

MEDIATION NEWSLETTER

NEWSLETTER OF THE DELHI MEDIATION CENTRE

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05.11.2008 - On the occasion of the visit of the Hon'ble the Chief Justice of Norway to the Tis Hazari Mediation Centre - Seen are L to R - Mr. Yogesh Khanna, AD&SJ, Delhi/Trained Mediator, Mr. Talwant Singh, AD&SJ and P.O., Delhi School Tribunal, Hon'ble Mr. Justice Tore Schei, the Hon'ble the Chief Justice of Norway, Mr. O.P. Gupta, AD&SJ and Judge in Charge, Mediation Centre, Tis Hazari, Mr. M.L. Mehta District Judge-II, Tis Hazari and Master Trainer of the Delhi Mediation Centre, Mr. Rakesh Kapoor, District Judge-III, Tis Hazari and Trained Mediator, Ms. Seema Maini, AD&SJ, Delhi and other staff personnel.

06.11.2008 - On the occasion of the visit of the Hon'ble the Chief Justice of Norway to the Karkardooma Mediation Centre - seen are L to R Mr. A.K. Chawla, AD&SJ and Judge in Charge, Karkardooma Mediation Centre, Hon'ble Mr. Justice Tore Schei, the Hon'ble the Chief Justice of Norway, Mr. Sanjay Sharma, AD&SJ and seen behind the Hon'ble the Chief Justice of Norway are Mr. Anil Kumar and Mr. Naresh Malhotra, both Administrative Civil Judges, Karkardooma District Courts, Delhi.



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Mediation is an emerging social tool to forestall manage, contain, control, regulate and resolve conflict. As observed by Mr. D.K. Sampath in "Mediation in India" - *Mediation is not mere knowledge to be imparted. It is a process to be learnt. It is a value structure for the individual whatever his role..... It enriches the human being in him/or her".*

Trust, a sublime concept is the key to any successful mediation. Mediation is based on the confident expectation that a person can be relied upon and thus ingrains into those in conflict - that faith in others, yields returns.

Any successful and efficient outcome of mediation revolves on the pivotal role that the mediator plays in:-

- ◆ Establishing a process for resolving disputes;
- ◆ Facilitating a settlement through joint and separate meetings of the parties;
- ◆ Encouraging communication between the attorneys and the parties;
- ◆ Assisting in defining issues - clarifying misunderstandings;
- ◆ Exploring alternatives - building options to maximize gain and examining resources;
- ◆ Examining risk factors of possible options;
- ◆ Exploring the consequences of each option with each party;
- ◆ Inquiring as to the feasibility and acceptability of settlement proposals - test risk tolerance of parties;
- ◆ Examining and addressing the underlying interest of each of the parties;
- ◆ Dealing with the emotions of the clients and possibly the egos of the attorneys;
- ◆ Assisting in drafting the settlement agreement - avoiding gaps that can become future conflict;
- ◆ Keeping the process going when negotiations reach impasse;
- ◆ Making "What if" proposals, when timely and appropriate.

11,008 no. of settlements and 2675 no. of connected cases having been settled till the end of 30th November, 2008 through the process of mediation since August, 2005, when mediation through implementation of the amended Section 89, of the CPC, in true spirit, was institutionalized in the District Courts at Delhi by the setting up of the Delhi Mediation Centre with its two functional limbs, i.e. the Tis Hazari Mediation Centre and the Karkardooma Mediation Centre, reflects the expertise that the mediators at the Delhi Mediation Centre have been ingrained with and have developed with the aid of expert training initially from the ISDLS, California and then through in-house training of its own mediators and subsequent Master's Training by the CEDR, London to 13 of the Mediators of the Delhi Mediation Centre, with continued Refresher and Advance Courses for Mediation through in-house trainers which has brought the Delhi Mediation Centre on to a road map of an increasingly strengthening national judicial resolve to ameliorate the trauma faced by litigants due to delays in adjudication of cases caused by teeming backlog of cases, as a result of increased institution - by resolution of disputes through mediation, amicably, expeditiously and finally.

