# JUSTICE DISPENSATION THROUGH THE ALTERNATIVE DISPUTE RESOLUTION SYSTEM IN INDIA

KRISHNA AGRAWAL,
Indian Institute of Comparative Law (Jaipur, India)

*The Law Commission of India in its 222nd report emphasized the need for Alternative Disputes Resolution (ADR) for the dispensation of justice, because the courts are inaccessible owing to various factors, e.g., poverty, social and political backwardness, illiteracy, ignorance, procedural formalities and inordinate delay in judgments. During the ancient period the disputes were resolved in an informal manner by neutral third persons or people's court in villages and it continued till the middle of the 20th century. Unfortunately, after the Independence of India in 1947, this system was dissuaded and the government permitted to continue the adversarial system of justice. In 1980, a committee was set up. It recommended Lok Adalats (People's Courts). In 1987, the Legal Services Authorities Act was enacted. This Act obligates the states to provide free legal aid to poor persons. Besides this, the Act provides for the establishment of permanent Lok Adalats. This is one of the important modes of ADR. Lok Adalats have been established in all the districts of the country. They bring conciliatory settlement in complicated cases arising out of matrimonial, landlord-tenants, property, insurance and commercial disputes.*
*There are four methods of ADR, viz., negotiation, mediation, conciliation and arbitration. Mediation and arbitration are widely preferred. They are alternatives to litigation. The Arbitration Act for the first time was enacted in 1889 and it was subsequently amended many times. On the objections raised by the Supreme Court of India and also on the adoption of UNCITRAL Model Law on International Commercial Arbitration, in 1996 Arbitration and Conciliation Act was enacted. This law is almost the same as is almost in all the countries. Further, the Government of India established International Centre for Alternative Disputes Resolution (CADR) with the objectives of promotion, propagation, and popularizing the settlement of domestic and international disputes by different modes of ADR.*

*Key words: Indian law; alternative dispute resolution; civil procedure; civil justice; justice dispensation.*

## 1. Introduction

The Law Commission of India in its 222nd Report has emphasized the need for justice dispensation through Alternative Disputes Resolution [hereinafter ADR] mechanisms in India. The traditional concept of access to justice, as is normally understood in India, is access to courts of law. However, courts are inaccessible owing to various barriers, such as poverty, social and political backwardness, illiteracy, ignorance, procedural formalities, inordinate delay in judgment, and the like. Judicial administration has failed to ensure that it is responsive to the reasonable demands of the times and is in particular attuned to secure:

(i) the elimination of delay, speedy clearance of arrears and reduction in costs; and

(ii) the simplification of procedure to reduce and eliminate technicalities and devices causing delay.

## 2. History and Development of ADR

ADR has been a spoke in the wheel of the larger formal legal system in India since time immemorial. In the ancient and medieval periods disputes were resolved in an informal manner by a neutral third person who was either an elderly person or village chief. Since the *Vedic* (ancient Hindu scriptures) period, India has been heralded as a pioneer in achieving the social goal of speedy and effective justice through informal resolution systems. The adversarial system of justice, adopted later during the 19th and 20th century, proved to be 'costly and time consuming.' Time is consumed in procedural wangles, technicalities of law and the inability of large numbers of litigants to engage lawyers. These ADR methods are not new; they were in existence in some form or other even before the modern justice delivery system was introduced by colonial rulers. There were various types of arbitral body, which led to the emergence of the celebrated *panhayat's raj* (people's rule) system of India, especially in the rural areas. *Panchayat* decisions were accepted by people and treated as binding. Thus, *Lok Adalalat* (people's court) created under the *panchayat raj* was considered very useful. As such, in 1980 the Government of India set up a Committee under the chairmanship of P.N. Bhagwati, a former Chief Justice of the Supreme Court of India. On the recommendations of this Committee, Parliament enacted the Legal Services Authorities Act, 1987 in view of Art. 39A of the Indian Constitution. This Legal Services Authorities Act 1987 implemented in its true spirit the utility of *lok adalats* (people's courts) for the speedy resolution of disputes. The adage here is that justice delayed is justice denied, and speedy justice has now been accepted as a constitutional guarantee.

