LEX LOCALIS-JOURNAL OF LOCAL SELF-GOVERNMENT
ISSN:1581-5374 E-ISSN:1855-363X
VOL. 23, NO. S4(2025)

THE CONNECTION BETWEEN ADR AND LABOUR DISPUTE

Dr. Nazima Munshi[1], Mr. Tushar Krishnamani[2],

[1]Assistant Professor and Associate Dean NMIMS Kirit P Mehta School of Law
[2]Assistant Professor, NMIMS Kirit P Mehta School of Law

Abstract
The aim of this research paper is to present a thorough grasp of the ways in which alternative dispute resolution (ADR) mechanisms interact with the field of labour relations by examining the complex relationship between ADR and labour conflicts. The study explores the use of alternative dispute resolution in labour issues, with a particular emphasis on complaints, collective bargaining, and workplace conflicts.
This study looks at the benefits of alternative dispute resolution in labor relations, highlighting how it can promote positive communication, keep labor peace, and increase productivity at work. It also examines the drawbacks and difficulties of alternative dispute resolution (ADR) in labor conflicts, including the necessity for inclusivity, the need to strike a balance between advocacy and neutrality, and confidentiality issues.The results shed light on how labor dispute resolution is developing and emphasize how crucial it is to incorporate ADR techniques into the framework for labor relations. The study provides guidance on how to negotiate the intricate dynamics of alternative dispute resolution in the context of labor conflicts for academics, policymakers, and labor practitioners.

Keywords: Labour issues, Speedy resolution, Alternative Resolutions, Transparency.

INTRODUCTION

Alternative conflict Resolution refers to a broad range of conflict resolution procedures that help disputing parties reach a settlement without resorting to court action. It is a general phrase used to describe the manner in which parties might resolve disagreements with the aid of a third party. It is often referred to as EDR, or external resolution of disputes. In the past few years, ADR has achieved significant acceptability among people of all ages and the legal community. It is now being used as a method of dispute resolution alongside the legal process. ADR that is most frequently used is arbitration. Before the creation of a disagreement, there must be a valid Arbitral Contract between both sides for the process of arbitration to take place. Both parties send the matter to an outsider who is chosen as an arbitrator in this technique of settling a dispute. The two sides must abide by the arbitrator's judgment, which is presented to them as an award. The fact that an arbitration panel has territory over its own area of authority must be emphasized. Consequently, Section 34 of the Arbitration & Conciliation Act gives particular circumstances on which a party may appeal to the primary civil court of original jurisdiction for setting aside the award if either side is dissatisfied with the outcome of the arbitration.

LABOUR DISPUTE UNDER ARBITRATION AND CONCILLATION ACT

It is important to note that the Arbitration and Conciliation Act[1] does not define or even provide a general guideline as to what categories of disagreements will be able to be resolved or not. As a result, even though lawmakers left this gap, it is now up to the court to fill it and specify which types of conflicts are subject to arbitration and which are not. Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd.[2] is the Supreme Court's seminal decision that established the law in this area. According to the Booz Allen examination, any civil or commercial dispute, regardless of whether it centres on a contract or another type of dispute that can be decided by a civil court, is typically worthy of being determined upon and settled by arbitration as an alternative to litigation "subject to the dispute being governed by the

[1] Arbitration and Conciliation Act, 1996.
[2]{(2011) 5 SCC 532}

arbitration agreement" unless the authority of the arbitration panel is excluded by either a clear provision or by a necessary inference in the terms of the agreement. Express prohibitions against arbitration as a dispute settlement method are uncommon, and there is no civil or business law that outright forbids arbitration. Therefore, in order to evaluate whether a conflict can be arbitrated, we must understand when the arbitral tribunal's authority is subconsciously limited. In this respect, the highest court in the nation found that lawmakers solely reserved the adjudication of specific categories of procedures for public fora as they related to an issue of the public interest.

Nevertheless, there are certain categories of disputes which are although not clearly mentioned to be exclusive to the jurisdiction of civil court but by reason of necessary implications due to its close relation with public issues stands outside the purview of the arbitration panel.

The rights at issue in the conflict are the subject of the second test established. In contrast to a right in personam, which is an interest safeguarded against specific individuals, the Court concluded that a specific category of activities works in rem, which is a right enforceable against the entire universe. All conflicts involving rights in personam are thought to be resolved by arbitration, whereas issues involving rights in rem must be decided by courts or open-forum tribunals similar to courts. In the Vidya Drolia case[3], of the court's ruling listed a few instances of non-arbitrable conflicts.

