FUTURE OF ADR IN INDIA: "ALTERNATIVE" TO "APPROPRIATE" DISPUTE RESOLUTION

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ABSTRACT

This paper mainly addresses the issues of the formal judicial system and at same time the importance of ADR methods of settlement of disputes in future. The concept of ADR is not too new, it is in our society from time immemorial. Alternative dispute resolution (ADR) is a flexible method through which the conflicts can be resolved without interferences of the court proceedings. It is a mechanism parallel to the formal judicial system which tries to settle the conflicts between parties amicably with the consent of both parties. This paper also focuses on the historical background of ADR mechanism in India mainly in the ancient India, in Mughal empire, In British period and after independence in India. Due to excess burden on the formal judicial system, the entire global system is not capable to give justice timely and as we all know that Justice delayed seems to be justice denied. So, in parallel to the formal judicial system, we can consider the ADR mechanism appropriate instead of alternative. This paper discusses few solution how we will do it possible in upcoming future. Our CJI also tells India as ADR hub and now a day, ADR mechanism become a movement in India and plays a very important role in reducing the burden from the judicial systems but the mechanism needs certain modifications for flexible implementation in our society.

Keywords: Alternate Dispute Resolution, Voluntary Solution, Appropriate mechanism, Kula, Sreni, Parishad.

INTRODUCTION:

Alternative dispute resolution (ADR) is a flexible method through which the conflicts can be resolved without interferences of the court proceedings. The main objective of the ADRis to establish less costly, easy, speedy and reachable justice.[1] ADR techniques are mainly non-judicial body in nature which used to deals with most of the issues which can be settled ou by law with conformityamong the parties and this method is inspired by most approved faith which simply talks about justice delayed is justice denied.[2]ADR has a great significance to the corporate sectors and economically poor people who need speedy and transparent method to attain justice and try to resolve their problems in very flexible way. That is why it is alternative to the litigation and it should be considered as a most essential partof policy of the company.It has been shown that arbitration and mediation is very manageable as compared to litigation and it make good business sense and that the addition of arbitration and mediation clause in the legal agreement will help to ensure that dispute will be resolved in a timely and flexible way.

MEANING OF ALTERNATIVE DISPUTE RESOLUTION:

The phenomena alternative dispute resolution has been defined as a dispute settlementmethod that are very effective and alternative to costly and time taking justice delivery system. The ADR refers to the whole thing which promotes settlement negotiation in which parties are agreed to discuss without deviation to each other. This method came into existence to tackle most of the problems and try to do possible societal development issues within the ambit of ADR as well as reduce the burden from our judicial system. [3]It is an alternative which shows that the parties have freedom to choose this method and accept it as an alternative to litigation at their own choice. Dispute should be settled at minimum possible expenses in the term of money so that the government can easily engage the more resources for some constructive and positive outcome for the development of society. There is a legal system in each and every society to settle the conflicts and whenever any person gets injured then he can go at the door of that legal system for justice. Almost all the legal systems are trying their best to execute the legal idea whenever there is wrong in that society because there must be a remedy of almost all the conflicts, so that no one shall have to take law into their hands. The Court has become

[1]Jasime Joseph, "Alternate to Alternatives: A Critical review of claims of ADR" available at http://www.nujs.edu/ accessed on 19th Jan 22.
[2]Shaeyup Ahmad Shah, "Evolution of ADR in India- Law and Practices" accessed on 17th Jan 22.
[3]Arvind Agarwal, Knowing Alternate Dispute Resolution available at. https://www.russianlawjournal.org accessed on 20th Jan 22.

overburdened with the large numbers of pending cases in the court which ultimately results indissatisfaction in the society regarding the justice delivery system and its capability to dispense justice comes in question.[4] It is important that this dissatisfaction can be settled and at same time the alternative mechanism should be accepted which do not have less complexities but be as flexible, reasonable and binding on the people adopting it.