The successes of the Delhi Mediation Centre have travelled beyond the frontiers of Delhi and continue to draw distinguished visitors both from within the country and from foreign lands to the Tis Hazari and Karkardooma Mediation Centres. On 05.11.2008 and 06.11.2008, the

Hon'ble the Chief Justice of Norway, Hon'ble Mr. Justice Tore Schei visited the Mediation Centres at Tis Hazari and Karkardooma District Courts respectively, when the process of mediation and achievements of the Delhi Mediation Centre were highlighted. His Lordship expressed in the Visitors Book maintained at both the Tis Hazari and Karkardooma Mediation Centres "*Many thanks for useful/valuable information about the procedures in India*".

The comments of Mr. Subhendu Mohanty, District Judge and Member Secretary, Orissa State Legal Services Authority, Mr. U. Sarath Chandran, District Judge and Member Secretary, Kerala State Legal Services Authority, Kochi, Mr. S. Sudhir Shah, District Judge and Member Secretary, Gujarat State Legal Services Authority, Ahmedabad, Mr. B. G. Dhanda, District Judge and Member Secretary of the Gujarat State Legal Services Authority, Ahmedabad, who visited the Tis Hazari Mediation Centre on 24th and 26th November, 2008 in the Visitors Book, express how impressed they were with the process of mediation in resolving disputes between parties and their earnestness in setting up similar Mediation Centres like the Delhi Mediation Centre.

24.11.2008 - "*I visited the mediation centre today and received a warm welcome from the Judge in charge, Mediation Centre. He enlightened me about the detailed functioning of the mediation centre, which would be helpful to me to run mediation centres in my State in a well organized manner. I am thankful to the Judge in charge Mediation Centre for giving best information.*" Mr. Subhendu Mohanty, District Judge and Member Secretary, Orissa State Legal Services Authority.

26.11.2008 - "*It was really a new experience. The avenues of mediation and ADR are yet unfamiliar to many of the legal fraternity elsewhere. Therefore, I feel that they should invariably visit DMC and study how mediation really takes place.....*" - U. Sarath Chandra, District Judge and Member Secretary, Kerala State Legal Services Authority, Kochi.

26.11.2008 - "*It's really pleasant to watch the mediation process going on. I also learned so many things for the establishing of a mediation centre....*" Mr. S. Sudhir Shah, District Judge and Member Secretary, Gujarat State Legal Services Authority, Ahmedabad.

26.11.2008 - "*I endorse the view of Sh. Sudhir S. Shah. Mediation is necessary to resolve the disputes of the parties. This Mediation Centre has arranged every aspect for this goal.*" B. G. Dhanda, District Judge and Member Secretary, Gujarat State Legal Services Authority, Ahmedabad.

The Delhi Mediation Centre had the proud privilege of three of its Master Trainers being invited by the Chandigarh Judicial Academy to train 37 Advocates and 2 Judicial Officers as mediators through a 40 hours Mediation Training Programme in two phases, the first phase having been so conducted on 8th and 9th of November, 2008. The Resource Persons at this Mediation Training Programme were Ms. Neena Bansal Krishna, Mr. Vinay Kumar Gupta, and Sh. Alok Aggarwal, all AD & SJs and Master Trainers of the Delhi Mediation Centre. The report of the said three Resource Persons of the Delhi Mediation Centre brings forth the eagerness with which the participants participated in the training programme:-

"Chandigarh Judicial Academy initiated 40 hours mediation training for 37 advocates and 2 Judicial Officers, the first phase of which was conducted on 8th and 9th November, 2008.

The training programme was inaugurated by Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India, Hon'ble Mr. Justice T. S. Thakur, Chief Justice, Punjab and Haryana High Court, Hon'ble Mr. Justice Mahesh Grover, Judge, Punjab and Haryana High Court of Chandigarh and other Hon'ble Judges of Punjab and Haryana High Court had graced the occasion.

