

GIRLS' HIGH SCHOOL & COLLEGE , PRAYAGRAJ

SESSION – 2020 -2021

WORKSHEET – 5

CLASS 12 –D

LEGAL STUDIES

CHAPTER – DISPUTE RESOLUTION

TOPIC – DISPUTE RESOLUTION MECHANISIM

NOTE – - Parents please ensure that your ward refers to the textbook and websites to read the topic.

Reference -

Websites-1) www.legalservicesindia.com

2) <https://www.ebc-india.com?lawyer/articles/90v1a3htm>.

Book – CBSE, A text book of legal studies class 12 ,Oswal publication .

CHAPTER IN BRIEF- Overview of Court System in India:

Judicial System –The Indian System is one of the oldest legal systems in the world today as the part of the inheritance India received from the British after more than 200 years o their colonial rule , and the same is evident from the many similarities the Indian legal system shares with the English Legal System. The frame work of the current legal system has been laid down by the Indian Constitution and the judicial system derives its powers from it. The Constitution of India is the supreme law of the country , the fountain source of law in India which came into effect on 26th January ,1950 and is the world's longest written constitution. It not only laid the framework of Indian judicial system, but has also laid out the powers, duties , procedures and structure of the various branches of the government at Union and State levels. Moreover, it also has defined the fundamental rights and duties of the people and the directives principles which are the duties of the state. Inspite of India adopting the features of a federal system of government, the Constitution has provided for the setting up of a single integrated system of court to administer both Union and State laws. The Supreme Court is apex court of India , followed by the various High Courts at the state level which cater to one or more number of states . Below the High Courts exist the subordinate courts comprising of the District Courts at the district level and other lower courts.

Quasi-judicial bodies are such institutions which have power of enforcement of law but are not courts. These bodies can inquire, investigate, summon & award legal penalties to any administrative agency. Generally, these bodies have limited judiciary power in specialized areas

Functions:

- These bodies usually have powers of adjudication in such matters as: breach of discipline, conduct rules, trust in the matters of money or otherwise.
- Their powers are usually limited to a very specific area of expertise and authority, such as land use and zoning, financial markets, employment law, public standards, and/or a specific set of regulations of an agency.
- Due to specialized functions, they help in faster delivery of judgements.
- It Provides scope for specialization.
- They help reduce burden of cases on High courts and Supreme court.
- They are affordable, effective and more accessible for common man.
- They work on principles of Natural Justice and delivery of judgements often depend on pre-determined set of rules.
 - Examples:
 - 1.National Human Rights Commission
 - 2.State Human Rights Commission (established at each state)
 - 3 .Central Information Commission
 - 4.State Information Commission (established at each state)
 - 5.National Consumer Disputes Redressal Commission
 - 6.StateConsumer Disputes Redressal Commission (established at each state)
 - 7.Competition Commission of India
 - 8.Appellate Tribunal for Electricity
 - 9.Railway Claims Tribunal
 - 10.Income Tax Appellate Tribunal
 - 11.Intellectual Property Appellate Tribunal
 - 12.Central Excise and Service Tax Appellate Tribunal.

Revenue Court in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction

under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.

For example, in Uttar Pradesh, Section 4(16) of UP Revenue Code 2006 states that - “ ‘Revenue Court’ means all or any of the following authorities (that is to say) the Board and all members thereof, Commissioners, Additional Commissioner, Collectors, Additional Collectors, Assistant Collectors, Settlement Officers, Assistant Settlement Officers, Record Officers, Assistant Record Officer, Tahsildar and Naib Tahsildar;”

Tribunal – Tribunal is a quasi – judicial institution that is set up to deal with problems such as resolving administrative or tax-related disputes. It performs a number of functions like adjudicating disputes, determining rights between contesting parties . It performs a number of functions like adjudicating disputes, determining rights between contesting parties , making an administrative decision , reviewing an existing administrative decision and so forth.

