

constitutional rifts took place since then. What is needed is self introspectionism of both Parliament and Supreme Court of India to mitigate this misunderstanding. Accountability of a Judge and Parliamentarian is also essential in view of changing Socio, Economic and Religious conditions.

Time changes many things suiting the present prevalent socio, economic and religious condition of this country and it is time to introspect and implement the judgment in true letter and spirit of Law by Judges while selecting Judges to Constitutional Court since there is no accountability to Judges in our Constitution. What will be the advantage to the Nation if the appointment of Judges power is taken by the Executive or the Parliament is to be discussed now. Transparency in appointment of Judges is also necessary.

Whether the procedure for elections to the Houses, appointment of Executive and appointment of Cabinet Ministers and P.M. or C.M. in States has changed to suit the present trend and problems. It appears a close study of the Political News that there is no drastic or normal change in these procedures! Then what is the reason for curiosity in respect of diluting the power of Chief Justice of India in respect of

appointment of Judges is to be studied meticulously by our Law Makers, who don't have basic knowledge on the Constitution of India.

Involvement of prominent politicians in huge scams and economic offences has increased alarmingly in our country, what we need is to increase the number of Judges without delay for timely disposal of cases. This will help to maintain law and order properly. The ratio of Judges in India is very lesser than other countries. How backward we are; in providing speedy justice enshrined in the Constitution to citizens. Similarly the Top Court has to self introspect itself in discharging its Constitutional duties for transparency and to clarify the doubt in the mind of parliament *i.e.*, some thing is going contrary to the Constitution of India.

Here I would like to assert that nothing is wrong in Constitution of India; except drastic deterioration and changing the thoughts of individuals holding the charge powers in all the institutions. The colonial impact on our country is to be discarded and some changes are required to be done, it is advisable to form a team from parliament, judiciary and Executive for having a open discussion on these constitutional remedies to indicate about the integrity of the Nation.

## LOK ADALAT AND PERMANENT LOK ADALAT – DISTINCTION

*By*

**—T. MURALIDHAR, Chairman**  
Permanent Lok Adalat for Public Utility Services  
(District & Sessions Judge retired)  
Karimnagar

The object of the Legal Services Authorities Act, 1987 is to provide free and competent legal services to the weaker sections of the society apart from promoting legal awareness among the public by organising legal awareness camps and to

settle the disputes in respect of cases pending before Courts and also pre-litigative matters, in the sense that disputes which are not brought before any Court, by way of conciliation or compromise or settlement. Under the above Central enactment, National

Legal Services Authority, Supreme Court Legal Services Committee, State Legal Services Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluq/Mandal Legal Services Committees have been constituted for implementation of various provisions of the Act. One of the duties of the aforesaid Authorities/Committees is to organise Lok Adalats for settlement of post litigation disputes pending before the Courts as well as pre-litigative disputes by the members of the Lok Adalat by passing an Award which shall be deemed to be a decree of a civil Court, and final and binding on the parties to the dispute.

While so, the Central Government introduced Chapter VI-A by way of amendment, through Act 37 of 2002, with effect from 11.6.2002. Chapter VI-A consists of Sections 22-A to 22-E relating to pre-litigation, conciliation and settlement whereby the system of Permanent Lok Adalats for Public Utility Services has been brought about for dealing with cases at pre-litigation stage by way of conciliation in the first instance and in the event of parties not reaching an agreement, to decide the dispute on merits guided by the principles of natural justice, objectivity, fair play, equity and so on and so forth. Chapter VI-A mandates that every Award made by the Permanent Lok Adalat, either on merits or in terms of settlement agreement, shall be final and binding on all the parties thereto and all persons claiming under them and the Award shall be deemed to be a decree of a civil Court, and final and shall not be called in question in any original suit, application or execution proceeding. No Court fee need be paid for moving the Permanent Lok Adalat.

The Permanent Lok Adalat shall have jurisdiction in respect of pre-litigation cases only touching the public utility services namely: transport services for the carriage of passengers or goods by air, road or water; postal, telegraph or telephone services; supply of power, light or water to the public;

system of public conservancy or sanitation; services in hospitals or dispensaries; banking and other financial institutions; education or educational institutions; housing or real estate services and N.R.E.G. as mentioned under Section 22-A. As per Section 22-B every Permanent Lok Adalat shall be for an area and shall consist of a person, who is or has been a District Judge as its Chairman, and two other persons having adequate experience in public utility services; appointed by the National Legal Services Authority or State Legal Services Authority, as the case may be. It shall have jurisdiction in the matter where the value of the property in dispute does not exceed one crore rupees and shall not have jurisdiction in respect of any matter relating to the offences not compoundable under any law.

