CHAPTER I
INTRODUCTION

“Our law must provide justice; law and justice cannot remain distant neighbours”

P.N. Bhagwati

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 form of resolution of disputes. Today, Lok Adalat system is taken to be the repository of public confidence in view of its intrinsic strength which knows no barricades as it flows through the basic human percepts of equity, good conscience, fair play and natural justice. The seed of Lok Adalat mechanism was sown in 1982 in Gujarat which has now grown as a large tree whose branches has been reached in every nook and corner of the country. It is a democratized and alternative form of formal justice delivery system. It has been developed by continuous efforts of people with the intention to find an appropriate structure and procedure for providing speedy and less expensive justice to them. Lok Adalat strives to bring about a conciliatory settlement in a dispute without using coercion, threat, fraud or undue influence against the parties to the dispute. The institution of Lok Adalat tries to resolve the disputes by discussions, counselling, persuasions, negotiation, conciliation and with the mutual and free consent of the

parties. The Lok Adalat functions not as a substitute but as a supplementary to the ordinary courts for reducing the work load of these courts.

The vernacular meaning of Lok Adalat is ‘People’s Court’ but it does not seem to be an ordinary court in its accepted connotation. There is no standardized or statuary definition of the term, it is now widely accepted as an informal, voluntary, dispute settlement agency involving the people and public spirited lawyers and citizens.\(^3\) The basic idea behind the scheme of Lok Adalat is to speed up clearance of pendency of huge arrears in courts and fulfil the Constitutional goal of access to equal, fair and efficacious justice to all irrespective of religion, race, caste, sex, place of birth and socio-economic position.

It is a participatory justice forum developed by contested parties, lawyers, judges, law teachers, social activists, legal aiders and public spirited people belonging to every walk of life. The forum is contrived for enabling the common people to ventilate their grievances against the State agencies or against other citizens and to seek a just settlement of their disputes. Its main function is to enable the parties who voluntarily seek the Adalat’s intervention to understand their respective rights and obligations with reference to the dispute brought before it and to help keep the dialogue going in a fair manner.\(^4\) Apart from being ‘good samaritans’ role of members of Lok Adalat is to clarify the law and by gentle persuasion to convince the parties how they stand to gain by an agreed settlement.\(^5\)

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5. Ibid.
The salient features of this form of dispute resolution are participation, accommodation, fairness, expectation, voluntariness, neighbourliness, transparency, efficiency and lack of animosity. Lok Adalat strive to resolve the disputes, which are not only pending in courts but also those, which have not yet reached courts, by adopting persuasive methods, common sense and human approach to the problems of disputants.

Lok Adalat is fairly on old form of adjudicating system 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 was prevailed in the Indian society at the grass root level in 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 and medieval India also. The importance and functioning of this institution has been discussed in the texts of Yajnavalkya, Narad, Gautama, Kautilya, Brihaspati, Manu and Bhrigu. Generally, these People's Court were of three kinds namely Puga, Sreni and Kula. These court were consisted of local, reputed and honest persons who decided the matters without following any rigid and complex proceedural laws and provided justice to the disputants at their doorsteps. They did not give importance to the legal technicalities and laid much stress upon the amicable settlement of the disputes. The mechanism brought the harmony and unity in society and endeavoured to further the social solidarity.

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 lived.\(^7\) 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 family. The Muslim rulers traditionally enjoyed and occasionally exercised a general power of supervision over all these popular courts. The procedure followed by these courts was quite simple, systematic and informal. There was no regular administration of justice, no certain means of filing a suit and fixed rules of proceeding after the suit had been filed.\(^8\) 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 nothingness.\(^9\) In this way, they gave a death blow to the functioning of people's courts.

However, after independence, the existing judicial system has also not fulfil the passionate demand of justice of people in the country. Because, the present justice delivery system was inherited from the Britishers being archaic and sudden with obscurantism is not suitable to the Indian socio-economic

\(^7\) Sen Gupta, Evolution of Ancient Indian Law, 112(1953).
\(^8\) U.C. Sarkar, Epoches In Hindu Legal History, 250 (1958).
structure and its tradition and culture. There are several hurdles and barriers in the way of getting justice by common man in the ordinary courts such as cost of litigation, corruption, delay in disposal of cases, outdated and technical procedures, delay due to appeal, review and revision which increase the arrears at all level in judicial courts, etc. Due to these drawbacks of judicial system, the common man has started feeling that justice is a 'myth' or a 'fiction'. The above mentioned factors have not only weakened the judicial system but also swiftly shaken the confidence of the people and the image of the courts in the society.\textsuperscript{10}

