

RULES





Section 89 of CPC

Statutory Framework for ADR:

Code of civil procedure —

Section 89. Settlement of disputes outside the Court—

- (1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for—
 - (a) arbitration;
 - (b) conciliation;
 - (c) judicial settlement including settlement through Lok Adalat; or
 - (d) mediation.
- (2) Where a dispute has been referred—
 - (a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;
 - (b) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of Sub-section (1) of Section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;
 - (c) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 (39 of 1987) shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;
 - (d) for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed.

Order X

- 1A. Direction of the court to opt for any one mode of alternative dispute resolution.—
After recording the admissions and denials, the Court shall direct the parties to the



suit to opt either mode of the settlement outside the Court as specified in Sub-section (1) of section 89. On the option of the parties, the Court shall fix the date of appearance before such forum or authority as may be opted by the parties.

- IB. Appearance before the conciliatory forum or authority—Where a suit is referred under Rule 1A, the parties shall appear before such forum or authority for conciliation of the suit.
- 1C. Appearance before the Court consequent to the failure of efforts of conciliation—Where a suit is referred under Rule 1A and the presiding officer of conciliation forum or authority is satisfied that it would not be proper in the interest of justice to proceed with the matter further, then, it shall refer the matter again to the Court and direct the parties to appear before the Court on the date fixed by it.”

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Jharkhand High Court Mediation Rules

In exercise of the rule-making power under Part X of the Code of Civil Procedure, 1908 (5 of 1908) and clause (d) sub-section (2) of Section 89 of the said Code, the High Court of Jharkhand is hereby issuing the following Rules :-

PART - A

ALTERNATIVE DISPUTE RESOLUTION RULES

1. **Title** - These rules in Part I shall be called the Civil Procedure Alternative Disputes Resolution Rules, 2006.

2. **Procedure for directing parties to opt for alternative modes of settlement -**

- (a) The Court shall after recording admissions and denials at the first hearing of the suit under Rule 1 Order 10 and where it appears to the Court that there exist elements of settlement, which may be acceptable to the parties, formulate the terms of settlement and give them to the parties for their observations under sub-section (1) of Section 89 and parties shall submit to the Court their responses within thirty days of the first hearing.
- (b) At the next hearing, which shall be not later than thirty days of the receipt of responses, the Court may reformulate the terms of a possible settlement and shall direct the parties to opt for one of the modes of settlement of disputes outside the Court as specified in clauses (a) to (d) of sub-section (1) of Section 89 read with Rule 1-A of Order 10 in the manner stated hereunder:

Provided that the Court, in the exercise of such power, shall not refer any dispute to arbitration or to judicial settlement by a person or institution without the written consent of all parties to the suit.

3. **Persons authorised to take decision for the Union of India, State Governments and others -**

- 1) For the purpose of Rule 2, the Union of India or the Government of a State or Union Territory, all local authorities, all Public Sector Undertakings, all statutory corporations and all public authorities shall nominate a person or persons or group of persons who are authorised to take a final decision as to the mode of alternative dispute resolution in which it proposes to opt in the event of direction by the Court under Section 89 and such nomination shall be communicated to the High Court within the period of three months from the date of commencement of these Rules and the High Court shall notify all the subordinate courts in this behalf as soon as such nomination is received from such Government or authorities.



- 2) Where such person or persons or group of persons have not been nominated as aforesaid, such party as referred to in clause (1) shall, if it is a plaintiff, file alongwith the plaint or if it is a defendant, file alongwith or before the filing of the written statement, a memo into the Court, nominating a person or persons or group of persons who is or are authorised to take a final decision as to the mode of alternative dispute resolution, which the party prefers to adopt in the event of the Court directing the party to opt for one or other mode of alternative dispute resolution.
4. **Court to give guidance to parties while giving direction to opt.** – (a) Before directing the parties to exercise option under clause (b) of Rule 2, the Court shall give such guidance as it deems fit to the parties, by drawing their attention to the relevant factors which parties will have to take into account, before they exercise their option as to the particular mode of settlement, namely :
- i) that it will be to the advantage of the parties, so far as time and expense, are concerned, to opt for one or other of these modes of settlement (referred to in Section 89) rather than seek a trial on the disputes arising in the suit;
 - ii) that, where there is no relationship between the parties which requires to be preserved, it may be in the interest of the parties to seek reference of the matter of arbitration as envisaged in clause (a) of sub-section (1) of Section 89;
 - iii) that, where there is a relationship between the parties which requires to be preserved, it may be in the interest of parties to seek reference of the matter to conciliation or mediation, as envisaged in clause (b) or (d) of sub-section (1) of Section 89;

Explanation – Disputes arising in matrimonial, maintenance and child custody matters shall, among others, be treated as cases where a relationship between the parties has to be preserved.

- iv) that, where parties are interested in a final settlement which may lead to a compromise, it will be in the interests of the parties to seek reference of the matter to the Lok Adalat or to judicial settlement as envisaged in clause (c) of sub-section (1) of Section 89;
- v) the difference between the different modes of settlement, namely, arbitration, conciliation, mediation and judicial settlement is as explained below :

Settlement by 'arbitration' means the process by which an arbitrator appointed by parties or by the Court, as the case may be, adjudicates the disputes between the parties to the suit and passes an award by the application of the provisions of the Arbitration and Conciliation Act, 1996.



Settlement by 'conciliation' means the process by which a conciliator, who is appointed by parties or by the Court, as the case may be, conciliates the disputes between the parties to the suit by the application of the provisions of the Arbitration and Conciliation Act, 1996 (29 of 1996) insofar as they relate to conciliation, and in particular, in exercise of his powers under Sections 67 and 73 of that Act, by making proposals for a settlement of the dispute and by formulating or reformulating the terms of a possible settlement; and has a greater role than a mediator.

Settlement by 'mediation' means the process by which a mediator appointed by parties or by the Court, as the case may be, mediates the dispute between the parties to the suit by the application of the provisions of the Mediation Rules, 2003 in Part II, and in particular, by facilitating discussion between parties directly or by communicating with each other through the mediator, by assisting parties in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, generating options in an attempt to solve the dispute and emphasising that it is the parties own responsibility for making decisions which affect them.

Settlement in the Lok Adalat means settlement by the Lok Adalat as contemplated by the Legal Services Authorities Act, 1987.

Judicial settlement means a final settlement by way of compromise entered into before a suitable institution or person to which the Court has referred the dispute and which institution or person are deemed to be the Lok Adalats under the provisions of the Legal Services Authorities Act, 1987 (39 of 1987) and where after such reference, the provisions of the said Act apply as if the dispute was referred to a Lok Adalat under the provisions of that Act.

5. Procedure for reference by the Court to the different modes of settlement

- a) Where all parties to the suit decide to exercise their option and to agree for settlement by arbitration, they shall apply to the Court, within thirty days of the direction of the Court under clause (b) of Rule - 2 and the Court shall, within thirty days of the said application, refer the matter to arbitration and thereafter the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) which are applicable after the stage of making of the reference to arbitration under that Act, shall apply as if the proceedings were referred for settlement by way of arbitration under the provisions of that Act.
- b) Where all the parties to the suit decide to exercise their option and to agree for settlement by the Lok Adalat or where one of the parties applies for reference to the Lok Adalat, the procedure envisaged under the Legal Services Authorities Act, 1987 and in particular by Section 20 of that Act, shall apply.



- c) Where all the parties to the suit decide to exercise their option and to agree for judicial settlement, they shall apply to the Court within thirty days of the direction under clause (b) of Rule 2 and then the Court shall, within thirty days of the application, refer the matter to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and thereafter the provisions of the Legal Services Authorities Act, 1987 (39 of 1987) which are applicable after the stage of making of the reference to the Lok Adalat under that Act, shall apply as if the proceedings were referred for settlement under the provisions of that Act.
- d) Where non of the parties are willing to agree to opt or agree to refer the dispute to arbitration or the Lok Adalat, or to Judicial settlement within thirty days of the direction of the Court under clause (b) of Rule 2, they shall consider if they could agree for reference to conciliation or mediation, within the same period.
- e)
 - i) Where all the parties opt and agree for conciliation, they shall apply to the Court, within thirty days of the direction under clause (b) of Rule 2 and the Court shall, within thirty days of the application refer the matter to conciliation and thereafter the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) which are applicable after the stage of making of the reference to conciliation under that Act, shall apply, as if the proceedings were referred for settlement by way of conciliation under the provisions of that Act.
 - ii) Where all the parties opt and agree for mediation, they shall apply to the Court, within thirty days of the direction under clause (b) of Rule 2 and the Court shall, within thirty days of the application, refer the matter to mediation and then the Mediation Rules, 2003 in Part II shall apply.
- f) Where under clause (d), all the parties are not able to opt and agree for conciliation or mediation, one or more parties pay apply to the Court within thirty days of the direction under clause (b) of Rule 2, seeking settlement through conciliation or mediation as the case may be, and in that event, the Court shall, within a further period of thirty days issue notice to the other parties to respond to the application, and
 - i) In case all the parties agree for conciliation, the Court shall refer the matter to conciliation and thereafter, the provisions of the Arbitration and Conciliation Act, 1996 which are applicable after the stage of making of the reference to conciliation under that Act, shall apply.
 - ii) In case all the parties agree for mediation, the Court shall refer the matter to mediation in accordance with the Civil Procedure Mediation Rules, 2003 in Part II shall apply.



