

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

LOK SABHA

UNSTARRED QUESTION NO.1564
TO BE ANSWERED ON WEDNESDAY, THE 28TH JULY, 2021

ALTERNATE DISPUTE REDRESSAL SYSTEM

1564. SHRI N.K. PREMACHANDRAN:

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

- (a) Whether the Government proposes to promote Alternate Dispute Redressal System than the traditional court system;
- (b) If so, the details thereof and the reason therefor;
- (c) The details of the action taken by the Government to promote the Alternate Dispute Redressal System during the last six years;
- (d) Whether it is very difficult to execute the orders of the Alternate Disputes Redressal System;
- (e) If so, the action taken for the execution of orders passed by the various Alternate Dispute Redressal System;
- (f) Whether persons without legal knowledge and legal education are appointed as presiding officer in the Alternate Disputes Redressal System; and
- (g) If so, the action taken for ensuring appointment of persons with legal background as presiding officer in Alternate Disputes Redressal System?

ANSWER

**MINISTER OF LAW AND JUSTICE
(SHRI KIREN RIJJU)**

(a): Yes, the Government is promoting the Alternate Dispute Redressal System to supplement the traditional court system.

(b):To promote Alternate Dispute Redressal System in India the Arbitration and Conciliation Act 1996 was enacted to consolidate the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected thereto. The above Act has been amended thrice in 2015, 2019 and 2020 to further improve the arbitration process. The NDIAC Act 2019 has also been enacted for setting up of the New Delhi International Arbitration Centre. The Government of India is promoting Alternate Dispute Redressal System as it is time bound, simpler, more convenient, and less expensive compared to the traditional court system.

(c):As per amendments carried out in the Arbitration and Conciliation Act, 1996, faster timelines have been provided to make the arbitration process more effective, the appeal process has been made time bound, provisions have been made for fast track settlement of arbitration disputes and it has been ensured that the process doesn't become very expensive.

The Government has also enacted the NDIAC ACT 2019 which provides for setting up of the New Delhi International Arbitration Centre, as a Centre of National Importance, with a view to make it a preferred seat for domestic as well as International Commercial Arbitration.

Commercial Courts Act, 2015 has also been amended in 2018 to provide for the resolution of disputes through pre institution mediation and settlement (PIMS) mechanism. According to section 12A of the Commercial Courts Act, 2015 the settlement agreement reached through the pre institution mediation and settlement (PIMS) mechanism have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996.

(d) to (e): Section 36(1) of the Arbitration and Conciliation Act, 1996 provides for the enforcement of Arbitral Award where the time for making an application to set aside the arbitral award under section 34 has expired. The award thereafter shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the court. Further, section 34(6) of the Act provides that the application for setting aside the Award shall be disposed of expeditiously and in any event, within a period of one year from the date on which the notice, under section

34(5), of filing of application for setting aside of award is issued to the other party.

Further, section 74 of the Arbitration and Conciliation Act, 1996 provides that settlement agreement reached through the process of conciliation shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under section 30.

(f) to (g): The alternative dispute resolution (ADR) mechanisms do not prescribe that persons without legal knowledge and legal education cannot be appointed as presiding officer. These are informal process and the appointment of presiding officer is done as per the principle of party autonomy.
