CHAPTER VIII

CONCLUSION AND SUGGESTIONS

Fair, economic, reasoned and quick deliverance of justice is the aim of every legal system. Disputes are inevitable part of every society. It blocks development and disturbs peaceful conduct of human life; hence, it becomes necessary to find a quick and easy method of resolution of the dispute. As far as industrial disputes are concerned the consequences of industrial disputes are far-reaching because they disturb the economic, social and political life of a country. These conflicts result in a huge wastage of man-days and production work also hampered. The Industrial disputes paralyze the workers, employers, society and even the national economy. Workers are badly affected in more than one way. They lose the wages for the strike period. To meet day-to-day expenses, debts have to be incurred, employment is lost and future prospects become dim.

Employers suffer heavy losses because of the stoppages of production. Apart from these losses, the loss of mental peace, respect and status in society cannot be computed in terms of money. The society is also not spared. Industrial Conflict creates law and order problems, necessitating increased vigilance on the part of the state.

Industrial Conflicts also affect the national economy. When labour and equipment in the whole or any part of an industry are rendered idle by a strike or lockout, national dividend must suffer in a way that injures economic welfare. Again industrial sector is one of the major sources of revenue to the Government. If this sector gets disturbed because of industrial disputes, it may result in lessening the revenue from those industries which are compelled to close down because of dispute not sorted out.

Whatever be the reasons, it has been recognized on all hands that Industrial dispute is a curse to industry and society. There arises the need for the settlement of industrial disputes. Settlement of industrial dispute is an important part of any well functioning labour market and industrial relation system.

At present, the modern industrial relation system, in almost all countries, provides a multi-tier dispute resolution mechanism to resolve individual as well as
collective labour disputes. Each country has developed the range of choices for resolving labour disputes.

In India also, under the relevant provisions of the Industrial Disputes Act, 1947 some alternative dispute resolutions systems by way of collective bargaining, conciliation and arbitration are provided. In this research work an attempt is made to have a critical analysis of the working of these machineries under the Industrial Disputes Act, 1947.

First chapter of this research work deals with the introduction and research methodology wherein objectives of the research are mentioned. In the second chapter of this research work some key concepts of the Industrial Disputes Act are discussed such as industry, industrial dispute, workmen and Appropriate Government.

As far as the concept of “industry” it is found that a study of the judgments of the Supreme Court from Banarjee to Jai bir singh brings in to picture a variety of cases, where the Court had to decide on the question of ambit of industry under the Act. Supreme Court’s decision of seven judges in Bangalore Water Supply and Sewerage Board v/s. A Rajappa 560 has exhaustively discussed the scope of Industry as defined in Sec.2 (J) of the Industrial Disputes Act, 1947 and exhaustively examined and considered the scope of industry and prescribed the Triple test 561.

In view of the above test and the consequences of the decision given in the Bangalore Water Supply case activities such as hospitals, liberal professions, clubs, educational institutions, cooperatives, Research institutes, charitable projects, domestic services and other held to be an industry.

The Court in Bangalore Water Supply’s case felt it desirable to lay down clear and broad principles to interpret this term in absence of legislative changes. This was done with a view to stimulate industrial harmony and co-operation between employer

560 AIR 1978 SC 548.
561 The Triple test laid down in the Bangalore Water Supply case is that where there is a) Systematic activity, b) organized by co-operation between employer and employee (the direct and substantial element is chimerical), c) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes, prima facie, there is an industry. i) Absence of profit motive or gainful objective is irrelevant, be the venture in public, joint, private or other sectors. ii) The true focus is functional and the decision test is the nature of the activity with special emphasis on the employer and employee relations, d) If the organization is a trade or business, it does not cease to be one because of philanthropy animating the undertaking.
and workmen for the overall good of the society. Even in Bangalore Water supply case also Court recommended that parliament must step in and legislate in a manner which will leave no doubt as to its interpretation and which will be a satisfactory solution to the question which has agitated and perplexed the judiciary at all times.

Despite the constitution bench decision in Rajappa’s case in which legislative reform is desired, still cobweb of confusion is not clear as to what is an industry? and what is not an industry?

One of the objectives of the research was to study various international conventions and recommendations as well as Constitutional norms which give strong base to these alternate dispute resolution techniques to settle the industrial disputes.