- iii) In case all the parties do not agree and where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties and that there is a relationship between the parties which has to be preserved, the Court shall refer the matter to conciliation or mediation, as the case may be. In case the dispute is referred to conciliation, the provisions of the Arbitration and Conciliation Act, 1996 which are applicable after the stage of making of the reference to conciliation under that Act shall and in case the dispute is referred to mediation, the provisions of the Civil Procedure Mediation Rules, 2003, shall apply.
- g) i) Where none of the parties apply for reference either to arbitration, or the Lok Adalat, or judicial settlement, or for conciliation or mediation, within thirty days of the direction under clause (b) of Rule 2, the Court shall, within a further period of thirty days, issue notices to the parties or their representatives fixing the matter for hearing on the question of making a reference either to conciliation or mediation.
- ii) After hearing the parties or their representatives on the day so fixed the Court shall, if there exist elements of a settlement which may be acceptable to the parties and there is a relationship between the parties which has to be preserved, refer the matter to conciliation or mediation. In case the dispute is referred to conciliation, the provision of the Arbitration and Conciliation Act, 1996 which are applicable after the stage of making of the reference to conciliation under that Act shall apply and in case the dispute is referred to mediation, the provisions of the Civil Procedure Mediation Rules, 2003, shall apply.
- h) i) No next friend or guardian for the suit shall, without the leave of the Court, expressly recorded in the proceedings of the Court, opt for anyone of the modes of alternative dispute resolution nor shall enter into any settlement on behalf of a minor or person under disability with reference to the suit in which he acts as mere friend or guardian.
- ii) Where an application is made to the Court for leave to enter into a settlement initiated into in the alternative dispute resolution proceedings on behalf of a minor or other person under disability and such minor or other person under disability is represented by counsel or pleader, the counsel or pleader shall file a certificate alongwith the said application to the effect that the settlement is, in his opinion, for the benefit of the minor or other person under disability. The decree of the Court based on the settlement to which the minor or other person under disability is a party, shall refer to the sanction of the Court thereto and shall set out the terms of the settlement.



6. Referral to the Court and appearance before the Court upon failure of attempts to settle disputes by conciliation or judicial settlement or mediation –

- 1) Where a suit has been referred for settlement for conciliation, mediation or judicial settlement and has not been settled or where it is felt that it would not be proper in the interests of justice to proceed further with the matter, the suit shall be referred back again to the Court with a direction to the parties to appear before the Court on a specific date.
- 2) Upon the reference of the matter back to the Court under sub-rule (1) or under sub-section 20 of the Legal Services Authorities Act, 1987, the Court shall proceed with the suit in accordance with law.

7. Training in alternative methods of resolution of disputes, and preparation of manual –

- a) The High Court shall take steps to have training courses conducted in places where the High Court shall take steps to have training courses conducted in place where the High Court and the District Courts or courts of equal status are located, by requesting bodies recognised by the High Court or the Universities imparting legal education or retired faculty members or other persons who, according to the High Court are well versed in the techniques of alternative methods of resolution of disputes, to conduct training courses for lawyers and judicial officers.
- b)
 - i) The High Court shall nominate a committee of Judges, faculty members including retired persons belonging to the above categories, senior members of the Bar, other members of the Bar specially qualified in the techniques of alternative dispute resolution, for the purpose referred to in clause (a) and for the purpose of preparing a detailed manual of procedure for alternative dispute resolution to be used by the Courts in the State as well as by the arbitrators, or authority or person in the case of judicial settlement or conciliators or mediators.
 - ii) The said manual shall describe the various methods of alternative dispute resolution, the manner in which anyone of the said methods is to be opted for, the suitability of any particular method for any particular type of dispute and shall specifically deal with the role of the above persons in disputes which are commercial or domestic in nature or which relate to matrimonial, maintenance and child custody matters.
- c) The High Court and the District Courts shall periodically conduct seminars and workshops on the subject of alternative dispute resolution procedures throughout the State or States over which the High Court has jurisdiction with a view to bring awareness of such procedures and to impart training to lawyers and judicial officers.



- d) Persons who have experience in the matter of alternative dispute resolution procedures, and in particular in regard to conciliation and mediation, shall be given preference in the matter of empanellment for the purposes of conciliation or mediation.
8. **Applicability to other proceedings** – The provisions of these Rules may be applied to proceedings before the Courts, including Family Courts constituted under the Family Courts Act (66 of 1984), while dealing with matrimonial, maintenance and child custody disputes, wherever necessary, in addition to the rules framed under the Family Court Act (66 of 1984).

PART II

CIVIL PROCEDURE MEDIATION RULES

1. **Title** – These Rules in Part II shall be called the Civil Procedure Mediation Rules, 2003.
2. **Appointment of mediator** –
 - a) Parties to a suit may all agree on the name of the sole mediator for mediating between them.
 - b) Where, there are two sets of parties and are unable to agree on a sole mediator, each set of parties shall nominate a mediator.
 - c) Where parties agree on a sole mediator under clause (a) or where parties nominate more than one mediator under clause (b), the mediator need not necessarily be from the panel of mediators referred to in Rule 3 nor bear the qualifications referred to in Rule 4 but should not be a person who suffers from the disqualifications referred to in Rule 5.
 - d) Where there are more than two sets of parties having diverse interests, each set shall nominate a person on its behalf and the said nominees shall select the sole mediator and failing unanimity in that behalf, the Court shall appoint a sole mediator.
3. **Panel of mediators** –
 - a) The High Court shall, for the purpose of appointing mediators between parties in suits filed on its original side, prepare a panel of mediators and publish the same on its notice board, within thirty days of the coming into force of these Rules, with a copy to the Bar Association attached to the original side of the High Court.
 - b) i) The Courts of the Principal District and Sessions Judge in each district or the Courts of the Principal Judge of the City Civil Court or courts of equal status shall, for the purposes of appointing mediators to mediate between parties in suits filed on their original side, prepare a panel of mediators, within a period



of sixty days of the commencement of these Rules, after obtaining the approval of the High Court to the names included in the panel, and shall publish the same on their respective notice boards.

- ii) Copies of the said panels referred to in clause (i) shall be forwarded to all the courts of equivalent jurisdiction or courts subordinate to the courts referred to in sub-clause (i) and to the Bar Associations attached to each of the courts.
- c) The consent of the persons whose names are included in the panel shall be obtained before empanelling them.
- d) The panel of names shall contain a detailed annexure giving details of the qualifications of the mediators and their professional or technical experience in different fields.
- 4. Qualifications of persons to be empanelled under Rule 3 – The following persons shall be treated as qualified and eligible for being enlisted in the panel of mediators under Rule 3, namely :
 - a) i) Retired Judges of the Supreme Court of India;
 - ii) Retired Judges of the High Court;
 - iii) Retired District and Sessions Judges or retired Judges of the City Civil Court or courts of equivalent status.
 - b) ✓ Legal practioners with at least fifteen years standing at the Bar at the level of the Supreme Court or the High Court; or the District Courts or courts of equivalent status.
 - c) Experts or other professionals with at least fifteen years standing; or retired senior bureaucrats or retired senior executives.
 - d) Institutions which are themselves experts in mediation and have been recognised as such by the High Court, provided the names of its members are approved by the High Court initially or whenever there is change in membership.
- 5. **Disqualifications of persons** – The following persons shall be deemed to be disqualified for being empanelled as mediators :
 - i) any person who has been adjudged as insolvent or is declared of unsound mind, or
 - ii) any person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending, or
 - iii) any person who has been convicted by a criminal court for any offence involving moral turpitude.



- iv) any person against whom disciplinary proceedings or charges relating to moral turpitude have been initiated by the appropriate disciplinary authority which are pending or have resulted in a punishment.
 - v) any person who is interested or connected with the subject-matter of dispute or is related to anyone of the parties or to those who represent them, unless such objection is waived by all the parties in writing,
 - vi) any legal practitioner who has or is appearing for any of the parties in the suit or in any other suit or proceedings,
 - vii) such other categories of persons as may be notified by the High Court.
- 6. Venue for conducting mediation** – The mediator shall conduct the mediation at one or other of the following places :
- i) Venue of the Lok Adalat or permanent Lok Adalat.
 - ii) Any place identified by the District Judge within the court precincts for the purpose of conducting mediation.
 - iii) Any place identified by the Bar Association or State Bar Council for the purpose of mediation, within the premises of the Bar Association or State Bar Council, as the case may be.
 - iv) Any other place as may be agreed upon by the parties subject to the approval of the Court.
- 7. Preference** – The Court shall, while nominating any person from the panel of mediators referred to in Rule 3, consider his suitability for resolving the particular class of dispute involved in the suit and shall give preference to those who have proven record of successful mediation or who have special qualification or experience in mediation.
- 8. Duty of mediator to disclose certain facts** –
- a) When a person is approached, in connection with his possible appointment as a mediator, the person shall disclose in writing to the parties, any circumstances likely to give rise to a justifiable doubt as to his independence or impartiality.
 - b) Every mediator shall, from the time of his appointment and throughout the continuance of the mediation proceedings, without delay, disclose to the parties in writing, about the existence of any of the circumstances referred to in clause (a).
- 9. Cancellation of appointment** – Upon information furnished by the mediator under Rule 8 or upon any other information received from the parties or other persons, if the Court, in which the suit is filed, is satisfied, after conducting such inquiry as it deems fit, and after giving a hearing to the mediator, that the said information has



raised a justifiable doubt as to the mediator's independence or impartiality, it shall cancel the appointment by a reasoned order and replace him by another mediator.

10. Removal or deletion from panel – A person whose name is placed in the panel referred to in Rule 3 may be removed or his name be deleted from the said panel, by the Court which empanelled him if :

- i) he resigns or withdraws his name from the panel for any reason;
- ii) he is declared insolvent or is declared of unsound mind;
- iii) he is a person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending;
- iv) he is a person who has been convicted by a criminal court for any offence involving moral turpitude;
- v) he is a person whom disciplinary proceedings on charges relating to moral turpitude have been initiated by the appropriate disciplinary authority which are pending or have resulted in a punishment;
- vi) he exhibits or displays conduct, during the continuance of the mediation proceedings, which is unbecoming of a mediator;
- vii) the Court which empanelled, upon receipt of information, if it is satisfied, after conducting such inquiry as it deems fit, is of the view, that it is not possible or desirable to continue the name of that person in the panel;

Provide that, before removing or deleting his name, under clauses (vi) and (vii), the Court shall hear the mediator whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.

11. Procedure of mediation –

- a) The parties agree on the procedure to be followed by the mediator in the conduct of the mediation proceedings.
- b) Where the parties do not agree on any particular procedure to be followed by the mediator, the mediator shall follow the procedure hereinafter mentioned, namely:
 - i) he shall fix, in consultation with the parties, a time-schedule, the dates and the time of each mediation session, where all parties have to be present;
 - ii) he shall hold the mediation conference in accordance with the provisions of Rule 6;
 - iii) he may conduct joint or separate meetings with the parties;
 - iv) each party shall, ten days before a session, provide to the mediator a brief memorandum setting forth the issues, which according to it need to be resolved,



and its position in respect to those issues and all information reasonably required for the mediator to understand the issue; such memoranda shall also be mutually exchanged between the parties;

- v) each party shall furnish to the mediator, copies of pleadings or documents or such other information as may be required by him in connection with the issues to be resolved:

Provided that where the mediator is of the opinion that he should look into any original document, the Court may permit him to look into the original document before such officer of the Court and on such date or time as the Court may fix.

