

Original Article

Legal Services Authorities Act, 1987: An Analytical Study of Lok Adalat

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Abstract

Enactment of “The legal services authorities act, 1987” is the result of formal and lengthy process of justice delivery system and pendency of cases in courts which aims to contribute free of charge and skillful legal services to the weaker sections of the society. It aims at ensuring that opportunities for securing justice are not denied to any citizen by cause of financial or other disabilities. Lok Adalat constitutes a revolutionary stimulation in the administration of Justice. At present this system is functioning sound but it should be modernized with changing facet of society and need of the hour. Most prominently public spirited judicial system is the need of the hour to carry frontward for justice dispensation.

Key words: Lok adalat, justice, legal services authorities act.

Introduction

The Constitutional goal as enshrined in Art 39A¹ of equal and speedy justice has remained a dream for millions of Indians. The question therefore is should we accept the status quo or try to make a change? It will not be out of place to mention that litigation is thought to be an obstacle to the growth of human beings, society, country and the world. Moreover in the present era of globalization of the 21st century, people, and country need effective and multi-door dispute resolution system. In today’s market place when we go out to buy anything we look for and get variety of options. The present era is called an era of consumerism. People want choice and change and it is obvious that people want choice and change even in their dispute resolution mechanism.

The Lok Adalat system is not a substitute for the present judicial system, but a supplementary to it so that the arrears of cases in courts of law may be reduced.

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.

The Indian Constitution incorporates the basic concept of justice to all-justice, social, economic and political and equality before law and equal protection of law. It is a participatory justice system which can only survive with the active involvement of lawyers, judges, social workers, reputed persons of the society and specially the concerned parties to the dispute. To give legislative recognition to the system the legal services authorities act has been enacted for effective implementation of Lok Adalat¹.

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Voltaire once said "I was ruined twice in my life, once when I lost a law suit and once when I won a law suit!" Litigation thus creates a loose - loose situation though projected win-loose situation.

Lok Adalat:

The meaning of the term 'Lok Adalat' in literally is 'People's Court' because the term comprises two words namely 'Lok' and 'Adalat', Lok stands for the people and Adalat means the court. So, it is meant people's court. It is a major aspect of legal aid programme because it intends to provide equal protection of law and equal access to justice to all people, particularly the poor who lack means to knock at the door of justice.

The Lok Adalat being an innovative form of voluntary efforts for amicable settlement of disputes between the parties and not akin to regularly, constituted law courts, is expected to supplement and not to supplant the existing adjudicatory machinery. It is true that initially, the Lok Adalats were organized under the legal services programmes. But, Lok Adalat system is not only a part of the legal aid movement while it is a unique symbol of Indian traditional participatory justice delivery system. Generally speaking, Lok Adalat is a para-judicial institution being developed by the people themselves. Before the passing of the Legal Services Authorities Act, it was working in its infancy, trying to find an appropriate structure and procedure in the struggle of the common people for social justice. It is born out of a belief that even if State –supported programmes of legal aid were able to provide legal assistance to every indigent client that is not sufficient to solve the problems of the poor vis-a-vis the administration of justice. The Lok Adalat system is intended to act as a safety valve to relieve the mounting pressure on the courts.

The Legal Services Authorities Act, 1987

Lok Adalat is a forum where the disputes/cases pending in the court of law or at pre-litigation stage are settled /

compromised amicably. The Lok Adalat has been given statutory status under the Legal Services Authorities Act, 1987. Under the said Act, the award made by the Lok Adalat is deemed to be the decree of a civil court and is final and binding on all parties and no appeal lies before any court against its award.

