

Comparative Analysis of Lok Adalat and permanent Lok Adalat

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Introduction

One of the alternative methods for settling disputes is Lok Adalat, it is a medium for the amicable resolution of legal issues that are pending before court or in the preliminary stages of litigation. Legal Services Authority Act, 1987, confers Lok Adalats a statutory power under Section 19 and NALSA, together with other Legal Services Institutions, conducts Lok Adalat. Lok Adalats are one of the most important facets of the ADR system that operates in India as the disputes are resolved through conciliation method. The Legal Service

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Authority Act² states that the awards passed by Lok Adalat are final and binding on both parties since they are regarded to be a civil court's judgement.

Permanent Lok Adalat is one of the kinds of Lok Adalat that is established under Section 22-B of The Legal Services Authorities Act, 1987³. It provides a compulsory pre-litigation process for settlement of issues relating to Public Utility Services such as transportation, postal service, telegraph, etc., Permanent Lok Adalats have been established as permanent institutions. The Lok Adalat can conduct proceedings as it thinks fit, by considering the case particulars, the interest of the parties (such as those for oral declarations, a fast resolution of disputes, etc.), and other relevant factors. Chairman and two members comprise the composition of Permanent Lok Adalat. If the parties are not able to come to an agreement and if the issue does not amount to a criminal offence, then the Permanent Lok Adalat will have jurisdiction to decide the

² The Legal Services Authority Act, 1987, S. 21 (2), No. 39, Act of Parliament, 1987.

³ The Legal Services Authority Act, 1987, S. 22-B, No. 39, Act of Parliament, 1987

matter and the pecuniary limit is Up to Rs 1 crore. The Permanent Lok Adalat's decision is final and enforceable against both parties⁴.

History of Lok Adalat –

Traditional Indian culture and social life are not unfamiliar to the idea of amicable dispute resolution. Seats were made available for immediately settling disputes in rural regions by Nyaya Panchayats and Gram Panchayats. Traditionally, any criminal or civil disagreement would be settled within the village. Elders from the village, the caste, or the family would help in the process.

The establishment of Lok Adalats marked a turning point in the nation's legal system and was effective in offering victims of injustice a second platform for amicably settling their issues. This technique, that is a part of ADR systems, is founded on Gandhian principles. The government established Lok Adalat (called the people's courts), to adjudicate disputes by using ideals of justice, equity, and fair

⁴ Permanent Lok Adalat (2019) National Legal Services Authority!
Available at: <https://nalsa.gov.in/lok-adalat/permanent-lok-adalat>
(Accessed: December 6, 2022).

treatment as the guiding principles for judgments depending on settlements to be made before such Adalats.

In Gujarat, the Lok Adalats camps were first established in 1982. The first Lok Adalat was held in Junagarh on March 14, 1982. The Lok Nyayalaya was formed in Maharashtra in 1984. The movement has since spread across the entire nation. These camps were solely established in order to provide relief to litigants and to address the issue of pending cases⁵.

As stated in Article 39-A of the Indian Constitution, Lok Adalats were given legal status with the enactment of the Legal Services Authorities Act, 1987. It has a number of clauses that enable disputes to be resolved by Lok Adalat. The Act requires the formation of Lok Adalats to ensure that the administration of justice advances equality of opportunity. When Lok Adalat received statutory status, it was specified that the award passed specifying the parameters of

⁵ Zainulbhai, T. (2016) Justice for All: Improving the Lok Adalat System in India, Fordham International Law Journal - Fordham University. (Accessed: December 6, 2022), Available at: <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2422&context=ilj>.

settlement would have the same legal value as of an order of the court and be enforceable as a civil court order. The establishment of the Lok Adalat movement was an aspect of a plan to relieve the courts of the tremendous burden of unresolved cases and to provide relief to the litigants waiting in line for justice.

Need For Lok Adalats -

Justice Ramaswamy says: “Resolving disputes through Lok Adalat not only minimizes litigation expenditure, it saves valuable time of the parties and their witnesses and also facilitates inexpensive and prompt remedy appropriately to the satisfaction of both the parties”

Indian court system basically struggles with four issues:

- There are insufficient courts and judges at all levels.
- Recent decades have witnessed a rise in the number of cases filed as a consequence of multiple statutes enacted by the union and state governments.
- cost relating to prosecution or defence is high, due to expensive court fees, advocate fees, and other expenses.
- Cases not being resolved quickly, causes huge pendency in all courts.

The legal system benefits from the involvement of Lok Adalat. It supports the courts' work and efforts. The area of participation chosen for the work focuses on and aids the general public, the underprivileged, the socially backward, and the most in needy segments of society⁶.

