

MEDIATION NEWSLETTER

NEWSLETTER OF THE DELHI MEDIATION CENTRE

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08.08.2008 - Visit of Hon'ble Mr. Justice Aftab H. Saikia, Judge, High Court of Gauhati, Assam to the Tis Hazari Mediation Centre. Seen are R to L Sh. Rakesh Kapoor, Judge-in-charge, Tis Hazari Mediation Centre, Hon'ble Mr. Justice Aftab H. Saikia, Judge, High Court of Gauhati, Assam, Sh. Vinay Kumar Gupta, AD & SJ/ Master Trainer, Delhi Mediation Centre/ OSD/ DLSA, Sh. Chander Shekhar, AD & SJ/ Mediator and Dr. Sudhir Kumar Jain, AD & SJ/ Master Trainer, Delhi Mediation Centre.

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Mediation as an effective means of Additional Dispute Resolution is here to stay. The momentum of activities continuously undertaken by the Delhi Mediation Centre under the guidance of the Mediation and Conciliation Project Committee reflects the same amply.

The Mediation and Conciliation Project Committee under the guidance of the Hon'ble the Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan and of the Hon'ble the Chairman of the Mediation and Conciliation Project Committee - Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India, and its Hon'ble Members, Hon'ble Mr. Justice R.V. Raveendran, Judge Supreme Court of India, Hon'ble Mr. Justice Madan B. Lokur, Judge High Court of Delhi, Hon'ble Mr. Justice A. M. Ahmadi, the former Hon'ble the Chief Justice of India, Mr. P.P. Rao Senior Advocate and Mr. Sunil Thomas, Member Secretary, after a thorough discussion with special invitees Mr. G. E. Vahanvati, Solicitor General of India, Mr. T.K. Viswanathan, Law Secretary, Mr. Bhupinder Prasad, Additional Secretary (J) and Mr. Ramesh Abhishek, Joint Secretary (J), of the options available, decided to focus on the following projects:

- Training of Judicial Officers and Advocates to become Mediators.
- Conducting refresher courses for existing mediators.
- Conducting Training Programmes for Co-ordinators and Referral Judges.
- Conducting awareness programmes in Mediation.
- Conducting Training of Trainers (TOT) programmes.
- Development of a standard curriculum and course material for mediation training.

The Committee was also of the opinion that the Planning Commission should be requested to allocate adequate amount in the coming years for espousing mediation as an effective alternate dispute resolution process under Section 89 of the Code of Civil Procedure in the spirit of the judgment in the Salem Advocate Bar Association case. It was emphasized upon the Secretary to prepare a proposal for the next financial year.

On 09.08.2008, the Delhi Mediation Centre had the proud privilege of thirteen of its fully qualified Master Trainers being accredited with the certificates of successful completion of the CEDR Master Trainer's Course conducted from 03.06.2008 to 05.06.2008 by the Centre for Effective Dispute Resolution in collaboration with the International Council of Alternative Dispute Resolution. These thirteen Trainers of the Delhi Mediation Centre had the proud privilege of being trained by the eminent faculty of the top mediators of the CEDR, that is, by Mr. Karl Mackie, Chief Executive and Initiator of the CEDR, a barrister and a psychologist Ms. Heather Allen, Mr. James South and Ms. Isabel Phillips. The CEDR has trained over 3000 mediators from different countries till date.

The participants received an intensive training programme to enhance their competence in developing skills for delivering training and awareness raising activities that enhance knowledge and use of mediation. *The participants through in depth interactive sessions and training on Trainer Roles such as:- Host, Presenter, Facilitator, Coach, Demonstrator, Scribe, Administrator, Assessor were also enriched by having appreciated how to design effective training sessions.*

Hon'ble Mr. Justice Madan B. Lokur Judge, High Court of Delhi and Member of the Mediation and Conciliation Project Committee, graciously awarded the certificates to the Master Trainers of the Delhi Mediation Centre and to other participants who had successfully completed the said course. Mr. T. K. Viswanathan, Law Secretary Government of India, and Mr. B.S. Saluja, Secretary General of the International Centre for Alternative Dispute Resolution and Former Judicial Member of the Income Tax Appellate Tribunal also graced the occasion. Hon'ble Mr. Justice Madan B. Lokur, Judge, High Court of Delhi and Member of the Mediation and Conciliation Project Committee, Mr. T.K. Viswanathan, Law Secretary Government of India, and Mr. B. S. Saluja, Secretary General of the International Centre for Alternative Dispute Resolution expressed hope that mediation which would soon become on-line due to globalization, would ensure that the problem of judicial arrears would soon be resolved effectively thereby and would result into amicable everlasting solutions to disputes between litigants, with win-win solutions for them which emerge with their consent through the process of mediation, which takes place through an impartial, independent, neutral mediator.



09.08.2008 - On the occasion of award of certificates to Master Trainers of the Delhi Mediation Centre on successful completion of the CEDR Master Trainers Course conducted by the CEDR in collaboration with the ICADR - Seen L to R- addressing the mediators is Mr. T.K. Viswanathan, Law Secretary, Government of India and seen seated are Mr. B. S. Saluja, Secretary General of the ICADR and Former Judicial Member of the Income Tax Appellate Tribunal and Hon'ble Mr. Justice Madan B. Lokur, Judge, High Court of Delhi and Member of the MCPC.