Nature of cases to be referred to Lok Adalat

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

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

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

A) Case pending before the court:

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

B) Any dispute at pre-litigative stage

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

Permanent Lok-Adalat (PLA)

The Permanent Lok-Adalat² is advance version of Lok-Adalat with additional features of having residuary powers. Therefore with these advance versions, it can act boldly, effectively and does not depend upon the mercy of parties to have compromise and settlement at per their choices and halt the process at any stage. As, Permanent Lok-Adalat is statutory body and its decision is binding and it can decide the matter even if, the parties fails to arrive at settlement and compromise. Therefore, the permanent Lok-Adalat has residuary jurisdiction, in addition to the jurisdiction enjoy by the

Lok- Adalat, to decide dispute by virtue of S.22C (8) even if dispute between parties failed after conciliation. For the purpose of determination of claim, it is not necessary for the Permanent Lok Adalat to dispose of the matter only by way of compromise or settlement arrived at between the parties. Even if parties fail to compromise or fail to arrive at a settlement, Permanent Lok Adalat can decide the claim, on merit, in respect to any Public Utility Service, as defined u/s. 22A. Thus, if conciliation before the Lok-Adalat fails, the award passed by the Permanent Lok-Adalat is valid and binding u/s 22C (8). Also, the Lok Adalat can settle disputes only on the basis of compromise or settlement between the parties. If the parties do not arrive at a settlement or compromise, the case is either returned to the Court of law or the parties are advised to seek remedy through the Court of law. This thus causes unnecessary delay in dispensation of justice. But to avoid this drawback, the Amendment has been introduced in Section 22 of the said Act in 2002, which provides for setting up of Permanent Lok Adalat to provide compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services, like postal, telegraph or telephone service etc. Award of the Permanent Lok-Adalat is open to challenge and subject to judicial review on the following grounds,

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

Organization of Lok Adalat

Organizational aspect of an institution like Lok Adalat is an important one so as to access its functioning. The Lok Adalat is organized by the concerned Legal Services Committees or Authorities as the case may be at such intervals and

places and for such areas as it deems fit. Such Lok Adalat consists of serving or retired judicial officers and such other persons as specified by that Legal Services Committee or Authority. Generally, the date and place of organizing Lok Adalat are fixed about a month in advance. Information for the same is given wide publicity through press, posters, pamphlets etc.

Jurisdiction of Lok Adalat

Reference of dispute for settlement to Lok Adalat has been circumscribed by conditions laid down u/S.19 (5) and u/S.20 (1) and u/S.20 (2) of the Legal Services Authorities Act, 1987. Further u/S. 20 (3) the Lok Adalat is empowered to dispose of case or matter referred to it only on basis of compromise or settlement between parties alone. Accordingly, Lok Adalat exercises its jurisdiction to arrive at a compromise or settlement between the parties to any disputes falling within the jurisdiction of any civil, criminal, revenue court or any tribunal constituted under any law for time being in force. It may be any case pending before the court or any matter which is falling within the jurisdiction of the court but not yet brought before it. However, the offences, which are non-compoundable under any law, fall outside the purview of jurisdiction of Lok Adalat & Permanent Lok-Adalat. Lok Adalat is empowered to take cognizance of following kinds of cases:

1. Any case, pending before the Court and referred by that Court to Lok Adalat, where both parties agree for such reference, or
2. Where one of the parties makes an application to the Court for such reference and the court is prima facie satisfied about chance of such settlement, or
3. Where, the court is satisfied that, the matter is an appropriate one to be taken Cognizance by the Lok Adalat.

Thus, it is clear that while referring a case to Lok Adalat, Court can exercise suo moto powers. However, reference of the matter to the Lok-Adalat on suo moto

