

***Title: “Functioning Of Lok Adalats And The Legal Services Authorities
Act, 1987: A Birdseye View”,***

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Cite this article as:

DR. KUSUM CHAUHAN & MR. SURESH KUMAR, “*Functioning Of Lok Adalats And The Legal Services Authorities Act, 1987: A Birdseye View*”, Vol.4 & Issue 4, Law Audience Journal (e-ISSN: 2581-6705), Pages 156 to 167 (29th November 2022).

Law Audience Journal, Volume 4 & Issue 4, 29th November 2022,
e-ISSN: 2581-6705, Indexed Journal, IF 5.381, Published at
<https://www.lawaudience.com/volume-4-issue-4/>, Pages: 156 to 167,

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Publisher Details Are Available At:

<https://www.lawaudience.com/publisher-details/>

Editorial Board Members Details Are Available At:

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(E-ISSN: 2581-6705)

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“Without equal access to the law, the system not only robs the poor of their only protection, but it places in the hands of their oppressors the most powerful and ruthless weapon ever invented.”

Reginald Heber Smith

Abstract

Disputes are inevitable in any society. Besides this, there have been various mechanisms to resolve the disputes. In Indian culture, there has been much emphasis on the resolution of disputes through the alternative modes of resolution of disputes. Besides the regular mode of resolution of disputes, there have been institutions like village panchayats, which were somewhat similar to the modern concept of Lok Adalat. Conciliation and mediation were also in practice since ancient times in India. With the introduction of the modern adversarial system of settlement of disputes, the judiciary in India is facing a continuous backlog of cases. As a result, the need is felt to boost the resolution of disputes through alternative modes. With the introduction of the Legal Services Authorities Act, 1987, the parliament of India has re-introduced the concept of Lok Adalats and has given legal sanctity to the institutions of Lok Adalats. The present paper highlights the legal provisions regarding the functioning of Lok Adalats.

The author has reviewed a lot of literature available on the subject.

- Paranjape, N. V. in his book, “*Public Interest Litigation, Legal Aid & Services, Lok Adalats & Para-Legal Services*” has discussed about the functioning of Lok Adalats. The author has brought forth the benefits of Lok Adalats and has also discussed the shortcoming of the same.ⁱ
- Rai, Kailash in the book, “*Public Interest Lawyering, Legal Aid And Para-Legal Services*” has discussed Constitutional and statutory provisions dealing with legal aid and Lok Adalats. Chapter six of the book deals with ‘Legal Aid And Lok Adalat In India’. This chapter deals with the object and scope of the Lok Adalats, the functioning of the National and State Legal Service Authority, High Court Legal Service Committee, and District Legal Service.ⁱⁱ

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- Narayan, P.S., in the book titled, “*Law Relating to Lok Adalats*” has discussed in detail the working of Legal Services Authorities Act, 1987. The author has discussed various provisions under different legislations and the role of Lok Adalats.ⁱⁱⁱ
- K. D. Raju in his paper, “*Alternative Dispute Resolution System: A Prudent Mechanisms of Speedy Redress in India*”, focuses on the adoption of ADR mechanism according to the need of India. The author has discussed, how the concept of *Lok Adalat*, *Gram Nayayalya* and *Nayaya Panchayat* holds a unique position in Indian society. The author says that this age-old system is deeply rooted in Indian society and has the acceptability even today. He says that the philosophy of Lok Adalat is a unique contribution of India to global jurisprudence.^{iv}

1. INTRODUCTION

The parliament enacted the Legal Services Authorities Act, 1987 with the objective of providing speedy justice to the people at their doorstep and addressing the problem of the non-accessibility of the courts. The present Act streamlined the legal aid services by way of setting a hierarchy of committees at various levels. This includes the Taluk, District, State and Central committees. These committees have been assigned various functions for carrying forward the objectives of the Act. However, the main focus of the activities is on the organization of Lok Adalats. The frequent organization of Lok Adalats facilitates the speedy disposal of pending cases by way of mediation and conciliation mechanism and without the interference of the courts.^v For the past two decades, the judiciary in India is facing a huge pendency of cases before it. As many as 73, 000 cases are pending for disposal before the Supreme Court of India alone. Besides, the Supreme Court, there are about 44 million cases pending before the High Courts and subordinate courts. It is amply clear that the judiciary cannot carry this burden alone. The resort should be inclined towards Lok Adalat and follow the objectives of the Legal Services Authorities Act in letter and spirit.

