ADR ACCESS BARRIERS FOR TEXTILE MSMES: ANALYSING THE FINANCIAL AND INSTITUTIONAL CHALLENGES

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ABSTRACT

Micro, Small, and Medium Enterprises (MSMEs) form the backbone of the textile sector, yet they remain highly vulnerable to commercial disputes that disrupt supply chains and force them into insolvency. While Alternative Dispute Resolution (ADR) mechanisms—such as arbitration and mediation—are theoretically championed as swift, cost-effective alternatives to traditional litigation, their actual utilization among textile MSMEs remains surprisingly low. This paper highlights a critical systemic bottleneck: despite the long-term cost benefits of ADR, small-scale enterprises completely lack the immediate financial cushion required to absorb upfront institutional fees, arbitrator remunerations, and legal representation costs. Consequently, financial and institutional barriers inadvertently price vulnerable MSMEs out of the very mechanisms designed to protect them.

The primary objective of this study is to examine the specific financial and institutional impediments that restrict textile MSMEs from accessing ADR pathways. Furthermore, it aims to evaluate the adequacy of existing legislative frameworks and institutional rules in mitigating these socio-economic disparities.

To achieve these objectives, this paper addresses two pivotal questions:

How do upfront institutional costs and rigid procedural frameworks create an accessibility barrier for financially constrained textile MSMEs seeking ADR?

What structural reforms or policy interventions can be integrated into existing ADR institutions to democratize access for smaller market players?

By adopting a doctrinal research methodology, this study aims to conduct a qualitative analysis of primary legal sources, including the Arbitration and Conciliation Act, MSMED Act provisions, and institutional dispute resolution rules. These are supplemented by secondary sources such as judicial precedents, academic literature, and policy reports to formulate a comprehensive framework for institutional reform. By analyzing these legal doctrines, this study attempts to identify gaps in the current framework and derive theoretical solutions to improve ADR adoption.

Keywords: ADR, Textile MSMEs, Financial and Institutional Barriers, Legislative Framework.

Chapter 1. Introduction

1.1 Background and Context

The Indian textile and clothing is one of the oldest and most important industries in India. An approximate of nearly 2.3% to 4% of India's GDP and 13% to 14% of its industrial production is borne by this industry[1]. In addition to that, it provides direct employment to nearly 45 million people and indirectly assisting 60 to 100 million persons, making it the second largest employment provider.

Globally, it contributes to around 4.6% to 5% of apparel and textile trade. Besides being the second largest manufacturer of textile, India is sixth largest exporter of textile. In the financial year 2023-24, India exported around 34.4 billion US dollars constituting 42% of exports[2].

India is the leading producer of cotton, silk, jute and human made fibers. Government initiatives like Make in India provide future projections of growth to nearly 350 billion US dollars by the year 2030[3].

1.2 Role of MSMEs in Indian Textile Sectors

Micro, Small and Medium Enterprises constitute to nearly 80% of India's total production capacity[4]. The apparel sector of India is highly fragmented having several decentralized units involved in spinning, knitting, weaving etc.

MSMEs require intensive labour involvement providing employment opportunities to a huge number of people. They can adapt to high demand and customer requirements helping cater to

[1] Ministry of Commerce & Industry, Threads of Progress: How Make in India is shaping the Future of Textiles and Apparel Industry, Press Release https://www.pib.gov.in/PressReleasePage.aspx?PRID=2117470&reg=3&lang=2
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*

dynamic market conditions. Their flexible nature contributes to scaling production and industrial development.

These enterprises form the grounds for innovation and entrepreneurship, empowering large populations of underprivileged people of India. MSMEs serve as a link between raw materials and finished products ready for sell. Clusters like Tirpur[5] serve as an example of the effectiveness of MSMEs in the development of textile industry contributing to nearly 0.8% of India's total export alone. This cluster is run mostly by small scale units.

Moreover, the Tirpur cluster's dyeing units have successfully implemented Zero Liquid Discharge (ZLD), instituting nearly 2000MW of green energy using solar and wind energy.

Adoption of environment friendly and sustainable practices has contributed largely to the increase of competitiveness[6]. As seen in case of Panipat textile cluster, industries have achieved nearly 25% profit margin with investments as low as 12%. This has become a reality solely with the integration of green technology adoption.

1.3 Importance of dispute resolution for business continuity

Under Section 2(k) of the Industrial Dispute Act, 1947[7], 'dispute' is defined as 'any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.'

Any issue between employers and employees are a leading cause of delays, loss of productivity and time, bad employer employee relations etc. Also, in the context of disputes, there might be a significant power imbalance between in the parties.

The management may exercise a stronger control over the workers which may result to be disadvantageous to the latter. This gives the former a greater opportunity to take decisions benefitting solely themselves.