In every civilization, access to justice has been a dream of legal luminaries, social workers, judges, downtrodden people and the government also. Since, in the failure of the judicial system, the people may start to use the inhuman and illegal methods for getting justice. Bearing this fear in mind, the founding fathers of our National Charter intended that the largesse of law must belong to all irrespective of religion, race, caste, creed, colour, sex, wealth and income. Therefore, the framers embodied many provision\textsuperscript{11} in the Constitution in order to promote the goal of justice and establishing the condition necessary for its achievement. The people's aspiration for trinity of justice, equality and liberty remained to be eluding all these years as the people at the lowest rung of the society found it wanting on account of their economic, social and other disabilities and also for want of people's participation in justice delivery system i.e. Lok Adalat, until the incorporation of Article 39A of the Constitution in 1976.\textsuperscript{12} This Article enjoins upon the state to secure that the operation of the legal system promotes

\textsuperscript{10} Prabha Bhargava, "Lok Adalat : Justice At the Door Steps, 2(1998).
\textsuperscript{11} Preamble, Arts. 14, 21, 38, 39A and 40.
justice on the basis of equal opportunity by providing 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 citizen by reason of economic or other disability. Article 39A is a fool proof, fundamental and each Indian's title deed of equal justice through the legal system, a categorical imperative.  

Similarly, Indian judiciary specially the Supreme Court has played a significant role as an activist engineer to achieve the end of access to justice delivery mechanism. In catena of cases, the Apex Court has declared that the right to free legal aid and speedy trial are the fundamental rights which come under the scope of Articles 14, 21 and 39A. Therefore, the Supreme Court has also laid down emphasis upon the establishment of effective and qualitative justice delivery mechanism. Thus, it seems that effective, efficient, cheap and expeditious justice through Lok Adalat system is the Constitutional commitment under its provisions because the system dispenses justice at the door steps of the people and in this sense, endeavours to achieve the wishes of founders of the Constitution.

In the light of these Constitutional mandates, the modern version of Lok Adalat arose out of the concern expressed by the committees setup to report on organising legal aid to the needy and poor people and the alarm generated by judicial circle on mounting arrears of cases pending for long time at different


Further the setting up of the Committee for Implementing Legal Aid Schemes (CILAS) by the Union Government in 1980 under the Chairmanship of P.N. Bhagwati CJ (as he then was) gave an impetus to the Legal Aid movement in general and the concept of Legal Aid Camps and Lok Adalats in particular. The introduction of Lok Adalat system in Gujarat, as part of the strategy of legal aid movement raised a fond hope to the millions of poor people who are denied equal justice under the present existing system. In order to implement the right to access to justice for the weaker sections and to reduce the mounting arrears of cases in law courts, it is thought that the law should be utilized as an instrument of socio-economic change. Keeping in view these objects, the Law Commission of India in its Report also recommended for the establishment and strengthen the Nyaya Panchayat at grass root level.16

It is evident that on the basis of these appreciable recommendations, the experiment of Lok Adalat was started in Gujarat in 1982. The first Lok Adalat was organized at village 'Una' on March 14, 1982 in Junagarh District and inaugurated by Justice D.A. Desai. Soon, the Lok Adalat programme was adopted by many other States and Union Territories and with the passage of time, become very popular. In this backdrop, it

15. Supra note 1, 712.
became necessary to provide statutory backing to the Lok Adalat and awards given by them. It was felt that such a statutory support would not only reduce the burden of arrears of work in regular courts, but would also take justice to the door-steps of the poor and the needy and make justice quicker and less expensive. The magnitude of the task of providing statutory forum to Lok Adalat has been a cause of concern to the judges, social workers, socially approached lawyers, law teachers and all those who thought it to be the need of the day to provide it uniform and competent efficacy without hampering its inherent spirit. This was possible by the enactment of Legal Services Authorities Act, 1987 (for brevity 'The Act') whereby the Lok Adalat has been given statutory dimension and the Act came into force on 9 November 1995. The Act has been enacted with a view, firstly, free and competent legal services to the weaker sections of the society and secondly, to ensure that opportunities for securing justice are not denied to any citizens on account to economic or other disabilities and thirdly, to organise Lok Adalats so that operation of legal system promotes justice on the basis of equal opportunities. Therefore, the major purposes of the Act are to provide Legal Aid, to impart legal literacy and to organise Lok Adalats with a view to strengthen the justice delivery mechanism and promote the right of justice to common people. The Act has been amended in 2002, with the object to constitute 'Permanent Lok Adalats' for deciding the disputes concerning 'Public Utility Services.' The remarkable aspects of the Act are enumerated and explained as under.

