



## Lok Adalat - Improvement suggestions

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### Introduction to Lok Adalat :

To start with **what is a Lok Adalat?** Why do we need it?

ADR (Alternate Dispute Resolution) has been adopted in India from time immemorial. The concept of Lok Adalat (People's Court) is an Indian Innovation. In ancient time the disputes were referred to Panchayats (5 village elders) established at the village level. Panchayats used to resolve disputes through Arbitration. It has proved to be an effective alternative to Litigation.

The advent of Legal Services authorities Act, 1987, gave a statutory status to Lok Adalats, pursuant to the constitutional mandate in the Article 39A of Constitution of India. It contains various provisions for settlement of disputes through Lok Adalat. It also constitutes Legal Services Authorities to provide free and competent legal aid

### Art 39A of Constitution of India<sup>1</sup>

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 of securing justice not denied to any citizen by reason of economic or other disabilities.

Preamble of "Legal Services Authorities Act, 1987" (Act) includes <sup>2</sup>

**"To organize Lok Adalats** to secure that the operation of the legal system promotes justice on a basis of equal opportunity."

Chapter VI (Sec 19-22) of the Act describes Lok Adalats

### Jurisdiction of Lok Adalat (Sec 19(5))

A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of:

- (i) any case pending before; or
- (ii) any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organised.

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

The Lok Adalat can compromise and settle even criminal cases, which are compoundable under the relevant laws.

Sec 21 provide that **Every Award** of the Lok Adalat shall be **deemed to be a decree of a Civil Court or an order of any other Court** where a compromise of settlement has been arrived at.

The **Court Fee paid in such case shall be refunded**. Also every award made by a Lok Adalat shall be **final and binding** on all the parties to the dispute and **no appeal** shall lie to any Court against the award.

**Sec 22** provides that the Lok Adalat (LA) or Permanent Lok Adalat (PLA) shall have the same **powers as are vested in a Civil Court** under Code of Civil Procedure, 1908. Also LA or PLA shall specify its own procedure

**Sec 22-B**, provides for Establishment of **Permanent Lok Adalats** exercising jurisdiction in respect of one or more Public Utility Services, for such area. It comprises or Chairman (DJ, ADJ or higher Judicial officer) and two other persons.

<sup>1</sup> The Constitution of India <https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text>

<sup>2</sup> Legal Services Authorities Act, 1987 <https://nalsa.gov.in/>



### **Suggestions for the improvement of Lok Adalat System.**

Lok Adalat system currently suffers from a lot of short comings and hence there are a lot of areas for improvement

#### **1. Use of Technology**

- a. Even though Courts have been digitized, Cause list have been digitized. Lok Adalats appear to be running in an Ad-hoc manner. For e.g.
  - i. There is no online cause list of cases for Lok Adalats.
  - ii. No cause list in advance, only on the morning of the Lok Adalat day and that too only in front of the Court Room. This is quite a hassle and leads of effort and time wasted by parties and Courts (by their absence)
- b. Video Conferencing technology
  - i. VC technology should be used to connect parties and their advocates for a prompt resolution.

#### **2. Sharing of Information/Results**

- a. While orders of regular Courts are available online on Judicial Grid, Lok Adalat orders are missing. There is no way to check back what was settled, except to go and see paper file
  - i. Also there is no mapping of existing Court/case orders to Lok Adalat's and vice versa – mapping of Lok Adalat settlements to Court/case file. Everything is manual and paper driven.
  - ii. It is a field day corruption and mis-carriage of justice

#### **3. Role of Notices and time Management**

- a. The Lok Adalat proceedings go into multiple rounds, on an average 5 Rounds, mainly because the parties, Counsels, IOs etc. are not present. It wasn't clear whether they had adequate notice of the same or were merely delayed or didn't bother.
- b. Even were a Stand-in Counsel is sent in last minute, he is hardly effective as neither does he has an understanding of the case, nor he has any authority to settle. This is as good as an absent counsel.
- c. Significant amount of Court time was thus wasted.