Procedure -

If a matter is pending before the court and is referred to Lok Adalat where it is subsequently settled, the court fee that was initially paid by the parties where the matter was first instituted is reimbursed to the parties. In Lok Adalat, there is no court fee charged when a matter is placed before them. The people who decide cases in Lok Adalats are known as Members of the Lok Adalats; they can act only as

⁶ Kukreja, M. (2019) An analysis of Lok Adalat in India, Journal JETIR follow UGC CARE List, UGC-CARE journal, ugc care, ugc care approved list, ugc approved journal, ugc care Journal, UGC-CARE, UGC Approved UGC CARE, UGC-CARE, UGC Approved List of Research Journal, ugc approved journal, research journal. Journal of Emerging Technologies and Innovative Research (JETIR) www.jetir.org. Available at: <https://www.jetir.org/papers/JETIREW06077.pdf> (Accessed: December 6, 2022).

statutory conciliators and have no judicial authority; as a result, they can only convince the parties to reach an agreement for settlement of dispute and are not permitted, directly or indirectly to pressurize any party to compromise or settle the matters. The Lok Adalat cannot decide a matter that has been raised at its own discretion; rather, the matter will be resolved based on an agreement or compromise reached by the parties. The members shall assist the parties in an unbiased and independent manner to reach a peaceful settlement.

Nature of cases to be referred to Lok Adalat –

According to Section 18(1) of the Act, a Lok Adalat has the authority to decide and reach an agreement between the parties to a dispute regarding:

- (1) Any case that is currently pending; or
- (2) Any matter that is within the scope of Lok Adalat, but is not brought before, any court.

Provided that the Lok Adalat shall have no jurisdiction in respect of matters relating to divorce or matters relating to an offence not compoundable under any law.

Process for referring cases to the Lok Adalat -

Upon receiving a request from one of the parties at the pre-litigation stage, the State Legal Services Authority or District Legal Services Authority, depending on the circumstances, may refer the matter to the Lok Adalat for an amicable resolution of the dispute, for which notice would then be given to the opposing party.

Composition of the Lok Adalat -

Lok Adalat comprises of Members who are the individuals who make decisions. Every Lok Adalat established for a region must have a chairman who is a sitting or retired judicial officer, along with two additional members who is an advocate and another being a social worker (a person working for the upliftment of the society).

Levels and Composition of Lok Adalats -

1. At the state authority level, the Member Secretary of the State Legal Services Authority coordinating the Lok Adalat would set up benches of the Lok Adalat, each bench consisting of a High Court judge who is currently serving or has recently retired, a judicial officer who is currently serving or has recently retired, and either one or both of the following: a member of the legal profession; a social worker showing an interest in the execution of legal services schemes or programmes.
2. At the High Court Level, the Secretary of the High Court Legal Services Committee would set up benches of the Lok Adalat, each bench consisting of a sitting or retired High Court judge, a member of the legal profession, or both; a social worker involved in the execution of legal services schemes or programmes.
3. At the district level, the Secretary of the District Legal Services Authority would set up benches of the Lok Adalat, each bench consisting of a sitting or retired judge, any one or both of a member of the legal profession, and/or a social worker who is interested in implementing legal services schemes or programmes, or a person engaged in paralegal activities of the district legal services authority.

4. At the Taluk level, the Secretary of the Taluk Legal Services Committee, which is trying to organize the Lok Adalat, will set up benches of the Lok Adalat, each bench composed of a sitting or retired judge, any one or both of a member of the legal profession, a social worker dedicated to implementing legal services schemes or programmes and involved in betterment of the weaker sections, or a person involved in paralegal activities local to the area⁷.

Cases Suitable for Lok Adalats -

Lok Adalats has power or jurisdiction to deal with cases such as:

- Compoundable civil, revenue and criminal cases.
- Motor accident compensation claims cases.
- Partition Claims · Damages Cases.
- Matrimonial and family disputes.
- Mutation of lands case.
- Land Pattas cases.
- Bonded Labour cases.

⁷ Lok Adalat (2019) National Legal Services Authority! Available at: <https://nalsa.gov.in/lok-adalat> (Accessed: December 6, 2022).

- Land acquisition disputes.
- Bank's unpaid loan cases.
- Arrears of retirement benefits cases.
- Family Court cases and cases which are not subjudice.

Permanent Lok Adalat -

In order to institutionalise the Lok Adalats by giving them a permanent body to resolve disputes about public utility services, the Parliament amended the Legal Services Authorities Act, 1987 in 2002. For the purpose of resolving matters relating to public utility services, the Central or State Authorities may, by notification, constitute Permanent Lok Adalats at any districts.