- The term tribunal is derived from the word Tribunes , which means ‘ Magistrates of the classical Rome Republic’.
- Tribunal is referred to as the office of the Tribunes i.e a Rome official under the monarchy and the republic with the function of protecting the citizen from arbitrary action by the aristocrat magistrates.
- A Tribunal, generally , is any person or institution having an authority to judge , adjudicate on, or to determining claims or disputes- whether or not it is called a tribunal in its title.

PURPOSE OF ESTABLISHING TRIBUNALS-

- 1) CENTRAL ADMINISTRATIVE TRIBUNAL - The enactment of Administrative Tribunals Act in 1985 opened a new chapter in administering justice to the aggrieved government servants. It owes its origin to Article 323 A of the Constitution which empowers the Central Government to set up by an Act of Parliament, the Administrative Tribunals for adjudication of disputes and complaints with respective recruitment and conditions of service of persons appointed to the public services and posts in connection with the Union and the States.
- 2) STATE ADMINISTRATIVE TRIBUNAL-The State Administrative Tribunal (SAT) is an independent body that makes and reviews a range of administrative decisions. These range from reviews of multi-million dollar tax judgments and dog destruction orders to disciplinary proceedings, guardianship questions and town planning and compensation issues

The main objectives of SAT in dealing with matters within its jurisdiction are:

- To achieve the resolution of questions, complaints or disputes, and make or review decisions, fairly and according to the substantial merits of the case;

- To act as speedily and with as little formality and technicality as is practicable, and minimize the costs to parties; and
- To make appropriate use of the knowledge and experience of SAT members

DEBTS RECOVERY TRIBUNAL- Debt Recovery Tribunals also known as DRTs were created to facilitate the speedy recovery of debt payable to banks and other financial institutions by their customers. The banks and financial institutions had been facing problems in recovery of loans advanced by them to individual people or business entities. Due to this, the banks and financial institutions started restraining themselves from advancing out loans. There was a need to have an effective system to recover the money from the borrower.

The main objective and role of DRT is the recovery of funds from borrowers which is payable to banks and financial institutions. The Tribunal has all the powers vested with the District Court. The Tribunal also has a Recovery officer who guides in executing the recovery Certificates as passed by the Presiding Officers. DRT follows the legal procedure by emphasizing on speedy disposal of the cases and fast implementation of the final order.

NATIONAL GREEN TRIBUNAL IN INDIA -The National Green Tribunal is a statutory body. It was established in 2010 by the National Green Tribunal Act. The Principal Bench of the NGT has been established in the National Capital i.e. ½ New Delhi, with regional benches in Pune, Bhopal, Chennai and Kolkata. The Chairperson of the NGT is a retired Judge of the Supreme Court other judicial members are retired Judges of High Courts

Objectives of NGT

- To provide a specialized forum for effective and speedy disposal of cases pertaining to environment protection,
- Conservation of environmental laws.

OBJECTIVES OF GRAM NYAYALAYA – Gram Nyayalaya Act, 2008 is an act of Parliament of India enacted for establishment of Gram Nyayalayas or village courts for speedy and easy access to justice system in the rural areas of India. The Act came into force from 2 October 2009. However, the Act has not been enforced properly, with only 208 functional Gram Nyayalayas in the country (as of 03 September 2019) against a target of 5000 such courts. The major reasons behind the non-enforcement includes financial constraints, reluctance of lawyer, police and other government officials.

A Gram Nyayalaya have jurisdiction over an area specified by a notification by the state Government in consultation with the respective High Court.

They have both civil and criminal jurisdiction over the offences.

ALTERNATE DISPUTE RESOLUTION (ADR).

The concept of conflict Management through Alternative Dispute Resolution (ADR) has introduced a new mechanism of dispute resolution that is non adversarial. A dispute is basically “lis inter partes” (which means legal suits between the parties) and the justice dispensation system in India has found an alternative to Adversarial litigation in the form of ADR Mechanism.