### 3. ADR – Access to Justice

Justice in all its facets – social, economic and political – must be rendered to the masses of a country. This Act enshrines dispute resolution through conciliation, mediation and negotiation. The constitutional promise of securing for all citizens social, economic and political justice, as promised in the preamble to the Constitution, cannot be realized unless the three organs of the state – legislature, executive and judiciary – join together to find ways and means for providing the poor with equal access to the justice system. The Constitution through Art. 14 guarantees equality before law and equal protection of laws. Article 39A mandates the state to secure that operation of the legal system promotes justice on a basis of equal opportunity, and ensures that the same is not denied to any citizen by reason of economic or other disabilities. Equal opportunity mandates access to justice. It is not sufficient that law treats all persons equally, irrespective of the prevalent inequalities. Rather, the law must function in such a way that all people have access to justice in spite of economic disparities.

The expression 'access to justice' focuses on the following two basic purposes of a legal system:

1) the system must be equally accessible to all; and

2) it must lead to results that are individually and socially just.

The poor, as already stated, are ignorant of court procedures and terrified and confused when faced with judicial machinery. Thus, most citizens are not in a position to enforce their rights, whether constitutional or other legal rights, which in effect generates inequality.

Article 39A obligates the state to provide free legal aid, through suitable legislation or schemes or any other way, to promote justice on the basis of equal opportunity. It puts stress upon legal justice. The Supreme Court in *Sheela Barse v. State of Maharashtra* (AIR 1983 SC 378), emphasized that the provision of legal assistance for a poor or indigent accused arrested and put in jeopardy of his life or personal liberty was a constitutional imperative mandated not only by Art. 39A but also by Arts. 14 and 21 of the Constitution. In the absence of legal assistance, injustice may result. Every act of injustice corrodes the foundation of democracy and rule of law.

Article 39A makes it clear that the social objective of equal justice and free legal aid have to be implemented by suitable legislation or by formulating schemes for free legal aid. Although Art. 39A was introduced by the 44$^{th}$ Amendment of the Indian Constitution in 1976, its objective of providing access to justice could never have been fulfilled but for the majestic role played by the Supreme Court in the public interest litigation movement. This has enabled a public spirited person to move the court to remedy any wrong affecting public.

### 4. Other Social Legislation

Besides constitutional provision, there are various other legal rights conferred by different social welfare legislation, *e.g.*, Contract Labour (Regulation and Abolition) Act 1970; Equal Remuneration Act 1976; Minimum Wages Act 1948, *etc.* These rights are of no avail if an individual has no means of getting them enforced. The rule of law envisages that all people are equal before the law. The enforcement of rights must be exacted through the courts and judicial procedure is very complex, expensive and dilatory, putting poor persons at a disadvantage. However, the *lok adalalats* (peoples' court), *nyaya panchayts* (justice through village assembly), and the legal services authority are also part of the campaign to take justice to the people and ensure that all people have equal access to justice in spite of various barriers like social and economic backwardness. The philosophy behind the establishment of Permanent *Lok Adalats* is that they may take upon themselves the role of counselors as well as conciliators. What started as an experiment in using *lok adalat* as an ADR mode has come to be accepted in India as a viable, economic, efficient and informal means of ADR. The provisions relating to *lok adalat* are contained in sects. 19 to 22 of the Legal Services Authorities Act 1987.