Chapter third and fourth respectively of the research work devoted to attend the abovementioned object. International Labour Organisation (ILO) is the most important organisation at the world level and it has been working for the benefit of the workers throughout the world. It was established in the year 1919. It is a tripartite body consisting of representatives of the Government, Employer and workers. It functions in a democratic way by taking interest for the protection of working class throughout the world. It is also working at the international level as a ‘saviour of workers’ and ‘protector of poor’. The I.L.O examines each and every problem of the workers pertaining to each member country and discusses thoroughly in the tripartite body of all the countries. The I.L.O passes many Conventions and Recommendations on different subjects like Social Security, Basic Human Rights, Welfare Measures and Collective Bargaining and Industrial Relations. On the basis of Conventions and Recommendations of I.L.O. every country incorporates its recommendations and suggestions in its respective laws. India has been member of the I.L.O since its inception in the year 1919. The I.L.O and India have common aims; goals and destiny, for, both of them are committed to world peace freedom and social justice. Both are striving for the socio economic betterment of the long suffering people as well as the people who are under privileged and under nourished with the fullest realization that any further delay would fatal for themselves and for the whole world. In essence there is a close resemblance between the I.L.O. Philadelphia Charter of 1944 and the Fundamental Rights and Directive Principles of State Policy under Indian Constitution and all these basic documents enshrined the principles of freedom, individual dignity and social justice.
ILO also adopted several conventions and recommendations for the amicable settlement of industrial disputes, one important among them is **Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)**. The convention contemplates that workers and employers, without any distinction, shall have the right to establish and join organization of their own. The workers and employers organization shall also have the right to draw up their constitution and rules, to elect their representatives. Another one is **Right to Organize and Collective Bargaining Convention, 1949 (No.98)**. This convention provides for the protection to the workers and their organizations against anti-union discrimination and interference by employers and promotes voluntary collective bargaining. It provides that, measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers organizations and workers organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. Another important convention is **Collective Agreements Recommendation, 1951 (No.91)** which provides for establishment in each country of appropriate machinery to negotiate or review collective agreements between employers or their organizations and workers representatives or organizations, or assist the parties concerned in these operations. The instrument also envisages establishment of appropriate procedure for settlement of the disputes arising out of the interpretation of collective agreement and arrangements made for the supervision of the application of collective agreements. Next to this is **Industrial Relations Recommendation 1951-(no.91)** which contains provisions relating to collective bargaining machinery, definition of collective agreement, effect of collective agreements, and its interpretation. Accordingly appropriate machinery should be established to negotiate, conclude, revise and renew collective agreements.

**Voluntary Conciliation and Arbitration Recommendations, 1951 (No.92)** calls for the provisions of appropriate voluntary conciliation machinery to help in preventing and setting industrial disputes. Where the machinery is bipartite, employers and workers should be equally represented on it; procedures should be free of charge and expeditious and capable of being initiated by the conciliation authority or by the parties, who should abstain from strikes and lockouts while conciliation or
arbitration is in progress, and accept the award. No provision on this Recommendation should be interpreted as limiting in any way whatsoever the right to strike. The Collective Bargaining Convention, 1981 (No.152) and Collective Bargaining Recommendation, 1981 (No.163) provide that, ratifying states should endeavour to promote bargaining between employers and workers or the representatives, to determine working conditions and terms of employment and to regulate relations between employers and workers.

It is found in the study that as far as India’s position is concerned, though India is founder member of the ILO, it has not ratified the above mentioned conventions and recommendations which give a very strong base to the settlement of industrial disputes through negotiations, conciliations and arbitration. One argument advanced is that numbers of provisions provided under the above convention are by and large contained in the Indian Constitution as well as in Indian Statutes.

It was also one object of the research work is to study various alternative methods which are available in various countries like U.K., U.S.A., Australia, Russia, and France, to resolve industrial disputes.

In UK the overwhelming majority of Industrial disputes are settled by negotiations which lead to agreement between the parties. The most fundamental rule which applies over the whole field of Industrial conciliation and arbitration in U.K. is that, autonomous machinery has priority over statutory machinery. The structure of labour relations in U.K. is established mainly on voluntary basis.

In USA, the encouragement of free and effective collective bargaining is a fundamental part of federal labour policy of the USA. The mediation, conciliation of labour disputes in USA is primarily a Government service, although private persons or agencies may undertake and requested to do so. Practically all mediation and conciliation is undertaken by the federal mediation and conciliation service and similar agencies in some of the most highly industrial cities and states. The second mediation agency of the Federal Government is the National Mediation Board. It provides assistance in case of voluntary arbitration. In cases of grievance disputes there is a statutory, semi permanent forum for handling grievance disputes. This is known as the National Railroad Adjustment Board.
Arbitration of Labour Disputes has become a common basic part of the system of collective bargaining in USA and today it is a commonly accepted devise for settling grievance dispute arising under the terms of collective bargaining agreements. About 90% of all agreements content the clause which provides for arbitration as a final stage in the grievance procedure. The Federal Mediation and conciliation service and state agencies provide a list of arbitrators if requested to do so jointly by the Management and the Union. The practice of private arbitration is most highly developed in the US where it is in common use atleast for dealing with rights disputes and disciplinary cases.