LAWS IN OTHERS COUNTRIES REGARDING ADR:

United States of America: When we analyze the growth of ADR in USA then its seed can be traced in during the British and Dutch colonial regime. After its independence, ADR has its place in number of fields like US congress has enacted an arbitration system to settle patent claims by the Patent Act of 1970. It also has the scope of Mediation settlement during the late 19th century for the collective bargaining disputes and there was establishment of special mediation agencies for instance BMC for the settlement of the concern of railway labor, FMCS was settled to carry out negotiations regarding the terms of employment. During early 20th century ADR has also been used as an alternative for the litigation. With the passage of time, numerous arbitration laws were enforced like a federal cognate, the federal arbitration act.[5]

In 1926, an American Arbitration Association was formed in order to provide the guidance to the arbitrators and to develop the rules and regulation for the proper working of Arbitration across the 20th century, and it led to growth of ADR at all the levels of government working like state and federal government.[6] Today in the era of 21st century, the development of ADR has been taken into the hand of American Bar Association who took ADR related course including some co-curricular competitions in the majority of law schools. So, we can say that the ADR is an appropriate body which has been firmly settled in the United States of America.

Japan: Here, the onus lies upon the Judge where mediation was used as primary mechanism for the conflict resolution. Judge is expected to move a case not by litigation but by settlement both by law and the litigants. Judge intervention in the in-court settlement is common in Japan.[7]

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[4]Shaeyup Ahmad Shah, "Evolution of ADR in India- Law and Practices" accessed on 17th Jan 22.
[5] See Alternative Dispute Resolution, NEW YORK STATE UNIFIED COURT SYSTEM, https://www.nycourts. gov/ip/adr/What_Is_ADR.shtml (hereinafter "What is ADR") ("Arbitration is less formal than a trial and the rules of evidence are often relaxed. In binding arbitration, parties agree to accept the arbitrator's decision as final, and there is generally no right to appeal. In nonbinding arbitration, the parties may request a trial if they do not accept the arbitrator's decision.") accessed on 24th Jan 22.
[6] For U.S position, see LEONARD L. RISKIN ET AL, DISPUTE RESOLUTION AND LAWYERS, 2 (1987). See also, Rao, supra note 11, at 24-25
[7] Kimberly Hicks, Parallel Litigation in Foreign and Federal Courts: Is Forum Non Conveniens the Answer?, 28 REV. LITIG. 659, 660 (2009).

Around 40% the case in Japan has been settled by mediation rather by litigation. The judge certainly obliged with the duty to act as a mediator once he decided to convert the case from litigation to any appropriate settlement mode.

China: Here, the concept of ADR has been formalized in certain different manner as compare to western legal system. As of now, there has been independent ADR institution has been established to settle the matter not by litigation but by mediation and arbitration. The concept of ADR in China by the virtue of PRC legal system is actually merged into the judicial or arbitration process in hearing.[8] There is also the scope of People's Mediation System which has been praised in the international judicial arena as this system basically formalize the Chinese parties to settle their dispute in least possible time. As in China, the mechanism of ADR is usually conducted by the same court or the same tribunal during or after hearing both the parties and not by the different independent body before hearing the parties. The procedure of mediation in China is less confrontation which often helps to preserve the commercial relationship between the conflicting parties.

France: The legal recognition of ADR in France is quite unique because during 1980s there is rapid increase in number of divorces and the public authorities were of concern of the high cost of these procedures which ultimately led to rapid introduction of Mediation into the civil law of the France. And the legal establishment of Mediation in France started in the early 1990s. It was formally recognized by Loi. Under the mechanism of Mediation, a judge hearing the matter can appoint the third person for the period of 3 months to settle the dispute and further it can be extended to another 3 months at the request of the mediator.[9] By the virtue of Code of Civil Procedure under section 1442 to 1491 the concept of arbitration has been included to deal in the matters of civil and commercial affairs. The arbitrators are free to fix the procedure as per the convenience of both the parties and they have the power to regulate both the parties and comes to a certain conclusion after hearing both the parties which makes the ADR system in France and appropriate redressal system.

