

Fiat justitia, ruat coelum: Let Justice be done though Heavens fall



Goa Nyayadeep

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The High Court of Bombay at Goa

Goa State Legal Services Authority

High Court Complex, Altinho, Panaji – 403001 (Goa) Tel:(0832) 2431910,2420531(Fax)

Honourable the Chief Justice: **Shri C.K. Thakker**, Pattern-in-Chief

Honourable Shri Justice **F.I. Rebello** -Senior Most Judge Sitting at
Panaji, Executive Chairman (from 2nd June 2003 to 14 Aug 2003)

Honourable Shri Justice **R.J. Kochar** -Senior Most Judge Sitting at
Panaji, Executive Chairman (from 18th Aug 2003 to 30 Sep 2003)

Shri S.R. Khanzode, - Member Secretary
H.J.S.

Shri A.N.S. Nadkarni, Advocate
General of State of Goa
Ex- Officio Member

Smt. Rina Ray, Secretary in the
Dept. of Finance, Govt of Goa.,
Ex-Officio Member

Shri L.S. Shetty, Secretary in the
Dept. of Law, Govt. of Goa
Ex-Officio Member

Shri Seva Dass, Director
General of Police,
Ex-Officio Member

Shri N.A. Britto, District Judge &
Chairman of South Goa DLSA,
Ex-Officio Member

Shri A.D. Salkar, District Judge
& Chairman of North Goa
DLSA, Ex-Officio Member

Chairman, State Schedule Castes
& Schedule Tribes Commission
Ex-Officio Member

Adv. Shri Shaikh Hassan Haroon,
Member

Adv. Shri Antonio Gaonkar,
Member

Adv. Shri Amrut Kansar,
Member

Adv. Shri Uday Bhembre
Member

Smt. Ines Cota Carvallho,
Member

Shri Shambu Bandekar
Member

Adv. Shri Leo Velho,
Member

FROM THE DESK OF EXECUTIVE CHAIRMAN



Dr. Ram Manohar Lohia, the veteran Socialist thinker of India, was the first Indian leader to have launched the Goa's liberation movement in 1946. He always stood by and for the common poor man of the country and in that context what he said has relevance for us, even today. He used to say that India's Independent Judiciary is the only ray of hope for the common man, who is neither near to the seat of power, nor to the might of the purse-power. How true he was! The Indian Higher Judiciary led by the Supreme Court has always stood by the common man whenever it heard the cry from the corner of the common poor people in distress in exercise of its inherent writ jurisdiction. The rigid concept of 'locus standi' was thrown to the wind in order to give them relief of justice, social and economic. This urge for Social Justice evoked to evolve and develop strong movement for Legal Aid to the deserving and needy people of the country. Emergence of Public Interest Litigation (PIL), is an inevitable consequence of the quiet judicial revolution brought about by the Supreme Court. However, when it was noticed by that Court that the PIL was being abused by vested interests, including some lawyers, who were found to be publicity seekers, the Supreme Court has put a welcome brake on the PIL in the case of BALCO Employees Union (Regd.) vs. Union of India & Ors., AIR 2002 S.C. 350. It has observed as under: -

"79. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public spirited person files a petition in effect on behalf of such persons who

on account of poverty, helplessness or economic and social disabilities could not approach the Court for relief. There have been, in recent times, increasingly instances of abuse of PIL. "

Very often than not there is always a genuine conflict between environment and employment. Is it proper and justified in our country which has millions of unemployed youth and those other millions who are slogging below the poverty line, to order to close down of industries and factories providing jobs and render them jobless under the guise of protecting environment? Good and fresh environment with empty stomachs would not last longer. Very often the point of fresh air and pollution is stretched too far. We must try to strike balance and our approach must be to preserve environment not at the heavy cost of employment and starvation of the poor people. We must harmonise both. There is no lis between them. Both must co-exist as in the absence of either, both would badly suffer. If the environment is for the good and healthy life of the human beings, in that case the human beings themselves must live and survive to preserve and to enjoy the environment. I would personally appeal to all the bona fide NGOs to fight for Right to Work which is placed on the edestal of the Fundamental Rights. Between the two Directive Principles viz., Right to Work and Uniform Civil Code, our priority must be for the Right to Work and Right to Live!! We cannot forget that ours is a Socialist Constitution.

Justice R.J. Kochar

LOK ADALAT



Lok Adalat held on 19th July, 2003 at High Court of Bombay at Goa(L to R) Senior Advocate Surendra Dessai, Hon'ble Mr. Justice F.I. Rebello then Senior Judge and Executive Chairman GSLSA and Advocate Mrs. Anarkali Agani.



Lok Adalat in session (L. to R.) Sr. Advocate Surendra Dessai , Hon'ble Mr. Justice F.I. Rebello, Advocate Mrs. Anarkali Agni ,Court Steno , Government Advocate H.R. Bharane and Advocate Valmiki Menezes.



His Excellency Shri Kidar Nath Sahani, Governor of State of Goa addressing the function to release first booklet of Legal Literacy Campaign, "Land Laws" at the High Court of Bombay at Goa on 21st July, 2003.