Public Services include:

1. Transport service
2. Postal, telegraph or telephone services
3. Supply of power, light and water to public
4. System of public conservancy or sanitation
5. Insurance services and such other services as notified by the Central or State Governments
6. Service in hospitals or dispensary
7. Education or educational institutions

8. Housing and Real Estate Services. (Notification No.SO495(e), dated 16.02.2016 of Ministry of Law and Justice, Department of Justice.)⁸

The same authority that Lok Adalats have is also granted to permanent Lok Adalats. Any decision or order within the ambit of the Constitutional and statutory authority may be rendered by the Permanent Lok Adalat. The concepts of natural justice, impartiality, fairness, integrity, and other principles of justice are utilised throughout the conciliation proceedings or while settling an issue. In this case, even if the parties are unable to reach a compromise, the permanent Lok Adalat has the authority to decide the dispute, provided that no criminal offense is involved in it. For both parties, the Permanent Lok Adalat's decision is final and irrevocable. Neither the Indian Evidence Act of 1872 nor the Code of Civil Procedure of 1908 is binding on the Permanent Lok Adalat. It has powers similar to that of the civil courts.

⁸ Official website of District Court of India (no date) Home/District Court in India. Available at: <https://districts.ecourts.gov.in/> (Accessed: December 6, 2022).

Composition of Permanent Lok Adalat -

It comprises of a chairman, who is a retired or sitting Sessions or District Judge, or any other higher-ranking judicial officer along with two other persons who perform duties that are of a judicial nature.

The Supreme Court of India held in *S.N. Pandey v. Union of India (2012)*⁹, that those selected to the Permanent Lok Adalats must have a significant level of honesty, ethics, and the appropriate experience. The court further concluded that relevant regulations and guidelines must be developed in this regard if they haven't previously been established.

States like Andhra Pradesh, Punjab, Rajasthan, Kerala, Haryana, Delhi, and Uttar Pradesh have setup Permanent Lok Adalats.

The governments of Bengaluru, Belagavi, Dharwad, Kalaburagi, Mysore, and Mangaluru each have one Permanent Lok Adalat. The formation of Permanent Lok Adalats is undoubtedly beneficial for

⁹ S.N Pandey v. Union of India, (2012) 8 SCC 261

the rapid and cost-free resolution of issues involving public utility services.¹⁰

Other types of Lok Adalat-

1. National Level Lok Adalats, are held on a single day in all courts across the nation, starting from the highest court that is the Supreme Court to the Taluk Levels and are used to dispose of a large number of cases. National Level Lok Adalats are held on a regular basis. Nationwide Lok Adalats on a particular subject is held every month since February 2015.

2. In order to facilitate the dispute resolution through this process, mobile Lok Adalats are also established around the nation and move from one place to another to settle disputes.

Differences between Lok Adalat and Permanent Lok Adalat-

1. Jurisdiction - The Lok Adalat has the authority to intervene in any legal matter that is currently before a court or that is likely to be filed before a court hereafter. Only cases concerning public utility

¹⁰ Permanent Lok adalat (no date) Karnataka State Legal Services Authority. Available at: <https://kslsa.kar.nic.in/pla.html> (Accessed: December 6, 2022).

services, such as transportation, postal, telegraph, sanitation, banking, education, dispensary, power, light, and water, as well as insurance, housing, and real estate, can be heard by the Permanent Lok Adalat. The Permanent Lok Adalats' pecuniary jurisdiction has been extended from Rs. 10 lakhs to Rs. 1 crore.

While Lok Adalats have competence over both pending and pre-litigation problems, Permanent Lok Adalats exclusively have pre-litigation issues under their purview.

2. Settlement: Conciliators, who have no judicial authority and who can only convince the parties to settle their differences, are employed to resolve disputes before Lok Adalats. This is a significant flaw in the Lok Adalat system because it prevents conciliators from making decisions without the parties' consent. If the parties are unable to reach an agreement, disputes may be settled through conciliation. If this is unsuccessful, Permanent Lok Adalats have the exclusive power to decide the case but only if it is unrelated to any compoundable offence. Permanent Lok Adalats serve as arbitrating and conciliation bodies.

3. Appeal: According to the Legal Services Authorities Act, an award passed by Lok Adalat is regarded as a civil court judgement, and an

appeal against such decisions is not permitted. The parties are not permitted to appeal the Lok Adalats' decisions, but they do have the option to go to the proper court and initiate a new civil lawsuit if they are dissatisfied with the judgment.