In Canada “collective bargaining “is not an industry-wide basis. Normally it takes place within the undertaking between an employer and his employees. There is legal compulsion on employers to negotiate with their employees both in the Dominion and provincial fields. Now Collective Bargaining is a Constitutional Right. In all Canadian jurisdictions except BC and Alberta, conciliation is the first step in attempting to resolve and impasses in negotiation. Though negotiation and conciliation machinery is there, disputes relating to the interpretation of collective are resolved through compulsory grievance arbitration agreements.

In Australia ADR began in industrial relations in Australia long before the arrival of the modern ADR movement. There are now a range of methods for resolving disputes concerning the terms and conditions of employment agreements. These include grievance procedures, mediation, negotiation, conciliation and arbitration. The basis of many workplace disputes and industrial conflict tends to be about disagreement over wages and entitlements. In this situation, employers and employees both have grievances that need to be resolved. This is why grievance procedures have been developed, to avoid costly and bitter industrial disputes such as strikes. In recent times, grievances have been resolved internally, with an increase in human resource departments, staff trained in recruitment, training and paying staff, as well as experts in conflict resolution. When grievances can't be resolved in the workplace, mediation - where a neutral third party helps employers and employees reach agreement - can resolve issues. As far as conciliation and arbitration is concern, disputes over wages and conditions were resolved or prevented by a system of conciliation and arbitration. This system involved an independent arbitrator, formerly
the Conciliation and Arbitration Court, which became the Australian Industrial Relations Commission (the AIRC), that used the law to try to find a satisfactory compromise or outcome for the parties to a dispute that usually involved unions in disagreement with employers. After legislative reforms were passed in 1993 and 1996, the dispute resolution system through conciliation and arbitration changed. These reforms to the process of negotiating and setting wages and conditions greatly reduced industrial disputes and hence reduced the need for dispute resolution.

In China, the Chinese institutional capacity for dispute resolution is vast, with a variety of channels available to disputants that offer different forum and combination of conciliation, mediation, arbitration and adjudication. In contemporary China, there are various structures that perform supportive roles. The people’s Mediation Committee, Committees in work place, commercial mediation, arbitration tribunals and others.

An Enterprise may set up a labour dispute mediation committee to be responsible for mediating labour disputes within the enterprise. Again, Labour Dispute Arbitration Committee is there which is an arbitral organ to handle labour disputes in accordance with legal provisions. Next to this is the system of peoples’ Court. If a party to a labour dispute refused to accept arbitration decision, it can appeal the decision to People’s Court. Apart from all above mentioned systems a tripartite mechanism in Collective labour dispute Settlement is found which refers to the mutual consultation and negotiation between labour administrative department, trade union and representatives from enterprises with an aim to settle collective labour disputes.

France witnessed in last twenty years a continuous growth in the use of collective bargaining in the industrial relations field. In France, it is found that despite the low rate of unionisation (8%), it has a very high rate of collective bargaining coverage (close to 90%). Duty to bargain is compulsory on the part of the workers union and employers association.

As far as conciliation is concerned, many industry-level collective agreements provide for a permanent conciliation commission. Mediation may take place in two situations. Firstly, after the failure of the conciliation procedure the parties may voluntarily decide to use this method, or the President of the Conciliation Commission or the Minister may then decide to make it compulsory even if the
parties to the conciliation procedure disagree. Secondly mediation can be used outside of any conciliation procedure by the Minister of Labour at the opportunity of the renewal of a collective agreement, on his own or upon request of one of the parties. Also during the course of a dispute the parties may directly request mediation procedure. Arbitration is not compulsory in France. It is always voluntary. In fact it is found that use of arbitration in the settlement of industrial disputes is very rare in the France.

In Russia, clear distinction is made between individual and Collective conflicts, providing separate mechanisms for their resolutions. Most of the labour disputes in Russia are in the nature of grievances. Three forums namely Labour disputes commissions, Works Trade Union Committee and city people Courts are established for dealing with grievance disputes. As far as collective industrial disputes are concern, they are settled through the commission for conciliation, consideration of the dispute through mediation and at Industrial Arbitration.