- vi) each party shall furnish to the mediator such other information as may be required by him in connection with the issues to be resolved.
- c) Where there is more than one mediator, the mediator nominated by each party shall first confer with the party that nominated him and shall thereafter interact with the other mediators, with a view to resolving the disputes.
- 12. **Mediator not bound by the Evidence Act, 1872 or the Code of Civil Procedure, 1908.** – The mediator shall not be bound by the Code of Civil Procedure, 1908 or the Evidence Act, 1872, but shall be guided by the principles of fairness and justice, have regard to the rights and obligations of the parties, usages of trade, if any, and the nature of the dispute.
- 13. **Non-attendance of Parties at sessions or meetings on due dates.** –
 - (a) The parties shall be present personally or may be represented by their counsel or power-of-attorney holders at the meetings or sessions notified by the mediator.
 - (b) If a party fails to attend a session or a meeting notified by the mediator, other parties or the mediator can apply to the court in which the suit is filed, to issue appropriate directions to that party to attend before the mediator without sufficient reason, the court may take action against the said party by imposition of costs.
 - (c) The parties not resident in India, may be represented by the counsel or power-of-attorney holders at the sessions or meetings.
- 14. **Administrative assistance** – In order to facilitate the conduct of mediation proceedings, the parties, or the mediator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.
- 15. **Offer of settlement by parties** –
 - (a) Any party to the suit may, 'without prejudice', offer a settlement to the other party at any stage of the proceedings, with notice to the mediator.



- (b) Any party to the suit may make a, 'with prejudice' offer, to the other party at any stage of the proceedings, with notice to the mediator.
16. **Role of mediator** – The mediator shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute emphasizing that it is the responsibility of the parties to take decisions which affect them; he shall not impose any terms of settlement on the parties.
17. **Parties alone responsible for taking decision** – The parties must understand, that the mediator only facilitates in arriving at a decision to resolve disputes and that he will not and cannot impose any settlement nor does the mediator give any warranty that the mediation will result in a settlement. The mediator shall not impose any decision on the parties.
18. **Time-limit for completion of mediation.** – On the expiry of sixty days from the date fixed for the first appearance of the parties before the mediator, the mediation shall stand terminated, unless the court, which referred the matter, either *suo motu*, or upon request by the mediator or any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of thirty days.
19. **Parties to act in good faith.** – While no one can be compelled to commit to settle his case in advance of mediation, all parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute, if possible.
20. **Confidentiality, disclosure and inadmissibility of information.**
- 1) When a mediator receives confidential information concerning the dispute from any party, he shall disclose the substance of that information to the other party, if permitted in writing by the first party.
 - 2) When a party gives information to the mediator subject to a specific condition that it be kept confidential, the mediator shall not disclose that information to the other party, nor shall the mediator voluntarily divulge any information regarding the documents or what is conveyed to him orally as to what transpired during the mediation.
 - 3) Receipt or perusal, or preparation of records, reports or other documents by the mediator, or receipt of information orally by the mediator while serving in that capacity, shall be confidential and the mediator shall not be compelled to divulge information regarding the documents nor in regard to the oral information nor as to what transpired during the mediation.



- 4) Parties shall maintain confidentiality in respect of events that transpired during mediation and shall not rely on or introduce the said-information in any other proceedings as to:
 - a) views expressed by a party in the course of the mediation proceedings;
 - b) documents obtained during the mediation which were expressly required to be treated as confidential or other notes, drafts or information given by parties or mediators;
 - c) proposals made or views expressed by the mediator;
 - d) admission made by a party in the course of mediation proceedings;
 - e) the fact that a party had or had not indicated willingness to accept a proposal;
- 5) There shall be no stenographic or audio or video recording of the mediation proceedings.
21. **Privacy** – Mediation sessions and meetings are private; only the parties or their counsel or power-of-attorney holders concerned can attend. Other persons may attend only with the permission of the parties or with the consent of the mediator.
22. **Immunity** – No mediator shall be held liable for anything *bone fide* done or omitted to be done by him during the mediation proceedings for civil or criminal action, nor shall he be summoned by any party to the suit to appear in a court of law to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.
23. **Communication between mediator and the Court.**
 - a) In order to preserve the confidence of parties in the Court and the neutrality of the mediator, there should be no communication between the mediator and the Court, except as stated in clauses (b) and (c) of this Rule.
 - b) If any communication between the mediator and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or their counsel or power of attorney.
 - c) Communication between the mediator and the Court shall be limited to communication by the mediator:
 - (i) with the Court about the failure of the party to attend;
 - ii) with the Court with the consent of the parties;
 - iii) regarding his assessment that the case is not suited for settlement through mediation;



iv) that the parties have settled the dispute or disputes.

24. Settlement agreement –

- 1) Where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same shall be reduced to writing and signed by the parties or their power-of-attorney holders. If any counsel have represented the parties, they shall attest the signature of their respective clients.
- 2) The agreement of the parties so signed and attested shall be submitted to the mediator who shall, with a covering letter signed by him, forward the same to the court in which the suit is pending.
- 3) Where no agreement is arrived at between the parties, before the time-limit stated in Rule 18 or where, the mediator is of the view that no settlement is possible, he shall report the same to the said court in writing.

25. Court to fix a date for recording settlement and passing decree. –

- (1) Within seven days of the receipt of any settlement, the Court shall issue notice to the parties fixing a day for recording the settlement, such date not being beyond a further period of fourteen days from the date of receipt of settlement, and the Court shall record the settlement, if it is not collusive.
- 2) The Court shall then pass a decree in accordance with the settlement so recorded, if the settlement disposes of all the issues in the suit.
- 3) If the settlement disposes of only certain issues arising in the suit, the Court shall record the settlement on the date fixed for recording the settlement, and
 - i) if the issues are severable from other issues and if a decree could be passed to the extent of the settlement covered by those issues, the Court may pass a decree straight away in accordance with the settlement on those issues without waiting for a decision of the Court on the other issues, which are not settled,
 - ii) If the issues are not severable, the Court shall wait for a decision of the Court on the other issues which are not settled.

26. Fee of mediator and costs. –

- 1) At the time of referring the disputes to, mediation, the Court shall, after consulting the mediator and the parties, fix the fee of the mediator.
- 2) As far as possible a consolidated sum may be fixed rather than for each session or meeting.
- 3) Where there are two mediators as in clause (b) of Rule 2, the Court shall fix the fee payable to the mediators which shall be shared equally by the two sets of parties.



- 4) The expense of the mediation including the fee of the mediator, costs of administrative assistance, and other ancillary expenses concerned, shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.
 - 5) Each party shall bear the costs for production of witnesses on his side including experts, or for production of documents.
 - 6) The mediator may, before the commencement of mediation, direct the parties to deposit equal sums, tentatively, to the extent of 40% of the probable costs of the mediation, as referred to in clauses (1), (3) and (4) The remaining 60% shall be deposited with the mediator, after the conclusion of mediation. For the amount of cost paid to the mediator, he shall issue the necessary receipts and a statement of account shall be filed, by the mediator in the Court.
 - 7) The expense of mediation including fee, if not paid by the parties, the Court shall, on the application of the mediator or parties, direct the parties concerned to pay, and if they do not pay, the Court shall recover the said amounts as if there was a decree for the said amount.
 - 8) Where a party is entitled to legal aid under Section 12 of the Legal Services Authorities Act, 1987, the amount of fee payable to the mediator and costs shall be paid by the Legal Services Authority concerned under that Act.
27. **Ethics to be followed by the mediator.** – The mediator shall:
- 1) follow and observe these Rules strictly and with due diligence;
 - 2) not carry on any activity, or conduct which could reasonably be considered as conduct unbecoming of a mediator;
 - 3) uphold the integrity and fairness of the mediation process;
 - 4) ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the process;
 - 5) satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;
 - 6) disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias;
 - 7) avoid, while communicating with the parties, any impropriety or appearance of impropriety;
 - 8) be faithful to the relationship of trust and confidentiality imposed in the office of mediator;



- 9) conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law;
 - 10) recognise that mediation is based on the principles of self-determination by the parties and that mediation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;
 - 11) maintain the reasonable expectations of the parties as to confidentiality;
 - 12) refrain from promises or guarantees of results.
28. **Transitory provisions.** – Until a panel of arbitrators is prepared by the High Court and the District Court, the courts referred to in Rule 3, may nominate a mediator of their choice if the mediator belongs to the various classes of persons referred to in Rule 4 and is duly qualified and is not disqualified, taking into account the suitability of the mediator for resolving the particular dispute.

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Delhi High Court Mediation and Conciliation Rules

TO BE PUBLISHED IN PART IV OF DELHI GAZETTE EXTRAORDINARY)
HIGH COURT OF DELHI : NEW DELHI

NOTIFICATION

No.171/Rules/DHC

Dated: 11th August, 2005

In exercise of the rule making power under Part X of the Code of Civil Procedure, 1908 (5 of 1908) and clause (d) of sub-section (2) of Section 89 of the said Code and all other powers enabling it in this behalf, the High Court of Delhi hereby makes the following Rules:-

MEDIATION AND CONCILIATION RULES, 2004

Rule - 1 : Title.

These Rules shall be called the Mediation and Conciliation Rules, 2004.

Rule 2 : Appointment of mediator/conciliator.

- (a) Parties to a suit or other proceeding may agree on the name of the sole mediator/conciliator for mediating between them.
- (b) Where, there are two or more sets of parties and are unable to agree on a sole mediator/conciliator, the Court may ask each party to nominate the mediator/conciliator or may nominate/appoint the mediator/conciliator, as it deems fit.
- (c) Where parties agree on a sole mediator/conciliator under clause (a) or where the mediator/conciliator is nominated/appointed by the court under clause (b), the mediator/conciliator need not necessarily be from the panel of mediators/conciliators referred to in Rule 3 nor bear the qualifications referred to in Rule 4 but should not be a person who suffers from the disqualifications referred to in Rule 5.

Rule 3 : Panel of mediators/conciliators.