### 5. *Lok Adalats*

Section 22B of the Legal Services Authorities Act 1987, as amended in 2002, enables the establishment of Permanent *Lok Adalats* and its sub-section (1) reads as follows:

> Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent *Lok Adalats* at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

Permanent *Lok Adalats*, established in every district court's complex, provide a statutory forum to litigants to go prior to litigation, and courts may refer pending cases for counseling and conciliation. These permanent *lok adalats* are certainly in a better position to bring conciliatory settlements in more complicated cases arising out of matrimonial, landlord-tenant, property, insurance and commercial disputes, where repeated sittings are required for persuading and motivating parties to settle dispute in an atmosphere of give and take. The disposal of legal disputes at pre-litigation stage by permanent *lok adalats* provides expensive-free justice to citizens. It saves courts from the burden of petty cases enabling them to divert time to more contentious and old matters.

## 6. Arbitration

There are, as already stated, four methods of ADR: negotiation, mediation, conciliation, and arbitration. Among them, arbitration and mediation are familiar and widely preferred. They are both known alternatives to litigation. Arbitration is the process of resolving a dispute by appointing an arbitrator to collect evidence and decide – a decision that may or may not be binding on the parties. The arbitrator may also be called a private judge. The object of arbitration is the settlement of a dispute in an expeditious, convenient, inexpensive, and private manner so that it does not become the subject of future litigation or tiers of appeal. Mediation means hiring a neutral third party, a mediator, who assists two or more parties to arrive at a decision in the common interest. Both of these forms of ADR are out-of-court settlements.

The first avenue in which conciliation has effectively introduced and recognized by law was in the field of labour law, viz., the Industrial Disputes Act 1947. Conciliation has been statutorily recognized as an effective method of dispute resolution in relation to disputes between workers and management. The provisions in the Industrial Disputes Act makes it attractive for disputing parties to settle disputes by negotiation, failing which, through conciliation by an officer of the government, before resorting to litigation. In *Rajasthan State Road Transport Corporation v. Krishna Kant* ((1995) 5 SCC 75), the Supreme Court observed:

> The policy of law emerging from Industrial Disputes Act and its sister enactments is to provide an alternative dispute resolution mechanism to the workmen, a mechanism which is speedy, inexpensive, informal and unencumbered by the plethora of procedural laws and appeals upon appeals and revisions applicable to civil courts. Indeed, the powers of the courts and tribunals under the Industrial Disputes Act are far more extensive in the sense that they can grant such relief as they think appropriate in the circumstances for putting an end to an industrial dispute.

### *6.1. History and Development of Arbitration*

The courts have extensively recognized ADR in the field of arbitration. Arbitration was originally governed by a number of different enactments, including those in the Code of Civil Procedure. The Arbitration Act, which was first enacted in 1899, was replaced by the Arbitration Act of 1940. The courts were very much concerned about the supervision of the Arbitral Tribunal and keen to ascertain whether arbitrators exceeded their jurisdiction in deciding upon issues. The Arbitration Act 1940 fell short of international and domestic standards. Enormous delay and court intervention frustrated the very purpose of arbitration as a means for expeditious resolution of disputes. The Supreme Court in several cases repeatedly pointed out the need for

a change in the law. The Public Accounts Committee further criticized the Arbitration Act 1940. As such, the Government of India thought it necessary to provide a new forum and procedure for resolving international and domestic disputes quickly.

The Arbitration and Conciliation Act 1996 was thus enacted. This law is virtually the same as that in almost all countries around the world. Conciliation has been given statutory recognition as a means for settlement of disputes under the terms of the Act. In addition, the Act also guarantees the independence and impartiality of arbitrators, irrespective of their nationality. The Act has brought in many important changes to expedite the process of arbitration. This legislation has enhanced the confidence of foreign parties interested in investing in India or engaging in joint ventures, foreign investments, transfer of technology or foreign collaborations, *etc.*

The decision of the Supreme Court in *Konkan Railway Corporation Ltd. & Ors. v. M/s. Mehul Construction Co.* ((2007) 7 SCC 201), summarizes the involvement of the Arbitration and Conciliation Act, 1996, and the main provisions of the Act. The Arbitration Act, 1940, provided for domestic arbitration and did not deal with foreign awards. Foreign awards were dealt with by the Arbitration (Protocol and Convention) Act 1937 and the Foreign Awards (Recognition and Enforcement) Act 1961. The increasing growth of global trade and delay in the disposal of cases before the courts under the normal system in several countries made it imperative to have access to an ADR system, particularly in commercial disputes.