Thus, the procedures for settling labour disputes vary widely from country to country. The relevant ILO conventions and recommendation leave ample room for each country to design its own system of dispute settlement consisting of procedures for dealing with various types of disputes.

It is seen that, most of countries have made a distinction between several types of labour disputes and established separate procedures for dealing with them. Industrial disputes are broadly categorized into “Interest disputes” and “Rights Disputes”. An interest dispute relates to the establishment or modification of the existing terms and conditions of employment, which constitutes the rights and obligations of the contracting parties i.e. workers and employer. Right dispute, on the other hand, relates to the application and interpretation of existing clauses in an employment contract, a collective bargaining agreement or a law. In India, however, even a semblance of such a distinction is not made between the two terms for the purpose of dispute resolution. Both conciliation and adjudication services are available for both types of disputes.

Fourth chapter of this research work is dealt with to study various provisions of the Indian constitution which give strong base to the speedy justice which can be achieved more properly through the alternate dispute
resolution systems. In this chapter the researcher discussed the concept of ‘Social Justice’ which aims at just bringing about a just and respectful life to all members of a society. It is seen that this process of fusion of concept of social justice in the existing jurisprudence has been two fold;

(a) Laying through legislation or collective bargaining a blue print of just and healthy employment conditions, so that no group is exploited discriminated or unfairly dealt with and every group is given its due. This preventive measure would result in establishment of healthy industrial relations leading to increased productivity and prosperity thereby minimizing industrial conflict, and (b) Evolving a body of principles and working rules for the guidance of industry, administration and judiciary on the basis of which the industrial disputes or issues could be resettled. Article 19 (1) (c) confer an important right i.e. to form association or unions which includes association for any lawful purpose e.g. trade unions. Thus by providing right of association, Indian Constitution has laid down the foundations for the collective bargaining between workers and management because the process of collective bargaining contemplates the discussion on the part of workers group or union on one hand and employer, his representative or employers union on the other hand. Unless workers have right to form associations, they will not form unions and there will be no question of recognition of a union who claims the majority of workforce as its members, which in turn result in the failure of negotiations and bargaining. So for the healthy collective bargaining, workers as well as employers should have the right of association.

Article 21 is yet another important provision of Indian Constitution which provides that no person shall be deprived of his life and personal liberty except according to the procedure established by Law. The Supreme Court have time and again expanded the scope of this article to include number of rights within it. Most importantly the Supreme Court declared right of speedy trial as a fundamental right implicit in the guarantee of life and personal liberty enshrined in Art.21.

Article 39-A ordains the state to secure a legal system which promote justice on the basis of equal opportunity. It puts stress upon legal justice, this directive requires the state to provide free legal aid to deserving people so that just is not denied to any one because of economic disabilities.
It is found that though it is a part of right to life and personal liberty, a fundamental right of every citizen under Article 21, to get speedy justice and speedy trial, which also is requirement of good judicial administration, in the courts, arrears are growing to horrifying extent. Delay in disposal of cases in law courts, has defeated the purpose of resolution of disputes, for which the people come up to the courts. So, there is need to find out mechanisms to render social justice to the poor and needy who want their grievances redressed through law courts. It is time for encouraging Alternative Dispute Resolution Systems.

Again, it was one of the objectives of this research work to study the working of Alternate Dispute Resolution System under the Arbitration and Conciliation Act, 1996 and Industrial Disputes Act, 1947 and to have a comparative analysis of the same. Chapter fifth of this research work covers this part of the objective. In the case of appointment of conciliators and arbitrators under the Act of 1996, the parties have been given maximum freedom not only to choose their arbitrators but also to determine the number of arbitrators constituting the arbitral tribunal subject however to the condition that, such number will not be an even number. But in the case of the Act of 1947 sole powers are given to the appropriate Government. Only in case of voluntary arbitration parties to the dispute can refer the dispute to arbitration.

In the matter of settlement of dispute by arbitration and Conciliation under the Act of 1996, the agreement executed by the parties has been given great importance and an agreed procedure for appointing the arbitrators placed on high pedestal and has to be given preference to any other mode for securing appointment of an arbitrator. Under the Act of 1947, barring voluntary arbitration and individual disputes, in all cases parties have to depend upon the mercy of the appropriate Government for the reference of the matter to the authorities.

As far as qualifications of the conciliators and arbitrators, in case of Act of 1996 at least agreement of parties is there to provide some qualification for arbitrators or conciliators, but under the Act of 1947 it is not given at all, that’s why a report of the study committee of National Commission on Labour reveals that, one of the causes of failure of conciliation machinery under the Act of 1947 is lack of proper personnel in handling of disputes.
If we compare the powers given to authorities under both the statutes, it is found that the Act of 1996 confers more powers on the authorities than the Act of 1947.

