

Draft Mediation Bill issued for Public Consultation

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Government of India has been taking various policy initiatives for promotion and strengthening of Alternative Dispute Resolution (ADR) mechanisms through amendment in existing laws and by enactments, for facilitating quick disposal of disputes, outside of traditional court systems. As a continuation of the exercise, bringing a standalone law on Mediation is under consideration.

Since the laws on Mediation are contained in several enactments including Rules and Regulation, it was felt necessary to ascertain the present statutory framework on mediation and bring an umbrella legislation including amendments in the existing laws. The Bill takes into contemplation the international practice of using the terms 'conciliation' and 'mediation' interchangeably. Further, it has also become expedient to enact a law in mediation on issues of domestic and international mediation as India is a signatory to the Singapore Convention on Mediation.

Accordingly, a draft bill with the objective to promote, encourage and facilitate mediation especially institutional mediation for resolution of disputes commercial and otherwise, enforce domestic and international mediation settlement agreements, provide for a body for registration of mediators, to encourage community mediation and to make online mediation as an acceptable and cost effective process and for matters connected therewith or incidental thereto has been prepared.

The main features of the Bill are: -

1. The draft Bill proposes for pre-litigation mediation and at the same time safeguards the interest of the litigants to approach the competent adjudicatory forums/courts in case an urgent relief is sought.
2. The successful outcome of mediation in the form of Mediation Settlement Agreement (MSA) has been made enforceable by law. Since the Mediation Settlement Agreement is out of the consensual agreement between the parties, the challenge to the same has been permitted on limited grounds.
3. The mediation process protects the confidentiality of the mediation undertaken and provides for immunity in certain cases against its disclosure.
4. The registration of Mediation Settlement Agreement has also been provided for with State/District/Taluk Legal Authorities within 90 days to ensure maintenance of authenticated records of the settlement so arrived.
5. Provides for establishment of the Mediation Council of India.
6. Provides for community mediation.

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