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[5] Dr. Ankita Kashyap, "Suppliers data from supplier chain circular apparel and textiles in India: Link between Climate and Circular practices", *International Development Research Institute, https://c4rb.org/insights/SeptIndiaCircular_TextilePolicyDialogue.pdf*

[6] *Ibid.*

[7] Industrial Dispute Act, 1947, (Act No. 14 of 1947), s. 2(k)

At the same time, traditional court room litigation is often a more expensive and time-consuming means to solve such disputes. An average of 636 days in Commonwealth countries is required for the same[8]. Moreover, the practice may permanently disturb the relations between management and worker causing issues in the smooth functioning of the industry.

In light of these discrepancies, Alternate Dispute Resolution or ADR in general and Arbitration in particular turn out as a greatly effective solution. It offers a faster and more private solution to the parties in comparison to private courts. Parties can mutually consent to arbitrators with specialised knowledge in the industry, making the procedure of justice more effective.

In case of crisis situation, like sudden accidents, data breaches, etc., companies are enabled to adapt easily by way of solving disputes faster through arbitration. Means under Alternate Dispute Resolution provide a greater effectiveness to companies to maintain collaborative relations and foster problem solving with the involvement of employees.

Often times, traditional litigation may lead to getting issues between workers and management get in the public eye. This leads to them having a negative reputation which may contribute adversely to the growth of the company. ADR ensures such issues do not arise.

The risk factor is reduced to a great extent as through ADR, the parties would eventually reach to be situation where both sides are equally benefitted.

Chapter 2: Legal and Institutional Framework of ADR in India

Alternative Dispute Resolution (ADR) in India is not just an additional tool to reduce backlogs; it is an institution grounded in constitutional values. With over 50 million pending court cases[9], the Indian government depends on ADR to fulfill its commitment to accessible, prompt, and fair justice. It encompasses mechanisms like arbitration, mediation, conciliation, and Lok Adalats (people's courts) to reduce court congestion and promote amicable conflict resolution.

2.1 The Constitutional Foundation

The legitimacy and support for ADR arise from important provisions in the Constitution of

[8] Rambod Behboodi, Alternative mechanisms to enable compliance and address power imbalance, GIZ project number: 2021.2208.3-001.00, https://sustainabletermsoftradeinitiative.com/wp-content/uploads/2023/01/Study-ofDispute-Resolution-in-the-Textiles-Sector-by-Rambod-Behboodi.pdf

[9] S. Gupta, "The role of the judiciary in India" 1(1) *The Indian Journal for Research in Law and Management* (2025).

India. These provisions ensure equal access to the legal system and reflect a commitment to social justice, equality, and the right to life.

i) **Article 39A: The Core Mandate-** Introduced via the 42nd Amendment in 1976 as a Directive Principle of State Policy, it mandates that the State ensure the legal system promotes justice on a basis of equal opportunity. It requires providing free legal aid to remove economic or other barriers to justice, serving as the foundational bedrock for statutory ADR mechanisms.

ii) **Article 14 and Article 21: Fundamental Rights-** The Supreme Court of India has broadened the interpretation of Article 21 (Right to Life and Personal Liberty) to include the "right to a speedy trial" and "access to justice" in various landmark cases[10]. Additionally, Article 14 (Equality before Law) implies that structural or financial barriers shouldn't stop citizens from seeking legal remedies. Together, these articles emphasize that when formal court delays hinder justice, the State must provide effective alternative options.

iii) **Preamble Imperatives**- The Preamble to the Constitution places Justice (Social, Economic, and Political) as its core objective. ADR serves as a direct means to achieve socio-economic justice by providing an informal, affordable, and cooperative environment instead of confronting parties in a courtroom.

2.2 Legislative Framework

To enact these constitutional directives, the Indian Parliament created a strong legal framework.

i) **The Arbitration and Conciliation Act, 1996 -**Based on the UNCITRAL Model Law, this is the main legislation governing domestic and international commercial arbitration, as well as enforcing foreign arbitral awards, with the primary aim of reducing court involvement in arbitration[11].

ii) **Section 89 of the Code of Civil Procedure (CPC), 1908-** Re-introduced in 1999 following recommendations from the Law Commission and Malimath Committee,

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[10] Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1369; A.R. Antulay v. R.S. Nayak, (1992) 1 SCC 225.
[11] UNCITRAL Arb. Rules, U.N. Doc. A/RES/68/109 (2013).

section 89 serves as a crucial link between formal litigation and ADR[12]. It empowers civil courts to formulate terms for potential settlements and refer cases to one of four ADR options: Arbitration, Conciliation, Judicial Settlement (including Lok Adalats), or Mediation[13].

iii) **The Legal Services Authorities Act, 1987 (Lok Adalats)-** This Act set up the framework for free legal aid and formalized Lok Adalats—a uniquely Indian contribution to global ADR. Lok Adalats hold the authority to settle pending or pre-litigation disputes through compromise[14], barring non-compoundable offenses[15]. Their awards are final, binding[16], cannot be appealed[17] and are legally equivalent to civil court decrees[18].

iv) **The Mediation Act, 2023-** This modern legislation formalizes and promotes mediation independently from court-associated processes. It gives legal hold to mediated settlement agreements, requires mandatory pre-litigation mediation for civil and commercial matters, creates the Mediation Council of India, and offers a clear legal framework for enforcing such agreements[19].