ARBITRATION - At its core , arbitration is a form of dispute resolution. Arbitration is the private , judicial determination of a dispute , by an independent third party. An arbitration hearing may involve the use of an individual arbitrator or a tribunal. A tribunal may consist of any number of arbitrator though some legal systems insist on an odd number for obvious reasons of wishing to avoid a tie

General principles of arbitration are as follows:

- 1) The object of arbitration is to obtain a fair resolution of disputes by an impartial third party without unnecessary expense or delay.
- 2) Parties should be free to agree how their disputes are resolved and subject only to such safeguards as are necessary in the public interest.
- 3) Courts should not interfere.

BENEFITS OF ADR SYSTEM-

- It is less expensive
- It is less time consuming
- It is free from technicalities as in the case of conducting cases in law Courts.
- The parties are free to discuss their difference of opinion without any fear of disclosure of this fact before any law Courts.

Further still, the Civil Procedure Code (Amendment) Act 1999 carries Section 89 which is designed to enable the courts to bring about a settlement of dispute outside the court. As and when the Amendment comes to be enforced , the four methods listed in the section and known as court – ordered or court – annexed ADRs would become statutory alternatives to litigation for settlement of disputes and would be legally enforceable.

MEDIATION – Mediation , as used in law , is a form of Alternative Dispute resolution (ADR) , a way of resolving disputes between two or more parties with concrete effects. Typically , a third party or the mediator assist the parties to negotiate a settlement. Disputants may mediate disputes in a variety of domains, such as commercial , legal , diplomatic , workplace, community and family matters. Mediation is an effective way of resolving disputes without the need to go to court.

CONCILIATION- Conciliation is an alternative out – of- court dispute resolution instrument. Like mediation , conciliation is voluntary, flexible , confidential, and interest based process. The parties seek to reach an amicable dispute settlement with the assistance of the conciliator , who acts as a neutral third party. The main difference between conciliation and mediation proceedings is that , at some point during the conciliation , the conciliator will be asked by the parties to provide them with a non- binding settlement proposal. Mediator , by contrast in most cases refrain from making such a proposal.

LOK ADALAT- “while Arbitration and Conciliation Act ,1996 is a fairly standard western approach towards ADR. The Lok Adalat system constituted under National Legal Services Authority Act 1987 is a uniquely Indian approach” . It roughly means ‘People’s Court’. India has had a long history of resolving disputes through the mediation of village elders. The system of Lok Adalats is an improvement on that and is based on Gandhian principles. This is a non-adversarial system, where mock courts (called Lok Adalats) are held by the State Authority, District Authority, Supreme Court legal Services Committee, High Court Legal Services Committee or Taluk Legal Services Committee, periodically for exercising such jurisdiction

as they think to be fit. These are usually presided by retired judges, social activists , or members of legal profession. It does not have jurisdiction on matters related to non- compoundable offences.

ADVANTAGES OF LOK ADALAT –

- Conciliated settlement
- Solutions of family disputes
- Supplement to the work of courts
- Refundable expenses
- Less need of Advocates.

Answer in brief-

- 1) What is conciliation?
- 2) What is mediation ?
- 3) Explain in brief the system of quasi judicial system in India ?
- 4) Give two functions of Debt Recovery Tribunal ?
- 5) Distinguish between mediation , conciliation and arbitration ?
- 6) What is Lok Adalat ?
- 7) Explain the concept of Gram Nyayalaya ?
- 8) Explain briefly the Judicial System in India ?
- 9) What are administrative tribunals ?
- 10) Explain the concept of “Outside court settlement”

Answer in detail –

- 1) Explain Alternate Dispute Resolution (ADR) and give its type ?
- 2) Explain in brief the National Green Tribunal in India ?
- 3) Explain the tribunals and its purposes ?
- 4) What is state Administrative Tribunal ?