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[8] See generally, Law Commission of India, 114th Report (1986). China is a nation with sui generis system of dispute resolution as a part of its culture. See, Bobby K.Y. Wong, Dispute Resolution by Officials in Traditional Chinese Legal Culture, Murdoch University Electronic Journal of Law (2003), available at http://www.murdoch.edu.au/elaw/issues/v10n2/wong102.htmlaccessed on 22nd Jan 22.

[9] See Alternative Dispute Resolution, LEGAL INFO. INST., https://www.law.cornell.edu/wex/alternative_dispute_resolution ("Alternative Dispute Resolution ("ADR") refers to any means of settling disputes outside of the courtroom… [including] early neutral evaluation, negotiation, conciliation, mediation, and arbitration.") accessed on 16th Jan 22.

Russia: The need felt by the Russian society to establish a parallel system of non-formal settlement body and also the legislative intent towards the development of alternate mechanism of settlement led to the formation of ADR in Russia. Also, there is growing interest among the people in the out of court settlement to settle their dispute. Currently, there is numerous practices of arbitration and also there is emergence of ADR because of public movement. In Russia, arbitration is the most accepted form of ADR as it does not have the various methods of ADR. Further, there is also a scope of friendly negotiations, mediation, reconciliatory proceedings which may be unilaterally initiated by the conflicting parties.

WHY ADR IS CONSIDERED AS NEED OF THE HOUR:

There is growing trend that ADR is becoming more popular as it is less time consuming, more effective & efficient mechanism than the traditional or formal redressal mechanism. There is number of reasons that why people is opting for ADR for their peaceful dispute settlement *firstly,* it is more cost-effective mediators usually claim that mediation is cheaper than moving their issues through court. It can be reasonably much cheaper than taking legal action against anyone. But this is not always the case as when mediation ended in a settlement then people think that it is cheaper as compare to full court hearing but if mediation failed then people just thought that it was nothing but a waste of money.[10] And the ideal difference comes when that if one is unable to afford the court fee then there may be certain legal provision by which individual may be entitled in the reduction of the fee or even sometime there will full waiver of the fee but unlike the traditional courts, most of the mediators won't reduce their fee and this may make ADR inappropriate dispute redressal system.

Secondly, many forms of ADR are quicker than traditional court method. If individual is having a small claim, then mediation process is more beneficial for him but if the matter is having some urgency like injunction, then going by traditional court could be beneficial for the individual. *Thirdly,* it is not adversarial in nature as in court hearing the bad matter may become worse as it simply put one party against the other and at the end of the day there will be one winner and a looser. But using the mechanism of ADR, where both the parties discuss with each other and comes to a conclusion as it allows hearing the one party's point of view and having them hear other party's point of view and at last both agreeing on the same

[10] See Dispute Resolution Reference Guide, DEP'T OF JUST. OF CAN., http://www.justice.gc.ca/eng/rp-pr/csj-sjc/dprssprd/res/drrg-mrrc/03.html accessed on 19th Jan 22.

pedestal.[11] *Fourthly,* there is multiple way of seeking justice under ADR than compare with courts. Arbitration or Mediation is well suited if the individual is only seeking an apology, change in the rules of an organization, change in the policy or any explanation means a person is getting what he wants which may not be visible in the traditional court settlement.

Fifthly, ADR provides more flexibility as compare to moving to courts. If individual is preferring the settling of the dispute by phone, through letters, via mails or face to face discussion then ADR mechanism is best suited for him. As even today, many ombudsmen system have been established by the government to investigate the complaints through letters and documents without being having a formal hearing. Arbitrators also usually bring both the conflicting parties together for a one-on-one discussion to come to a agrees solution. And *sixthly,* ADR provides a solution that satisfies both the parties as arbitrators or mediators always encourage people in a conflict to have a discussion where they provide them an ample of options to settle their differences. Instead of just coming for a unreasonable compromise they will try to settle the dispute with an agreement that is accepted for both the parties and which led this solution long lasting.