2.3 Institutional Framework

India supports its legislative mandates through a multi-tiered institutional network. The National, State, and District Legal Services Authorities (NALSA, SALSA, and DLSA) organize Lok Adalats and run court-annexed mediation centers. For commercial disputes, the nation is transitioning toward institutional arbitration through bodies like the New Delhi International Arbitration Centre (NDIAC) and the Indian Council of Arbitration (ICA)[20]. At the grassroots level, Gram Nyayalayas and traditional Nyaya Panchayats resolve minor village

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[12] R. Gomathi, "The emerging trends and impracticalities in enforcing Sec. 89, CPC, 1908" 5(12) *International Journal of Research Science & Management* 1-4 (2018).
[13] A.Malhotra, (n.d.). "Alternative dispute resolution in Indian family law – realities, practicalities and necessities" *International Academy of Family Lawyers (IAFL)*.
[14] The Legal Services Authorities Act 1987, (Act 39 of 1987), s. 19(1).
[15] The Legal Services Authorities Act 1987, (Act 39 of 1987), s.19(5).
[16] The Legal Services Authorities Act 1987, (Act 39 of 1987), s. 21(2).
[17] *Ibid*.
[18] The Legal Services Authorities Act 1987, (Act 39 of 1987), s. 21(1).
[19] S. Bhat, *Mediation and Conflict Resolution: Law and Practice* (LexisNexis, 2020).
[20] A.B. Khan, "The Role of ADR in Transforming Dispute Resolution Mechanisms for Informal Economies" 3(1) *Law Research Journal* 97-111 (2025).

disputes utilizing local conciliation[21].

2.4 Judicial Pronouncements

The growth of ADR in India has been actively shaped by the proactive decisions of the Supreme Court, which clarified legislative ambiguities and streamlined processes.

In **Salem Advocate Bar Association v. Union of India[22]**, the Court upheld the validity of Section 89 CPC and initiated the drafting of standardized "Civil Procedure-Mediation Rules", which outlined the steps for court-annexed mediation centers across Indian High Courts, effectively institutionalizing mediation involving court referrals.

The case of **Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.[23]** remains crucial for court-annexed ADR in India. The Supreme Court clarified drafting ambiguities in Section 89, distinguishing between matters suitable for mediation and those that are not (e.g., serious criminal offenses). It also ruled that while courts can compel parties to mediation, conciliation, or Lok Adalats, a matter cannot be referred to arbitration without mutual consent.

While earlier rulings like **ONGC v. Saw Pipes Ltd.[24]** expanded judicial intervention under "public policy" grounds, subsequent legal amendments and rulings like **BCCI v. Kochi Cricket**

Pvt. Ltd.[25] have strictly limited oversight. The contemporary judicial standard firmly enforces a "minimal judicial interference" approach to guarantee the finality of arbitration awards[26]. This framework has shifted ADR from an optional tool to a crucial part of the Indian judicial system.

Chapter 3. Textile MSMEs: Economic Profile and Dispute Landscape

3.1 Overview of Textile MSME Sector in India

Holding a strategic prominence next to agriculture, textile industry is one of the largest

[21] M.P. Chandrika, "Access to justice through alternative dispute resolution system-restorative justice" 10(1) *Asian Journal of Development Matters* 124-134 (2016).
[22] AIR 2005 SC 3353.
[23] (2010) 8 SCC 24.
[24] (2003) 5 SCC 705.
[25] AIR 2018 SC 1549
[26] S. Singla, "Judicial intervention in mediation settlements" 8(2) *The GNLU Law Review* 294-305 (2018).

industries of India. It contributes to nearly 20% of total industrial production[27]. This industry is mainly driven by Micro, Medium and Small Enterprises. These enterprises carry out their operations flexibly, need low investments to work, and are extremely effective in promoting entrepreneurship in underprivileged sectors.

The decentralized power loom sector within the textile industry which is comprised mostly of MSMEs produces approximately 60% of India's cloth[28]. These enterprises supply majority of fabric to garment enterprises. Moreover, this industry is also the second largest employer of the nation.

Textile and the apparel industry stands as the 6th largest exporter globally in 2023, constituting around 12% of India's total exports in 2018-2019 and 8.21% of total exports[29] for the year 2023-24.