2. OBJECTIVES OF THE STUDY

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The objectives of the present paper are as under:-

- To analyze the working of Lok Adalat under the Legal Services Authorities Act, 1987;
- To study the jurisdictions of Lok Adalat under the Legal Services Authorities Act, 1987;
- To study the nature and scope of Lok Adalat;
- To study the law relating to award of Lok Adalat.

3. ORGANIZATION OF LOK ADALAT UNDER THE LEGAL SERVICES AUTHORITIES ACT, 1987

The Legal Services Authorities Act, 1987 provides for the organization of Lok Adalats.^{vi} The objective of section 20, of the Legal Services Authorities Act, 1987 is to explore the possibility of settlement of the disputes at the very outset.^{vii} The Bombay High Court while commenting on the objectives of section 20, lay down that the purpose of reference of the cases is to investigate the possibility of settlement by way of conciliation or mediation by an independent agency.^{viii} Every State Authority, District Authorities, Supreme Court legal service committee or High Court legal service committee and Taluk service committee are empowered to conduct the Lok Adalats. These Lok Adalats shall consist of either serving or retired judicial officials and such other persons as the concerned authorities organizing Lok Adalats may decide. The judicial officer or other persons shall have the qualification and experience as laid down by the Central Government or the State Government. However, both the Central and the State Government needs to consult the Chief Justice of India and Chief justice of the State respectively.^{ix}

4. JURISDICTION OF LOK ADALATS

The jurisdiction conferred on the Lok Adalats by the Legal Services Authority Act, 1987 inscribed the idea of compromise and settlement.^x It clearly lays down that the Lok Adalats cannot exercise its jurisdiction for the settlement of a dispute unless the parties to the disputes are in consensus for the settlement. Even if one party to the dispute is not willing have a

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settlement or compromise, the jurisdiction of the Lok Adalat is ousted at the very moment to deal with the dispute.

It was held by the Karnataka High Court in *the Commissioner Karnataka State Public Instruction v. Nirupadi Virbhadrappa Shiva Simpi*^{xi} that where the Civil Court has not observed the mandatory provisions of S. 20 of the Act the matter was referred to the Lok Adalat without taking the consent of the defendants, it is against the provisions of the Act. The jurisdiction of the Civil Court is barred if the reasonable opportunity of hearing is not given to the parties. It hardly makes any difference that even if the chances of settlement were there and the Court is prima facie satisfied. The Civil Court needs to compliance with the proviso to Sec. 20. In the instant case, the Civil Court has referred the case without complying with the mandatory requirement of Sec 20.

5. COGNIZANCE OF CASES BY THE LOK ADALATS

The Court has to follow the prescribed the procedure while referring a case to the Lok Adalats for settlement. The Act provides for the referring a dispute to the Lok Adalat for settlement in the following three manners:-^{xii}

- a) Where the parties are themselves agree for the reference.
- b) If the application is made to the Court by any of the party.
- c) Where the Court is prima facie satisfied that the case is such which is fit for settlement through Lok Adalat.

The phrase ‘if the court is satisfied that there are chances of settlement’ makes it amply clear that whether a matter should be referred to the Lok Adalat for settlement or not, is at the discretion of the court. The court is not bound to refer the case to the Lok Adalat if it thinks otherwise. The court needs to apply its mind on the basis of nature and circumstances of the case and take the appropriate decision.^{xiii} Section 20 of the Act, if the parties to the disputes agree to settle their dispute through Lok Adalat, the court should refer the case to Lok Adalat for settlement. Even if only one party submit an application for reference of the dispute to the Lok Adalat, the court can still refer the matter to Lok Adalat for settlement. In this case the

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court needs to be satisfied that the case is such which can be settled in the Lok Adalat. The Court also has the power to refer a case to Lok Adalat on *suo motu* basis. But, in this case also it is a prior requirement that, the court must provide a reasonable opportunity of being heard to the parties. Afterward, the matter can be referred to the Lok Adalat for settlement on *suo motu* basis.^{xiv}

6. AWARD OF LOK ADALAT

After a case is referred by the court under section 20 of the Act, the Lok Adalat shall hear the dispute. If during the course of proceeding before Lok Adalat, a settlement is arrived, it shall finally pass an award. After the amendment in the Legal Services Authorities Act, 1987 in 1994, an award of the Lok Adalat is has the same sanctity and is enforced in the same manner as that of a decree of a Civil Court.^{xv} The award of a Lok Adalat is treated as final; it is binding on all the parties to the proceedings. Since the award of the Lok Adalat is passed by with the common consensus of the parties to the dispute, the matter do not require any reconsideration or review again and again.^{xvi}

