

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 **S.J. Vazifdar** -Senior Most Judge Sitting at Panaji,excutiveChairman

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

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

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

Shri Shaikh Hassan Haroon, Member

Shri Antonio Gaonkar, Member

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

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

Shri Amrut Kansar, Member

Shri Uday Bhembre Member

Shri V.P. Shetye, Secretary in the
Dept. of Law, Govt. of Goa
Ex-Officio Member

Chairman, State Schedule Castes
& Schedule Tribes Commission

Smt. Ines Cota Carvallho, Member

Shri Shambu Bandekar Member

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

Shri Leo Velho, Member

FROM THE DESK OF EXECUTIVE CHAIRMAN



It is both interesting and encouraging to note the activities of the Goa State Legal Service Authority from the earlier news letters.

As important as holding seminars, conducting workshops and clinics and informing people of their rights, is making available legal assistance necessary to redress

such rights. For while it is important that people know their rights, the same would be of no benefit if they had not the means to assert them.

I am glad to know that at present nobody who is entitled to legal aid has been denied the same for want of funds. A special expression of appreciation must be made for the lawyers who participate in this scheme for negligible remuneration.

In addition to those who are presently entitled to avail of legal aid are many who have equally just claims, but are unable to enforce them for paucity of funds. I must refer here to the response of the members of the Goa Bar, who I have found have willingly offered their assistance in matters even outside the purview of any formal legal aid assistance. This attitude and gesture furthers the cause of legal aid in the wider perspective.

(Justice S. J. VAZIFDAR)

Where the mind is without fear
and head is held high;
Where knowledge is free;
Where the world has not been
broken up into fragments
By narrow domestic walls;
Where words come out from depth
of truth;
Where tireless striving stretching
its arms towards perfection;
Where the clear stream of reason
has not lost his way into the
dreary desert sand of dead habit;
Where the mind is led forward by
thee into ever-Winding thought and
action-
Into that heaven of freedom, my
Father, let my country awake.

Rabindranath Tagore

--: Congratulation :-



**Hon`ble Mr. Justice
V.N. Khare.
Chief Justice of India
& Pattern in Chief
NALSA**



**Hon`ble Mr. Justice
S. Rajendra Babu
Executive
Chairman,
NALSA**



**Hon`ble Mr. Justice
S.H. Kapadia Senior
Administrative
Judge & Executive
Chairman, MSLSA**



L to R: Mr. C.C.Pinto Assistant General Manager Goa Zone, Corporation Bank. Mr. A.D. Salkar, D.J. & Chairman North Goa District Legal Services Authority , Justice D.G.Deshpande, Justice P.V. Hardas, Mr. Noronhan Ferreira , Chairman Permanent Lok Adalat North Goa District.



Advocate Shri S.V. Laad speaking on the subject of Law of Arrest, Bail, Anticipatory Bail and release of accused from custody at the Legal Literacy Camp at New Vaddem, Vasco-de-gama South Goa.

Launch of Website of Goa State Legal Services Authority on 20th April 2003.
L. to R. Mrs. Nirupama Hardas, Justice P.V. Hardas, Mrs. Pradnya Kakade, Justice P.V. Kakade, Mr. C. Chandran (State Informatics Officer, NIC Goa) Mr. S.R. Khanzode, Member Secretary, GSLSA.



Justice P.V. Kakade Senior Judge and Executive Chairman GSLSA felicitating Mr. G. Mahalingam of NIC (Goa) for his contribution towards computerizing of High Court & Goa State Legal Service Authority projects.



LOK ADALATS.....No losers!

Our judicial system is limping badly being afflicted by cancer-like diseases such as docket explosion resulting in inordinate delays, high costs of litigation, complicated procedures and at times results of cases which are unpredictable. A foreign observer has this to say: "our judicial system works only haltingly, partially and occasionally".

"The world is a dangerous place to live in not because of the people who are evil but because of the people who don't do anything about it", said Albert Einstein. Our cases increase at an alarming rate of 66.5% while the number of judges increases only at the rate of 15.4%. Although the rate of filing of cases in this Country is only 3.5 per thousand persons, as against 123 per thousand persons in Germany, yet our judicial system continues to be crushed under its own weight. Both the Government and Parliament have done precious little by way of remedying the situation. The amendments brought out to the C.P.C. with effect from 1.7.2002 are not expected to provide a cure for the ills of the system the way they are being followed.