Thus, after studying dispute settlement mechanisms under both the statute it is found that under the Arbitration and Conciliation Act, 1996, party autonomy is more as compared to the Industrial Disputes Act, 1947.

One of the most important objectives of this research work was to study various alternate dispute resolution methods under the Industrial Disputes Act, 1947 and have a critical analysis of the working of these machineries. For this purpose researcher has collected the primary data from workers, employers and conciliation officers, and trade union leaders. Researcher also had discussions with some of the labour Law practitioners. Findings on the working of these machineries are as follows:

8.1. Collective Bargaining as a means to settle the industrial dispute:

As far as collective bargaining by way of negotiation is concern, we know that recognition of trade union is condition precedent for the successful collective bargaining; it is found that, majority if industries don’t have trade unions. Amongst those who have unions, they have not accorded any recognition to it. Very few industries have recognised trade unions.

We know that, recognized trade union is a prerequisite for the successful collective bargaining rather it is the backbone of collective bargaining.

In India, although there is a fundamental right to form unions under Article 19 (1) (c) and a statutory right to get it registered, there is no corresponding legal obligation on the employer to recognize any particular union, whether registered or not, even if they are truly representative of the workers.

There is no Central Law on granting recognition to trade unions. The Parliament had once passed the Indian Trade Unions (Amendment) Act, 1947 but it was never notified or brought into force.

The 15th Indian Labour Congress had accepted the code of discipline and one of the clauses therein pertains to recognition of Unions. Presently, the said code considered as the accepted norm for recognition of trade unions by most of the employers.
The National Commission for Labour headed by Dr. Gajendragadkar, rather laid down a strict guideline for recognition of trade unions.

Few state legislatures have enacted laws conferring legal right to trade unions to claim recognition from employers. e.g. the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1972. Kerala State has recently enacted a law for recognition of trade unions i.e. The Kerala Recognition Trade Unions Act, 2010. In West Bengal it has West Bengal Trade Unions Rules, 1998 which speaks for the recognition and in Orissa there is Orissa Verification of Membership and Recognition of Trade Union Rules, 1994.

When the researcher asked the respondent workers that by which method your employer supports you in your trade union activities? then majority of workers (60%) answered that our employer does not support us at all. Under this scenario how strong and stable unions will be established which are essential for collective bargaining. Again when researcher asked them about whether they have received any training/education about how to bargain, negotiation etc., then 68.57% answered negatively that they have not received any kind of training for bargaining or negotiations, and because of that majority of workers suffer from problems like lack of confidence, language difficulty while bargaining, during the conciliation proceedings and arbitration.

8.2 Conciliation as means of to settle the industrial dispute:

As far as conciliation is concerned, it is found that both workers and employers are not satisfied with the working of this machinery. Near about 40% of the workers and employers are of the view that conciliation officers are inexperienced in this field and majority of them are not labour law experts. When researcher asked them their choice of settlement method in case of industrial disputes, then only 10% of respondents opted for conciliation, 48% said that they will prefer adjudication and 36% answered for arbitration. Hence, it is observed that regarding the choice of the settlement method, most of the respondents preferred adjudication and negotiations methods and not the conciliation.
8.3 Arbitration as a means to settle the industrial disputes:

With regard to Arbitration method, it is found that neither the workers nor the management utilised this method frequently. It is seen that use of arbitration in the settlement of industrial disputes is very negligible.

8.4 Problems of workers and employers with respect to the negotiation and conciliation-

To find out the problem faced by workers and employers with respect to the conciliation, researcher, apart from questionnaire had discussion with them. From these sources it is found that, most of the workers don’t receive any training or education from the employer or from any other authority regarding negotiation, conciliation and arbitration and hence they suffer from lack of confidence. So, when a dispute is cropped up they find it difficult to negotiate with the employer or participate in the conciliation proceeding. So they prefer industrial adjudication under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1972.

From the discussions with the employers it is found that sometimes labour officers asked from them ‘some contribution’ to patch some disputes in their industry, so employers prefer adjudication from the court. Some employers responded that in their industrial dispute they were ready to negotiate but trade union leaders did not turn for the negotiations with them. Again some replied that office of labour commissioner don’t have any kind of security to protect the parties to the dispute because of that we scare to remain present personally in the conciliation proceedings or to send our representatives.

Both workers and employers have opined that conciliation is a time consuming and dilatory process.