- (a) The High Court shall, for the purpose of appointing the mediator/conciliator between the parties in suits or proceedings, prepare a panel of the mediators/conciliators and put the same on the Notice Board within thirty days of coming into force of these Rules, with copy to the High Court Bar Association.
- (b) (i) The District & Sessions Judge shall, for the purpose of appointing the mediator/conciliator to mediate between the parties in the suits or proceedings prepare a panel of the mediators/conciliators within a period of thirty days of the commencement of these rules and shall submit the same to the High Court for approval. On approval of the said panel by the High Court, with or without



modification, which shall be done within thirty days of the submission of the panel by the District & Sessions Judge, the same shall be put on the Notice Board.

(ii) Copies of the said panel referred in clause (i) shall be forwarded to all the Subordinate Courts by the District & Sessions Judge and to the District Bar Associations.

- (c) The consent of the persons whose names are included in the panel shall be obtained before empanelling them.
- (d) The panel shall contain Annexure giving details of the qualifications of the mediators/conciliators and their professional or technical experience in different fields.
- (e) The panel of mediators/conciliators appointed under Clause (a) and clause (b) (i) shall normally be for a period of three years from the date of appointment and further extension of the panel of mediators/conciliators or any mediator/conciliator shall be at the discretion of the High Court or the District & Sessions Judge with the prior approval of the High Court, as the case may be.

Rule 4 : Qualifications of persons to be empanelled under Rule 3.

The following persons may be enlisted in the panel of mediators/conciliators under Rule 3, namely:

- (a)
 - 1. Retired Judges of the Supreme Court of India;
 - 2. Retired Judges of the High Courts;
 - 3. Retired District & Sessions Judges or retired Officers of Delhi Higher Judicial Service;
 - 4. District & Sessions Judge or Officers of Delhi Higher Judicial Service.
- (b) Legal practitioners with at least ten years standing at the Bar at the level of the Supreme Court or the High Court or the District Courts.
- (c) Experts or other professionals with at least fifteen years standing.
- (d) Persons who are themselves experts in the mediation/conciliation.

Rule 5 : Disqualifications of persons.

The following persons shall be deemed to be disqualified for being empanelled as mediators/conciliators:

- (a) any person who has been adjudged as insolvent or persons
 - (i) against whom criminal charges involving moral turpitude are framed by a criminal court and are pending; or
 - (ii) persons who have been convicted by a criminal court for any offence involving moral turpitude.



- (b) any person against whom disciplinary proceedings have been initiated by the appropriate disciplinary authority which are pending or have resulted in a punishment.
- (c) any person who is interested or connected with the subject-matter of dispute(s) or is related to any one of the parties or to those who represent them, unless such objection is waived by all the parties in writing.
- (d) any legal practitioner who has or is appearing for any of the parties in the suit or in other proceedings(s).
- (e) such other categories of persons as may be notified by the High Court.

Rule 6 : Addition to or deletion from panel.

The High Court or the District & Sessions Judge with prior approval of the High Court, may in its/his discretion, from time to time, add or delete any person in the panel of mediators/conciliators.

Rule 7 : Preference.

The Court shall, while nominating any person from the panel of mediators/conciliators referred to in Rule 3, consider his suitability for resolving the dispute(s) involved and shall give preference to those who have proven record of successful mediation/ conciliation or who have special qualification or experience in the mediation/conciliation.

Rule 8 : Duty of mediator/conciliator to disclose certain facts.

- (a) When a person is approached in connection with his proposed appointment as mediator/conciliator, he shall disclose any circumstance likely to give rise to a reasonable doubt as to his independence or impartiality.
- (b) Every Mediator/conciliator shall from the time of his appointment and throughout continuance of the mediation/conciliation proceedings, without delay, disclose to the parties, about the existence of any circumstance referred to in Clause (a).

Rule 9 : Withdrawal of appointment.

Upon information furnished by the mediator/conciliator under Rule 8 or upon any other information received from the parties or other persons, if the Court, in which the suit or proceeding is pending, is satisfied, that the said information has raised a reasonable doubt as to the mediator/conciliator's independence or impartiality, it may withdraw the appointment and replace him by another mediator/conciliator.

Rule 10 : Procedure of mediation/conciliation.

- (a) The parties may agree on the procedure to be followed by the mediator/conciliator in the conduct of the mediation/conciliation proceedings.
- (b) Where the parties do not agree on any particular procedure to be followed by the



mediator/conciliator, the mediator/conciliator shall follow the procedure hereinafter mentioned, namely:

- (i) he shall fix, in consultation with the parties, a time schedule, the dates and the time of each mediation/conciliation session, where all parties have to be present;
 - (ii) he shall hold the mediation/conciliation at the place prescribed by the High Court or the District & Sessions Judge or the place where the parties and the mediator/conciliator jointly agree;
 - (iii) he may conduct joint or separate meetings with the parties;
 - (iv) each party shall, ten days before a session, provide to the mediator/conciliator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the mediator/conciliator to understand the issue; such memoranda shall also be mutually exchanged between the parties. However, in suitable/appropriate cases, the period often days may be curtailed in the discretion of the mediator/conciliator;
 - (v) each party shall furnish to the mediator/conciliator such other Information as may be required by him in connection with the issues to be resolved.
- (c) Where there is more than one mediator/conciliator, the mediator/conciliator nominated by each party may first confer with the party that nominated him and thereafter interact with the other mediator/conciliator, with a view to resolve the dispute(s).

Rule 11 : Mediator/conciliator not bound by Indian Evidence Act, 1872 or Code of Civil Procedure, 1908.

The mediator/conciliator shall not be bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872, but shall be guided by the principles of fairness and justice, having regard to the rights and obligations of the parties, usages of trade, if any, and the circumstances of the dispute(s).

Rule 12 : Representation of parties.

The parties shall ordinarily be present personally or through constituted attorney at the sessions or meetings notified by the mediator/conciliator. However, they may be represented by the counsel with permission of the mediator/conciliator in such sessions or meetings. The party not residing in India, may be represented by the constituted attorney at the sessions or meetings. However, it may be represented by the counsel with permission of the mediator/conciliator in such sessions or meetings.

Rule 13: Consequences of non-attendance of parties at sessions or meetings on due dates.



If a party fails to attend a session or a meeting notified by the mediator/conciliator on account of deliberate or willful act, the other party or the mediator/conciliator can apply to the Court in which the suit or proceeding is pending, in that case Court may issue the appropriate directions having regard to the facts and circumstances of the case.

Rule 14 : Administrative assistance.

In order to facilitate the conduct of mediation/conciliation proceedings, the parties, or the mediator/conciliator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

Rule 15 : Offer of settlement by parties.

- (a) Any party to the suit may, 'without prejudice', offer a settlement to the other party at any stage of the proceedings, with notice to the mediator/conciliator.
- (b) Any party to the suit may make a, 'with prejudice' offer, to the other party at any stage of the proceedings, with notice to the mediator/conciliator.

Rule 16 : Role of mediator/conciliator.

The mediator/conciliator shall attempt to facilitate voluntary resolution of the dispute(s) by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute(s), emphasizing that it is the responsibility of the parties to take decision which effect them; he shall not impose any terms of settlement on the parties.

Rule 17 : Parties alone responsible for taking decision.

The parties shall be made to understand that the mediator/conciliator only facilitates in arriving at a decision to resolve dispute(s) and that he will not and cannot impose any settlement nor does the mediator/conciliator give any assurance that the mediation/conciliation will result in a settlement. The mediator/conciliator shall not impose any decision on the parties.

Rule 18 : Time limit for completion of mediation/conciliation.

On the expiry of ninety days from the date fixed for the first appearance of the parties before the mediator/conciliator, the mediation/conciliation shall stand terminated, unless the Court, which referred the matter, either suo motu, or upon request by any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of thirty days.

Rule 19 : Parties to act in good faith.

All the parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute (s), if possible.

Rule 20 : Confidentiality, disclosure and inadmissibility of information.



- (a) When a mediator/conciliator receives factual information concerning the dispute(s) from any party, he shall disclose the substance of that information to the other party, so that the other party may have an opportunity to present such explanation as it may consider appropriate.

Provided that, when a party gives information to the mediator/conciliator subject to a specific condition that it be kept confidential, the mediator/conciliator shall not disclose that information to the other party.'

- (b) Receipt or perusal, or preparation of records, reports or other documents by the mediator/conciliator, while serving in that capacity shall be confidential and the mediator/conciliator shall not be compelled to divulge information regarding those documents nor as to what transpired during the mediation/conciliation before any court of tribunal or any other authority or any person or group of persons.
- (c) Parties shall maintain confidentiality in respect of events that transpired during the mediation/conciliation and shall not rely on or introduce the said information in other proceedings as to :
- (i) views expressed by a party in the course of the mediation/conciliation proceedings;
 - (ii) documents obtained during the mediation/conciliation which were expressly required to be treated as confidential or other notes, drafts or information given by the parties or the mediator/conciliator;
 - (iii) proposals made or views expressed by the mediator / conciliator.
 - (iv) admission made by a party in the course of mediation/conciliation proceedings;
 - (v) the fact that a party had or had not indicated willingness to accept a proposal;
- (d) There shall be no audio or video recording of the mediation/conciliation proceedings.
- (e) No statement of parties or the witnesses shall be recorded by the mediator/conciliator.

Rule 21 : Privacy.

The Mediation/conciliation sessions or meetings would be conducted in privacy where the persons as mentioned in Rule 12 shall be entitled to represent parties. However, other persons may attend only with the permission of the parties and with the consent of the mediator/conciliator.

Rule 22 : Immunity.

No mediator/conciliator shall be held liable for anything bonafide done or omitted to be done by him during the mediation/conciliation proceedings for civil or criminal action nor shall he be summoned by any party to the suit or proceeding to appear in a Court of law



to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation/conciliation proceedings.

Rule 23 : Communication between mediator/conciliator and the Court.

- (a) In order to preserve the confidence of parties in the Court and the neutrality of the mediator/conciliator, there should be no communication between the mediator/conciliator and the Court, except as stated in clauses (b) and (c) of this Rule.
- (b) If any communication between the mediator/conciliator and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or the constituted attorney or the counsel.
- (c) Communication between the mediator/conciliator and the Court shall be limited to communication by the mediator/conciliator:
 - (i) with the Court about the failure of the party to attend;
 - (ii) with the Court about the consent of the parties;
 - (iii) regarding his assessment that the case is not suited for settlement through the mediation/conciliation;
 - (iv) that the parties have settled the dispute(s).

Rule 24 : Settlement Agreement.