#### **4. Communication System (PAS – Public Address system)**

- a. Since there is no PAS in the Court room, it is difficult to hear the cases as both Counsel and the Judge spoke softly among themselves. It defeats the definition of open courts. If no body in the court is able to hear what is transpiring between Judge and Counsel, it is as good as a private conversation and not an open court. Use of Mics or public address system would go a long way in having clear communication. Also it will restore the trust of public in the Judicial system.

#### **5. Preparation/case allocation for Lok Adalats**

- a. There are many gaps in the preparation for Lok Adalats
  - i. Many Non-compoundable cases are also sent, which may have been suitable for plea bargaining but then are sent to different Lok Adalats
  - ii. Lack of preparation on behalf for parties is also evident as in many civil matters, neither, the bank or the party carries the latest statement of account. Lok Adalat is not a place to do fact check but settlement is faster if people know what the facts are and where they stand.

#### **6. Avoid abuse of process of Court/Lok Adalat**

- a. In some of the cases it is clearly evident that one of the party is merely using Lok Adalat as a means of not to pay money back, as the case was earlier settled in another Lok Adalat, many years back. The contention of non-paying party is that the previous



settlement was a forced one and terms not conducive. (while his story is not reliable), it also throws light that settlements cannot be forced through.

- b. Such cases are sent back for Execution. Strict action should be taken against such parties
- c. Also all settlements may not happen and some may have to be adjudicated.

#### 7. Follow-up analysis

- a. A follow-up analysis must be done to understand what happened to the cases after they were settled. Many cases I checked on the Judicial Grid E-Courts had not moved ahead or were not updated.

#### Conclusion

Lok-Adalat can be used in conjunction with Mediation as it will be far more effective. The suggestions such as leveraging technology for improvements if implemented will bring a lot more efficiency and credibility to the Lok Adalat. Video Conferencing Technology should be used bringing disparate parties to the common platform leveraging technology and also saving money and time. Parties would not need to travel all the way to the court and Lok Adalats should be the one reaching to the people. Then only in true sense we can call it a lok adalat.

Judges, advocates are some of most technologically backward communities left. Britishers have left India but the colonial legacy is most starkly visible in the three functions of the Government (Legislature, Executive and Judiciary). Many reforms have taken place in legislature and Executive, like changing the time of Budget from the British time to Indian time and use of computers. Incidentally Judiciary has been the one bringing reforms in most of the other sectors, except for itself. Judicial innovation should work with the time and some steps are truly commendable such as establishment of Judicial Data grid. More transparency is required in the administrative side of Judiciary, which has become influenced by rampant corruption, where orders of the Judges are being modified /negated by the clerks. Some of the Judges haven't fared well either. When Lok Sabha and Rajya Sabha can be broadcasted live on TV, why not Court Proceedings. That will bring the true picture of Judiciary in front of people on India and not the wrong one developed by Bollywood – "Tareekh pe Tareekh" or Jolly LLB types. In US Judicial proceedings are widely viewed on TV.

Lok Adalats needs to adopt technology, bring transparency, and better planning and efficiency to avoid falling into the trap/ trappings of the regular judicial system. Also the Judicial system improvement should not be only for the metros (while they could be good place to start). Even metros are not covered uniformly it is on the initiative of the various High Court and Supreme Courts which make some of them advanced and other lack luster. Also Judgements need not be just on the paper, but they need to be implemented. For e.g. Hon'ble Supreme Court has said that Courts can conduct proceedings over Video Conferencing so that parties from different cities don't need to travel. Also it negates the home ground benefit of one of the parties. However, most courts have turned a deaf ear to such suggestions/orders of the Supreme Court and some of the High Courts. There is an urgent need to rein in such orthodox elements in the Judiciary which shackle the Judiciary from its forward march.

Access to Justice is the paramount principle defining Lok Adalats. Mediation with the use of technology such as video conferencing, internet communications, IT systems, or even mobiles (which have sufficient advancement) can be used. The "Chalta hai" attitude needs to go. Also the attitude that "we are Judiciary who will say anything to us" needs to be replaced, in true sense with the Constitutional Ideal of –

A legal system which promotes justice, on the basis of equal opportunity, and that justice not denied to any citizen by reason of economic or other disability.

#### References :

1. The Constitution of India <https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text>
2. Legal Services Authorities Act, 1987 <https://nalsa.gov.in/>