Hon'ble Mr. Justice F.I.Rebello, Sr. Judge and Executive Chairman Goa State Legal Services Authority addressing the function on 21st July, 2003.

His Excellency Shri Kidar Nath Sahani, Governor of State of Goa releasing the first booklet of Legal Literacy Campaign "Land Laws" and a compilation of laws/Rules/Regulation /Lok Adalat Schemes governed by Goa State Legal Services Authority.



His Excellency Shri Kidar Nath Sahani, Governor of State of Goa felicitating Sr. Advocate and author of "Land Laws" Mr. M.S. Usgaocar, Sr. Advocate who drafted "Land Laws"



Honorable Shri justice R.J Kochar Sr., Judge and Executive Chairman GSLSA addressing group of head, of all Schedules / Nationalised banks in Goa 28th Sept 2003. (L. to R.) Advocate General Shri A.N.S. Nadkarni, Justice P.V. Hardas, Justice R.J. Kochar, Member Secretary Shri S.R. Khanzode hjs

ADR - You & Me

(A sharing by S.R. Khanzode, H.J.S., Additional Registrar, High Court of Bombay at Goa and Member Secretary Goa State Legal Services Authority)

Hon'ble former Prime minister, Shri P.V. Narasimha Rao, while inaugurating "International Centre for Alternate Dispute Resolution" in New Delhi on October, 06, 1995, observed as under:

"Any democracy worth the name must provide for adequate and effective means of dispute-resolution at reasonable costs, otherwise, the rule of law becomes a platitude and people may take law into their own hands, disrupting peace, order and good government. Effective dispute resolution is also necessary to secure the smooth functioning of trade and commerce.

While reforms in the judicial sector should be undertaken with necessary speed, it does not appear that courts and tribunals will be in position to bear entire burden of the justice system. It is incumbent on government to provide at reasonable costs as many modes of settlement of dispute as are necessary to cover the variety of disputes that arise. Litigants should be encouraged to resort to alternate dispute resolution so that the court system proper would be left with smaller number of important disputes that demand judicial attention.

Law is not a static concept. The effectiveness of the legal process depends upon its ability to mould itself to the requirements of the society from time to time. I found no reason why we should not ourselves experiment with new methods for dispute resolution. Passivity and conservatism have to give way to dynamism, adaptability and resurgence. A properly conceived alternative dispute resolution movement will ensure wide access to justice to all sections of the people".

In conformity with such spirit Section 89 (as amended) now finds its place in the Code of Civil Procedure 1908. The other provision is Order XXXII A, Rule 3 & 4 of the said Code which made obligatory on the part of the Court to make efforts for settlement in suits relating to matters concerning the family. Similar such provisions do exist in some other enactments too e.g. Hindu Marriage Act, Industrial Dispute Act etc. These provisions refer to **MULTI-DOOR COURT HOUSE** Approach. Section 89, supra, refers to following principles/procedures of Alternate Dispute Resolution, in short ADR, amongst various modes available as a part of the judicial repertoire of dispute management. They are: (a) arbitration, (b) conciliation, (c) judicial settlement including settlement through Lok Adalat and (d) mediation. It further prescribed the governing enactments for each referral. The key feature of the multi-door courthouse is initial procedure: **intake, screening and referral**. Here dispute would be analyzed according to various criteria to determine what mechanism or sequence of mechanisms would be best suited for the resolution of the problem. This is important since success of ADR depends upon the right choice. For this not only the judges but also lawyers and Court officials should be adequately and properly trained. ADR is a very vast subject but this effort is aimed at to share with you some material to help you to organise oneself to choose right mode of ADR to resolve a dispute. *(to be continued in next issue)*



Honorable Shri justice R.J Kochar Sr., Judge and Executive Chairman GSLSA addressing group of head, of all Schedules / Nationalised banks in Goa 28th Sept 2003. (L. to R.) Advocate General Shri A.N.S. Nadkarni, Justice P.V. Hardas, Justice R.J. Kochar, Member Secretary Shri S.R. Khanzode hjs



Mr. C. G. Pinto, Zonal Manager (Goa Region) Corporation Bank making presentation on how to organize pre litigation Lok Adalat for Banks, before the Bank officials on 28th Sept 2003.

EVENTS

On 19th July, 2003 Lok Adalat was held at High Court of Bombay at Goa . Total 57 matters were referred out of which 15 matters have been settled.

On 21st July, 2003 first booklet of Legal literacy Campaign, "Land Laws" a note drafted by senior Advocate Shri M.S. Usgaocar and a compilation of laws/Rules/Regulation/Lok Adalat Scheme governed by Goa State Legal Services Authority have been released at the hand of His Excellency Shri Kidar Nath Sahani the Governor of Goa.

