategy for pursuing the goal of equal justice to all is through the legal aid and Lok Adalat schemes coordinated by the authorities specifically designated under the Act.

(a) Objectives of the Act

The aim of this Act is to carry out suitable reforms in judicial administration and afford opportunities of better access to justice for the common people. The intention behind the enactment of this Act is to accomplish the social objective of the Directive Principles of the State Policy embodied in Article 39-A of our Constitution. The Act is a legislative attempt to decongest the courts of heavy burden of cases²⁷. Therefore the Legal Services Authorities Act, 1987 provides ample opportunity to all to have easy access to justice at the doorsteps of the Lok Adalat. It has virtually given birth to the participatory justice and has fulfilled the need to work as an alternative forum to quench the thirst of justice. Therefore, the very objective of the Act is to evolve a mechanism to deal with arrear of cases expeditiously by resorting to the device of Lok Adalats²⁸. The Act seeks to achieve three objectives, i.e. to establish Legal Services Authorities at different level for providing legal aid services to the needy and deprived class in the society, to organize Lok Adalats to make it sure that the justice is promoted through law and everyone has equality of opportunity for access to justice, to promote Lok Adalats as

²⁶ The Legal Services Authorities Act, 1987 (Act 39 of 1987), Preamble

²⁷ *Abul Hassan and National Legal Services Authority v. Delhi Vidyut Board & Ors.* AIR 1999 Delhi 88

²⁸ *Supra* note 7 at 146

an alternative and better mode of dispute resolution without the intervention of the adjudicatory process of the courts.

(b) Authorities under the Act

There are several authorities created under the Legal Services Authorities Act, 1987, to ensure the efficient organization of free legal services in the country. Chapter II and Chapter III of the Act deals with the constitution and functions of the authorities under the Act. The Act in the first place provides for the setting up of the National Legal Services Authority²⁹, the State Legal Services Authorities³⁰ in different States and the District Legal Services Authorities³¹ at the district levels. The National Legal Services Authority (NALSA) acts as the apex and nodal agency for laying down schemes, principles, guidelines and policies for the purpose of making legal services available as provided under the Act. The constitution of certain Committees such as the Supreme Court Legal Services Committee³², the High Court Legal Services Committee³³ and the Taluka Legal Services Committee is laid down under the Act³⁴. The Act provides for the overseeing and supervision of the functioning of the authorities and committees constituted at each level.

(c) Eligibility for Free Legal Aid

Chapter IV of the Act lays down the criteria for giving assistance and states who is entitled to receive the same. But the legal aid services are provided only to the eligible persons as per the provision³⁵ of the Act. However, in the case of Lok Adalat, the criteria for eligibility for legal aid are not applicable for the very good reason that it should be available in all cases to all persons irrespective of income of the parties, Its object being speedier justice at less expense to all parties to the litigation, actual and potential. It means that Lok Adalat can take cognizance of matters involving not only those persons who are entitled to avail free legal services but of all other persons also, be they women, men or children and even institutions. In this sense, it provides equal opportunity to all irrespective of caste, religion, sex, race and wealth to present the dispute before Lok Adalat for settlement. Chapter V of the Act stipulates the establishment of the National Legal Aid Fund, State and District Legal Aid Funds³⁶.

(d) Functioning of Lok Adalats

Chapter VI of the Legal Services Authorities Act, 1987, lays down the scheme for the organization and functioning of Lok Adalats. Now, the Lok Adalats are organized by various authorities and committees at such intervals and places and areas under their jurisdiction as they think fit³⁷. A Lok Adalat is consisted of serving or retired judicial officers and other reputed persons, usually, a lawyer and a social

²⁹ *Supra* note 26, ss. 3 to 5 regarding constitution and functions of National Legal Services Authority

³⁰ *Id.*, ss. 6 to 8

³¹ *Id.*, ss. 9 to 11

³² *Id.*, s. 3-A .

³³ *Id.*, s. 8-A.