However, it is heartening to note that Parliament has tried to revive our old justice delivery system of settling cases through Lok Adalats by way of alternate disputes redressal mechanism. The Act (The Legal Services Authorities Act, 1987) was passed by Parliament with the twin objectives of ensuring that weaker sections of Society are not denied justice and to give a legal sanction to Lok Adalats.

The system of settling cases through Lok Adalats was existing in this Country even prior to the advent of the Portuguese or the British and even continued to exist in many places, though without legal sanction. In our own State in almost all villages and till lately, the disputes were settled by the elders of the village who would be commonly referred to as "Dhazann". A few elders gathered at the request of disputing parties and brought about a settlement between them on principles of justice, equity and fair play, to the satisfaction of all concerned. There were no losers.

Although the Act was passed in 1987, it was implemented only in 1995 when Lok Adalats came to be organized intermittently and occasionally for different Courts and at different places.

A Lok Adalat consists of a serving or a retired Judicial Officer, a member of legal profession and a social worker and it has jurisdiction to decide and arrive at a compromise or a settlement between the parties in cases pending in any Civil, Criminal, Revenue Courts or a Tribunal or any other Authority exercising judicial or quasi-judicial functions, except in non-compoundable criminal cases. Even pre-litigation cases can be settled by the Lok Adalat. A Lok Adalat arrives at a settlement or a compromise between the parties by negotiation, conciliation and on the principles of justice, equity, fair play and other legal principles. Any case pending in any Court can be brought before the Lok Adalat if the parties agree that the case should be settled at the Lok Adalat or where one of the parties makes an application to the Court and the Court is satisfied that there are chances of a settlement or where the Court itself feels that the case is appropriate to be settled at the Lok Adalat. An award of the Lok Adalat has been given the force of a Decree of a Civil Court which is final and binding on all the parties to the dispute with no appeal provided. The parties settling their cases at the Lok Adalat are entitled for refund of court fees paid by them under the Court Fees Act. The Lok Adalat has been declared to be a Civil Court for certain purposes and the proceedings before the Lok Adalat are declared to be judicial proceedings. Settling a case at the Lok Adalat saves time, money and hassle of bringing witnesses.

At present, besides holding of regular Lok Adalats at all Courts' levels the NALSA (National Legal Services Authority), under the Chairmanship of Mr. Justice Dr. A. S. Anand has established Permanent and Continuous Lok Adalats in almost all the districts and as far as Goa is concerned, both the districts have Permanent and Continuous Lok Adalats which can and do settle both pre-litigative as well as disputes pending in Courts, as and when the same are referred to them. The Permanent and Continuous Lok Adalat in South Goa District is backed by a Counseling and Conciliation Center which is set up to motivate people for the conciliatory settlement of disputes. However, when a dispute is referred to a Lok Adalat, if no compromise or settlement is arrived at between the parties, they are advised to seek remedy in the Court of law. This particular provision of Section 20(6) of the Act requires to be amended so that once a dispute is referred before the Lok

Adalat, if no compromise or settlement takes place between the parties, the Lok Adalat is empowered to decide the same.

In some parts of the Country, Permanent Lok Adalats were introduced for Government departments and other statutory bodies but now Parliament has brought about an amendment to the Act w.e.f. 11.6.2002 and the Government are in the process of establishing Permanent Lok Adalats for Public Utility Services, which will also be able to pass a binding award if there is no settlement between the parties and the said award shall have the force of a Decree of a Civil Court. The services to be included for the said Lok Adalats for Public Utility Services will be transport, postal, telegraph, telephone, supply of power, light or water, system of public conservancy or sanitation service in hospital or dispensary or insurance. The Lok Adalats for Public Utility Services will be manned by a person who holds or has held a judicial office of Additional District Judge and above and who shall be its Chairman and two other persons having adequate experience in Public Utility Services. They are to be nominated by the Central Government or the State Government on the recommendation of the Central Authority (NALSA) or the State Authority (SALSA), as the case may be. However, even before such Permanent Lok Adalats for Public Utility Services are established, tried or tested, there is a fear expressed regarding its constitution because matters will be decided by majority and such majority could be of non-judicial members. I have not been able to see any justification for such fear because all persons to be appointed will be appointed with the recommendation of Central or State Authority. In fact, the establishment of Permanent Lok Adalats for Public Utility Services will go a long way to free the Courts from mounting arrears.

