

GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
DEPARTMENT OF LEGAL AFFAIRS

LOK SABHA
UNSTARRED QUESTION NO. 981
TO BE ANSWERED ON FRIDAY, THE 8th DECEMBER, 2023

Alternative Dispute Resolution System

- 981.** SHRI SANJAY BHATIA:
SHRI ANIL FIROJIYA:
SHRI DURGA DAS (D.D.) UIKEY:
SHRI DILIP SAIKIA:
SHRI KUNWAR PUSHPENDRA SINGH CHANDEL:
SHRI PRATHAP SIMHA:
SHRI RANJEETSINGH NAIK NIMBALKAR:

Will the Minister of **LAW AND JUSTICE** be pleased to state:

- (a) the details of initiatives undertaken by the Government in the realm of alternative dispute resolution mechanisms/system over the past decade;
- (b) the key/main provisions of the India International Arbitration Centre Act, 2019 and the Mediation Act, 2023; and
- (c) the evaluation/assessment of the potential impact of these measures and legislations on improving the ease of conducting business and reducing case backlogs in traditional courts?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE
MINISTRY OF LAW AND JUSTICE; MINISTER OF STATE IN THE
MINISTRY OF PARLIAMENTARY AFFAIRS; AND MINISTER OF
STATE IN THE MINISTRY OF CULTURE
(SHRI ARJUN RAM MEGHWAL)**

- (a) During the past decade, the Government of India has taken various initiatives in the realm of Alternative Dispute Resolution (ADR) mechanisms/system. The Government is promoting ADR mechanisms including arbitration and mediation as these mechanisms are less adversarial and are capable of providing a better substitute to the conventional methods of resolving disputes. Various initiatives have been taken to strengthen these mechanisms and

make them user friendly, cost effective and expeditious. Some of the major initiatives over the years in this regard include:-

The Arbitration and Conciliation Act, 1996 has been progressively amended in the years 2015, 2019 and 2021. These amendments aim at ensuring timely conclusion of arbitration proceedings, neutrality of arbitrators, minimizing judicial intervention in the arbitral process and quick enforcement of arbitral awards. The amendments are further aimed at promoting institutional arbitration, updating the law to reflect best global practices and resolve ambiguities thereby establishing an arbitration ecosystem where arbitral institutions can flourish.

The India International Arbitration Centre Act, 2019, was enacted to provide for the establishment and incorporation of the India International Arbitration Centre (Centre) for the purpose of creating an independent, autonomous and world class body for facilitating institutional arbitration and to declare the Centre to be an institution of national importance. The Centre shall be providing world class arbitration related services at its facilities in a cost effective manner for both domestic and international commercial disputes, including reputed empaneled arbitrators and requisite administrative support for the smooth conduct of arbitral proceedings.

The Commercial Courts Act, 2015 was amended in the year 2018 to provide for Pre-Institution Mediation and Settlement (PIMS) mechanism. Under this mechanism, where a commercial dispute of specified value does not contemplate any urgent interim relief, the parties have to first exhaust the mandatory remedy of PIMS before approaching the Court. This is aimed at providing an opportunity to the parties to resolve the commercial disputes through mediation.

The Mediation Act, 2023, enacted recently, lays down the legislative framework for mediation to be adopted by disputing parties, especially institutional mediation where various stakeholders have been identified to establish a robust and efficacious mediation ecosystem in India.

(b) The key/main provisions of the India International Arbitration Centre Act, 2019 *inter-alia* include provisions relating to establishment of the Centre as an institute of national importance for domestic and international arbitration; composition of the Centre; objects and functions of the Centre; finance accounts and audit of the Centre; setting up a Chamber of Arbitration, which would empanel professional arbitrators at national and international level; setting up an Arbitration Academy to train arbitrators in India, to compete on par with reputed global arbitral institutions and power to make rules and regulations for the Centre.

The key/main provisions of the Mediation Act, 2023 *inter-alia* include provisions relating to voluntary pre-litigation mediation in matters of civil or commercial dispute before parties approach a court or Tribunal; matters or disputes not fit for mediation, process of mediation to be completed within a maximum period of 180 days; procedure for appointment of mediator and conduct of mediation; functions of Mediation Service Providers and Mediation Institutes; Mediated Settlement Agreement resulting from mediation being final, binding and enforceable in accordance with the provisions of Code of Civil Procedure, 1908, in the same manner as if it were a judgment or decree of a Court; challenge to Mediated Settlement Agreement to lie on limited grounds of fraud, corruption, impersonation etc.; community mediation for reference of disputes with consent of parties which are likely to affect peace,

harmony and tranquillity amongst the residents or families of any area or locality; online mediation; establishment of the Mediation Council of India and power to make rules and regulations *inter-alia* for conduct of mediation.

(c) The basic premise of using ADR mechanisms for resolution of disputes is to reduce the burden on the judiciary and thereby enable timely justice dispensation to the parties. A time line to the conclusion of disputes has been prescribed in the respective Acts. The legislative reforms with respect to the Arbitration and Conciliation Act, 1996 have facilitated the minimization of court-intervention in arbitration, emergence of pro arbitration judiciary and timely and cost effective settlement of commercial disputes thereby enabling ease of conducting business. The Mediation Act, 2023 is expected to be a pivotal legislative intervention towards providing standalone law on mediation and enabling the growth of a culture of amicable settlement of disputes out of court and the outcome being party driven.