³⁴ *Id.*, ss. 11-A , 11-B

³⁵ *Id.*, ss. 12, 13

³⁶ *Id.*, ss 14 to 18

³⁷ *Id.*, s. 19(1)

worker³⁸. The Lok Adalat is empowered to specify its own procedure for determination of any dispute coming before it. The Lok Adalats are always flexible with regard to the rules and procedure because the parties come to their own term with little assistance here and there, and they are able to reach a particular decision if they consider it to be just and acceptable³⁹. In Lok Adalat, there is no strict application of cumbersome procedural laws like Civil Procedure Code, Criminal Procedure Code and the Evidence Law. However, the Lok Adalats are bound to follow the principles of justice, equity, fair play and other legal principles.

There is no pressure upon parties to settle the disputes through Lok Adalats. The Lok Adalat is an institution of Indian justice delivery system in which the cases are referred by consent of disputants or by one of the parties or by court *suo motu* or by the concerned authority or committee⁴⁰. Before such reference, a reasonable opportunity of being heard is provided to the parties except where there is a consensus between the parties.

The Lok Adalat system is basically meant for the resolution of people's disputes that are pending in the courts or which have not reached the court, through conciliatory techniques and voluntary actions⁴¹. In this sense, it has the widest possible jurisdiction to deal with any matter, whatever be its legal character and in whatever court it might be pending or falling within its jurisdiction, including the highest court. But, the Lok Adalat has no jurisdiction in respect of the non - compoundable criminal cases under any law⁴². Thus, the serious crimes are kept outside the ambit of Lok Adalat. Generally, the Lok Adalats settle the disputes concerning mutation of land, encroachment on forest lands, family or matrimonial disputes, land acquisition disputes, cases relating to insurance, bank loan cases, labour disputes, dishonour of cheque cases, revenue cases, motor vehicles accidental claims cases, and compoundable criminal cases, etc. So, the Lok Adalat has wide jurisdiction to settle the all kinds of disputes except the dispute related to non-compoundable offences.

In Lok Adalat, the "Lok" content i.e. the public opinion aspect, has to be judiciously blended and balanced, especially in view of the fact that the decisions of Lok Adalat have been made non-appealable. It appears that these aspects have been well-taken care of by providing under section 19 (1) and 20(4) of the Legal Services Authorities Act, 1987, to the effect that Judicial Officers are integral part forming the constitution of Lok Adalat and legal principles and principles of justice, equity and fair play are the guiding factors for decision based on compromise to be arrived at before such Adalats⁴³. The significant aspect regarding awards by the Lok Adalat is that every award of the Lok Adalat is deemed to be a decree of a Civil Court and as such it is executable by that court⁴⁴. Its status being as good as the decree of a court itself, the award of the Lok Adalat is equally capable of execution through the legal process.

³⁸ *Id.*, s.19(2), (3)

³⁹ *Id.*, s.20

⁴⁰ *Id.*, s.20(1), (2).

⁴¹ *Id.*, s.19(5).

⁴² *Id.*, s. 19(5). Proviso

⁴³ S.K. Sarkar, *Law Relating to Lok Adalats and Legal Aid* 113 (Orient Publishing Company, New Delhi, 2nd edn, 2008).

⁴⁴ *Supra* note 26, s. 22(1)

(e) Functioning of Permanent Lok Adalats

The Legal Services Authorities Act was amended in 2002, with the inclusion of Chapter VI-A⁴⁵ relating to Pre- Litigation Conciliation and Settlement. The amendment Act provides for the establishment of Permanent Lok Adalats⁴⁶ to exercise jurisdiction in respect of public utility services to further the objective of speedy and inexpensive justice to litigants. This novel feature introduced in the Act, empowers the Lok Adalats to settle cases with respect to Public Utility services, even before they are filed in the Court⁴⁷. Prolonged dispute in respect of the above matters between the service provider and an aggrieved party may result in irretrievable damage to either party to the dispute. Permanent Lok Adalat can decide the claim, on merit, in respect to any Public Utility Service, as defined under section 22A(b) of the Legal Services Authorities Act, 1987⁴⁸.