Most of the States and Union Territories have already started constituting such Permanent Lok Adalats for Public Utility Services, and concurrence has also been given by the Honourable Chief Justice of India that wherever there is no place available, the premises of the Subordinate Courts should be made available for holding such Lok Adalats between 6.00 p.m. to 9.00 p.m. The monetary jurisdiction of such permanent Lok Adalat will be Rs.10 lakhs to be revised by Government from time to time.



Justice D.G. Deshpande Senior Judge Sitting at Panaji during 06/01/2003 to 26/02/2003 and Executive Chairman GSLSA.

In a settlement before the Lok Adalat there is no loser but all the parties are winners because a compromise or a settlement is arrived at on the basis of negotiations with little give and take, to the satisfaction of all the parties.

Years back, Abraham Lincoln exhorted : “Discourage litigation. Persuade your neighbours to compromise wherever you can. Point out to them how the nominal winner is often a real loser – in fees, expenses and waste of time. As a peacemaker, the lawyer has superior opportunity to be a good man. There will still be business enough”. Gandhiji stated : “During the 20 years of my practice as a lawyer, I was occupied in bringing about private compromises of 100s of cases. I lost nothing, thereby not even money, certainly not my soul”. Our own Supreme Court in the case of Kaushalya Sawhaney had this to say “the finest hour of justice is the hour of compromise where parties after burying their hatchet, reunite by a reasonable and just compromise”.

Let us all, therefore give Lok Adalats a chance!

N. A. BRITTO

(Author is a Senior member of Goa State Higher Judicial Service and Chairman, District Legal Service Authority for South Goa.)

EVENTS

On 20th December, 2002 Website of Goa State Legal Services Authority(<http://slsagoa.nic.in>) was launched at the hands of Mrs. Pradnya Kakade, in the presence of Justice P.V. Kakade, Executive Chairman, Goa State Legal Services Authority.

Invoking the provision of Section 19 (5) (ii) of the Legal Services Authorities Act 1987 read with Goa Lok Adalat Scheme , a first of its kind Lok Adalat Pre-Litigation matters was held in North Goa District of Goa State. Total 52 matters were referred out of which 40 matters have been settled involving an amount of Rs. 11,00,000/- . Congratulation Mr. A.D. Salkar, District Judge & Chairman North Goa District Legal Services Authority and Mr. G.G. Pinto , Assistant General Manager & Mr. M.K. Rajesh, Law Officer of Corporation Bank .

Legal Aid Clinics: Legal Aid Clinics with the co-operation of Goa High Court Bar Association as per the schedule programme held its eight sittings from November, 2002 to 15 March, 2003. During this span 31 people have taken advantage of it

Literacy Camps

North Goa

1. Legal Literacy Camp was held at Socorao Panchayat Hall in Bardez Taluka on 21/12/2002. Advocate Mr. S.D. Patil and Advocate Mr. B. Nazareth spoke on “The Benefit of Entitlement of Legal Aid” & “Your Right as a Consumer”.
2. On 18/1/2003 Legal Literacy Camp was held at Curti, Ponda Taluka. Shri R.R. Samant, Chief Judicial Magistrate spoke on “The Benefit of Entitlement of Legal Aid” & “Your Right as a Consumer”.
3. On 15.2.2003 Legal Literacy Camp was held at Morjem in Pernem Taluka. Advocate Mr. Prabhakar J. Karkare and Advocate Mr. P. Narulkar spoke on “The Benefit of Entitlement of Legal Aid” and “Your Right as a Consumer”.

South Goa

1. Legal Literacy Camp was held at Xeldem Panchayat Hall, Quepem Taluka on 30/11/2002. Shri A.S. Nadkarni Principal Law College- Margao , Smt. Sandhya Kamat, [B.D.O.](#) And Shri Pritam Marais, Lecturer Kare Law College spoke on “Rights and Duties of Public under Constitution. “Entitlement of Legal Aid”. & Right of Public as Consumer.
2. On 15/2/2003 Legal Literacy Camp was held at New Vaddem, Vasco . Advocate Mr. S.N. Karmali and Advocate Mr. S.V Laad spoke on “Free Legal Aid” and Bail /Anticipatory Bail

Lok Adalats:

The Lok Adalats are regularly organised in Goa. The following table would present picture at glance of this activity from 16th December, 2003 to 15th March, 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>
NORTH	187	65	25,45,000	+Rs.11,00,000/- towards Pre-Litigation matters of Corporation Bank.
SOUTH	131	52	49,02,000	

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