Under Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006, these enterprises are defined as given:

In case of an enterprise engaged in manufacture or production of goods:

(i) a micro enterprise, where the investment in plant and machinery does not exceed twentyfive lakh rupees;

(ii) a small enterprise, where the investment in plant and machinery is more than twenty-five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

In the case of the enterprises engaged in providing or rendering of services, as—

(i) A micro enterprise, where the investment in equipment does not exceed ten lakh rupees;

[27] Nirbhan Singh, "Scenario of Small and Medium Textile Industries in India", 4 *IJSR - INTERNATIONAL JOURNAL OF SCIENTIFIC RESEARCH* 123 (2015)
[28] K. Srinivas, "Challenges to Indian MSMEs in the Era of Globalization: A Study of the Indian Textile Industry", 3 *International Journal for Multidisciplinary Research (IJFMR)* 5 (2021)
[29] *Ibid at 3.*

(ii) A small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees; or

(iii) A medium enterprise, where the investment in equipment is more than two crore rupees but does not exceed five crore rupees[30].

3.2 Common Types of Disputes Faced by Textile MSMEs in India

i) Contractual Disputes

Textile MSMEs frequently encounter contractual disputes relating to delayed payments, quality rejections, supply discrepancies, and breaches of contractual obligations. Buyers often fail to make payments within agreed timelines, compelling enterprises to seek remedies under the MSMED Act. Disputes also arise from allegations of defective or non-conforming goods, short deliveries, and failures to comply with production specifications. Additionally, conflicts concerning time-barred claims and the enforceability of older debts are common.

ii) Labour Disputes

Labour-related disputes primarily involve illegal terminations, factory closures, non-payment of wages, and denial of statutory benefits. Workers often face wage theft, non-payment of overtime, and irregular contributions to Provident Fund (PF) and Employee State Insurance (ESI) schemes. In regions with a large female workforce, complaints of workplace harassment are significant. Industrial relations are further strained by instances of intimidation, coercive practices, and labour unrest[31].

iii) Intellectual Property and Branding Disputes

Intellectual property disputes include design piracy, trademark infringement, misuse of Geographical Indication (GI) tags, and deceptive marketing practices. Unauthorized replication of textile designs and traditional motifs adversely affects designers and artisan communities. Trademark conflicts arise from the use of deceptively similar brand identities, while counterfeit

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[30] The Micro, Small and Medium Enterprises Development Act, 2006, (Act 27 of 2006), s. 7.
[31] Alessandra Mezzadri & Rakhi Sehgal, "The social life of industrial disputes: Exploring workers centred industrial relations in India's garment labour regime" International Labour Organization (2023)

products marketed as GI-protected goods undermine the value of traditional crafts[32]. MSMEs often face challenges in enforcing IP rights due to high litigation costs and evidentiary burdens.

iv) Banking and Credit-Related Disputes

Financial disputes largely concern limited access to credit, stringent collateral requirements, high borrowing costs, and loan recovery proceedings. Banks frequently classify MSMEs as high-risk borrowers, restricting credit availability. Additional disputes arise from non-performing asset (NPA) classifications, interest rates, processing charges, repayment defaults, and recovery actions. Delays in payments under government procurement contracts further exacerbate liquidity constraints for textile MSMEs.

Chapter 4: Financial Barriers to ADR Access for Textile MSMEs

4.1 Cost Structure of Traditional Litigation vs. ADR

Micro, Small, and Medium Enterprises (MSMEs) are crucial to the global textile manufacturing industry, especially in developing countries. These businesses have high operational speeds, rely on labor-intensive methods, and often have tight cash flows. As a result, they are particularly vulnerable to commercial disputes, such as delayed payments, supply chain issues, and quality problems[33]. Although Alternative Dispute Resolution (ADR) methods like arbitration, mediation, and conciliation aim to provide a quicker, private, and cost-effective alternative to traditional courts, financial barriers can hinder access[34].

i) Court Fees, Lawyer Fees, Expert Fees, and Time Costs

Traditional litigation in India is notoriously expensive, dictated by a multi-layered financial matrix.

- **Court Fees:** Regulated by the *Court Fees Act, 1870* and respective state amendments, court fees are often levied ad valorem (as a percentage of the claim value).

[32] Yashna Walia & Shreya Kumar, "THE SUCCESS AND FAILURE OF GI TAG IN INDIA: A CRITICAL ANALYSIS OF THE WORKING OF GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999," 1 E- *Journal of Academic Innovation and Research in Intellectual Property Assets* (EJAIRIPA) 234 (2020)
[33] R. Mittal & A. Sethi, "Cost-Benefit Analysis of Arbitration vs Litigation: Empirical Evidence from Indian Commercial Hubs" 45 *International Review of Law and Economics* 78-92 (2018).
[34] Iftikar Hussain Bhat, 'Access to Justice: A Critical Analysis of Alternate Dispute Resolution Mechanisms in India' 5(2) *International Journal of Humanities and Social Science Invention* (2013).

For substantial commercial claims, this initial sunk cost is hefty.