As the entire world was moving towards the speedy resolution of commercial disputes, the United Nations' Commission on International Trade Law, way back in 1985, adopted the UNCITRAL Model Law on International Commercial Arbitration. Since then, a number of countries have given recognition to the model in their respective legislative systems. Indian law relating to the enforcement of foreign arbitration awards provides for greater autonomy in the arbitral process and limits judicial intervention considerably. The grounds on which the award of an arbitrator can be challenged are the invalidity of an agreement, want of jurisdiction on the part of the arbitrator, and want of proper notice to the party of the appointment of an arbitrator and arbitral proceedings.

### 7. International Centre for ADR (ICADR)

It was against this backdrop that the International Centre for ADR (ICADR) was established and registered as a society under the Societies Registration Act 1860 for promotion and development of ADR facilities and techniques. An autonomous organization under the aegis of the Ministry of Law, Justice and Company Affairs, within the Indian Government, the Centre was inaugurated by the then Prime Minister at New Delhi on 6 October1995. The Chief Justice of India is its patron. More than forty delegates from the SAARC countries attended the inauguration of the Centre.

With its registered office located in New Delhi, the ICADR has plans to establish regional centers in all state capitals to spread the ADR movement. The first regional centre was set up in Hyderabad with financial and logistical support from the Andhra Pradesh Government. Other states are also in the process of establishing such centers in their states.

The main objectives of the ICADR are to propagate, promote and popularize the settlement of domestic and international disputes by different modes of ADR. It also intends to establish facilities and provide administrative and other support services for holding conciliation, mediation and arbitration proceedings in addition to promoting reform in the system of settlement of disputes and its healthy development within the framework of social and economic needs of society.

Conciliators, mediators, arbitrators and other neutral ADR personell are appointed when requested by the parties from among a panel of qualified and experienced neutral ADR practitioners. The institute also envisages undertaking training/teaching in ADR and related matters and awarding diplomas, certificates and other academic or professional distinctions. Moreover, the Institute plans to develop the infrastructure for higher education and research in the field of ADR and to arrange for fellowships, scholarships and stipends for developing professionalism in ADR. Almost all disputes, commercial, civil, labour and family, in respect of which the parties are entitled to conclude a settlement, may be settled by ADR procedures.

The advantages of dispute resolution procedures administered by the ICADR include time and cost savings, autonomy for parties to an international dispute, a choice in the applicable law, procedure and language of the proceedings, the possibility of ensuring that specialized expertise is available from the tribunal in the person of the arbitrator, mediator, conciliator or neutral adviser, and strict confidentiality. Disputes can be referred to the ICADR through a procedure administered by the ICADR in two ways either by a clause in a contract providing for reference of all future disputes under that contract or by a separate agreement providing for reference of an existing dispute. Due to changes in international trade, the court system is not able to meet the requirements of international traders or the corporate sector in dispensing quick justice.

Litigation has not kept pace with our fast moving society and growing changes in business practices. Indeed, compared to modern business, the civil courts have changed very little. It has been realized that ADR is can produce better outcomes than the traditional courts because first, different kinds of dispute may require different kinds of approach, which may not be available through the courts; and secondly, there is direct involvement and intensive participation by the parties to the negotiations under the ADR system to arrive at a settlement. The settlement of commercial disputes under a ADR system will immensely benefit the corporate sector by securing quicker resolutions.