HISTORICAL BACKGROUND OF THE CONCEPT OF ADR IN INDIAN CONTEXT:

The concept of ADR is not a new concept, it is a movement which is coming from a time immemorial. We can see the development of ADR in India in different passage of time.

- **ADR in ancient India**: In the ancient era, we see the concept of monarchy in the process of making and administrating rules and regulations in the society. In early times, disputes were flexibly settled by the intermediate actions of Kulas to that of king including the authorities like Srenis, Parishads and Nyaya Panchayat.[12] There was hierarchy of appeal from Kula to King. On the bottom, we see the authority like Kula which was the assembly of elders mainly look into the civil matters including slight criminal matters. Sreni was the authority of group of people who belong to same profession and they were examined to settle the dispute on the request of both parties. Parishad was the assembly of learned people who had the knowledge of law. At that time laws were mainly related to religion due to which we see the concept of legal justice with good conscience in the ancient times. Nyaya Panchayats also play a great role

[11] See, e.g., Anne Laure Bandle, Alternative Dispute Resolution and Art-Law - A New Research Project of the Geneva Art-Law Centre, 6 J. INT'L COMMERCIAL L. & TECH. 28, 28-41 (2011).
[12] Jasime Joseph, "Alternate to Alternatives: A Critical review of claims of ADR" available at http://www.nujs.edu/ accessed on 19th Jan 22.

even after Independence. It is a constitutional body used to resolve certain matters in villages. Lastly the King was the superior authority to resolve disputes and maintained check and balance on other authorities.

• **ADR in Mughal period:** in Mughal empire, there were three independent judicial agencies which were working at the same time. The first was the Courts of religious law which were headed by the Quazis. The second was the Courts of secular law which were mainly administered by Governors, Faujdars, Kotwal and in the cases related to Hindus, they were governed by Brahmins. And lastly there were political courts which were headed by Subahdars, Faujdars, Kotwal etc. But also at that time, most of the villagers settled their disputes in the village courts itself and may did appeal to caste courts or panchayats. In this Mughal period also the emperor or the king was the final court of appeal.

• **ADR in the British regime:** As we all know that our current judicial system is very much similar to the judicial system of the British era. The ADR in India is mainly picked up the pace by the arrival of East India Company and The Bengal Regulation of 1772,1780 and 1781 laid down the foundation of the modern arbitration. After certain modifications and formulations of the provisions from time to time, The Indian Administration Act passed, 1899 was passed and it is based on the English Arbitration Act, 1889. This act was the formal initial attempt to provide flexibility in the process of arbitration but its application was very limited mainly seen in the Presidency towns of Calcutta, Bombay and Madras. Along with the flexibility in the process of arbitration, there were also many defects in this act but it gave a sign of positivity towards the acceptance of ADR in our society formally. After this in the year of 1940, The Arbitration Act of 1940 was enacted in the place of the Act of 1899.[13] It modified the law relating to arbitration in British India even in the independent India until 1996.

• **ADR after Independence:** These ADR methods are not very fresh as they were in action in different forms even before the modern justice delivery system was introduced by the British rulers. There were various types of arbitral authorities, which led to the outcome of the celebrated panhayati raj (people's rule) system of India, especially in the village areas. Thus, LokAdalalat (the court of people) created under the panchayatiraj was considered very efficient and used to play their role very flexibly. In 1980 the Government set up a committee under the direction of, a former Chief Justice of the Supreme Court of India Mr. P.N. Bhagwati. After the

[13]Jasime Joseph, "Alternate to Alternatives: A Critical review of claims of ADR" available at http://www.nujs.edu/ accessed on 19th Jan 22.