From the discussion with the Labour Law Practitioners it is revealed that this process of conciliation is undertaken mechanically by all concerned, meaning thereby that in most of the cases, in which conciliation got success, workers and management in advance had their settlement and thereafter they approached to the conciliation under the Industrial disputes Act, 1947 just to have the stamp of Section 18 (3) (A settlement arrived at in the course of conciliation proceedings under this Act....shall
be binding on all parties to the industrial disputes). Some of the conciliation officers also expressed similar view when researcher had discussion with them.

8.5 Obstacles in the proper working of the dispute settlement machineries under the Industrial Disputes Act, 1947:

Most of the officers interviewed with have conciliation as an additional duty shouldered on them and for this task of conciliation, majority of officers (60%) have not received any training. Only two Assistant Labour Commissioners are there who have the only task of conciliation and eight Labour officers upon whom conciliation is an additional duty.

It is found that while acting as a conciliator, officers faced with the problem of political interference by the local political leaders, sometimes workers union also pressurised them. These elements put hurdles on the effective working of this machinery.

It is established that for the success of negotiation, conciliation and arbitration parties to these methods must be co-operative with each other and with the officers. But in the case of conciliation it is found that most of the officers interviewed with answered that parties to the conciliation proceeding particularly employers are adamant and not co-operative. There is absence of ‘give and take’ approach among the parties. They don’t open all their cards in the conciliation. They don’t disclose their limits at which they can come to an agreement.

This process is found to be dilatory. Majority of the officers (90%) are of the opinion that when a matter is referred to the conciliation or arbitration, it takes long duration to arrive at an amicable settlement. This is due to the heavy burden of work upon the officers and parties often asked adjournments.

Again, conciliation officers don’t have any powers to compel the attendance of the parties. So, parties especially management knows that if it remain absent in the conciliation proceeding, the conciliator officer can’t take any legal action against them.

Officers while interacting with the researcher expressed the need of conferring some adjudicatory powers upon them, particularly in case of industrial disputes falling under Section 2 A of the Industrial Disputes Act, 1947. Conciliation officers should have some adjudicatory powers.
It is revealed from the responses that inadequacy of the suitable arbitrators and conciliators who command the confidence of parties is also one of the obstacles in the proper working of this system. Most of the respondents have said that, parties have faith on the adjudication and it is easily available so they prefer adjudication and not conciliation to settle their industrial dispute.

It is observed that these officers acting under the Industrial Disputes Act are not provided with proper infrastructure and subordinate staff is also inadequate which causes another obstacle in the proper working of the conciliation. Some officers even don’t have separate cabins to conduct the meetings of the parties and in the administrative office in front of other clerical staff, officer have to conduct their separate and joint meetings. Hence parties as well as officers feel embraced while conciliating. Some officers have provided with computers but some don’t have even separate computers. Any kind of software or data base dealing with the industrial relations is not provided to the officers to remain updated with the new trends and information regarding maintaining industrial relations.

**8.6 Observations regarding the working of this system:**

From the above mentioned findings, researcher has following observations regarding the working of the alternate dispute resolution machinery under the Industrial Disputes Act, 1947.

- Majority of the small scale industries and medium scale industries don’t have trade unions in their industry and those having trade union, they are not recognised.
- Majority of the industries have not constituted the Grievance Redressal Committees which is a statutory norm.
- Percentage of recognised union is very less because of that collective bargaining and negotiations in case of industrial dispute is not found to a large extent.
- Least regards being given by the employers towards trade union and their activities.
- Large scale ignorance is there among workers particularly from the unorganised sector about these machineries working under the Industrial Disputes Act, 1947.
- Use of arbitration in the settlement of industrial dispute is negligible.
- Conciliation in the industrial dispute is time consuming and dilatory.
- Conciliation is additional duty imposed upon the majority of officers.
- For the task of conciliation no any separate training is given to them.
- Lack of proper infrastructure and inadequate subordinate staff is there to help these officers.
- This system is impaired by the political interference and adamant nature of the parties to the dispute.
- Conciliation officers don’t have any powers to compel the attendance of the parties to the conciliation proceedings.
- Parties to the industrial disputes prefer adjudication and not conciliation to settle their industrial dispute.

8.7 Testing of Hypothesis:

Having made sincere effort to analyse the working of alternate dispute resolution mechanism under the Industrial Disputes Act, 1947, the hypothesis formulated have been tested. Following are the findings:

The first hypothesis framed by the Researcher was that, majority of the industries don't have recognized unions. It is found that, majority of the industries i.e. more than 60% don't have trade unions only 40% have trade unions. Amongst those having trade unions, very few i.e. 30% have accorded recognition to the union and 70% have not recognised any union in their industry. Hence, the first hypothesis framed by the researcher stands proved.