It is a participatory justice mechanism in which judges serving or retired, advocates and social workers become the part of Permanent Lok Adalat and persuade the parties to settle dispute in friendly atmosphere⁴⁹. A dispute can be raised before the Permanent Lok Adalat provided the parties had not taken up their matter before any Court⁵⁰. The Act clearly stipulates that the Permanent Lok Adalats have no jurisdiction to deal with any matter relating to an offence not compoundable under any law and it has also limited their pecuniary jurisdiction which can be notified by the central government from time to time⁵¹. Where a dispute is brought before it, the Permanent Lok Adalats are required to deal with matters and decide such disputes by assisting the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner⁵². Where no settlement is arrived at, the Permanent Lok Adalat is empowered to decide the dispute on merits⁵³. The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872⁵⁴.

Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them. Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court. The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat. Every award made by the Permanent Lok Adalat under

⁴⁵ Inserted by Act 37 of 2002 dated 11.6.2002

⁴⁶ *Supra* note 26, s.22-B(1)

⁴⁷ *Id.*, s. 22 C

⁴⁸ Public Utility Service means transport service for the carriage of passengers or goods by air, road or water; or postal, telegraph or telephone service; or supply of power, light or water to the public by any establishment; system of public conservancy or sanitation; service in hospital or dispensary; or insurance service; and includes any service which the Central Government or the State Government as the case may be, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

⁴⁹ *Supra* note 29, s.22B(2)

⁵⁰ *Id.*, s.22C(2)

⁵¹ *Id.*, s 22C(1), Proviso

⁵² *Id.*, s. 22-C (5)

⁵³ *Id.*, s. 22C(8)

⁵⁴ *Id.*, s. 22D

this Act shall be final and shall not be called in question in any original suit, application or execution proceeding. The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court⁵⁵.

SUGGESTIONS TO STRENGTHEN THE SYSTEM OF LOK ADALATS

Though, the law provided some effective measures and provisions for the working of Lok Adalat, still there is need to make more effective provisions to improve the working, utility and efficiency of Lok-Adalat mechanism as one mode of ADR to achieve socio-economic justice.

Under the Act various provisions (sections 3 to 11) have been made regarding the constitution of different authorities where judicial officers are the main members. The organization chart of the body reveals, however, that the members are already overcharged with the assigned duties of their primary work. As a result, there is a possibility that the office may not be able to achieve the expected results in providing legal services in the future if such an overburdened person is again given the functions of the constituted body. Therefore, if these provisions of the Act are to be implemented properly, then it will be essential to amend these sections. The government should emphasize the importance of recruiting legal professionals who do not hold other legal positions so that they can devote as much time to the purpose of the Act as possible. And if this can't be done then this additional work must be assessed and the judicial officers must be credited with some monetary benefits which will help in streamlining the lok adalat related work with the other work of judicial officers. This will ensure that lok adalat related work is not sidelined thereby increasing the efficiency of this mechanism. Sections 12 and 13 provide free legal services. Person can avail free legal services subject to the means test i.e. the income limit. The income limit is required to be increased reasonably. There is a need to redefine these levels either by different state governments, or in the alternative, by NALSA, in coordination with the Union. Aligning the income levels with ones defined under the 103rd Constitutional Amendment on Economically Weaker Sections (EWS) is also worth consideration.

Another drawback is in the existing scheme of organization of the Lok Adalats under Chapter VI of the Act. The system of Lok Adalats is mainly based on compromise or settlement between the parties. In failure of this, the case is either returned to the court of law or the parties are advised to seek remedy in a court of law which causes unnecessary delay in the dispensation of justice. This problem can be tackled to a great extent, if Lok Adalats are given power to decide the cases on merits.

Normally, for settlement of criminal cases in Lok-Adalat, the Court concerned sends notice to the concerned parties to appear before the Lok-Adalat on a specified date and time. If a party is absent before such Lok-Adalat without any step, the Lok-Adalat authority does not take any action against the absentee. Such a situation degrades the value of Lok-Adalat in the minds of common people. In fixing the date of Lok-Adalat, the court does not take the consent of concerned parties to the case which is to be sent to Lok-Adalat for settlement. If on the date so fixed, one party does not appear before the Lok-

⁵⁵ *Id.*,s. 22E

Adalat, it makes only wastage of time of other parties. Thus, prior consent of parties is extremely necessary before fixing a date for Lok-Adalat.