The Hon'ble the Chief Justice of the Delhi High Court, Hon'ble Mr. Justice Ajit Prakash Shah on 19.08.2008 whilst addressing the District Judiciary of Delhi at the SCOPE Complex, Lodhi Road, New Delhi, emphasized upon the necessity of the judicial officers appreciating the need of the hour being to refer appropriate matters to mediation, as an effective tool of Alternative Dispute Resolution in order to lessen the increasingly growing pendency of arrears in disposal of cases - due to increased institution of litigations, - a reflection of the avowed faith of the people in the Judiciary.

In order to spread awareness of the ADR mechanisms including Mediation and their importance in the globalization, liberalization and economic development in the country, the Indian Council of Arbitration and the Federation of Indian Chambers of Commerce and Industry in association with the Uttrakhand State Legal Services Authority and the Uttrakhand Judicial and Legal Academy (UJALA) and the High Court Bar Association, Uttrakhand organized a conference on ADR mechanisms as being the need of the hour on 09.08.2008 at the Conference Hall, High Court of Uttrakhand, Nainital. Mr. Vinay Kumar Gupta, Additional District & Sessions Judge, and Master Trainer Mediator of the Delhi Mediation Centre and OSD/DLSA was invited as a Resource Person.

The report of Mr. Vinay Kumar Gupta, Additional District & Sessions Judge, and Master Trainer Mediator of the Delhi Mediation Centre and OSD/DLSA set forth herein below expresses the need of the hour as being the magic of the process of mediation, which sets at rest multifarious disputes amicably and finally:-

"Conference on Don't Litigate But Arbitrate: ADR Mechanism Need of the Hour.....

The aim and object of the conference was to apprise the participants about the ADR mechanisms and their importance in the ongoing phase of globalization, liberalization and economic development of the country.

The conference was inaugurated by Hon'ble Mr. Justice V.K. Gupta, the Hon'ble the Chief Justice, Uttrakhand High Court, Hon'ble Mr. Justice P.C. Verma, Senior Judge, Uttrakhand High Court and other Hon'ble Judges of the High Court of Uttrakhand had graced the occasion.

The conference was divided into an Inaugural Session and two Business Sessions.

The Inaugural and first business session was attended by about 150 delegates which included the members of the Uttrakhand High Court Bar, members of the Indian Council for Arbitration, High ranking officers from various corporate houses from all over India, and the trainee judicial officers undergoing training at the Uttrakhand Judicial and Legal Academy.

Sh. G.K. Kwatra, Executive Director, Indian Council of Arbitration in his welcome address pointed out the effectiveness of ADR mechanisms with special reference to arbitration, and emphasized the need for institutional arbitration.

In his inaugural address, Hon'ble Mr. Justice V.K. Gupta, Chief Justice of the Uttrakhand High Court highlighted various discrepancies, such as non-fixing of time limit for completion of arbitral proceedings; absence of appropriate remedy under the Arbitration and Conciliation Act, 1996, when the appointed arbitrator fails to function. His Lordship emphasized the need for fixing of one venue for arbitration and meaningful use of ADR mechanisms provided under Section 89 CPC.

The Hon'ble Chief Justice also called upon to the Members of Uttrakhand High Court Bar Association to come forward in organizing and actively participating in such conferences.

In the first business session the speakers spoke on arbitration.

I apprised the participants about the ADR mechanisms, Mediation as being one of the modes of ADR, the concept of mediation and its definition, the benefits of mediation vis a vis litigation and the benefits of Court annexed mediation, which evoked much enthusiasm amongst the participant on mediation being an effective mode of ADR.

Sh. Aroind Vashisth, Assistant Solicitor General of India apprised the participants about the mediation skills.

The second business session was arranged exclusively for the 39 trainee judicial officers undergoing training at the Uttrakhand Judicial and Legal Academy. It was chaired by Sh. U.C. Dhayani, Director/Chairman, UJALA. I apprised the participants about the role of a Referral Judge in the effective implementation of mediation.

The participants were apprised about the relevance and importance of the role of Referral Judges in the success of mediation, and what is expected of them as a Referral Judge.

They were further apprised about the cases appropriate for mediation and not appropriate for mediation; the types of disputes which may be referred for mediation which can be ascertained on the basis of the case characteristics and party characteristics; appropriate stages for referring a case for mediation; and how selection of appropriate cases for mediation lessens the Court's burden without affecting the performance of Judicial Officers.

Thereafter, an interactive session was held in which the participants raised various queries pertaining to the role of lawyers, effect on their quota fixed for disposal etc. The queries were answered to their satisfaction. The session ended with a positive mind set and on an enthusiastic note".

The effectiveness of mediation as an effective mode of additional dispute resolution as professed by the Delhi Mediation Centre, continues to draw distinguished visitors to both the Tis Hazari and Karkardooma Mediation Centres. Hon'ble Mr. Justice Aftab H. Saikia, Judge, High Court of Gauhati, Assam graciously visited the Tis Hazari Mediation Centre and the Karkardooma Mediation Centre along with the Law Secretary of Assam on 08.08.2008 in order to utilize the experience and expertise of the Delhi Mediation Centre