- **Lawyer and Expert Fees:** Legal representation constitutes the largest expenditure. Leading advocates charge per appearance, while intricate commercial disputes require specialized expert witnesses (e.g., forensic auditors or technical engineers), exponentially driving up bills.

- **Time Costs:** The financial strain is worsened by systemic delays. As highlighted by *DAKSH* in its judicial pan-India studies, the opportunity cost of stuck capital, combined with years of endless rounds of litigation, frequently results in a negative return on investment for litigants.

ii) Arbitration Costs: Institutional vs. Ad Hoc

When textile MSMEs choose arbitration, they face different costs between structured institutional arbitration and unstructured ad hoc arbitration.

- Ad Hoc Arbitration: Lacking institutional oversight, procedures are managed directly by the parties and arbitrators[35]. While flexible, it poses major financial pitfalls. Arbitrators charge per hearing or per day, meaning well-funded opponents can use delay tactics— such as multiple interlocutory motions—to inflate hearing counts and fees indefinitely[36]. Hidden costs like venue rentals and stenography must also be covered.

- Institutional Arbitration: Regulated by rules like the ICC, SIAC, or DIAC, costs are highly predictable due to fixed fee schedules linked to dispute values[37]. However, they require significant upfront payments for administrative and arbitrator deposits, presenting a steep entry barrier for an MSME experiencing a severe cash shortage[38].

4.2 Affordability of ADR Mechanisms

The cost-effectiveness of ADR entirely depends on the specific track chosen. Some

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[35] Edlira Aliaj, "Dispute resolution through ad hoc and institutional arbitration" 2(2)*Academic Journal of Business, Administration, Law and Social Sciences* 241 (2016).
[36] S. Bhattacharya,"The Economics of Commercial Dispute Resolution: Assessing the Financial Impasses in Ad Hoc Arbitration" 14(2) *Journal of Business Law & Institutional Reforms* 112-135 (2021).
[37] A.Dhuria, "Adhoc Arbitration and Institutional Arbitration" 2(7) *International Journal of Legal Research and Analysis* (2022).
[38] *Supra 21.*

mechanisms are affordable, while others add expenses that can overwhelm small commercial claims.

i) Mediation Costs

Mediation stands as a highly affordable avenue for resource-limited units. In court-annexed centers operating under Section 89 of the Code of Civil Procedure, 1908, services are provided for free or for a minimal fee[39]. Private commercial mediation is also highly accessible, utilizing either a modest split flat rate or hourly charges. Since it focuses on non-adversarial compromise and typically wraps up in 2 to 4 sessions[40], it removes the need for extended legal representation and technical witness fees[41].

ii) Lok Adalat Fees

This system represents the lowest financial barrier in Indian law[42]. No court fees are payable upon referral, and if a pending court case is settled here, the original filing fees are completely refunded under Section 21 of the Act. This offers vital relief to micro-segment operators by converting unresolved disputes back into cash without extra procedural costs[43]. However, it is primarily limited to simple debt recovery and struggles with complex textile quality disputes requiring deep technical analysis.

iii) Arbitration Fees Under the 1996 Act and Recent Amendments

To control the rising costs of ad hoc arbitration, lawmakers implemented structural changes to the Arbitration and Conciliation Act, 1996:

- **The Fourth Schedule (The 2015 Amendment):** This addition created a model sliding-scale fee structure for arbitrators, linking their fees directly to the value of the dispute[44].

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[39] N.K. Shrivastava, "The Mediation Act, 2023: A Paradigm Shift In India's Dispute Resolution Landscape – A Comprehensive Analysis" *International Journal of Law and Management* 1-12 (2026).
[40] N.R. Madhava Menon, *ADR in India: The Emerging Landscape* (Eastern Book Company, 2021).
[41] *Ibid.*
[42] Sarah Leah Whitson, 'Neither Fish, Nor Flesh, Nor Good Herring; Lok Adalats: An Experiment in Informal Dispute Resolution in India'15(3) *Hastings International Comparative Law Review* (1992).
[43] V.K. Agrawal, "Concept of Lok Adalat in India: Discourse with reference to the Legal Services Authorities Act 1987" 1(2) *International Journal of Intellectual Research.*
[44] O.P. Malhotra & I. Malhotra, *The Law and Practice of Arbitration and Conciliation*. (LexisNexis 2020).

- **The 2019 Amendment & Section 11 Capping:** The 2019 amendment attempted to make the Fourth Schedule mandatory for court-appointed arbitrators. While this stabilized costs, a notable loophole remains: fee caps apply per individual arbitrator[45].