The award passed by the Lok Adalat is non-appealable. However, section 20 imposes limitations on the Lok Adalat with reference to making of award. It provides that the award can only be pronounced by the Lok Adalat, where it is based on the compromise or settlement arrived between the parties to the dispute.^{xvii} The Lok Adalat does not have the power to hear and adjudicate the dispute as that of a regular court. It has no power to adjudicate in the absence of a compromise or settlement between the parties.^{xviii}

The Code of Civil Procedure provides that “no appeal shall lie from a decree passed by a court with the consent of the parties”.^{xix} As the Lok Adalats are conferred with the powers of a civil court under the Legal Services Authorities Act, 1987, the provisions with respect to the appeal are also applicable in the similar manner to the Lok Adalats. The Act itself prohibits for filling an appeal against the award of the Lok Adalat.^{xx}

7. POWERS OF LOK ADALATS

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One of the significant step introduces by the Legal Services Authorities Act, 1987 is that the Lok Adalas are vested with the equal powers as that of a Civil Court under the Code of Civil Procedure, 1908. While the Lok Adalats are dealing with a case referred to it by the court, it shall hear and decide the case in the same manner as if that of a Civil Court. The award passed by the Lok Adalats is also regarded as a decree of a Civil Court and is enforceable in the same manner as that of a Civil Court. The Lok Adalats can exercise the powers of a Civil Court while dealing with the following matters:-^{xxi}

- a) Summon and enforcing the attendance of any witness and the examination of such witness on oath;
- b) Discovery and production of any document;
- c) Receiving evidence on affidavit;
- d) It can request public record or any document or copy of such document from any court or office.

In addition to the powers vested in the Lok Adalat as discussed above, the Lok Adalat and Permanent Lok Adalat are also given the liberty to use their own procedure for the hearing and settlement of a dispute coming before it.^{xxii} It is further provided that the proceeding before Lok Adalat shall be treated to be judicial proceedings. The Lok Adalat shall also be deemed to be a Civil Court while hearing a case under chapter XXVI of the Code of Criminal Procedure, 1973.^{xxiii}

8. Permanent Lok Adalats

The provisions relating to the permanent Lok Adalat was inserted in the Legal Services Authorities Act, 1987 by inserting a separate chapter in the Act under the name, ‘*Pre-Litigation Conciliation and Settlement*’ w.e.f. 11 June 2002.^{xxiv} The Act mandates for the establishment of Lok Adalat of permanent nature for the settlement of disputes.^{xxv} Permanent Lok Adalats have been set up as permanent bodies for the settlement of cases between the parties at the very inception of the cases or what is called as pre-litigation stage. Permanent Lok Adalats provides for compulsory pre-litigation mechanism for settlement of cases by following the conciliation

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and mediation techniques. The object for introducing Permanent Lok Adalat is to provide speedy disposal of cases in the Public Utility Services like transport, postal, telegraph, supply of water and electricity, hospital and insurance field.^{xxvi}

The salient features of this legislation are as follows:-^{xxvii}

- (i) To establish Permanent Lok Adalats with such members having experience in public utility services;
- (ii) To lay down the jurisdictional area of Permanent Lok Adalat. It shall exercise jurisdiction with respect to public utility services. These services include transport services of passengers, postal, telegraph or telephone services, supply of power etc. other services like hospital, insurance and sanitation etc. shall also be covered within the jurisdiction of Permanent Lok Adalat.
- (iii) The Permanent Lok Adalat has the jurisdiction to try cases up to Rs. 10 Lakh. The Central Government can raise this limit if it deem necessary. However, the offences declared as non-compoundable under any law shall be outside the jurisdiction of Permanent Lok Adalats.
- (iv) Any party is given the liberty to make an application before the Permanent Lok Adalat for disposal of a dispute. Such application lies to even before a case is brought before a court.
- (v) When the proceedings commence before the Permanent Lok Adalat it try to make a settlement to the dispute. If the chances of settlement is there in the view of Permanent Lok Adalat, it shall formulate the possible settlement. The proposal shall be submitted to the observation of the disputing parties. If the parties accept the proposal, Permanent Lok Adalat shall pass an award. But, in case if there is no agreement between the parties, the Permanent Lok Adalat shall proceed to decide the case on merits.
- (vi) Every award made by the Permanent Lok Adalat is considered final. It is binding on the parties. The award shall be made on the basis of the majority opinion of the members of Permanent Lok Adalat.