Hon'ble Mr. Justice S.B. Sinha in his inaugural address emphasized the need to have new ADR mechanism in view of increasing pending cases, emerging arenas of litigation relating to cyber laws, intellectual property laws and also the cost of litigation. While mentioning the different types of ADRs envisioned under Section 89 of the CPC, emphasis was laid on mediation as a new ray of hope. The importance of training in techniques of mediation in order to ensure institutionalization and its enforcement was highlighted. It was pointed out that the foundation of mediation lies in creating awareness and in developing acceptance for mediation. Role of good governance in mediation was also highlighted. It was stated that mediation is a part of judicial reform in order to be able to deal with quality, quantity and responsiveness in our judicial system.

After the inaugural session, the participants were split into groups. The resource persons were Ms. Neena Bansal Krishna, ADJ and Trained Mediator / Trainer, Sh. V.K. Gupta, OSD, DLSA and Trained Mediator/ Trainer and Sh. Alok Aggarwal, ADJ and Trained Mediator/Trainer.

On the first day of the training the importance of Training in Mediation and Conflict Resolution was highlighted. The concept of mediation, its benefits and differences between the various modes of ADRs were explained. The stages of mediation, i.e. introduction, joint sessions, Caucus and Agreement were also explained in detail. Three role plays were conducted so as to enable the participants to understand the concepts of mediation and its process.

On the second day, 'Communications' as an important tool of mediation was explained. The various kinds of bargainings were also explained in detail. For the purpose of understanding these concepts, the participants were made to perform the role plays.

The first phase of training was received well by the participants. The enthusiasm of the participants could be noted as they willingly and untiringly continued the training till 8 P.M. as per schedule. They also expressed eagerness to be a part of the II phase of the training which is to be conducted on 13th and 14th of December, 2008".



08.11.2008 - On the occasion of Mediation Training at the Chandigarh Judicial Academy Seen imparting training is Ms. Neena Bansal Krishna, AD&SJ Delhi and Master Trainer of the Delhi Mediation Centre and seen seated to her right is Mr. Bhasin, Retired District Judge, Chandigarh & Ms. Raj Rahul Garg, AD& SJ Chandigarh and Nodal Officer of the Punjab & Haryana High Court Mediation & Conciliation Centre, Chandigarh also trainee mediators and seen seated on the left are Advocate Trainee Mediators.



08.11.2008 - On the occasion of Mediation Training being imparted to Advocates at the Chandigarh Judicial Academy Seen imparting training are Mr. Vinay Kumar Gupta and Mr. Alok Aggarwal AD&SJs Delhi and Master Trainers of the Delhi Mediation Centre along with Advocate Trainee Mediators.

As guided by the Hon'ble Mediation and Conciliation Project Committee, the continued sensitization of Referral Judges and sharpening of skills of trained mediators is in full swing both at the Tis Hazari and the Karkardooma Mediation Centres. Thus, on 15.11.2008 and 22.11.2008, an Advance Course for Advocate Mediators on Techniques of Mediation in two phases was conducted, in which the target group was 30 trained advocate mediators. The curriculum comprised of *role of mediators, relevance of different stages of mediation, importance of active listening in mediation and methods of breaking impasses in the first phase*, where the Resource Persons were Sh. O.P. Gupta, AD& SJ and Trained Mediator and Judge in charge, Mediation Centre Tis Hazari (who has so taken over charge on 1.11.08), Dr. Sudhir Kumar Jain and Ms. Shailender Kaur, both Master Trainers of the Delhi Mediation Centre.

The Second Phase of this course dealt with the *aspects of confidentiality and neutrality as basic attributes of mediation; methods of developing inter space bargainings and mediation as governance*. The Resource Persons for this phase of the Advance Course were Mr. Rakesh Kapoor, District Judge III, Tis Hazari, District Courts and a Trained Mediator and Dr. Sudhir Kumar Jain, AD & SJ and Master Trainer of the Delhi Mediation Centre.

On 15.11.2008 and 22.11.2008 two programmes on the subject of "*Sensitization of Referral Judges*" of two hours duration each were conducted at the Karkardooma Mediation Centre. The Referral Judges comprised of Civil Judges, ADJ's and Presiding Officers of the Labour Courts at the Karkardooma District Courts. The Resource Persons for these programmes were Sh. A. K. Chawla, AD&SJ and