4.3 Legal Aid and Financial Support Mechanisms

i) Provisions Under the Legal Services Authorities Act, 1987

This statute establishes a strict legal aid hierarchy (NALSA, SALSA, DLSA) providing free legal services under Section 12[46]. However, while it explicitly covers vulnerable individuals like industrial workmen, w[46]omen, children and scheduled castes/tribes[47], proprietary commercial entities are generally excluded unless the individual proprietor meets low-income thresholds[48]. **ii) Availability of Free/Paid Legal Aid for MSMEs**

To combat unique commercial entry barriers, the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 introduced Facilitation Councils. This statutory platform acts as a specialized, low-cost ADR forum explicitly for delayed payment disputes, allowing small businesses to completely bypass expensive civil courts[49].

Chapter 5: Institutional Barriers to ADR Access for Textile MSMEs

This chapter outlines four primary structural and institutional hurdles that prevent small textile businesses from effectively utilizing Alternative Dispute Resolution (ADR) mechanisms:

i) **Awareness and Information Deficit:** A fundamental barrier is the widespread lack of legal literacy among MSME[50] owners. Small-scale textile operators frequently manage their businesses based on informal agreements and trust, lacking the administrative capacity to understand complex statutory options like Facilitation Council references or pre-institution mediation. Furthermore, state legal services

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[45] *Ibid.*
[46] Justice S.B. Sinha, *Legal Services Authorities Act, 1987* (Universal Law Publishing).
[47] The Legal Services Authorities Act 1987, (Act 39 of 1987), s. 12(e).
[48] U. Vaidya & S.S. Chauhan, "A Study on The Legal Services Authorities ACT, 1987" *International Journal of Innovations in Science, Engineering And Management* 51-56 (2024).
[49] S. Varghese, "Access to justice: How far is it a human right?" 4(1) *GLS Law Journal* 33–36 (2022).
[50] Ministry of Micro, Small and Medium Enterprises, Annual Report 2024-25 (Government of India, New Delhi, 2025).

have historically focused their outreach on criminal defense and rural legal aid, largely ignoring the specific commercial and legal needs of micro and small manufacturing units.[51]

ii) **Procedural and Administrative Barriers:** Initiating statutory ADR under the MSMED Act is highly administrative and complex. Filing a claim on the MSME Samadhaan portal requires rigorous documentation, including a valid Udyam Registration, purchase orders, sworn affidavits, invoices, and complex interest calculation sheets. Because many informal micro-enterprises do not maintain structured documentation, their claims are often rendered procedurally defective at the screening stage. Additionally, Micro and Small Enterprises Facilitation Councils (MSEFCs) are massively overburdened. As of December 2025, over Rs. 22,096 crore from 2,56,892 delayed payment cases remained unresolved, entirely defeating the statutory mandate that references must be decided within 90 days.[52]

iii) **Institutional Capacity and Infrastructure:** There is a critical shortage of specialized ADR infrastructure in India's primary textile hubs. Complex textile disputes regarding fiber quality, moisture regain, and contractual tolerances require mediators and arbitrators with deep industry expertise. However, court-annexed mediation panels are largely dominated by generalist legal practitioners who lack technical familiarity with the textile value chain. Moreover, ADR[53] institutions are geographically concentrated in tier-1 metropolitan cities, forcing small manufacturers from semi-urban hubs to incur high travel costs and operational disruptions to attend hearings.

iv) **Coordination Between Institutions:** The statutory framework is plagued by jurisdictional overlaps. Under Section 18 of the MSMED Act, the MSEFC must initially conduct conciliation, and if it fails, either take up arbitration itself or refer the dispute to an external institution. This creates a "dual-role challenge" that directly conflicts with Section 80 of the Arbitration and Conciliation Act, 1996, which prohibits a conciliator from acting as an arbitrator in the same dispute. This jurisdictional tension has resulted in conflicting Supreme Court interpretations—

[51] National Legal Services Authority (NALSA), Annual Report 2024-25 (NALSA, New Delhi, 2025).
[52] The Micro, Small and Medium Enterprises Development Act, 2006, s. 18(5).
[53] Law Commission of India, Report No. 222: Need for Justice-dispensation through ADR etc. (2009).

such as *Jharkhand Urja*[54] versus *Gujarat State Civil Supplies*[55][56][57]—leading to frequent writ challenges that cause significant litigation delays and undermine the efficiency of the statutory ADR process.

Four key rulings shape MSME dispute resolution. **TANCEM v. MSEFC (2025)**[56] referred the conflict over the MSEFC acting as both conciliator and arbitrator to a five-judge Constitution bench. **ONGC v. Afcons (2022)**[57]increased financial burdens by mandating separate arbitrator fees for claims and counterclaims. **Raka Cycle v. Atlas Cycles**[58] protected suppliers by strictly enforcing the rule that buyers must raise quality objections within 15 days of delivery. Finally, **India Glycols v. MSEFC**[59] barred writ petitions, forcing parties into statutory appeals requiring a rigid 75% upfront deposit—a rule also under Supreme Court review.