recommendations of this Committee, the legislature enacted the Legal Services Authorities Act, 1987 in accordance with Article 39A of the Constitution of India. The Legal Services Authorities Act 1987 flexibly executed in its true spirit the usefulness of LokAdalats for the speedy settlement of disputes. The advantage here after thus system is that justice delayed refers like justice denied, and speedy justice has now been welcomed or honored as a constitutional guaranteed.[14] Even though the international authorities paid attention towards this traditional way of the settlement of disputes. Along with India we can also see the concept of ADR in China, England and United States of America etc.

Alternative Dispute Resolution has been coming reasonably in India with the commencement the Trade Dispute Act of 1929.The purpose of this Act of 1929was to provide a conciliation process to do the settlements of disputes in industries through the establishment of the Board of Conciliation and through the Inquiry courts. On the other hand, the certain restrictions have been imposed to reduce the actions of strikes and lock outs. This was modified with Rule 81A of theDefense of India Rules which give powers to the central government to mention to disputes compulsorily to adjudication or voluntarily to conciliation and enforce the decree and gave awards. This rule came with the commencement ofin the Industrial Disputes Act of 1947. In order to make arbitration more attractive and much flexible, the Parliament enacted the Arbitration & Conciliation Act of 1996 which says that the award can be opposed only on certain specified grounds and in a reasonable manner as may be prescribed and ultimately, the Act provided a statutory structure for the resolution of disputes quickly. However, this act only regards matters which are of civil in nature and there is no any relevant act that pertains to the whole of ADR in India, thus also there is a need to improve the current situation because now a day ADR becomes a movement in India.

LAWS RELATED TO ADR IN INDIA:

In Civil Procedure Code 1908:

Section 89 and also rules 1-A to 1-Cof Order 10:-

Settlement of dispute the provisions has been inserted by code of CPC (amendment) Act 1999. Section 89 of this code deals with the resolution of disputes outside the court. It is based on the recommendations made by the law commission of India and specially byMalimath committee.

[14]Shaeyup Ahmad Shah, “Evolution of ADR in India- Law and Practices” accessed on 17th Jan 22.

It was suggested by law commission of India that the court may demand attendance of any party to the suit or proceeding to appear in person with a thought to come at a cordial settlement of dispute between the parties and do take an attempt to resolve the conflict between parties flexibly. The Malimath Committee says about the obligation for the court to refer their disputes after issues having been made for the settlement by the means of ADR rather thanlitigation.

In India Arbitration Act, 1899:

The first India Arbitration Act was passed on 1st July 1899.which was mainly based on the British Arbitration Act of 1899 and at that time it was applicable only to the presidency towns of Calcutta, Bombay, and Madras.[15]A peerless feature in the Act was that the name of the arbitrators was to be mentioned in the contract and the arbitrator can also be a setting judge as held in *Nusserwanjee and Orsv. Meermynooden Khan Wuleed Meer Sudrooden Khan Bahador. In case ofGojendra Singh v. Burg*, it was held that the award given in arbitration is nothing but a sort of bargain between the parties. In*BinkurraiLakshami Prasad v.Gaswant Rai Prasad,* the honourablehigh court said that the Act of 1899 was very complicated, bulky in nature and demanded certain urgent reforms.

In The Arbitration Act of 1940:

At thetime of colonial rule a more definite and reasonable Arbitration Act was passed on 14th March 1940 which came into forcefrom 1st July 1940 popularly known as Arbitration Act 1940. This is only single act which was extended to the whole of India including Pakistan The Act implies that it does not legally setting aside and contemplates that an application for setting aside an award may be made under the section 30 and an application of the award is nullity under section 33. Alsoit was observed that the very act failed in admitting that the arbitration will failed in the case of non subsistence and debility of an arbitration agreement. The Act of 1940 was not covered the falling which was containing in personal or private legal agreement and the rules providing for awards also varied in different High Courts.[16] The shortcoming of the provision restricting an arbitrator from resigning at any time in the course of the proceeding because it resulted in heavy loses to the parties and specially where the arbitrator acted with mala fide intention. It was also observed that if an arbitrator was appointed by the court dies