- (a) Where an agreement is reached between the parties in regard to all the issues in the suit or proceeding or some of the issues, the same shall be reduced to writing and signed by the parties or their constituted attorney. If any counsel has represented the parties, the conciliator/mediator may obtain his signature also on the settlement agreement.
- (b) The agreement of the parties so signed shall be submitted to the mediator/conciliator who shall, with a covering letter signed by him, forward the same to the Court in which the suit or proceeding is pending.
- (c) Where no agreement is arrived at between the parties, before the time limit stated in Rule 18 or where, the mediator/conciliator is of the view that no settlement is possible, he shall report the same to the Court in writing.

Rule 25 : Court to fix a date for recording settlement and passing decree.

- (a) On receipt of any settlement, the court shall fix a date of hearing normally within seven days but in any case not beyond a period of fourteen days. On such date of hearing, if the court is satisfied that the parties have settled their dispute(s), it shall pass a decree in accordance with terms thereof.



- (b) If the settlement dispose of only certain issues arising in the suit or proceeding, on the basis of which any decree is passed as stated in Clause (a), the court shall proceed further to decide remaining issues.

Rule 26 : Fee of mediator/conciliator and costs.

- (a) At the time of referring the dispute(s) to the mediation/conciliation, the Court may, fix the fee of the mediator/conciliator.
- (b) As far as possible, a consolidated sum may be fixed rather than for each session or meeting.
- (c) Where there are two mediators/conciliators as in clause (b') of Rule 2, the Court shall fix the fee payable to the mediators/conciliators, which shall be shared equally by the two sets of parties.
- (d) The expense of the mediation/conciliation including the fee of the mediator/conciliator, costs of administrative assistance, and other ancillary expenses concerned, shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.
- (e) Each party shall bear the costs for production of witnesses on his side including experts, or for production of documents.
- (f) The mediator/conciliator may, before the commencement of the mediation / conciliation, direct the parties to deposit equal sums, tentatively, to the extent of 40% of the probable costs of the mediation/conciliation, as referred to in clause (d), including his fee. The remaining 60% shall be deposited with the mediator / conciliator, after the conclusion of the mediation/conciliation. The amount deposited towards costs shall be expended by the mediator/conciliator by obtaining receipts and a settlement of account shall be filed, by the mediator/ conciliator in the Court.
- (g) If any party or parties do not pay the amount referred to Clause (e), the Court shall, on the application of the mediator/conciliator, or any party, issue appropriate directions to the concerned parties.
- (h) The expense of the mediation/conciliation including fee, if not paid by the parties, the Court shall, on the application of the mediator/conciliator or the parties, direct the concerned parties to pay, and if they do not pay, the Court shall recover the said amounts as if there was a decree for the said amount.

Rule 27 : Ethics to be followed by mediator/conciliator.

The mediator/conciliator shall:

1. follow and observe these Rules strictly and with due diligence;
2. not carry on any activity or conduct which could reasonably be considered as



- conduct unbecoming of a mediator/conciliator;
3. uphold the integrity and fairness of the mediation/conciliation process;
 4. ensure that the parties involved in the mediation/conciliation and fairly informed and have an adequate understanding of the procedural aspects of the process;
 5. satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;
 6. disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias;
 7. avoid, while communicating with the parties, any impropriety or appearance of impropriety;
 8. be faithful to the relationship of trust and confidentiality imposed in the office of mediator/conciliator;
 9. conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law;
 10. recognize that the mediation/conciliation is based on principles of self-determination by the parties and that the mediation/conciliation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;
 11. maintain the reasonable expectations of the parties as to confidentiality, refrain from promises or guarantees of results.

Rule 28 : Transitory provisions.

Until a panel of Mediators/Conciliators is prepared by the High Court and the District & Sessions Judge as stated in Rule 3, the Courts, may nominate a mediator/conciliator of their choice if the mediator/conciliator belongs to the various classes of persons referred to in Rule 4 and is duly qualified and is not disqualified, taking into account the suitability of the mediator/conciliator for resolving the particular dispute(s).



BY ORDER OF THE COURT
Sd/-(V.B. GUPTA)
REGISTRAR GENERAL

(TO BE PUBLISHED IN PART IV OF DELHI GAZETTE EXTRAORDINARY)
HIGH COURT OF DELHI : NEW DELHI
NOTIFICATION

No.158 /Rules/DHC

Dated : 6th July, 2006

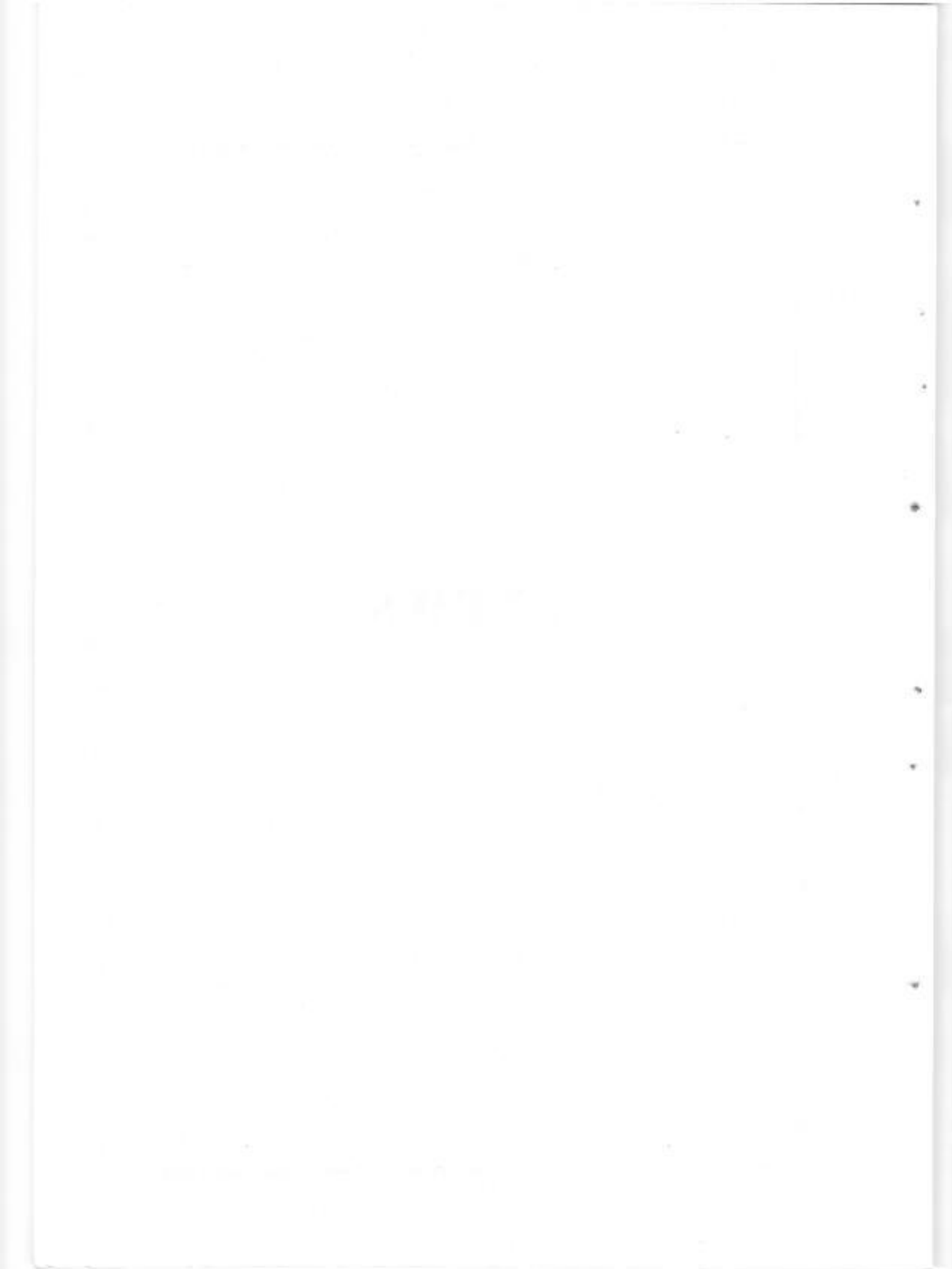
In exercise of the rule making power under Part X of the Code of Civil Procedure, 1908 (5 of 1908) and clause (d) of sub-section (2) of Section 89 of the said Code and all other powers enabling it in this behalf, the High Court of Delhi hereby makes the following amendment in Rule 1 of the Mediation and Conciliation Rules, 2004, which were notified vide Notification No. 17 I/Rules/Delhi High Court dated 11th August, 2005, in Delhi Gazette Extraordinary Part IV No.120 (N.C.T.D No.478) dated 11th August, 2005. In Rule 1 after title the following be added "The Rules will apply to all mediation and conciliation connected with any suit or other proceeding pending in the High Court of Delhi or in any court subordinate to the High Court of Delhi. The mediation in respect of any suit or proceeding pending before the High Court of Delhi or any other Court or Tribunal may be referred to the Delhi High Court Mediation & Conciliation Centre or any other Mediation Centre set up by Legal Services Authorities. Upon such a reference being made to Delhi High Court Mediation & Conciliation Centre, the same will be governed by the Charter of the Delhi High Court Mediation & Conciliation Centre and to those mediation proceedings, the present Rules will apply mutatis mutandi."

BY ORDER OF THE COURT

(A.K. PATHAK)
REGISTRAR GENERAL

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NEWS





Legal News Pertaining to Mediation

SOURCE: UNI

Calcutta HC CJ Stresses On Mediation To Stop Growth Of Cases: 24 March, 2005

Calcutta High Court Chief Justice V S Sirpurkar today advocated containment of the burgeoning legal cases through mediation and called upon the future lawyers to acquire skills of mediation to stop cases going to courts. Addressing a seminar on "Nature of Judicious Decision Making" organised by the Department of Law of Calcutta University, he also stressed on legal literacy to stop the growth of court cases in the country. Justice Sirpurkar cited examples in the US where four per cent of the cases go to courts and 96 per cent was solved through mediation in the lawyers' chambers.

"India, where the situation is just the opposite, needs to follow the US system to meet the growing court cases," he said.