### 8. Family Courts Act 1984

The Family courts Act 1984 was enacted to provide for the establishment of family courts with a view to promoting conciliation in, and to secure the speedy settlement of, disputes relating to marriage and family affairs. Section 5 of the Family Courts Act provides for the government to require the association of social welfare organizations to help a family court to arrive at a settlement. Section 6 provides for the appointment of permanent counselors to effect settlement in family matters. Further, sect. 9 imposes an obligation on the family court to make efforts to secure a settlement before taking evidence. To this extent ADR has recieved much recognition in the settlement of family disputes. A similar provision is contained in Order XXXIIA of the Code of Civil Procedure, which deals with family matters. According to sect. 4(4)(a) in selecting persons for appointment as judges in family courts, every endeavor shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and promote the welfare of children, and qualified by reason of their experience and expertise to promote the settlement of disputes by conciliation and counselling, are preferred.

### 9. Consumer Protection Act 1986

Another right step was taken with the enactment of the Consumer Protection Act 1986 regarding the settlement of consumer disputes. The Act provides for the effective, inexpensive, simple and speedy redress of consumer grievances, which civil courts are not able to provide. The Act is another example of ADR for the effective adjudication of consumer disputes. The Act provides for three-tiers; that is, a district forum, state commission and the National Commission, for the redress of consumer grievances. Large numbers of consumers are approaching these fora to seek quick redress of their grievances. There has also been a spurt in social action litigation on behalf of consumers by consumer activists, voluntary organizations and other social action groups.

### 10. Scope and Method of ADR

Disputes such as family disputes, contractual disputes, motor accident claims, disputes between neighbours and several other categories of civil and petty criminal cases, which form a substantial percentage of pending litigation, may be more satisfactorily settled by ADR. In India, millions of cases are pending decision before the courts. The Indian legislature has made considerable efforts, through the making and improving ADR laws, to address these problems of delay and the backlog of cases. There is much flexibility in the use of ADR methods. Flexibility is available in relation to both procedures and the way in which solutions to the dispute are

found. Solutions may be problem-specific. The rigidity of precedent, as used in the adversarial method of dispute resolution, will not impede the finding of solutions to disputes in creative ways.

The ADR method brings about a satisfactory solution to disputes, and not only will the parties be satisfied, but the ill-will that would otherwise have existed between them will also end. ADR methods, especially mediation and conciliation, not only address the dispute itself but also the emotions underlying the dispute. Parties do not win or lose. In fact, for ADR to be successful, the emotion and ego existing on the part of the parties must first be addressed. Once emotions and ego have been effectively addressed, resolving the dispute becomes very easy. This requires wisdom and skill of counseling on the part of the mediator conciliator.

As the ADR is participatory there is much scope for parties to participate in the solution-finding process. As a result, they honour the solution with true commitment. Above all, ADR is inexpensive and also affordable for the poor. Until now, there have been some aberrations when it comes to expenses incurred in arbitration. Over course of time, once a good number of quality arbitrators has been developed, the expenses of arbitration will also decrease. The promotion of institutional arbitration will go a long way to improving the quality of ADR services and making them much cheaper. The development of ADR will provide access to many litigants and helps in reducing the enormous workload of the judiciary.

Arbitration is a process of dispute resolution through an arbitration tribunal appointed by the parties or by the Chief Justice or a designate of the Chief Justice under sect. 11 of the Arbitration and Conciliation Act 1996. The parties have option to go for *ad hoc* arbitration or institutional arbitration, depending on their convenience. *Ad hoc* arbitration is arbitration agreed to and arranged by the parties themselves without recourse to an arbitral institution. In *ad hoc* arbitration, if the parties are not able to agree as to the arbitrator or one of the parties is reluctant to cooperate in appointing an arbitrator, the other party may invoke sect. 11 of the Arbitration and Conciliation Act 1996, wherein the Chief Justice of the High Court or the Supreme Court or their designate, will appoint an arbitrator. In cases of domestic arbitration, it will be the Chief Justice or High Court or their designate, and in cases of international commercial arbitration, it will be the Chief Justice of India or his designate that will appoint the relevant arbitrator. In *ad hoc* arbitration fee of the arbitrator is unfortunately quite high.