The second hypothesis was, "that, statutory compulsion regarding formulation of work committees and Grievance Redressal Machinery is there only in the Act". It is found that, practically these committees have not been constituted by majority of the Industries. It is found from the data which is collected through interview and questionnaire from the workers and employers that, 47.61% of workers responded that, there is no works committee in their industry, 20.95% of workers did not answer to this question and only 31.42% said that, they have works committee in their industry.

From the employers side amongst those industries visited, 11 industries have strength of workers more than 100 upon whom it is compulsory to have works committees. From 11 industries, 9 industries have works committees and two industries till date have not constituted it.

It is important here to mention that, those workers who have answered that, in their industry works committee have been constituted, don't know the actual function
of the works committee. When they were asked with the question about the real function of these committees, majority of them answered that, ‘to settle the dispute between the workers and management is its main function, which is absolutely wrong’. This state of thing raises a question mark about the proper functioning of the works committees.

Hence, part first of the second hypothesis with respect to the formation of works committees is partially proved as some industries have constituted works committees and some are not.

But as far as constitution of Grievance Redressal Committees is concerned, situation is horrible. Industrial Disputes (Amendment) Act, 2010 provides that, employer employing 20 or more workers should formed the Grievance Redressal committee in his industry. But the date collected shows that, majority of the workers (58.09%) answered that, in their industry Grievance Redressal Committee is not constituted by their employer. It is shocking to know that, when this question is asked to the employer, 74% of employers said that, they have not constituted this committee. Hence, researcher comes to the conclusion that, provision of Constitution of Grievance Redressal Committee is only there in the statute, but practically it is not formed, hence, this part of the second hypothesis stands proved.

It is one of the objective of the research, to study various alternate dispute resolution methods available under the Industrial Disputes Act, 1947 for the settlement of Industrial Disputes and to have the critical analysis of working of these machineries.

It is found that, the Industrial Disputes Act contends a good system of alternate dispute resolution by way of collective bargaining, conciliation, Board of conciliation, Courts of Enquiry and Arbitration. However, as far as actual working of these machineries are concerned they provide only a lip service in the resolution of Industrial Disputes, which is the third hypothesis framed by the researcher. It is found when researcher asked conciliation officers regarding their settlement and failure ratio, majority of them have excess of failure rate than settlement. It is important to note that, two Assistant Labour Commissioners clearly mention that, 70% failure are there in the Conciliation proceedings and only 30% settlement is found.

In the case of settlement of dispute which is occurred in the course of conciliation proceedings, officers are of the view of that, parties already have their
settlement amongst themselves and they turned to conciliation only to have our stamp of Section 18 (3) of the Industrial Disputes Act.

Some practitioner Advocates with whom researcher had academic discussion regarding the service of conciliation, they opined that, these machineries are not at all useful in the settlement of disputes. Majority of disputes are settled under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1972. Further, they said that, these officers have prejudices in favour of workers. Even some respondent employers and workers showed their dissatisfaction on the service provided by the machineries under the Industrial Disputes Act.

Further when it is asked by the researcher to the employers that, given a choice amongst all methods of dispute settlement which method you will prefer to solve your dispute? 48% of the employers answered in favour of industrial adjudication, next to this 36% answered that, they will negotiate with workers and failing that, will approach to the adjudication, 4% remain silent on this question and only 10% employers opted for conciliation as a method to solve the industrial disputes.

These statistic shows that, employers don't have much faith upon the conciliation machinery rather they want industrial adjudication to solve their industrial dispute.

Thus, the third hypothesis, "the machinery for the settlement of industrial disputes under the Industrial Disputes Act, 1947 provides only a lip service in resolving the industrial disputes found to be correct and proved".

Fourth Hypothesis framed by the researcher was, "this mechanism is impaired due to undue political influence and adamant nature of the parties to the Industrial Disputes".

Regarding this hypothesis it is found that, 90% of the conciliation officers answered that, political interference is one of the major problems faced by the conciliation officers in the conciliation proceedings. They also opined that, at times pressure from workers union is also a hurdle in the smooth working of the conciliation proceedings.

As far as negotiations by way of collective bargaining is concerned, some employers replied that, trade union leaders often pressurize them with the help of
local political leaders and because of this also success of collective bargaining is negligible.

