Speedy Justice and Alternative Disputes Redressal

Abstract:

The formal courts worldwide are playing a fundamental and leading role in justice delivery system for a very long time. But it is experienced that sometimes litigation becomes endless exercise. Litigation in the courts has become lengthy, costly and formal and does not give the parties control over the outcome. There is need to find the ways to come out of these problems. It is a fundamental right of every citizen to get speedy justice, which also is the basic requisite of good judicial administration. Various suggestions have been given by different law commissions in their different reports from time to time. Governments have tried to provide speedy justice by adopting some of these suggestions, but the problem persists. Due to changes in international trade, the court system is not able to meet the requirements of international traders or the corporate sector in dispensing quick justice. Litigation has not kept pace with the fast moving society and the growing changes in business practices. This state of affairs has caused dissatisfaction among disputants and led to the development of more flexible means of dispute resolution. The formal legal system has been unable to meet the demands of justice not only of the business community but also of the ordinary citizens. The reasons for this are many. As a result many people are denied access to justice. Given the failures in the traditional mechanisms of dispute resolution, development of new approaches for dispute resolution in lieu of litigation has become essential. The need of today is for some effective measures consistent with demands of justice, equity and fairplay, to speed up the disposal of cases and clear up the mounting arrears of cases. Alternative Disputes Resolution (ADR) system has developed as an alternative to the formal dispute resolution mechanism. The term can refer to everything from facilitated settlement
negotiations in which disputants are encouraged to negotiate directly with each other prior to some other legal process, to arbitration systems or mini trials that look and feel very much like a courtroom process. These procedures include negotiation, conciliation, mediation and arbitration. The main aim of these fora is to settle the dispute in such a manner that the mutual relations of the disputants remain virtually the same as these had been before the commencement of such dispute. On account of the growth in the international trade and commerce and also on account of long delays occurring in the disposal of suits and appeals in courts, there has been tremendous movement towards the resolution of disputes through alternative forum of arbitration. Non-adjudicatory methods of conflict resolution are also available and must be used. These mechanisms are negotiation, mediation and conciliation which are being used successfully in Lok Adalats. The application ADR to the legal dispute resolution process is not intended to replace or supplant the need for public adjudication and pronouncements on the critical issues, but to complement and preserve the judicial system. These alternatives may serve to relieve some of the pressures currently obstructing the performance of contemporary court systems. The usage of ADR has gained recognition nationally and internationally. This thesis discusses conceptual framework of ADR and development of ADR in India. This work discusses the processes in use in India, examines their working with a view to evaluate their contribution to justice delivery in India. Future prospects for ADR are specified and recommendations are made for the successful implementation of ADR in India.