The Hon'ble Supreme Court held in the case of *Bar Council of India v. Union of India*, (2012)¹¹ that awards passed by Permanent Lok Adalat cannot be appealable since they are special tribunals set up with the goal of quickly settling public utility disputes in order to prevent unnecessary continuation of the awards. Under Articles 226 and 227 of the Indian Constitution, the parties may file a petition before the High Court if they are aggrieved by the judgement¹².

4. Lok-Adalat is temporary in nature, but Permanent Lok-Adalat is Permanent in nature.

¹¹ Bar Council of India v. Union of India, (2012) 8 SCC 243

¹² Somani, R. (no date) comparison between Lok Adalat and Permanent Lok Adalat, white code VIA Mediation & Arbitration Centre. Available at: <https://viamediationcentre.org/readnews/ODUz/COMPARISON-BETWEEN-LOK-ADALATS-AND-PERMANENT-LOK-ADALATS> (Accessed: December 7, 2022).

5. Even before matter is brought before any Court, any Party to the dispute may submit an application to the Permanent Lok-Adalat for resolution of the matter. A case that is pending in court may be referred to Lok Adalat if it is not unlawful.

6. Permanent Lok Adalat is functional every day. However, Lok Adalat is held only on Saturdays and Sundays¹³.

Yearly data –

Lok Adalat – Annual Lok Adalat records show that, as of September 30, 2015, more than 15.14 lakh Lok Adalats were organised nationwide. By using this mechanism, more than 8.25 crore cases have already been resolved¹⁴.

The mega Lok Adalat held on December 19, 2020, witnessed a record of 2,61,882 cases resolved in a single day, setting a new record for the High Court of Karnataka and the Karnataka State Legal

¹³ Sharma, M. and Siddiqui, L. (2022) *Lok Adalat and permanent Lok Adalat, Legal Readings*. Available at: <https://legalreadings.com/lok-adalat/> (Accessed: December 6, 2022).

¹⁴ Lok Adalat (2019) National Legal Services Authority! Available at: <https://nalsa.gov.in/lok-adalat> (Accessed: December 6, 2022).

Services Authority (KSLSA). In addition to this apart from the High Court, this has led to a 12.17% decrease in the number of litigations before courts in taluks and districts¹⁵.

On December 19, 2020, 3,095 partition-related cases were successfully settled.

Under the direction of Judge U.U. Lalit, NALSA in the Fourth National Lok Adalat resolved almost 29 lakh cases in a single day. On December 11 in 35 States and UTs, it was held virtually and in a hybrid mode¹⁶.

Permanent Lok Adalat – April 2015 and March 2016: 1,03,559 cases were resolved¹⁷.

¹⁵ Correspondent, S. (2020) *Lok Adalat creates history by settling 2.61 lakh cases in Karnataka, Return to frontpage*. Available at: <https://www.thehindu.com/news/national/karnataka/lok-adalat-creates-history-by-settling-261-lakh-cases-in-karnataka/article33388859.ece> (Accessed: December 6, 2022).

¹⁶ Network, L.N. (2021) Fourth national Lok Adalat, 2021: Over 29 Lakhs Cases Disposed in a single day, Live Law. Live Law. Available at: <https://www.livelaw.in/news-updates/fourth-national-lok-adalat-2021-29-lakh-cases-disposed-in-a-day-national-legal-services-authority-187445> (Accessed: December 6, 2022).

¹⁷ Permanent Lok Adalat (2019) National Legal Services Authority! Available at: <https://nalsa.gov.in/lok-adalat/permanent-lok-adalat> (Accessed: December 6, 2022).

2018 to 2019: 4014 cases were solved in Karnataka. In total, 102625 cases were resolved across all states during the year.

April 2021 to September 2021: In Karnataka, 1854 cases were settled, in total 50519 matters were resolved.

April 2022 to September 2022: 2934 applications were received; of those, 2137 cases were solved in Karnataka and 70826 cases were resolved nationwide¹⁸.

*InterGlobe Aviation Ltd v. N. Satchidanand, (2011)*¹⁹.

It was held that, the Permanent Lok Adalat is an alternative dispute resolution (ADR) mechanism that is diverse in nature, which has both adjudicatory and non-adjudicatory significance, and provides an alternative to the traditional system of court proceedings while liberating the general public from the system's rigidity and complexity. A permanent Lok Adalat is a special tribunal that is not a court and whose decisions cannot be appealed indefinitely. The Permanent Lok Adalats were granted jurisdiction by the Parliament

¹⁸ Permanent Lok Adalat, April 2022 to September 2022 (2022) National Legal Services Authority! Available at: <https://nalsa.gov.in/statistics/permanent-lok-adalat-report/permanent-lok-adalat-april-2022-to-september-2022> (Accessed: December 7, 2022).