[15]Jasime Joseph, "Alternate to Alternatives: A Critical review of claims of ADR" available at http://www.nujs.edu/ accessed on 19th Jan 22.
[16]Jasime Joseph, "Alternate to Alternatives: A Critical review of claims of ADR" available at http://www.nujs.edu/. accessed on 19th Jan 22.

during the proceeding of arbitration, there were no other provisions in the said act for the appointment of a new arbitrator which was also a big drawback of the Act of 1940.

Arbitration and Conciliation Act, 1996:

The Act of 1996 was based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 and UNCITRAL Conciliation Rules, 1980.[17] The UN General Assembly had recommended that every state should take into consideration to that Model Law in view of in-consistency of the law of arbitration, their procedures and specially the need of the international commercial practices. It also suggested the practice of the said rules and regulations in those matters where a conflict arises in the view of international commercial relations and the parties try to look out a friendliness settlement of dispute by taking the assistance of conciliation and by the means of arbitration. These rules play an essential role for the establishment of a combine legal structure for the just, fair, quick, flexible and effective resolution of conflict which arise in international commercial relations.

A report was made by the law commission of India on the basis of the Arbitration Act of 1996 and suggested several modifications. Arbitration and Conciliation (Amendment) Bill, 2003 was in the Parliament on the basis of the suggestions given by the commission. But the Standing Committee of Law Ministry is in opinion that the courts have much intervention in many provisions of the Bill. TheArbitration and Conciliation Act, 1996 mainly focuses on the domestic arbitration. The Act was amended in 2015 and further modifications have been done in 2019.

The Arbitration and Conciliation (Amendment) Bill, 2015 came in the Parliament by the Government of India to modify the Act of 1996 to do engage arbitration procedure in a suitable mode of settlement for the disputes related to commerce and to become India as a focus of international commercial arbitration.[18] The main objective is to amend the Act to design a clear cut distinguish between domestic and international commercial arbitration in context to the definition of the court. As far as domestic arbitration is concerned, the definition of "court" has similar meaning as the definition was in the Act of 1996. However, the term court with respect to international commercial arbitration which means only the High Court of a certain competent

[17] Marc Jonas Block, "The Benefit of ADR for International Commerce and IP Disputes, Rutgers Law Record, Vol. 44, 2016-17 accessed on 17th Jan 22.
[18] Marc Jonas Block, "The Benefit of ADR for International Commerce and IP Disputes, Rutgers Law Record, Vol. 44, 2016-17 accessed on 17th Jan 22.

jurisdiction.[19] Therefore, the District Courts will have no legitimate power and accordingly the parties can demand their effective and quick settlement of any dispute directly through the High Court which is better to tackle the situations and conflicts in the context of the commercial dispute.

RECOGNITION OF ADR AS AN APPROPRIATE MECHANISM:

There is need to increase the use of ADR in Indian system also as this mechanism help to identify the true issues of the dispute without increasing any further dispute and it resolves few or all of the such identified issues. Under ADR mechanism, agreement can be reached between the parties on the disputed issues. All the need and interests of both the parties are met by peaceful dispute settlement.[20] Sometimes, under court hearing parties may not be able to reach the true cause of the dispute but under the procedure of arbitration, conciliation, it provides ample opportunities to both conflicting parties to reach and understanding of each other's need and interest.[21] There is always a chance that under court procedure the relationship between the party may got diminished but under ADR system it provides the possibility of preserving the relationship and the result may also improve the relationship by settling both the parties concern.[22]