Chapter 6: Lok Adalats and Mediation as Access-Enhancing Mechanisms

This chapter explores how these alternative frameworks offer vital, cost-effective, and relationship-preserving remedies for financially constrained textile MSMEs compared to traditional litigation.

i) **Lok Adalats: The Cost-Free Forum:**[60] Operating under the Legal Services Authorities Act, 1987, Lok Adalats issue final, binding, and non-appealable awards that carry the weight of a civil court decree. They are exceptionally suited for MSMEs because they charge zero court fees, refund prior court fees if a pending suit is settled, and allow for informal self-representation. In **Prasanth P. Kumar v. State of Kerala**[61]*,* the Kerala High Court affirmed that standard Lok Adalats possess unlimited pecuniary jurisdiction to record high-value commercial settlements. Additionally, Permanent Lok Adalats (PLAs) handle public utility disputes up to Rs. 1 crore. However, while National Lok Adalats resolve millions of cases annually, they predominantly handle routine, non-commercial issues—

[54] Jharkhand Urja Vikas Nigam Ltd. v. State of Rajasthan and Another, (2021) 4 SCC 209.
[55] Gujarat State Civil Supplies Corporation Ltd. v. Mahakali Foods Pvt. Ltd., (2023) 6 SCC 401.
[56] INSC 91.
[57] INSC 884.
[58] (2008) DLT 274 (Del HC).
[59] Civil Appeal No. 7491 of 2023 (arising out of SLP (C) No. 9899 of 2023), decided on Nov. 6, 2023 (SC).
[60] The Legal Services Authorities Act, 1987, ss. 19–22.
[61] WP(C) No. 39720 of 2023, decided on 9 April 2026 (Ker. HC).

such as traffic fines or basic banking defaults—rather than the complex supply-chain disputes typical of the textile sector.[62]

ii) **The Mediation Act, 2023 and PIMS:** The Mediation Act, 2023, significantly institutionalized mediation in India by ensuring that Mediated Settlement Agreements (MSAs), once registered, are legally binding and enforceable as court decrees. The Act guarantees confidentiality for all proceedings and enforces a strict 120-day completion deadline, which is extendable by a maximum of 60 days. Furthermore, Section 12A of the Commercial Courts Act requires mandatory Pre-Institution Mediation and Settlement (PIMS) for commercial disputes valued above Rs. 3 lakhs.[63]

iii) **Statistical Paradoxes and Ground-Level Efficacy**: Despite these robust statutory designs, the practical utilization of these mechanisms for commercial disputes reveals a stark gap between policy and reality. Data shows that the mandatory PIMS framework[64] has a dismal success rate of less than 2%. This high failure rate is driven by "non-starters," where parties treat mediation as a mere procedural checklist to reach the courts and fail to engage in meaningful negotiations. Conversely, courtannexed mediation programs boast impressive success rates of 56% to 66%. Unfortunately, civil court judges refer less than 5% of their dockets to these centers, and the vast majority of these referrals are for matrimonial disputes rather than commercial conflicts.[65]

Ultimately, while Lok Adalats and mediation provide structurally ideal pathways to bypass exorbitant arbitration costs and preserve long-term business relationships, their potential remains severely underutilized in the commercial textile sector[66].

Chapter 7: Reform Proposals and Doctrinal Recommendations

This chapter provides a comprehensive framework of legislative, institutional, and policy solutions designed to align commercial dispute resolution with the constitutional mandate of

[62] National Legal Services Authority, Annual Report 2024-25 (NALSA, New Delhi, 2025).
[63] The Mediation Act, 2023.
[64] Law Commission of India, Report No. 238: Amendments to the Arbitration and Conciliation Act, 1996 (2014).
[65] Ministry of Law and Justice, The Mediation Act, 2023: Statement of Objects and Reasons (Government of India, 2023).
[66] The Commercial Courts Act, 2015.

equal access to justice for India's textile MSMEs.

7.1 Legislative Reforms:

- **Expand Legal Aid:** Amend Section 12 of the Legal Services Authorities Act, 1987[67], to provide free legal aid[68] to MSMEs below a specific turnover threshold (e.g., Rs. 5 crore), thereby bypassing the "juridical entity exclusion".

- **Standardize ADR Clauses:** Mandate statutory contract templates for small suppliers that require 15 days of informal negotiation and 30 days of online mediation before initiating formal arbitration[69].

- **Resolve MSEFC Dual-Role:** Amend Section 18 of the MSMED[70]Act to explicitly separate conciliation and adjudicatory roles, mandating that failed conciliations be referred to independent, external arbitral institutions.

