

passbook, title deed and effect of ROR proceedings, compensation cases, removal of encroachments *etc.* In most of the pre-litigation case respondent is the concern Government if revenue people would have attend so many problems will be solved but as there is no duty casts on them or as there is no power to the authority to take coercive steps for securing their presence thereby so many petitions and problems of the litigant public could not be solved.

If such power is vested with the Chairman under Legal Services Authority Act then revenue people or any authority (opposite party) will come to the Legal Services Authority and will submit his counter or statement, the matter can be settled [or] it can be solved or otherwise the authority will advise the petitioner to approach the Court

of law or authority will appoint the advocate to fight on behalf of the petitioner. Because of lack of power to take coercive steps in securing the attendance of revenue people and police people or any other department which is under public sector undertaking the petitions could not be settled. If the act is properly amended giving powers to the Chairman Mandal Legal Services/District Legal Services Authority to take coercive steps for securing presence of people or at-least there shall be amendment to the Act that in solving the pre-litigation case revenue people and police people also must actively participated in the Lok-Adalath proceedings. Then more problems will be solved so that the real justice can be served to the needy poor people.

“Justice is not only to be done it must be seems to have been done”

“NYAYA PANCHAYATIS” — AN EFFECTIVE OF ALTERNATIVE DISPUTE DISSOLUTION. AN VILLAGE LEVEL – A PERSPECTIVE

By

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Introduction :

In Independent of India sixty five percent of the people in Indian population lives in villages. Disputes among villagers are generally of small nature, so what is needed is a simple, easy and practical way of settling disputes which is free from the technicalities involved in urban Court process. The parties involved in rural disputes are mostly poor who cannot afford long and expensive litigations. They need a judicial system with which they can identify themselves and not feel alienated. A system in which they participated be secure and have an easy and unhesitant access.

Historical Background

The idea of Panchayati justice is not new to us. Since ancient times Panchayats have played an important role in dispute resolution in villages. Village elders used to solve disputes of villagers. These elders were acquainted with the people, local conditions, language, habits, customs and practices of these people, and so they could easily find out the reason behind any dispute. Further they used to solve the problems publicly and public opinion acted as a powerful influencing factor. Evidence was present in village itself, no question of concocting evidence arose.

Witnesses could not lie in front of others who knew the truth. All this facilitated quick, inexpensive, and fair decisions.

Decisions of panchayat were supreme and had authority in the village without any outside interferences. Even in ancient smriti texts we find references to some village institutions connected with administration of justice. These institutions are-

1. Kula – Lower Court consisting of Kinsmen for arbitration in small matters.
2. Sreni – Consisting of traders and artisans who were men of different castes but pursued similar means of livelihood.
3. Puga-Consisting of men of different castes and occupations inhabiting the same village.

In 1673 the president of East India Factory at Surat established community panchayats in Bombay which decided disputes amongst people of their own caste and Community. But during British rule when the British Government established its own Courts and the people discovered that power of state was behind these Courts and not behind old village Panchayats, the importance of panchayats started declining.

However soon the importance of Panchayats for delivering cheap and quick justice was realized and in Bombay and Madras regulations aimed at reducing the expenses in litigation were passed in 1802 and 1816. A Royal Commission was appointed in December 1907 with Hob House as its Chairman to report on decentralization. This Commission considered the subject to local self – Government and strongly recommended development of panchayats to administer local village affairs. As a result in 1920's many enactments were passed in different states establishing panchayats and conferring upon them power to decide minor disputes of laymen having

good sense of justice, equity and good conscience and were reasonably prudent people.

In 1920-21 during the Non-Co-Operation movement Gandhiji advocated boycott of law Courts and favoured village panchayats for settling disputes so that poor peasants did not have to go to far off towns to seek justice and waste their hard earned money and time on litigation and be exploited by lawyers.

“**NYAYA PANCHAYAT**” means :

NYAYA means Justice

PANCHAS means five legal or expert persons decided at 5 Legal person under the age of above 50 years

AYAT means place of sabha. Or place of Panchayathi in Tribal Areas

The parties are free to select five legal persons from same community as Arbitrators. The disputes of the Tribals will be conducted by the five persons selected by the parties and female are not allowed to participate in the panchayath.

“**NYAYA PANCHAYAT**” System which is a part of the administration of Justice. They never allowed other than their Judicial system, because, they do not know the enacted laws of the land due to lack of legal education and legal awareness.

Procedure to conduct Sabha :

1. There must be civil disputes between the parties. The matrimonial and family disputes, divorce matters, will be considered.
2. The parties must make a complaint to the “Naik” who is leader of the thanda.
3. The Sabha will be gathered by the Naik and while deciding date place and time Naik exercises the discretionary power.