¹⁹ *InterGlobe Aviation Ltd v. N. Satchidanand, (2011) 7 SCC 463.*

to decide cases on their merits, and as a result, the Supreme Court held that the body has adjudicative authority.

*In Ram Niwas v. D.D.A., (2007)*²⁰,

It was held that according to the Legal Services Act, 1987, the permanent Lok Adalat is a statutory authority, therefore, its decision must be acknowledged.

Validity of award passed by permanent –

*M/S M.R. Mittals Infratech Pvt. vs Permanent Lok Adalat and 02 Others, (2019)*²¹

Court after applying the principle of interpretation of statute, after going through the statutory provisions of the Act, 1987 and Rules 2003, arrived at a conclusion that for passing a valid award, it is must see to that the "sitting" by the Permanent Lok Adalat is convened by the Chairman. In absence of the Chairman, it was not possible for the two non-judicial members to convene "sitting" or "meeting" for making an award. For transaction of its business or making of award,

²⁰ Ram Niwas v. D.D.A., AIR 2007 Delhi 115

²¹ M/S M.R. Mittals Infratech Pvt. vs Permanent Lok Adalat and 02 Others, 2019 Latest Caselaw 402 ALL

it is necessary that a "meeting" or "sitting" of the Permanent Lok Adalat comprising of all the members, under the Chairmanship of the judicial member, is convened, for adjudication of the dispute brought before it or making of a valid award under Section 22-E (3) of the Act, 1987. The fact that the Chairman was not present in the meeting is evident from the award itself.

Therefore, the award dated 3.10.2018 was set aside. The Permanent Lok Adalat remitted the case back for fresh consideration of the claims on merits by holding a "sitting" in view of the observations made.

Award passed by LOK ADALAT cannot be considered as precedents

In a significant decision, the Supreme Court determined that Lok Adalats are not courts because they do not use judicial adjudication to settle disputes and the settlement decrees cannot be referred as precedents in legal proceedings by parties who were not involved in the settlement reached before the Lok Adalat.

*Canara Bank vs GS Jayarama, 2022*²²,

Supreme court observed that, the Legal Services Act of 1987 empowers the Permanent Lok Adalats with adjudicatory powers, and as a result, the Permanent Lok Adalats are empowered to settle a dispute on the merits. Conciliation proceedings under Section 22-C of the LSA Act are compulsory in nature, according to the majority opinion of the bench comprised of Justices DY Chandrachud and PS Narasimha. The permanent Lok adalat is required to comply with the procedures even if the opposing party is not present. Conciliation and settlement of conflicts involving public utility services are the primary objectives; a decision on the merits is always a last choice.

Conclusion:

Lok Adalat's and Permanent Lok Adalat's objectives are of utmost importance for the nation for a number of reasons, including the country's need for more expeditious and inexpensive solutions as well as simplified procedures and to settle the cases that are pending in the courts. This is accomplished by negotiations, conciliation, and

²² Canara Bank vs GS Jayarama, 2022 LiveLaw (SC) 499

by adopting a persuading logical thinking and empathetic attitude towards the issues between the parties. The Lok Adalat and Permanent Lok Adalat have received a considerable amount of trust and appreciation from the parties to a case as well as from the legal and government officials. Its process is discretionary and is based on the premise that parties to dispute are willing to settle them amicably.

At all three levels: pre-litigation, pending-litigation, and post-litigation - they can help resolve these problems more quickly and affordably. The implementation of this idea has been remarkably successful since both play a crucial role in promoting and upholding "equal access to justice," which is the core principle of the Indian Constitution.

Suggestion:

Many People in the rural as well as semi urban and urban are not so well aware of these institutional setups except the people in legal profession and people who are aware of the legal field. In order to bring to the knowledge of the people this alternative mechanism has to be promoted. And the statutes should make provisions to direct the

matters to these institutions (matters which have competence to be tried by these bodies). Setting up of permanent Lok Adalats help is reducing the major burden on the courts, there would be a segregation of matters and the process gets faster which in turn helps in gaining the trust of people on the judicial system, which is lacking at present due to prolongation of cases over period of years. Advocates and Judges have to make an effort to make the parties aware of the various alternatives available to settle disputes amicably between the parties. There are merits and demerits for every mechanism to say be it the normal adjudication as well as the alternative methods, but the Lok Adalat and Permanent Lok Adalats have helped in disposing matters speedily it also promotes amicable settlement which does not affect the party's relationship. As Permanent Lok Adalat has power to try only public utility service matters it would not affect the functioning of other courts as well.