Decision-making depends on the judge and on the lawyers' ability to effect the thinking process of the judge, Justice Sirpurkar said. He called upon law students to develop grip on language, facts, law and ability of not getting confused to be successful in the careers. Supreme Court judge Ruma Pal, Calcutta High Court Judge V S Sirpurkar and Canada's Federal Court Judge Douglas R Campbell also spoke on the occasion.

Delhi HC Starts Mediation And Conciliation Centre: 29th May 2006

The Delhi High Court today formally started a mediation and conciliation centre on its premises. Inaugurating the function, Supreme Court Judge Markandeya Katju, said that he had proposed National Institute of Mediation and Conciliation while speaking to Chief Justice of India a few days ago.

"It will usher in a mediation movement," he said hoping that the institute could be taken to other corners of the country.

The growing trend is to prefer mediation to litigation simply because of time factor, he said. Besides, it is one thing to be a good judge or good lawyer and another to become a good mediator, Justice Katju said, adding that the bar and the judges complement each other in the process.

The judicial administration is over burdened with litigations. New economic policies and industrialisation making rapid progresses, the litigations can but increase, leaving us with little breathing space, Justice Manmohan Sarin observed. Only mediation and conciliation can help us check the plethora of the cases, he said.

High Court acting Chief Justice Vijendra Jain also spoke on the occasion.

Mediation Should Precede Talaq: Kerala High Court: 07 October, 2005

A Division Bench of the Kerala High Court has ruled that mere pronouncement of talaq



three times even in the presence of the wife is not sufficient to effect divorce under the Muslim law. The Bench comprising Mr Justice R Bhaskaran and Mr Justice K P Balachandran observed yesterday that there should be an attempt of mediation from the side of the husband and the wife and only in the event of its failure the husband would be entitled to pronounce talaq on his wife.

Upholding the Mancherry Family Court order directing Kayyumparambu Ummer Farooq to pay maintenance allowance of Rs 1,500 per month with arrears from October 2000 to his wife Pardath Naseema, the Court noted that though the respondent claimed that the information regarding talaq was communicated to the wife, no document to this effect was produced to prove the same.

The wife, on the other hand, contended that there was no valid divorce though talaq was pronounced thrice on May 2, 2000.

Settle Disputes Through Mediation: CJI: 05 September, 2005

Chief Justice of India Ramesh Chandra Lahoti today urged the states to evolve an internal mechanism to settle disputes through mediation or conciliation before approaching the courts. He suggested that a three member committee, comprising the Departmental Secretary, Law Secretary and a retired judge, should study the cases involving the government to reach the settlement before approaching the courts. "Alternate dispute resolution system should be evolved", he said. Speaking at the inauguration of a day-long workshop here on "Speedy justice and cooperation between judiciary and executive", Mr Justice Lahoti said the government was a party in more than 50 per cent civil cases, while the government or the police was the applicant in 80 to 90 per cent of the criminal cases. "Before waiting for the court's decree, attempts should be made to reach at a settlement so that the courts should not be burdened with more and more cases", he said. The Chief Justice said section 89 of the Civil Procedure Code provided for solving disputes through Panch, conciliation, mediation or Lok Adalat. Except Lok Adalat, the other options were scarcely attempted, he added. Mr Justice Lahoti, who hails from Guna, MP, urged Chief Minister Babulal Gaur to take initiative so that Madhya Pradesh emerged as the first state to experiment with conciliation and mediation. This will help in reducing the expenditure on judiciary by at least 20 per cent, he said. Welcoming the video conferencing arrangements made in different jails of the state, the CJI said the burden on the judiciary could be reduced if more facilities were provided. In this context, he referred to the demands made by Madhya Pradesh Chief Justice R V Raveendran, who lamented that most of the court buildings were too small or unsafe. Many judges were not having stenographer or reader and there was absence of prosecutors at many places, he added.

Karnataka HC sets up mediation centre to settle pending civil cases: 19 June 2007

In its bid to bring down the burgeoning civil cases, the Karnataka High Court has set up Bangalore Mediation Centre, a new concept where mediators would solve civil cases in



double quick time. The Centre, set up in a building constructed by the state government and handed over to the High Court, would be inaugurated by Chief Justice of India K G Balakrishnan on June 21. This is for the first time in the country that a mediation centre, with trained advocates performing as mediators has come up. The Delhi High Court had set up a similar centre with District Judges serving as mediators.

Briefing newsmen, High Court Judge Justice S R Bannurmath said 57 mediators, advocates with at least 15 years standing as members of the Bar, had been trained by US-based International Institute for Study and Development of Legal System. Under this alternative legal system, the mediators would bring the two parties in civil cases pertaining to finance, matrimony, money matters, property issues and other such cases that can be settled outside the court. "These skilled law experts, as neutral third parties, would bring the two parties together and try to solve the case without the intervention of the court by using transparent, less time-consuming and cost effective methods," he said. "The mediation centre has been set up under Section 89 of the Civil Procedure Code after a temporary centre set up by the court proved highly successful", he added.

The present centre had been referred with 829 cases since January one this year, of which 277 cases had been settled while 210 cases are pending inquiry. "A high 47 per cent success rate within six months of setting up this temporary centre speaks of high success such alternative dispute resolution centres can have. Each case took paltry 123 minutes for the mediators to settle," Justice Bannurmath said. The Judge said if the cases, referred to mediation, could not be resolved in 60 days they would be referred back to the court. Karnataka High Court Chief Justice Cyriac Joseph would be the patron, while it would have five governors to ensure smooth functioning. An Advisory Board had also been set up with Law Minister M P Prakash and others being its members, he added.

Delhi HC allows 'American Way' of legal management to solve cases: 22 August 2007

The Delhi High Court has allowed two persons with the same name to go into litigation by the American way of legal management and adopt the Early Neutral Evaluation method (ENE). Senior Lawyer Pravin Anand and Lawyers A K Katoh and Siddharth Bambhar told the court that they were unable to solve a case where two parties have the same name -Bawa Masala Company and Bawa Masala Company Pvt Ltd. They were called for mediation but the mediation centre solved quite a number of their cases but one which is now being tried by the American Way of ENE. According to Mr Anand, ENE is a technique used in American litigation to provide early focus to complex commercial litigation and based on that provide a basis for sensible case management and offer a resolution of the case in the early stages.

An ENE is conducted by a senior counsel or person of expertise and experience in the subject who is known as an Evaluator or a Neutral person. A written brief is provided to him by the lawyers and both parties are required to have a decision maker each which may be accompanied by a lawyer. The Evaluator reads the cases by the parties and



pronounces its decision.

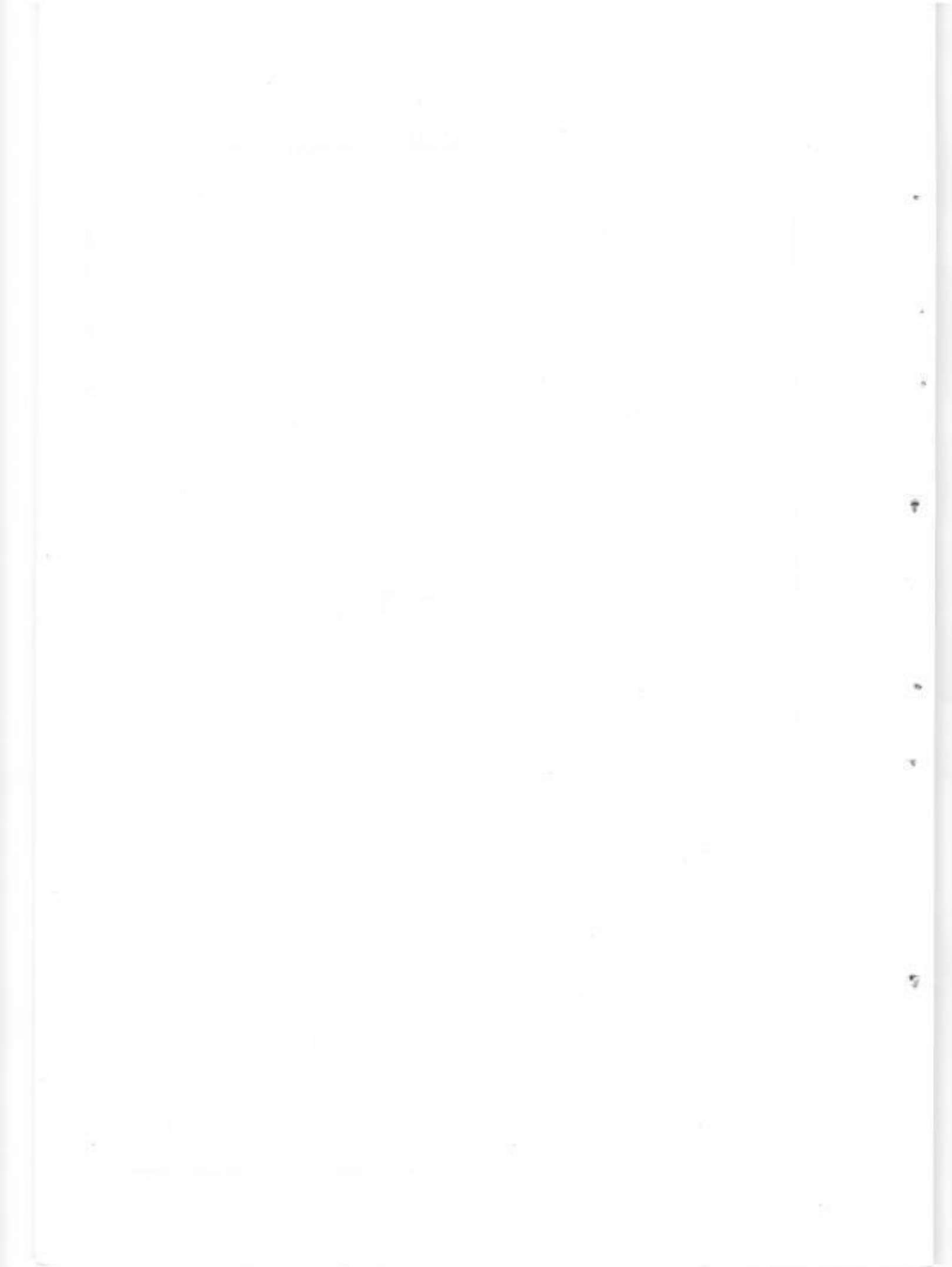
"ENE is a different form of Alternate Dispute Resolution (ADR) and I see no reason why this process cannot be resorted towards negotiable settlement in pursuance to section 89 of the Code of Civil Procedures 1908, when the parties volunteer for the same," Justice Sanjay Kishan Kaul said. The court directed the parties to appoint two neutral evaluators and send the details of its outcome to them by November 2. The judge observed that the ENE also broadly follows the same process as a mediation though the concept is not a negotiated settlement, but a neutral one.