way, court itself need not have to investigate whether there are chances of settlement. It only has to explore possibility of settlement before such a reference. The court can also refer a case to Lok Adalat even at the request of one of the parties provided that it is done after giving a hearing to all the parties and is satisfied that there are chances of settlement or a case is a fit one to be taken cognizance by Lok Adalat and also records such satisfaction. Lok Adalat follows a single and uniform procedure to all civil and criminal cases. The procedure is also devoid of all technicalities and baffling formalities but moulded in consonance with exigencies of the situation. At the same time, it ensures minimum standards of fairness. It gives more emphasis on the principles of Natural Justice rather than the rigors of law. It also follows the procedure prescribed under the Act, Rules and Regulations framed there under. In ***Parmod vs. Jagbir Singh and Ors***, Court observed that the 'Lok Adalat' cannot assume the role of the regular Court and decide cases dehors 'Compromise or Settlement'. Thus the power and the jurisdiction has not been conferred upon the Lok Adalat to decide the cases on merits but only the 'Compromise or settlement' can be recorded keeping in mind the principles of justice, equity, fair play and other legal principles. The real settlement must be made by the parties. Order of the Legal Services Authorities must reflect that this procedure has been followed. In ***Moni Mathi v. Federal Bank Ltd. Arakkunnam*** it was held that, the Lok Adalat are bound to follow the principles of Natural Justice, equity, fair play and other legal principles and also Lok Adalat shall not forget that it is their duty not to dispose of cases somehow but to settle cases amicably.

Powers of Lok Adalat

Under Section 22 of the Legal Services Authorities Act, 1987 defines that Lok Adalat have same powers as that of a Civil Court.

- a Lok Adalat can summon or enforce the attendance of a witness in a dispute and also has the power to examine the witness on the oath.
- Lok Adalat has a power to discover or can ask the person in whose possession, any document, which is important to the dispute lies, to produce the document in the Lok Adalat.
- Lok Adalat has the power to receive the evidence on affidavits, which may be useful in settlement of the dispute between the parties.
- Lok Adalat can enjoy its power over any such matters which are prescribed in the act.
- Lok Adalat has power of requisitioning of any public record or document or copy of such document or record from any court or office.

Finality of Lok Adalat Award

In the proceedings of Lok Adalat, the parties agree to abide by the decision of the judge at the Lok Adalat. However, it is often seen that later, the same order is challenged on several grounds. In one of the recent cases, the Supreme Court of India has once again laid to rest all such doubts. In unequivocal terms, the court has held that award of the Lok Adalat is as good as the decrees of the Court. The award of the Lok Adalat is fictionally deemed to be decrees of the Court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. This includes the power to extend time in appropriate cases. The award passes by the Lok Adalat is the decision of the Court itself though arrived at by the simpler method of conciliation instead of the process of arguments in court.

Consent of the parties

The most important factor to be considered while deciding the cases at the Lok Adalat is the consent of both the parties. It cannot be forced on any party that the matter has to be decided by the Lok Adalat. However, once the parties agree that the matter has to be decided by the Lok Adalat, then any party cannot

walk away from the decision of the Lok Adalat. In several instances, the Supreme Court has held that if there was no consent the award of the Lok Adalat is not executable and also if the parties fail to agree to get the dispute resolved through Lok Adalat, the regular litigation process remains open for the contesting parties. The Supreme Court has also held that compromise implies some element of accommodation on each side. It is not apt to describe it as total surrender.

A compromise is always bilateral and means mutual adjustment. Settlement is termination of legal proceedings by mutual consent. If no settlement of compromise is or could be arrived at, no order can be passed by the Lok Adalat.

Conclusion

The legal services authorities act 1987, act 39 of 1987, is an act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to guarantee 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 the basis of equal opportunity. In the statement of objects and reasons, Article 39A of the constitution had been referred of apart from the committee for implementation of legal aid to matrimonial dispute or other disputes of the same nature are being well settled. The overall functioning and achievements appear to be appreciable though not remarkable. In a country like India that legal assistance should be elementary requirements and hence should be available at free of charge to needy masses in search of justice. Our supreme court has in times and again made very appropriate attempts to implement this viewpoint which is already prevailing in our legal system from beginning. Legislature has done their fragment by creating legal services authorities act, 1987 and provisions of Lok Adalat. Proper organization and management in conducting Lok Adalat will be a boon for justice delivery system.

“My social philosophy may be said to be enshrined in three words: liberty, equality and fraternity”, Dr. Babasaheb Ambedkar.

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