8.1. COMPOSITION OF PERMANENT LOK ADALAT

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The permanent Lok Adalat shall consist of a chairman who shall be a retired or serving district judge or additional district judge or has held the higher office than a district judge. The chairman shall be appointed by the authority establishing the Permanent Lok Adalat. There shall be other members who are having good experience of the functioning of public utility services. These members shall be appointed by the authority establishing the Permanent Lok Adalat on the recommendations of Central/ State authority.

8.2. COGNIZANCE OF CASES BY PERMANENT LOK ADALAT

Before a dispute is brought before a court for adjudication, any party can make an application before the Permanent Lok Adalat for the settlement of the dispute. Though, the Permanent Lok Adalat is not authorized to hear every kind of dispute. There are some limitations on the Permanent Lok Adalat when it hears a case. These limitations are two fold in nature. Firstly, the Permanent Lok Adalat is not having the jurisdiction in relation to an offence which is declared to be a non-compoundable offence under any law. Secondly, it cannot hear a case where the value of the property, which is the subject matter of dispute, exceeds Rs. ten lakh. However, the Central Government is empowered to increase the above limit by issuing a notification in this regard.^{xxviii}

After a dispute is referred by the parties to the Permanent Lok Adalat as aforesaid, the parties are prohibited to approach the court's jurisdiction with respect to the dispute.^{xxix} After the application is made by the parties, the permanent Lok Adalat shall demand written statement from the parties. The statement must state the facts and nature of dispute. The parties can also submit the points which are in question and the grounds which the parties are relying in support of their claims. Any additional information which is considered appropriate by the parties can also be submitted in the form of any document or evidence as the case may be. The copy of additional documents or evidences submitted by the parties should also be submitted to the other parties to the dispute. The Permanent Lok Adalat is also empowered to ask for any supplementary information from the parties during the conciliation proceedings.^{xxx}

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When the written statements, additional statements or evidences and reply are filled by the parties to the dispute, the Permanent Lok Adalat shall carry the conciliation proceedings between the parties keeping in view the nature of the dispute. The aim of the Permanent Lok Adalat, while conducting the conciliation proceedings is to effect a settlement between the parties in an impartial manner.^{xxxix}

8.3. DUTIES OF THE PERMANENT LOK ADALAT AND THE PARTIY

When a party submits any document to the Permanent Lok Adalat whether in the form of written statement, additional information or otherwise, it shall be the duty of the Permanent Lok Adalat to provide the copy of same to the other party. The obvious reason for this is that the other party is provided a fair chance to prepare its reply. The principle of natural justice needs to be followed by the Permanent Lok Adalat. The parties who have submitted the application are also duty bound to cooperate with the Permanent Lok Adalat while the conciliation proceedings are carried in the direction of settlement. Further, the party need to follow the directions with respect to the availability of the documents and information demanded time to time by the Permanent Lok Adalat.^{xxxix}

During the conciliation proceedings if the Permanent Lok Adalat is of the opinion that the circumstances are such that the chances of settlement exist. It shall formulate the possible settlement and present it to the disputing parties for their opinion on the same. If, the settlement as such is acceptable to the parties and they reach to an agreement on the proposal of Permanent Lok Adalat, the parties shall sign the settlement agreement. The Permanent Lok Adalat shall pass an award on the same lines and make available a copy of the award to the parties. However, if the parties fail to reach an agreement as above, the Permanent Lok Adalat shall hear and decide the case on merit.^{xxxix}

Where there was no written consent of the parties for deciding the case on merit and the Lok Adalat has also not given any terms of settlement to the parties. In such cases the award passed by the Lok Adalat liable to be set aside.^{xxxix}

8.4. PROCEDURE OF LOK ADALAT

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The Legal Services Authority Act, 1987 lays down for the procedure to be adopted by the Lok Adalat. The Act expressly provides that the Lok Adalats shall follow the principle of natural justice. The proceedings of the Lok Adalat shall be guided by the principles of objectivity, fair play, equity and other principle of justice. While the Lok Adalat is conducting the proceedings as such under this Act, it shall not be bound by the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872. However, the Lok Adalat is having the powers of a Civil Court in many ways under the Act, but can adopt procedure it deem fit for fetching a settlement between the parties. The obvious purpose of this provision is to free the proceedings of Lok Adalat from the clutches of technicalities of law.^{xxxv}