When it is asked by the researcher to the conciliation officers about the response of employers and workers as a party to the conciliation or arbitration proceedings, then 70% of officers answered that, they are adamant and not co-operative, particularly employers are adamant and they don’t open all their cards in conciliation or in arbitration. Particularly Assistant Labour Commissioners mentioned that, employers have least concerned about the problems of workers.

From the above observations fourth hypothesis is proved to the true.

Fifth hypothesis of this research work speaks, "use of arbitration in case of an Industrial Dispute is rare".

As far as use of arbitration in the settlement of Industrial disputes, very shocking situation is prevalent. It is found that, amongst employers interviewed with only two employers said that, in their industry they use arbitration as a method of settlement of industrial dispute. Amongst them also one employer has used arbitration only once and other used it for 30 times. When the researcher asked the workers about the use of arbitration in the settlement of Industrial Disputes, then researcher saw a question mark on their faces asking researcher as what is this arbitration?

The above state of thing shows that, the use of arbitration in the case of settlement of industrial dispute is very rare and hence, the fifth hypothesis stands to be proved.

Sixth hypothesis of this research work deals with, "there is large scale ignorance on the part of workers about these machineries working under the Industrial Disputes Act, 1947". Regarding this hypothesis it is found that, when it is asked by the researchers to the worker respondent that, in case collective bargaining by way of negotiations fails then what is the next step to solve the dispute? It is found that, 35.28% of workers straightway said that, they don't know anything about the dispute settlement mechanism and 27.06% said that, adjudication through labour courts and Industrial Tribunals is the next step to solve the dispute, 4% said about arbitration and 4% said through High Court only Industrial Dispute can be settled. Only 15% of workers given the correct answer that, it is the conciliation. 14.28% workers have given more than one answer, in that also majority of workers answered that, adjudication is next step to solve the dispute in case of failure of negotiations.
It is again surprising to know that, some workers don't know even anything about the collective bargaining also.

With respect to the arbitration as already stated above, the researcher has observed dilemma and question marks on their faces regarding arbitration.

Thus, the sixth hypothesis found to be correct and proved.

8.8 Suggestions

1. It is suggested that taking in to consideration the confusion about the definition of industry, there is a need for a national legislative action to implement the amended definition (which legislature has amended in the year 1982 but till the date has not been enforced) of the industry.

2. Conventions of the International Labour Organisation relating to industrial relations, collective bargaining, conciliation and arbitration should be rectified by India as early as possible.

3. Central Law regarding the recognition of trade union is the need of hour.

4. Care should be taken by the Government that there must be strict observation of the statutory norm regarding the constitution of the Grievance Redressal Committee in the industries.

5. Public awareness regarding the dispute settlement authorities under the Industrial Disputes Act, 1947 has to be improved; in fact it is the responsibility of the entire legal fraternity to make efforts in this regard.

6. Use of arbitration in the settlement of industrial dispute should be promoted. For this purpose Labour Department should prepare a list of the persons who have knowledge and experience of working in the field of Labour Laws, person who have the knowledge of the industry, workers and employers. This list should be made available at each office of the labour commissioner so that parties approaching to the labour commissioner’s office will get information regarding this mode.

7. Government may give reward to those industries that are frequently using arbitration, conciliation and negotiation to those industries using these methods for the settlement of their industrial disputes and wide publicity through print media must be made in order that other industries will be tempted to take such steps.

8. Regular appointments of the Labour Officers, Conciliation officers and their subordinate staff are to be made.
Adequate infrastructure such as separate cabins for the officers, with proper space, Computers and software’s, generators, need to be provided. Apart from this, separate place for the separate and joint meetings of the parties to conciliation proceedings need to be provided.

9. Periodic trainings and orientations of these officers with the task of conciliation should be arranged by the Government.

10. Steps are expected on the part of the Government to eradicate the interference of political leaders in the working of this machinery.

11. It is suggested that conciliation officers should be conferred with some powers to compel the attendance of parties in the conciliation proceedings.

12. It is also suggested that, at least in case of industrial disputes falling under Section 2 A of the Industrial Disputes Act, 1947. Conciliation officers should have some adjudicatory powers.

13. State Government should organise joint camps/ seminars/ conferences for workers as well as employers in which awareness about the Labour Laws, methods of dispute settlement, negotiation skills, norms of behaviour which both the parties to the conciliation have to follow must be stressed upon. In this task, Governments may take the help of local Law Colleges, researchers who have worked and is working on the industrial relations, Advocates practicing in the Labour Law and institutes working in the field of labour law such as V.V. Giri National Labour Law Institute, Shree Ram Centre of Industrial Relations and Human Resource, Delhi and etc.