1. Legal Aid

The important aspect of the Legal Services Authorities Act, is to render free legal services to the eligible persons. For this purpose, Section 12 of the Act emphasize that every person who files or defends a case is entitled to legal services if that person
is a member of a Scheduled Caste or Scheduled Tribe; a victim of trafficking in human beings or begar; a woman or a child; a mentally ill or otherwise disabled person; a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or an industrial workman; or person in custody, including custody in a protective home or in juvenile home or in a psychiatric hospital or psychiatric nursing home; or any citizen of India whose annual income from all sources does not exceed Rupees fifty thousand or such higher amount as may be notified by the State Government from time to time.\textsuperscript{17}

The free legal services are provided to eligible persons only if the concerned Authority to whom the application for legal services is made, is satisfied that such person has a prima facie case to prosecute or to defend. An affidavit made by a person as his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.\textsuperscript{18}

The free legal aid is obtained in any court of law upto the Supreme Court and in any Tribunal, Revenue Court as well as all departments of Government and other bodies discharging quasi-judicial functions. The legal aid is available in all civil, criminal, revenue and administrative matters.\textsuperscript{19} Legal Services may be provided in all or any one or more than one of these modes, namely: by payment of court fee, process fees, expenses of witnesses, lawyer's fee and all other charges payable or incurred in connection with any legal proceedings; by

\textsuperscript{17.} The Haryana State Legal Services Authority Rules, 1996, Rule 19.
\textsuperscript{18.} The Legal Services Authorities Act, 1987, Sec. 13.
\textsuperscript{19.} \textit{Supra note} 17, Rule 20.
representation by a legal practitioner in a legal proceedings; by obtaining of certified copies of judgments, orders, notes or evidence and other documents in the legal proceedings; by preparation of appeal, paper book, including printing and translation of documents, in the legal proceedings; and by drafting of legal documents.\textsuperscript{20} 

2. Legal Literacy

The other important aspect of the Act is to impart the legal literacy among the people. Therefore, it is mandatory for various Legal Services. Authorities and Committees constituted under the Act, to organise Legal Literacy and Legal Awareness Camps with the purpose to spread legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. These authorities/committees organise regularly legal literacy camps in the remote rural areas, urban slums areas, industrial areas and labour colonies with the help of retired judicial/executive officers, social workers, advocates, law teachers, law students and social welfare organisations.

In these camps, the people become conscious about the benefits, rights, privileges and duties specified under various welfare laws such as Marriage Acts; Labour Legislations; Sexual harassment of women at working places; Maternity Benefit Act; Dowry Prohibition Act; Rights of Scheduled Castes, Scheduled Tribes and Backward classes under the various Acts; Rights of arrested persons; Panchayati Raj Act, Benefits of ADRs, Lok Adalats and Plea Bargaining; Rights under Mahatama Gandhi National Rural Employment Guarantee Act (MNREGA); Rights to Information Act, Environment and Pollution laws; Rights related

\textsuperscript{20} Id., Rule 21.
to health, hygiene and sanitation; Rights under Consumer Protection Act, and Fundamental Rights, etc.

In these camps, the pamphlets, booklets and posters which contains informations about special rights of women, children, labourers, arrestees, scheduled castes and scheduled tribes, etc. are distributed to people. Therefore, these legal literacy camps provide opportunity to people to know about their rights and legal remedies for the protection of these rights. So, these camps seem to be a significant step for fulfilling the object of the Act.

3. Lok Adalats

The Lok Adalat system has got the legal status under the Legal Service Authorities Act, 1987. The Act provides the two kinds of Lok Adalats viz. Lok Adalats and Permanent Lok Adalats. In the Act, various Legal Services Authorities and Committees\textsuperscript{21} are authorized to organize Lok Adalats at such intervals and places for the purpose of settling the various matters\textsuperscript{22}. Lok Adalats are empowered for the resolution of all civil and compoundable criminal cases at pre-litigation as well as at pending litigation stage by way of conciliation, persuasion and negotiation between the disputants. These are bound to settle the disputes on the basis of major human percepts of equity, good conscience, and natural justice. However, these are not provided with the imperative authority to dispense justice on merits of the dispute.

The forum of Permanent Lok Adalat has been provided with all the colours of the spectrum which includes the

\textsuperscript{21} Every State Legal Services Authority or District Legal Services Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or Taluk Legal Services Committee.