On 23rd August 2003 a meeting had been organised by the National Commission for Women for holding "PARIVARIK MAHILA LOK ADALAT". The meeting was attended by the Chairman of the various State Legal Services Authorities, Social Workers and Office Bearers of the State Commission for Women. This meeting was attended by Honourable Shri Justice P.V. Hardas of Bombay High Court, Goa Bench. Here is the summery of the said event:

The meeting was called to order and the delegates and the invitees were welcomed by Mrs. Poornima Advani, Chairperson of the National Commission for Women. Justice Mrs. Sujata V. Manohar, retired Judge of the Supreme Court of India, was the Guest of Honour. Justice Mrs. Manohar in her short speech pointed out that the system of dispensation of justice is heavily overloaded and because of that, family disputes are difficult to resolve. No special training programme for Judges of the Family Courts have been evolved. The Judges have to be sensitized to the issues to which they are called upon to decide. Training of the NGOs is essential as unless the NGOs and the councillors are trained about the conciliation procedure, the settlement of disputes would not be effective.

His Excellency Shri M. Rama Jois, Governor of Bihar was the Chief Guest, who in his inaugural address pointed out that Parivar constitutes the basic foundation of any society. Parivar alone can provide human resources and Parivar is the only institution which can produce good citizens. He emphasized that great efforts must be taken to provide protection to

the Parivars. He also emphasized the important role which conciliation plays in bringing about resolution of disputes. In that background he emphasized that the role of councillors was of utmost importance. For the success of any Lok Adalat the effectiveness of councillors cannot be underestimated. The councillors must be able to impress on the disputing parties the values of the institutional marriage.

This was followed by an interesting interactive session on the manner of holding Parivarik Mahila Lok Adalats. The NGOs and the members of the State Commission for Women expressed their difficulties, which were satisfactorily answered by the Chairman of the High Court Legal Services Committee. Vote of Thanks was proposed by Mrs. Nita Kapur, Joint Secretary for National Commission for Women.

Shri S.R. Khanzode, Member Secretary, on invitation attended a workshop on 13th and 14th September 2003 at Delhi organised by National Institute of Public Cooperation and Child Development on the subject Integrating support Services with family courts in India. The event was inaugurated by Hon'ble Shri Justice S. Rajendra Babu, Judge Supreme Court of India and Executive Chairman NSLSA.

Mangers of Nationalized Banks of State of Goa were called on 28th Sept. 2003 for tea with Honorable Executive Chairman (R. J. Kochar, J) and availing the opportunity, then two presentations were made before them viz., to focus on areas to implement provision of the person with disability (Equal Opportunity, Protection of rights and Full participation) Act 1995 as well as organising pre-litigation – lok Adalat for bank matters the first presentation was made by Mr. S. R. Khanzode, Member Secretary and the second one was done by Mr. C. G. Pinto, Zonal Manager (Goa Region) Corporation Bank, Honourable Shri Justice P. V. Hardas, Shri A.N.S Nadkarni, Advocate General of Goa, Mr. L. S. Shetty, Law Secretary, Shri V.P. Shetye, Legal adviser for Govt. of Goa, Mr. A. D. Salkar and Mr. N. A. Britto, District Judges were present.

Legal Aid Clinics: Legal Aid Clinics with the co-operation of Goa High Court Bar Association as per the schedule programme held its sittings from April 2002 to September 2003. During this span 54 people have taken advantage of it

Literacy Camps

North Goa

1. Legal Literacy Camp was held at Nachinola Panchayat Hall in Bardez Taluka on 21/06/2003. Advocate Mr. A.V. Salatry and Adv. D. Tilve spoke on “Motor Accident Claim “ and “Right of Maintenance u/s 125 Cr. Procedure Code 1973.
2. On 19/7/2003 Legal Literacy Camp was held at Panchayat Hal Usgao, Ponda Taluka. Shri R.R. Samant, Chief Judicial Magistrate spoke on “Motor Accident Claim and Law Relating to Arrest & Bail.
3. On 16/8/2003 Legal Literacy Camp was held at Panchayat Hall Viroda, in Pernem Taluka. Advocate Mr. A.V.N. Salatry and Advocate C. Colaco spoke on “Divorce under Family Laws as applicable to Goa” and “Law Relating to arrest and Bail”.

South Goa

1. Legal Literacy Camp was held at Kaly, Sanguem Taluka on 28/6/2003 Adv. V. Aude and Adv. S.M. Kakodkar spoke on “Entitlement of Legal Aid”. & “Environment Protection Act”.
2. Legal Literacy Camp was held at Vithal Rukhmini Temple Vasco. Advocate Mr. S.N. Karmali and Advocate Mr. Rajan Naik spoke on “ Entitlement of Legal Aid” Your Right as a consumer and your Right and duties under constitution.

Lok Adalats:

The Lok Adalats are regularly organised in Goa. The following table would present picture at glance of this activity from 16th March 2003 to 30th September 2003: -

<i>District Court</i>	<i>No. of Cases Taken including MACT</i>	<i>No of cases disposed including MACT</i>	<i>Aggregate Compensation paid in MACT Cases</i>	<i>Remarks</i>
HIGH COURT	57	15	----	----
NORTH	216	49	50,14,500/-	----
SOUTH	197	56	20,50,000/-	----

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