In exercise of the powers conferred by clause (la) of sub-section (2) of Section 27 of the Act, the Central Government has framed "Permanent Lok Adalat (other terms and Conditions of Appointment of Chairman and Other Persons) Rules, 2003 which *inter alia* provide for sitting fee and other allowances of Chairman and other Persons (Members), terms and conditions of services of Chairman and other Persons, place of sitting and staff of Permanent Lok Adalat and procedure for the resignation and removal of the Chairman and other persons. As already said the object of Act 37 of 2002 is to settle pre-litigation cases without delay, which ought not to go to the regular Courts and to reduce the work load of the regular Courts

The difference between the Lok Adalat and the Permanent Lok Adalat is that the former would dispose of the pending cases which are referred to it by the regular Courts and arrive at a compromise or settlement between the parties by passing an Award and in case no compromise or settlement is arrived at between the parties the record of the case shall be returned to the concerned regular Court from which the reference is received for disposal whereas the Permanent

Lok Adalat does not deal with cases which are pending before regular Courts.

The other major difference is that whenever a pre-litigation is brought before Lok Adalat by one of the parties to the dispute and in case no compromise or settlement is arrived at between the parties, the Lok Adalat simply advises the parties concerned to seek their remedy in a Court of Law whereas the Permanent Lok Adalat, on receiving a pre-litigation application from one of the parties to the dispute, calls upon the opposite party to file written statement and after receiving the documents and written statement and reply, if any, it conducts conciliation proceedings to reach an amicable settlement and serves the terms of possible settlement of the dispute to the parties and if the parties yet failed to reach any amicable settlement it has the power to decide the dispute on merits keeping in view the principles of natural justice *etc.*, and the Award is final and shall not be called in question.

The pecuniary jurisdiction of the Lok Adalat is unlimited whereas that of Permanent Lok Adalat is upto Rs.1 crore only. The Lok Adalat has the power to pass award in any kind of civil dispute, irrespective of the value of the property apart from all compoundable criminal cases whereas the Permanent Lok Adalat has to confine to the pre-litigation matters concerning public utility services which are notified under Section 22-A of the Act apart from compoundable criminal cases.

There is no specific bar of filing civil suits by any of the parties before regular Court even if the pre-litigation is pending for disposal before Lok Adalat. However, there is a specific bar of filing case before regular Court when once the pre-litigation case is filed by one of the parties to the dispute before Permanent Lok Adalat.

Insofar as compoundable criminal cases are concerned, the Lok Adalat may advise the parties to approach the regular Court for their remedy, if no settlement is arrived at in a pre-litigation case. Section 22-C(8) of the Act impliedly says that the Permanent Lok Adalat cannot decide the pre-litigation dispute relating to any public utility service offence on merits if the parties failed to reach an agreement. It goes without saying that the parties may be advised to seek their remedy before a regular Court in respect of criminal matters relating to public utility service.

Where the opposite party failed to appear in response to notice or having appeared failed to file written statement, what would be the procedure to be followed by the Permanent Lok Adalat. Can it set the opposite party *ex parte* and decide the pre-litigation case on merits in view of the power of deciding the dispute vested in it? Though the act is silent in regard to matters where the opposite party failed to appear in response to notice, one can safely conclude that the Permanent Lok Adalat cannot decide the dispute on merits by ignoring the detailed procedure, such as receiving written statement, reply and documents, conducting of conciliation proceedings, formulation of terms of possible settlement of the dispute and service of the same on the parties for their observations and objections. Likewise where the complicated questions of fact or law are involved which cannot be decided without recording oral evidence, the Permanent Lok Adalat may advise the parties to avail their remedy before regular Court.

The procedure of availing remedy before the Permanent Lok Adalat cuts down the expenditure of the parties apart from expeditious dispensation of justice to both parties and the ultimate satisfaction that the Award is final and executable before the concerned civil Court.