7.2 Institutional Reforms:

- **Specialized Textile ADR Cells:** Establish dedicated dispute resolution centers in major textile hubs (like Tiruppur, Surat, Coimbatore, and Ludhiana) staffed by mediators and technical experts who understand the industry.[71]

- **Low-Cost Arbitration for Small Claims:** Update the Arbitration Act to create a "microdispute slab" for claims under Rs. 10 lakh. This would cap arbitrator fees at a low, fixed rate and prevent them from charging separate fees for claims and counterclaims in the same dispute.[72]

7.3 Policy and Procedural Measures:

- **Digital Integration**: Link the MSME ODR portal with platforms like TReDS and GeM to automatically launch AI-guided mediation for payments delayed over 45 days.[73]

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[67] The Legal Services Authorities Act, 1987, s. 12.
[68] Constitution of India, art. 39A.
[69] The Arbitration and Conciliation Act, 1996, ss. 7, 11 and 30.
[70] The Micro, Small and Medium Enterprises Development Act, 2006, ss. 15–18.
[71] Ministry of Textiles, Government of India, Annual Report 2024–25 (Government of India, New Delhi, 2025).
[72] Law Commission of India, Report No. 246: Amendments to the Arbitration and Conciliation Act, 1996 (2014).
[73] The Micro, Small and Medium Enterprises Development Act, 2006, s. 18; The Arbitration and Conciliation Act, 1996, s. 80.

- **RAMP Synergy**: Use World Bank RAMP[74] funding to build local mediation centers in business clusters and manage legal risks.

- **Capacity Building**: NALSA[75]and industry groups should conduct local-language campaigns teaching MSME owners to correctly structure purchase orders and effectively use the ODR portal.

7.4 Doctrinal Justification:

Rooted in **Article 39A of the Constitution**, these reforms ensure that economic disability does not deny MSMEs equal access to justice. By lowering financial and institutional barriers, they fulfill the **MSMED Act's intent to protect small businesses' working capital[76]**, shifting the legal system from a hostile adversarial model to a supportive, relationship-preserving framework.

Chapter 8: Conclusion

The textile MSME sector occupies a vital position within the Indian economy, contributing significantly to industrial production, exports, employment generation, and regional development. Despite its economic importance, the sector remains highly vulnerable to a diverse range of disputes, including contractual disagreements, labour conflicts, intellectual property violations, and banking and credit-related challenges. Such disputes have far-reaching consequences, affecting not only the financial stability of individual enterprises but also the overall efficiency and competitiveness of the textile value chain.

This study demonstrates that while Alternative Dispute Resolution (ADR) mechanisms have evolved into an integral component of India's justice delivery system, their potential remains inadequately realized within the textile MSME sector. The constitutional commitment to access to justice, reflected in Article 39A and reinforced through statutory instruments such as the Arbitration and Conciliation Act, 1996, the Legal Services Authorities Act, 1987, and the Mediation Act, 2023, provides a strong legal foundation for the promotion of ADR. Mechanisms such as arbitration, mediation, conciliation, and Lok Adalats offer significant

[74] Ministry of Micro, Small and Medium Enterprises, Raising and Accelerating MSME Performance (RAMP) Programme (Government of India, 2022).
[75] National Legal Services Authority, Annual Report 2024–25 (NALSA, New Delhi, 2025).
[76] *Supra 74*.

advantages over conventional litigation by reducing costs, minimizing delays, preserving business relationships, and ensuring greater procedural flexibility.

However, the findings reveal that access to ADR for textile MSMEs is constrained by substantial financial and institutional barriers. High arbitration costs, documentation requirements, procedural complexities, limited legal awareness, inadequate institutional infrastructure, and jurisdictional ambiguities significantly reduce the effectiveness of existing dispute resolution mechanisms. The overburdening of Micro and Small Enterprises Facilitation Councils, the shortage of industry-specific ADR expertise, and the concentration of dispute resolution institutions in metropolitan centres further compound these difficulties. Consequently, many MSMEs continue to experience prolonged disputes that undermine their liquidity, operational continuity, and growth prospects.

At the same time, the study highlights the transformative potential of mediation and Lok Adalats as accessible and cost-effective alternatives. Their emphasis on consensual settlement, confidentiality, and relationship preservation aligns particularly well with the needs of small enterprises operating within interconnected supply chains. Nevertheless, low awareness levels, weak referral practices, and limited commercial utilization have prevented these mechanisms from achieving their full potential.

The proposed reforms underscore the need for a comprehensive and coordinated approach. Legislative amendments expanding legal aid eligibility, clearer statutory frameworks governing MSME dispute resolution, specialized textile ADR centres, affordable arbitration structures, digital dispute resolution platforms, and sustained capacity-building initiatives can collectively enhance accessibility and efficiency. Such measures would not only reduce the economic burden of disputes but also strengthen confidence in formal dispute resolution processes.

Ultimately, ensuring effective access to ADR for textile MSMEs is not merely a matter of procedural reform; it is a question of economic justice and sustainable industrial development. By removing financial and institutional barriers and fostering a more inclusive dispute resolution ecosystem, India can better protect the interests of its textile MSMEs, enhance business continuity, and fulfill the constitutional objective of ensuring equal access to justice for all stakeholders in the economy.