4. The Naik will issue oral notice to both the parties to the dispute to select two elder members from one party and other two elder members from the opposite party and last elder member will be elected by the Naik.
5. Naik including five elder members will collect sum of Rupees for the conducting of the proceedings of the Sabha. The parties who are depositing with the panch members they are giving their willingness to the panch that they will abide by the decision taken by the panch members.
6. With a brief discussion on the disputes in the sabha/meeting the Naik will issue oral notice the five legal person to separate from Existing Sabha and the disputes must be Left the five legal persons to investigate the real fact into the matters and if any witness required at the discussing time the parties has to submit for the securing justice.
7. The amount will be given to the party who wins the litigation.
8. The absolute freedom of decision making given five legal persons to decided the matter.
9. Whatever the decision taken by the panch members will make known openly in the Sabha.

Constitutionally of Nyaya Panchayats

Our constitution favour introduction of democracy at the grass root level. For this Article 40 directs the State to take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-Government.

Many states have enacted laws for organization and proper functioning of panchayats but these panchayats were not

functioning satisfactorily, elections were irregular and uncertain, so in order to revitalize the Panchayati Raj Institutions, Part IX was added to the constitution by the constitution 73rd Amendment Act 1992 popularly known as Panchayati Raj Amendment Act. The Panchayati Raj Bills were introduced in the Lok Sabha for the first time by the Rajiv Gandhi Government in 1989 but it failed to get requisite majority in Rajya Sabha.

But now the 73rd amendment has provided constitutional sanction to democracy at the grass root level. The amendment provides for a three tier of Panchayati Raj System at the village, intermediate and district level, envisaging Gram Sabha as the foundation of this system. Gram Sabha is a body consisting of all persons of a village registered as voters. Small states with population of less than 20 lakhs may not constitute panchayats at intermediate level. The amendment ensures their regular elections after every five years and also provides for reservation of seats to members of scheduled castes and scheduled tribes and women in the panchayati raj bodies. The panchayats have been given financial as well as administrative powers and authority of the panchayati are vested in the State Government. After coming into force of Panchayati Raj Act on 23rd March 1994, more than 50% of the States and Union Territories have either amended their old Panchayati Raj Acts or have enacted new legislations.

Significance of Nyaya Panchayats

1. Informal proceedings in local language inspires confidence in the poor villagers to asser their legal rights.
2. It successfully serves the needs of poor villagers as their time and money is saved.
3. Persons elected from amongst themselves generate more trust and the feeling that the authority administering justice to them is their own.

4. It ensures participatory, quick and inexpensive delivery of justice at the door of villagers.
5. It encourages public participation as people do not hesitate and are encouraged to fight for their rights.

Thus it removes all the barriers *i.e.* psychological, geographic and economic as no stamp fee lawyers' fee, unnecessary adjournments travelling to town, cumbersome and formalistic procedures are involved. Thus it's a panacea for settlement of petty disputes cheaply and expeditiously.

Jurisdiction - Powers Authority Responsibilities

Normally the panchayat tries to solve the disputes by consensus. If consensus does not arrive then decision will be by majority. Normally lawyers are not allowed. State legislature may endow the Panchayats with such powers and authority as may be necessary to enable them to function as an institution of self-Government. These include preparation of plans for economic development and social justice and implementation of schemes for social development and social justice including those related to matters listed in the 11th Schedule. The matters in 11th Schedule are agriculture, land reforms, animal husbandry, poultry, fishery, small scale industry, rural housing, cottage industries, adult education health and sanitation, primary health centers, welfare of weaker sections *etc.*

State Legislature may also make law providing panchayats with authority to levy, collect and appropriate certain taxes, duties tolls and fees.

Suggestions and Conclusion :

The administration of justice under ADR is very similar to the Banjara administration of Justice System.

Since these practice followed from the period of Mahabaratha and this system is not new to the Banjara community.

At present after going through the enactment of legislation of ADR we come to know that the present legislation is taken from practice followed by Banjara Tribal Community.

After establishment of Court system our community people are mostly approaching to solve their disputes.

The practice followed by our tribal community must be encouraged and awareness programme must be created so that this practice also useful to other communities in solving their disputes.

Even now in Thandas the tribal community is following the same practice and solving their disputes amicably.

So the present practice must be encouraged so that the disputes will be resolved speedily and quickly.

CHANGING FACE OF RIGHT TO EDUCATION IN INDIA

By

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The Constitution of India is a sacrosanct document in every respect. The part third of our constitution enumerates basic and

indispensable rights of human beings and in our constitution those are termed as the Fundamental Rights. The basic spirit of our