In ENE, the decision of the evaluator is not binding to any party. If they are aggrieved, they can still approach the court. In this way the confidentiality is maintained by this method.

This is the first time that any effort of this kind is being made. If this works than other cases will also be allowed to be done by the ENE way.

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EVENTS





Schedule of Training on “Concept & Techniques of Mediation”

Institute for the study and Development of Legal Systems (ISDLS), U.S.A. is an institute which provides Professional / Trainers for imparting training as mediators. It has provided mediation trainings to Judicial Officers / Advocates at Delhi Mediation Centre, Delhi and Bangalore Mediation Centre, Bangalore. This training module has been accepted by the Mediation and Conciliation Project Committee, setup by Hon'ble Apex Court and adopted by the Delhi Mediation Centre, Delhi and Bangalore Mediation Centre, Bangalore. ISDLS advocates a training module of 40 hours and 10 Actual Role Play for training to Judicial Officers / Advocates as Mediators. It spreads over a week with six hours training per day. Following are the break up of training schedule as per ISDLS module.

Day - 1

Session 1: 1.00 p.m. - 2.00 p.m

- (i) ADR and its relevance
- (ii) Mediation introduction, definition, concept
- (iii) Characteristics of Mediation vis-a-vis. Adversary System and Arbitration and Conciliation
- (iv) Characteristics of Mediation vis-a-vis. Lok Adalat

Session 2 : 2.30 p.m. - 3.30 p.m

- (i) Conflict Management
- (ii) Role of Mediator
- (iii) Qualities of a good mediator
- (iv) Effective and in-effective mediators

Session 3 : 3.30 p.m - 4.30 p.m.

Actual mediation in progress, followed by discussions

Session 4 : 4.45 p.m - 6.00 p.m

Stages of mediation

- (i) Introduction
- (ii) Joint-session
- (iii) Caucus
- (iv) Agreement

Session 5 : 6.00 p.m - 7.00 p.m

Interactive Session

Day - 2

Session 1 : 1.00 p.m. - 2.00 p.m

- (i) Cases appropriate for mediation



- (ii) Cases not appropriate for mediation
- (iii) Actual mediation in progress/ exercises followed by documentary

Session 2 : 2.30 p.m. - 3.30 p.m

Communication Techniques Part I

I.

- (i) Pattern of Communication
- (ii) Use of words by mediator
- (iii) Active listening

II.

Role Play followed by Discussions

Session 3 : 3.30 p.m - 4.30 p.m.

I. Communication Techniques - Part II

1. Neutral reframing
2. Summarising
3. Redirecting
4. Deferring
5. Restatement
6. Acknowledgment
7. Reflection
8. Empathy
9. Changing the messenger

Session 4 : 4.45 p.m - 6.00 p.m

I. Role Play followed by discussions

Session 5 : 6.00 p.m - 7.00 p.m

Interactive Session

Day - 3

Session 1 : 1.00 p.m. - 2.00 p.m

- (i) Approaches to Negotiation
- (ii) Characteristics of Negotiator
- (iii) Questions conducive for constructive negotiation
- (iv) Words that are not conducive for constructive negotiation

Session 2 : 2.30 p.m. - 3.30 p.m

- (i) Exercises followed by discussion
- (ii) Active mediation and Role Play followed by Interactive Session

Session 3 : 3.30 p.m - 4.30 p.m.

TYPES OF BARGAINING



1. Right based bargaining
2. Positional bargaining
3. Distributive bargaining
4. Integrative bargaining
5. Interest based bargaining

Session 4: 4.45 p.m - 6.00 p.m

TYPES OF BARGAIN TO CONTINUE

Session 5: 6.00 p.m - 7.00 p.m

Interactive Session

Day - 4

Session 1 : 1.00 p.m. - 2.00 p.m

- (i) Impasses
- (ii) Origin of impasses - Types of Barriers
- (iii) How to break impasses

Session 2 : 2.30 p.m. - 3.30 p.m

Actual mediation in progress and Role Play Discussion on the case mediated

Session 3 : 3.30 p.m - 4.30 p.m.

Actual mediation in progress/Role Play followed by discussions

Session 4 : 4.45 p.m - 6.00 p.m

REALITY TESTING

BATNA-WATNA

Lateral Thinking

Logical Thinking

Brain Storming

Session 5 : 6.00 p.m. - 7.00 p.m

Exercise followed by discussion

Interactive Session

Day - 5

Session 1: 1.00 p.m. - 2.00 p.m

- (i) Mediation Management
- (ii) Role of parties
- (iii) Role of Lawyers
- (iv) Acknowledgment of parties / Lawyers

Session 2 : 2.30 p.m. - 3.30 p.m

Actual mediation in progress and Role Play followed by discussions





Bangalore Mediation Centre

A Success Story in A D R

Introduction

The Bangalore Mediation Centre (BMC) is an initiative of the High Court of Karnataka. It has been conceived and implemented as a Project to implement the provisions of Section-89 of the Code of Civil Procedure providing for reference of cases by Courts for mediation and for settlement of disputes through mediation. The BMC facilitates court annexed mediation by trained advocate-mediators. The motto of BMC is '**Peace making through Mediation**'. Within one year the BMC has proved to be a huge success in Alternative Dispute Resolution (ADR).

Genesis

Based on the recommendations of the Law Commission of India and the Justice V.S. Malimath Committee and in an endeavour to render speedy and inexpensive justice to the parties approaching the Courts for resolution of their disputes, the Parliament enacted Act No.46 of 1999 inserting Section-89 of the Code of Civil Procedure to make it obligatory for the Court, where it appears to it that there exist elements of a settlement which may be acceptable to the parties, to formulate the terms of settlement and give them to the parties for their observations and after receiving observations of the parties, if necessary, to reformulate the terms of a possible settlement and to refer the same for (a) Arbitration, (b) Conciliation, (c) Judicial settlement including settlement through Lok Adalath or (d) Mediation. To carry out the objects of the substituted Section 89 which came into effect on 1.7.2002 and as directed by the Supreme Court of India in its judgment in Salem Advocate Bar Association .vs. Union of India - AIR 2005 SC 3353, the High Court of Karnataka framed the Karnataka Civil Procedure (Mediation) Rules, 2005. In spite of the above statutory provisions providing for reference of cases for mediation and settlement of the disputes through mediation, the Judges had not been given any training in the matter of referring cases for mediation and trained and experienced mediators were not available. Consequently mediation as an ADR method became impracticable. In such a situation the **Institute for the Study and the Development of Legal Systems (ISDLS)**, San Francisco, U.S.A. offered to associate with the High Court of Karnataka to start a Mediation Project at Bangalore for creating awareness among the Judges, Advocates and litigants about the process of mediation and the benefits of settlement of disputes through mediation and for giving specialised training to Referral Judges and Mediators. With the support and encouragement of the Advocates Association, Bangalore, the High Court accepted the above offer made by Mr. Stephen Mayo, Executive Director, ISDLS.

As the first step, the Hon'ble Chief Justice Mr. Justice Cyriac Joseph along with Mr. Justice N. Kumar, Executive Chairman, International Centre for Alternative Dispute Resolution (ICADR), Regional Centre, Bangalore and District Judges Mr. K.N. Keshavanarayana and Mr. R.B. Budihal visited the Courts and Mediation Centres in the State of California, U.S.A. in the month of May-June, 2006 to observe and study the Mediation Models



implemented there and its benefits. Having convinced that settlement of disputes through mediation will render speedy and inexpensive justice to the parties and will help to reduce the pendency of cases in Courts; that Judges, Advocates and litigants must be made aware of the benefits of mediation; and that specialised training is required for Referral Judges and Mediators, the Hon'ble Chief Justice decided to launch a Mediation Project at Bangalore with the technical support and cooperation of the ISDLS.

In order to create a favourable environment a Three-day Workshop was organised at Bangalore by the High Court in association with the I C A D R, Regional Centre, Bangalore on 27th, 28th and 29th August, 2006. The theme of the workshop was "Alternative Dispute Resolution (ADR) Development Initiative". High Court Judges, Judges of the Subordinate Judiciary and Advocates participated in the Workshop. The Workshop was inaugurated by Dr. H.R. Bhardwaj, Hon'ble Union Minister for Law & Justice and Chairman of the ICADR, in the meeting presided over by Hon'ble Mr. Justice Cyriac Joseph, Chief Justice, High Court of Karnataka. Hon'ble Jeremy Fogel, Judge, U.S. District Court of the Northern District of California delivered the Key Note Address. In the different sessions, subjects like "ADR for effective resolution of Disputes - US experience", "Mediation as a Mechanism for resolution of Disputes", "Mediation stimulation exercises", "Utilization of ADR in Criminal Investigation and Prosecution" and "Increasing the speed of adjudication - Civil & Criminal" were discussed. The main speakers and resource persons were U.S. Judges Hon'ble Jeremy Fogel and Hon'ble Richard Seeborg, U.S. Attorney Mr. Neel Chatterjee, Mr. Christopher Merriam of U.S. Justice Department, Mr. Christopher Sonderby and Mr. Stephen Mayo. The Workshop created not only necessary awareness but also enormous enthusiasm among Judges and Advocates to start the Mediation Project at the earliest.

Hence the High Court decided to establish a Mediation Centre at Bangalore and called it the Bangalore Mediation Centre and it started functioning in the premises of the Karnataka Judicial Academy at Bangalore on 20th January 2007. When a new building at No.4, Siddaiah Road, Bangalore became available to the High Court, it was named "**Nyaya Degula**" and the BMC was formally inaugurated in the new building by Hon'ble Mr. Justice K.G. Balakrishnan, Chief Justice of India on 21.6.2007 in the presence of Hon'ble Mr. Justice Ashok Bhan and Hon'ble Mr. Justice R.V. Raveendran, Judges of the Supreme Court; Sri H.D. Kumaraswamy, Chief Minister; Sri B.S. Yediyurappa, Deputy Chief Minister; Sri M.P. Prakash, Minister for Law and Sri H.D. Revanna, Minister for Public Works. Hon'ble Mr. Justice Cyriac Joseph, Chief Justice of the High Court presided over the function. The Bangalore Mediation Centre started functioning in "Nyaya Degula" on 2.7.2007.