8.5. AWARD OF THE PERMANENT LOK ADALAT

One of the significant achievement of the Legal Services Authorities Act, 1987 is that an award passed by the Lok Adalat under this Act is conferred the status of decree of a civil court. The Permanent Lok Adalat can pass an award in two manners under the provisions of the present Act. One is with the consent of the parties to the dispute and the other one is on the merit of the case itself, where the parties do not expressly give their consent. The award passed by the Lok Adalat in any of the two modes as above i.e. whether in the terms of settlement or on merit; the award shall be final and will ultimately be binding on the parties to the dispute.^{xxxvi}

9. CONCLUSION

The introduction of Legal Services Authorities Act, 1987, has reintroduced the Lok Adalats in India. The primary objective of the Act is to provide timely justice to the people and afford them the opportunity of getting justice at the doorstep. With this the Lok Adalats has also come up as a solution to the mounting arrears of cases before the judiciary in India. Lok Adalats can be seen as the bridge to fill the gap of access to justice to the poor and disadvantageous section of the society. The functioning of the Lok Adalat under the Act affords an opportunity to the disputants to settle the disputes amicably and that too in a speedy and inexpensive manner. Though the Act was passed way back in 1987, the problem somewhere lies with its implementation of the same. There is still a large segment of the population, who are not aware

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of the accessibility of Lok Adalats and its benefits. The common masses need to get aware of the Lok Adalats as a unit of dispute resolution. Lok Adalat should not only be seen as an alternative to courts for dispute resolution but, it should be seen as the first and foremost place for the resolution of disputes.

ⁱ N. V. Paranjape, “Public Interest Litigation, Legal Aid & Services, Lok Adalats & Para-Legal Services” 274 (Central Law Agency Allahabad), 1st edn., 2006

ⁱⁱ Rai, Kailash, “Public Interest Lawyering, Legal Aid and Para-Legal Services”, Central Law Publication, Ed. 1st, 2000.

ⁱⁱⁱ Narayan, P.S., “Law Relating to Lok Adalat”, Asia Law House, Ed.4th, 2013

^{iv} Raju, K.D., “Alternative Dispute Resolution System: A Prudent Mechanism of Speedy Redress in India”, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1080602

^v *Supra Note 1* at 274

^{vi} The Legal Services Authorities Act, 1987, Section 19

^{vii} *Supra Note 1* at 128

^{viii} Pushpa Suresh Bhutada v. subhash Bansilal Maheshwari AIR 2002 Bom. 128.

^{ix} *Ibid*

^x The Legal Services Authorities Act, 1987, Section 19 (5)

^{xi} AIR 2001 Kar. 504

^{xii} The Legal Services Authorities Act, 1987, Section 20 (1)

^{xiii} *Supra Note 1* at 274

^{xiv} *Supra Note 1* at 128

^{xv} The Legal Services Authorities Act, 1987, Section 21

^{xvi} *Supra Note 3* at 165

^{xvii} *Supra Note 59* at 131

^{xviii} “Lok Adalat confined only to passing of awards based on compromise”, available at: <https://www.newindianexpress.com/states/teelangana/2018/nov/05/lok-adalat-confined-only-to-passing-of-award-based-on-compromise-1894483.html>, (Visited on 04 July 2020).

^{xix} The Code of Civil Procedure, 1908, Section 96 (3)

^{xx} The Legal Services Authorities Act, 1987, Section 21 (2)

^{xxi} The Legal Services Authorities Act, 1987, Section 22

^{xxii} *Ibid*

^{xxiii} Chapter XXVI of the Code of Criminal Procedure, 1973 deals with “(Provisions as to Offences Affecting the Administration of Justice)” from section 340 to 352.

^{xxiv} Substituted by Legal Services Authorities Amendment Act 37 of 2002, (w.e.f. 11-6-2002)

^{xxv} The Legal Services Authorities Act, 1987, Section 22-B

^{xxvi} Available at <https://nalsa.gov.in/lok-adalat/permanent-lok-adalat> (Visited on 09 July 2020)

^{xxvii} Shriram General Insurance Co. Ltd. vs. Permanent Lok Adalat (Public Utility Service), Gurgaon and Ors. MANU/PH/3469/2015

^{xxviii} The Legal Services Authorities Act, 1987, Section 22-C (1)

^{xxix} *Id.* Section 22-C (2)

^{xxx} *Id.* Section 22-C (3)

^{xxxi} *Supra Note 1* at 288

^{xxxii} *Ibid*

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xxxiii *Ibid*

xxxiv National Insurance Company v. Kartik Gorain, AIR 2010 Jhar. 59

xxxv The Legal Services Authorities Act, 1987, Section 22-D

xxxvi *Id.*, Section 22-E