CASE STUDIES WITH RESPECT TO APPLICABILITY OF ARBITRATION TO LABOUR DISPUTES

In Kingfisher Airlines v. Captain Prithvi Malhotra and Others,[4] the Bombay High Court was the very first court to address the issue of the arbitrability of labour disputes. Pilots and other employees of the Kingfisher Airlines started a number of labour compensation actions in this matter. In terms of the contract of employment, Kingfisher submitted an application citing Section 8 of the Arbitration and Conciliation Act. The petition was denied, and the labour court was still in charge of the case.

After being offended by the Labour Court's order, Kingfisher went to the Bombay High Court to challenge it. Court upheld the labour court's decision and declared that the Act of 1996 did not apply to labour disputes because, as the judge pointed out, the settlement of labour and labour conflicts has been designated for the judicial platform that will be established and governed by the ID Act. The court based its conclusion on a number of interpretive aids, including utilising the act's preamble to interpret the legislative body's meaning and by studying the pattern of how labour conflicts were resolved.

In the subsequent case of Rajesh Korat v. Innoviti [5]before the Karnataka High Court in 2017, a comparable query arose. In this instance, the labour court granted a motion for referral to arbitration, which directed both sides to arbitration in accordance with the contract of arbitration. The High Court, on the other hand, overturned this decision, stating that there are solid and strong societal justifications for requiring that labour and industrial disputes only be decided by tribunals and courts established and controlled by the ID Act. The ID Act is an independent code, and as such, the Arbitration and Conciliation Act does not apply to topics covered by the ID Act.

It is significant that both of these rulings—in Kingfisher and Innoviti—pay attention to the imbalance in power of negotiation that exists in worker disputes. The ID Act,[6] as well as other employment laws generally in India, are intended to alleviate this problem in the long

[3](2021) 2 SCC 1
[4]2013 BOMCR 7 738
[5][2017 SCC Online kar4975]
[6]Industrial Disputes Act,1947.

run. The ID Act's introduction of specialised courts and tribunals helps to fulfil some of this corrective purpose. If you take a deeper look at each of these, you'll see that the Court was swayed mostly by the negative effects of subjecting labour disputes to exclusive arbitration panels.

SECTION 10A OF INDUSTRIAL DISPUTE ACT,1947

The authorities has backed voluntary arbitration and provided it legal protection. Arbitration has even been found to be a particularly effective and successful approach to resolve problems under the Industrial Disputes Act of 1947, according to the ruling in the matter of Karnal Leather Karamchari Sangathan vs. Liberty Footwear Co.[7]

because it is more affordable when compared to other dispute resolution methods and because it can resolve issues in a shorter amount of time than a year. Arbitration has a benefit over lawsuit due to the reality that there's less or no right to appeal against the arbitral rulings, among other benefits, making arbitration the ideal method for resolving industrial issues.

Nevertheless, the proof demonstrates that even though the authorities has been vigorously promoting the step for more than thirty years, it has not yet taken hold. Arbitration will never achieve the widespread acceptance it is capable of achieving because to numerous legal complexities and significant discrepancies between procedures under the Industrial Disputes Act of 1947 and the ANC Act.

Just over 1% of the recorded conflicts during the previous ten years were sent to arbitration. The National Commission on Labour looked at how arbitration worked as an approach of resolving disputes and discovered that both sides, especially the businesses, had not yet completely embraced it.[8]

After discussing the legal position for workers, it is crucial to consider the situation for employees who do not fit within the tradesmen group. According to their employment contracts, employees in the non-workmen group may agree to private arbitration. Such arbitration agreements must, among other things, comply with Section 7 of the Arbitration Act. Nevertheless, from an operational economic point of view, in an employer-employee relationship, the company is on a firmer footing, and this may impair the effectiveness of the arbitration process. The Industrial Disputes Act of 1947, which governs labour arbitration, would be rendered ineffective if it were combined with the Arbitration Act of 1996 in India. The only controlling law defending them and their job interests would be hindered because the industrial sector has unionized workers who frequently face prejudice. Since the majority of workers come from backgrounds that are characterized by impoverishment, the public is not familiar with the current legal system. The ability to present claims before an arbitrator as a powerful tool of collective bargaining would be lost if the aforementioned statute were to be repealed and replaced with the commercial arbitration legislation. The ID of 1947 offers unions for workers protection by setting up the appropriate processes and structure to resolve any conflict with their employer. If the aforementioned ID were repealed, employers or administration would have the authority to choose their own arbitrator, who would act in their own best interests.

[7](1989) 990 AIR 247.
[8] Suresh C. Srivastava, Voluntary Labour Arbitration: Law and Policy, https://www.jstor.org/stable/4.