In India also, the mechanism of ADR has been used on multiple occasion as even our Indian judicial system is recognizing the mediation system which is a fruitful process to solve the dispute and the very prevalent example of such is Ayodhya Temple-Masjid dispute. From a very long time this matter has been pending in the Supreme Court which first referred the matter to three-member panel consisting of Sri Sri Ravishankar, Sri Ram Panchu and Kulifijullah to comes to conclusion in the long dispute Ram Janambhoomi- Babri Masjid case. The history cannot be repealed but this matter at that time involves emotions of almost all the people of the country, so there involves public interest at large. The honorable Apex Court itself realized the need to settle the issue by peaceful mechanism first as there should be at least last-ditch effort should be made to settle this dispute through mediation. As the process of mediation provides both the parties to focus on their need & interest and comes to a conclusion

[19]Marc Jonas Block, "The Benefit of ADR for International Commerce and IP Disputes, Rutgers Law Record, Vol. 44, 2016-17 accessed on 17th Jan 22.
[20] Arbitration Services, PERMANENT COURT OF ARBITRATION, https://pca-cpa.org/en/services/arbitration-services/ accessed on 21st Jan 22.
[21] What is ADR?, supra, note 7; see also Edna Sussman and John Wilkinson, Benefits Of Arbitration For Commercial Disputes, DISP. RESOL. MAG., accessed on 24th Jan 22.,
[22] SARVESH CHANDRA, ADR: Is Conciliation The Best Choice, in Rao, supra note 6, at 83.

which is best for both of them. Settling any public concern issue via mediation always provide an opportunity to both the parties to understand each other concern and comes to a win-win situation and where both parties walk away from conflict by putting their heads high. The procedure of mediation as an alternative dispute resolution is quite professional in nature and ideally by choosing the process of mediation the Apex Court has given the chance to both the parties as not to fight perpetually over such matter and both the parties accept the best outcome. By opting for alternative dispute resolution in such grave issue the Supreme Court has given array of hope that the procedure of mediation, arbitration can be used in the serious matter too as for this court it has felt that now ADR can be workable as appropriate dispute redressal mechanism.

So, the use of ADR provides both the parties to create own process and arbitrator or the mediator can be selected on the basis of substantive knowledge. The parties can maintain confidentiality in the proceedings which may compel proper behavior from both the parties and it will also minimize the bad faith against each other.[23] There is always less backlog than the traditional court system as it is being tailored by the rules of procedure. The proceedings as compare to court hearing is shorter which means parties legal expenses will also be shorter and this may make ADR an appropriate dispute redressal mechanism in terms of less expensive, less complex proceedings, peaceful mechanism and growth in the cordial relation between the conflicting parties after coming to the conclusion as per their need and interest.

CONCLUSION & SUGGESTIONS:

So, in order to make the effective use of the mechanism of alternative dispute redressal, government need to prioritizes such mechanism like arbitration, mediation and conciliation. Though in the past it has been used by multiple instances by the people yet it is required to reach its optimum use. This method came into existence to tackle most of the problems and try to do possible societal development issues within the ambit of ADR as well as reduce the burden from our judicial system.It is an alternative which shows that the parties have freedom to choose this method and accept it as an alternative to litigation at their own choice.To make such mechanism fruitful government need to come up with the legislation that promote this in much cost-effective manner as even today many people have to face the issue of high cost of appointing an arbitrator or a mediator because one may get free of cost litigation but it is very

[23] Jethro K. Lieberman & James F. Henry, Lessons from the Alternative Dispute Resolution Movement, 53 U Chi L Rev 424, 425-426 (1986).

difficult to get pro bono mediation. It is important that this dissatisfaction can be settled and at same time the alternative mechanism should be accepted which do not have less complexities but be as flexible, reasonable and binding on the people adopting it.Hence, we can say that till today the alternative dispute redressal mechanism is not appropriate mechanism as one may have to face financial shortage to settle their dispute for which the government may have to come with an appropriate legislation.

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