\textsuperscript{22} Matrimonial Cases, Labour Disputes, Bank Loan Cases, Electricity Cases, Insurance Cases, Family Disputes, Property Disputes, Forest Cases, Motor Accident Claim Cases, Revenue Cases, etc.
settlement of disputes related to public utility services,\textsuperscript{23} compoundingable criminal offences and the matters where the value of property in dispute does not exceed ten lakh rupees. In the conciliation proceeding, the Permanent Lok Adalat is authorized to formulate the terms of possible settlement which may be acceptable to the parties to enable them to reach at an amicable settlement. However, if the parties fail to reach at an agreement, the Permanent Lok Adalat has power to decide the dispute on merit except the non-compoundingable offences.

The procedure followed by Lok Adalat or Permanent Lok Adalat is simple, flexible, informal and devoid of all technicalities but varied as the nature of the problems. The Lok Adalats or Permanent Lok Adalats are guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice without being bound by the \textit{Code of Civil Procedure} and the \textit{Indian Evidence Act}. It has been conferred with all the indicia of a court since it shall be deemed to be a civil court. So, it enjoys the same powers as that of a civil court in summoning and enforcing the attendance of any witness; examining him on oath; reception of evidence on affidavits; requisition of any public record or document. Every award of Lok Adalat or Permanent Lok Adalat shall be final and binding on all the parties to the dispute and shall be deemed to be the decree of civil court. The award of Lok Adalat is based upon the consent of the disputants, therefore, no appeal can be filed against the award. However, such award come under the domain of the writ jurisdictions of the High Court and the Supreme Court only when the award has been against the statutory provisions and the principle of natural justice.

\textsuperscript{23} Public utility services include transport services for the carriage of passengers or goods by air, road or water; postal, telegraph or telephone services; supply of power, light or water to the public; system of public conservancy or sanitation; services in hospital or dispensary and insurance service.
Therefore, the Lok Adalat system is indeed a welcome development which provides an important juristic technology with a view to unburden the workload of the courts as well as to dispense cheaper, quicker and qualitative justice to the common people. Therefore, the researcher's main concern is to study the Legal Services Authorities Act with regard to functioning of Lok Adalats. The researcher has tried to examine the extent of applicability of Lok Adalat system in the context of constitution, jurisdiction, powers, procedure, functions and working of the Lok Adalats and need and scope of improvement.

Objectives of the Study

The researcher has focused on the following objectives:

(1) To analyse the existing setup of Lok Adalat system.
(2) To access the present working of the Lok Adalat system.
(3) To know the impact of Permanent Lok Adalat in the administration of justice.
(4) To find out the loopholes of existing Lok Adalat system.
(5) To help find means for achieving the desired objects of Lok Adalat system.

Hypothesis

1. A review is needed for the setup of Lok Adalat system.
2. Lok Adalat system is not working efficiently and effectively.
3. Creation of Permanent Lok Adalat is a positive step to help the administration of justice.
4. There is vast ambit of improvement in the Lok Adalat system in the present scenario.
Keeping in view the importance of the Lok Adalat and the capacity of this noble institution for dispensation of speedy and cheap justice, the researcher has undertaken the present work to study the working of Lok Adalats in India in general and in Ambala Division of State of Haryana in particular.

There are four division in the State of Haryana viz. Ambala, Hisar, Rohtak and Gurgaon. Ambala Division is consisted of five districts viz. Panchkula, Ambala, Yamunanagar, Kurukshetra and Kaithal. The total geographical area of the Division is 8295 Sq. Kms. In this area, total 42,96,085 people reside as per the census of 2001. The sex
ratio in the division is 854 females per 1000 males.\textsuperscript{24} The people of various religions such as Hindu, Sikh, Muslim, Christian, Buddhists and Jains reside in the division. A large population of the division consists of refugees who came from Pakistan after partition of India. Now, they are playing a significant role in the social, political, economic, cultural and educational development of this region.