Further, the cases relating to public utility services need to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation stage itself which would result in reducing the workload of the regular courts to a great extent. The scope of public utilities mentioned in section 22 should be widen and inter- departmental issues should be given a place. This will help in providing speedy justice in inter departmental issues and would help in curbing the pending arrears.

In many cases the poor litigant is not able to pay the required court fees which is in fact many a times very high for the poor litigant thus, refraining him from knocking the doors of the court for the justice. Thus, the work of legal services authorities can be compartmentalized in order to promote efficiency. Various other institutions like nongovernmental organisations, human rights commissions, Commissions for women etc can work in harmony with the legal service authority for the desired purpose for which provisions can be mentioned in the Act.

The lawyers appointed by the state legal services to provide legal aid and those appearing for lok adalats should be paid adequately by the government for which the mandatory provision be made. This will encourage lawyers and it would also improve the quality of legal aid provided. The high court can set up a pool of lawyers specifically for providing legal aid and pay them monthly salary as given to a judicial officer. Well qualified lawyers can be selected by conducting examinations and interviews. It will also help in improving the quality. The Para Legal Volunteers and lawyers working with the legal service authorities for imparting legal literacy have to be first given formal academic grounding. There is a yawning gap in the realm of teaching and training of legal services, since it is not formally part of the academic curriculum of all law schools today. Thus, there is hardly a formal academic scholarship evolving in this domain in the geographies in which it is needed most, particularly in India.

Changes should also be made in widening the jurisdiction and powers of the Lok Adalats. Lok Adalats in order to work efficiently alongside the formal justice system must ensure to bring about the required changes every six months to meet the requirements of the emerging branches of law. Focus must also be placed on more use of alternate dispute mechanism. Even with the increase in the use of Lok Adalats, the non-adversarial methods to solve disputes are still not viewed as the popular method to seek justice. People are generally unaware about the ADR methods, therefore awareness camps at grass-root level should be organised at regular intervals. Efforts must also be made to organise more mobile Lok Adalats.

There is also a need to provide infrastructural support to lok Adalats which must include also the sufficient staff with proper training. Data could be maintained containing information regarding cases. Maintaining a data would help assess problems in the system giving way to more effective changes. All the Legal Services Authorities must update their websites.

CONCLUSION

Lok Adalat system is a medicine in litigating with hardly any adverse effects. In fact, apart from easy accessibility, quicker and cheaper justice, the chief beauty of Lok-Adalat is the decimation of bitterness, because compromise is the very soul of the Lok-Adalat justice. It is based on the spirit of equality, justice and rule of law enshrined in the Indian Constitution with a view to improving the prevailing judicial system with functional process and promotion of justice through law. It is observed that Lok Adalat is a unique institution which is supported by all the segments of people such as judges, lawyers, law teachers, social workers litigants and common masses also. It does not only stress to end the dispute between the parties but also strongly convince the parties to harmonise their relation which will strengthen the unity of society. The Legal Services Authorities Act, 1987 has been enacted in order to give effect to Article 39A of the Constitution to extend free legal aid, to ensure that the legal system promotes justice on the basis of equal opportunity. But the Indian socio-economic conditions warrant highly motivated and sensitized legal service programmes as large population of consumers of justice (heart of the judicial anatomy) are either poor or ignorant or illiterate or backward and as such at a disadvantageous position.

The Lok Adalat system has the opportunity to live up to the goals of providing the public with an effective and informal dispute resolution mechanism as it had originally set out to accomplish. It can simultaneously relieve the burdens of the formal legal system and bring informal legal remedies for speedy and equitable justice. To achieve these objectives, it is high time for legislators, jurists, lawyers and judges to help modifying the Act of 1987 governing Lok Adalat and include more areas under its jurisdiction where public at large is involved . The forum of Lok Adalat is the need of an hour and deserves to be strengthened and developed for preventing and ending the pending litigation so that it may play a significant role in the development of country.