Organisational set up

The Chief Justice of the High Court of Karnataka is the Patron of the B M C. A Board of Governors consisting of 5 Judges of the High Court nominated by the Chief Justice guides and controls the functioning of the BMC. There is an Advisory Board consisting of the Minister for Law, Government of Karnataka (Chairman), the Advocate General, the President and the Secretary of the Advocates Association, Bangalore, the President of the Indian Federation of Women Lawyers, Karnataka Chapter, the Assistant Solicitor



General and any other person nominated by the Chief Justice. The administration of the B M C is carried out by the Director who is a District Judge and the Deputy Director who is a Civil Judge (Senior Division). One Judicial Officer designated as the Planning Officer conducts scrutiny and monitoring of the cases referred and operating from the Planning Office in the City Civil Court serves as the link between the Referral Judges and the Mediation Centre. However, the actual mediation is co-ordinated and conducted by Advocates who have been given special training as Coordinators/ mediators. There are at present 82 trained Mediators and 4 trained Coordinator-cum-mediators. 13 of the mediators attached to B M C are also Trainers who are capable of training new mediators.

Infrastructure

The BMC occupies a total floor area of 19,500 sq.ft. Apart from the spacious Entrance Lounge, there are a well equipped Office section, a well-furnished Waiting Lounge for advocates and litigants, separate Chambers for the President, the Director, the Deputy Director, the Co-ordinators and the Mediators, 13 Mediation Rooms, one Board Room, one big Conference Hall, one Canteen and adequate toilet facilities for visiting men and women. The B M C is computerised with internet connection and it has its own Web Site. The BMC has already produced two Documentaries in English and Kannada to educate the judges, advocates and litigants on the process of mediation. BMC has also set up different teams of mediators to present live demonstration of mediation for the benefit of judges, advocates and litigants.

Training of Mediators

2 Judicial Officers and 84 Advocates who put in not less than 15 years of practice at the Bar and evinced interest to become Mediators were given training as mediators in three batches. The training consisted of theoretical training for 40 hours spread over 5 days and practical exercise in mediation at least in 5 cases under the supervision of the trainers. The training was imparted by the experts sent by the I S D L S. The training of the first batch of 29 advocates started on 19th January 2007 and the trainers included Mr. Stephen Mayo, US Judge Hon'ble Celeste Bremer, US Attorneys Mr. Victor Schachter and Mr. Gregg Relyea and Ms. Louisa Marion, Deputy Programme Director, ISDLS. Training for the II Batch of 26 Advocates and 2 Judicial Officers commenced on 24th March 2007. The Trainers included US Judge Hon'ble Leo Papas, Mr. Alan Berkowitz, Ms. Teresa Carey and Ms. Louisa Marion. The training for the III Batch of 29 Advocates commenced on 22.10.2007. Out of them 15 were from Bangalore and 14 were from 7 other Districts. The trainers included Mr. David W. Aemmer, Gail Killefer, Robin Siefkin and Elizabeth Gadbow, Deputy Programme Director, I S D L S.

Certificates and Badges were presented to the Mediators of the I and the II Batches in a glittering function on 31st March 2007 by Hon'ble Shri. Justice R.V. Raveendran, Judge, Supreme Court of India and Dr. H.R. Bhardwaj, Hon'ble Union Minister for Law & Justice. Hon'ble Mr. Justice Cyriac Joseph, Chief Justice, presided over the function. Certificates and Badges were presented to the Mediators of the III Batch on 7th November 2007 by Hon'ble Shri. Justice R.V. Raveendran, Judge, Supreme Court of India in a function presided over by the Hon'ble Chief Justice Mr. Justice Cyriac Joseph. Thus, a total of 84



Advocates and two Judicial Officers have been trained as Mediators by the experts sent by the ISDLS.

Training of Coordinators

Three trained mediators i.e. Smt. T.N. Manjula Devi, Senior Advocate , Smt. Laila Ollappally, Advocate and Sri. B.A. Patil, District Judge were sent to the US in February 2007 to undergo training as Coordinators for two weeks. Smt. T.N. Manjula Devi and Smt. Laila Ollappally are serving as Coordinators-cum-mediators along with Sri. Prasad Subbanna and Smt. Shobha Patil.

Training of Trainers

Out of the trained Mediators, 13 Mediators were identified as Potential Trainers and they were given advanced training as Trainers by the experts from the US in the last week of October 2007. These Trainers are now capable of training more Mediators at Bangalore or other places.

Training of Referral Judges

Considering the importance of the quality of references made for Mediation, a series of Workshops and Orientation Courses were conducted for the Referral Judges at Bangalore with a view to train and equip them to properly identify the cases suitable for reference and to make a proper reference order. Training was given by the Judges of the High Court and the experts sent by the ISDLS.

Judicial Delegation

In appreciation of the commendable success of the Mediation Project at Bangalore, the ISDLS and the US Justice Department invited a Judicial Delegation from the High Court of Karnataka to visit the US for a period of two weeks to study the Mediation Programmes in different States in the U S . Accepting the invitation, a Judicial Delegation led by the Hon'ble Chief Justice and including the five members of the Board of Governors of the BMC and the Advocate General Sri. Udaya Holla visited the US in the month of May 2007. The visit helped the members of the delegation to interact with Judges, Lawyers and the Mediators in the U.S. and to watch the Mediation Process in various places.

Mediation Demonstrations

To create awareness among the Referral Judges and the Advocates about the Mediation Process, several live Mediation Demonstrations were conducted by the Mediators of B M C in Bangalore. On the invitation of the High Court of Kerala, the Mediators of B M C conducted Live Mediation Demonstration at Kochi for the benefit of Judges and Advocates there in the month of November 2007.

Successful Mediation of Referred Cases

During the period from 29.1.2007 to 29.1.2008 a total number of 3079 cases were referred to B M C for Mediation. Out of them 496 cases had to be returned to the Courts without mediating due to reasons like cases being not fit for mediation, failure of the parties to appear for follow up mediation and refusal of the parties to participate in the mediation.



Out of the remaining 2583 cases, 1842 cases (60%) were mediated and the remaining 741 cases are pending for mediation. Out of the 1842 cases mediated, 983 cases (53%) have been settled and 859 cases could not be settled. During the process of mediation and settlement 103 connected cases also were settled. Thus the total number of cases settled through mediation in the first year is 1086.

First Anniversary Celebrations

The First Anniversary Celebrations of the Bangalore Mediation Centre were inaugurated by the Hon'ble Chief Justice of India Shri. Justice K.G. Balakrishnan on 19th January 2008 at 5.00 p.m. in the presence of Hon'ble Shri. Justice S.B. Sinha and Hon'ble Shri. Justice R.V. Raveendran, Judges of the Supreme Court, Dr. H.R. Bhardwaj, Hon'ble Union Minister for Law & Justice, Hon'ble Shri. Justice A.P. Shah, Chief Justice of High Court of Madras, Hon'ble Shri. Justice Anil Ramesh Dave, Chief Justice of the High Court of Andhra Pradesh and Mr. Stephen Mayo, Executive Director, I S D L S. As part of the First Anniversary Celebrations, a South India Regional Conference on Mediation was held on 19th and 20th January 2008. Chief Justices, Judges and Lawyers from the Southern States of Andhra Pradesh, Karnataka, Kerala and Tamilnadu participated in the Conference. Hon'ble Shri. Justice S.B. Sinha, Judge, Supreme Court of India and Chairman Mediation and Conciliation Project Committee constituted by the Hon'ble Chief Justice of India, Hon'ble Shri. Justice R.V. Raveendran, Judge, Supreme Court of India and Member, Mediation and Conciliation Project Committee and Shri. Justice Madan B. Lokur, Judge High Court of Delhi and Member, Mediation and Conciliation Project Committee also participated in the Conference. In the Valedictory Function of the First Anniversary Celebrations, Hon'ble President of India, Her Excellency Smt. Pratibha Devisingh Patil participated as the Chief Guest. His Excellency Shri. Rameshwar Thakur, Governor of Karnataka presided over the Function.

Mediation Week

To popularise Mediation as an A D R method and to create awareness among Judges, Lawyers and litigants about the benefits of settlement of disputes through mediation, a Mediation Week was observed from 3rd to 9th February 2008 by the Bangalore Mediation Centre in association with the Karnataka State Legal Services Authority throughout the State of Karnataka. Mediation Week was observed as part of the First Anniversary Celebrations of the BMC. In every Court - Centre a Seminar on Mediation was organised during the Mediation Week. Judges and advocates spoke on mediation. In five District Centres, in addition to the Seminar guided by a member of the Board of Governors of B M C, Live Mediation Demonstration was presented by the Mediators of B M C. In every place pamphlets on mediation were distributed among lawyers and litigants.

Sources of Support and Cooperation

The Government of Karnataka was generous in helping the establishment of the Bangalore Mediation Centre. Apart from providing the building and furniture, the Government also gave a grant of Rs. 50 lakhs for the working of BMC. The Office bearers and members of the Advocates Association, Bangalore and the Indian Federation of Women Lawyers, Karnataka Chapter always extended full support and cooperation to the Bangalore



Mediation Centre. The ICADR, Regional Centre, Bangalore and the Karnataka State Legal Services Authority associated with the activities of the Bangalore Mediation Centre. The Institute for the Study and Development of Legal Systems, San Francisco under the leadership of Mr. Stephen Mayo was a great source of motivation as well as technical support and cooperation. But for the support and cooperation of all the Judges of the High Court and the Subordinate Courts at Bangalore, BMC could not have functioned successfully.

A Moment of Pride and Joy

The occasion of celebrating the First Anniversary of the B M C is a moment of pride and joy for every one associated with it. The great success of the BMC in the first year was mainly due to the great vision and dynamic leadership of the Chief Justice of the High Court of Karnataka Shri. Justice Cyriac Joseph. The hard work and commitment of the Judges on the Board of Governors, the selfless, dedicated and enthusiastic services of the Coordinators and Mediators and the efficiency and sincerity of the Director, Deputy Director, Planning Officer and the staff of BMC were the key factors behind the success. The unique success of the B M C in the first year has motivated all the members of ' the BMC Family ' to rededicate themselves to strive better and harder for " peace-making through mediation" in future also.

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