The economy of the division is primarily agrarian. Most of the people are engaged in agricultural pursuits. The agriculturists are also actively involved in dairy farming, poultry farming, pig farming, etc. as a side business. The division enjoys an ideal location being situated adjacent to National Highway No. 1 and therefore coming up as an important industrial belt of Haryana. But, being agriculture based economy, industrial setup in the division is also agro-based, as there are number of rice shellers, food processing units, sugar mills, solvent, paper mills, card board factories, milk plants, fisheries, plywood industries, etc. Besides agriculture based industries, the other industries are metal and utensil units; mechanical engineering–based industries; chemical and fertilizers industries; pharmaceutical units; soap, detergent, rubber and plastic manufacturing factories; electrical and electronics industries, etc. A good number of people of this area are also engaged in service sectors such as banking, insurance, hospitality, management, teaching, nursing, etc. The Amabla Division is also developing as an educational hub. There are two universities one at Kurukshetra and other at Mullana and one National Institute of Technology at Kurukshetra. A large number of engineering, law, polytechnic, nursing, education and management colleges are established in the region for imparting qualitative education to the youth. In

\textsuperscript{24} \url{www.haryanaonline.in} visited on 18/7/2010.
view of above said features of the study area, the researcher has tried to analyse the functioning of these Lok Adalats in this study area with the intention that it may help in strengthening the Lok Adalat system.

Research Methodology

Looking at the requirement and usefulness of the topic of research for society, economy and justice delivery mechanism, the researcher has adopted empirical and analytical research methodology. The relevant and necessary data has been collected from both primary as well as secondary sources. The researcher has attended the Lok Adalats and Permanent Lok Adalat organised at distinct places in the study area from time to time to collect relevant data and to observe the working of the Lok Adalat system. The researcher has also interviewed various Legal Services Authorities for the purpose. The data has been tabulated and computed with simple statistical techniques. The researcher has referred the Law Commission Reports; the Reports of other Committees such as Gujarat Legal Aid Committee (1971), Expert Committee on Legal Aid Processual Justice to the People (1973), Report of the Committee on National Juridicare: Equal Justice-Social Justice, (1971), etc.; notifications of Central and Haryana State Government and judgements of the Supreme Court and various High Courts. The relevant material available in the books, newspapers, journals, periodicals, proceedings of seminars/conferences and internet has also been used.

Scheme of the Study

The study has been divided into seven chapters. The Chapter I deals with introductory part of the work.

Chapter II of the research work deals with Concept and Nature of Lok Adalat. In this Chapter, the Constitutional provisions relating to Lok Adalats, present judicial system and
its drawbacks, alternative disputes resolution mechanism, the concept, nature and benefits of Lok Adalat system have been examined in detail.

Chapter III of the study is Historical Perspective related to genesis, importance, kinds, structure, powers and procedures of Lok Adalats in Ancient, Medieval, British and Post Independence Period.

Chapter IV relates to Legal Framework for Lok Adalats which emphasizes about the various Legal Services Authorities at National, State and District level and Committees at Supreme Court, High Court and Taluk level. In the chapter, it has also been discussed in detail about the constitution, powers, functions and working of these bodies.

The Chapter V of the study Lok Adalat Law and Judicial Approach has been devoted to discussion on the provisions of the Act which are designed to organize and constitute the Lok Adalats in the country in uniform manner. It covers the organization and composition of Lok Adalats by various authorities and committees, jurisdiction of Lok Adalats, cognizance of cases by Lok Adalats, powers of Lok Adalats, Permanent Lok Adalats, award of Lok Adalats, execution of awards of Lok Adalats, weaknesses of Lok Adalat. All these aspects of Lok Adalat system have been examined in the light of judicial pronouncement made by the Apex Court and various High Courts while interpreting the provisions of the Act.

For analysing the actual implementation of the Lok Adalat system the Chapter VI relates to Performance of Lok Adalats in Ambala Division. The Chapter covers the result of analysis on the basis of relevant data collected from different primary and secondary sources. In the division, Lok Adalat system is functioning for settlement of disputes since 1985. After enforcement of the Legal Services Authorities Act in State in
1996, the Lok Adalats are being organized by various legal services authorities and committees. During the period of 1996-2009, 862 Lok Adalats have been organized in Ambala division. These Lok Adalats have settled 123801 cases out of 245912 cases which brought before them for amicable resolution. Similarly the other kind of Lok Adalats i.e. Samjhuta Sadans have disposed of 11332 cases out of 30829 referred cases. Permanent Lok Adalat related to public Utility Services have determined 1823 cases out of 2007 taken up cases during period of 2007-2009. Lok Adalats are determining different kinds of cases such as MACT cases, Insurance cases, Family disputes, Electricity cases, Pension cases, Civil and Revenue cases, Petty criminal cases, Bank loan cases, Labour disputes, Pre Litigative cases, etc. The Chapter also concerns with the response of interviews and discussion with beneficiaries, advocates, concerned authorities, members of Lok Adalats and general public.

Last Chapter VII of the work deals with conclusion of the study and some valuable suggestions on different aspects of Lok Adalat mechanism with a hope to improve and to meet the challenges of the time.