Institutional arbitration is arbitration administered by an arbitral institution. The parties may stipulate in the agreement to refer a dispute between them for resolution to a particular institution. Indian institutions include the Indian Council of Arbitration and the International Centre for Alternative Dispute Resolution. International institutions include International Court of Arbitration, the London Court of International Arbitration and the American Arbitration Association. Rules are formulated on the basis of experience and address all possible situations that may arise in the course of arbitration.

The large number of sittings and the charging of very high fees per sitting, with several adjournments have often resulted in the cost of arbitration approaching or even exceeding the amount involved in the dispute or the amount of the award. When an arbitrator is appointed by a court without indicating the fees to be paid, either both parties or at least one party will be at a disadvantage. This has caused number of problems: firstly, parties can feel constrained to agree to whatever fees are suggested by an arbitrator even if they are high or beyond their capacity. Secondly, if a high fee is claimed by an arbitrator and one party agrees to pay such a fee, the other party, who is unable to afford or reluctant to pay such a high fee, is put in an embarrassing position. They will not be in a position to express their reservation or objection owing to an apprehension that refusal to agree to the fee suggested by arbitrator, may prejudice their case or create a bias in favour of the other party, who readily agreed to pay the high fee. It is necessary to find an urgent solution to this problem to reduce arbitration costs.

## 11. Solution regarding High Fees to Arbitrators

The following might present a solution to fixing the issue of arbitrators' fees:

1) institutional arbitration has provided a solution in that, here, an arbitrator's fee is not fixed by the arbitrator on a case by case basis but is governed by a uniform rate prescribed by the institution under whose aegis arbitration is held;

2) another solution could be for the court to fix the fee at the time of appointing the arbitrator, with the consent of parties and if necessary in consultation with the arbitrator concerned;

3) thirdly, retired judges offering to serve as arbitrators might indicate their fee structures to the registry of the respective High Court so that the parties can have the choice to select an arbitrator whose fee is within their 'range,' having regard to the stakes involved.

The objectionable issue here is that parties are forced to agree to a fee that is fixed by such an arbitrator. Unfortunately, delays, high cost, and frequent and sometimes unwarranted judicial interference at different stages, are seriously hampering the growth of arbitration as an effective dispute resolution process. Delay and high costs are two areas where arbitrators may bring about marked improvement through self-regulation.

## 12. Section 89 of the Code of Civil Procedure 1908

The Government of India has been very serious about the settlement of disputes outside the courts. Therefore, sect. 89 was introduced in 1999, being brought into force with effect from 1 July 2002. This section was introduced for the first time to settle disputes outside the court with the avowed objective of providing speedy justice.

1. It is now mandatory for the court to refer a dispute after the issues have been framed for settlement either by way of:

1) arbitration;
2) conciliation;
3) judicial settlement, including settlement through *lok adalat*; or
4) mediation.

2. If the parties fail to settle their disputes through any of the alternative dispute resolution methods, the suit could proceed further in the court in which it was filed.

3. The procedure to be followed in matters referred for different modes of settlement is spelt out in subsect. (2).

4. Section 89(2) empowers the government and the High Court to make rules to be followed in mediation proceedings to affect a compromise between parties.

One endeavour has been to inspire parties to settle disputes outside the court. Further, in order to have a greater effect in a real sense, a new sect. 16 has been inserted into the Court Fees Act 1870 by the Code of Civil Procedure (Amendment) Act 1999, which reads as follows:

> Where the court refers the parties to the suit to any one of the modes of settlement of dispute referred to in section 89 of the Code of Civil Procedure 1908, the plaintiff shall be entitled to a certificate from the court authorizing him to receive back from the collector, the full amount of the fee paid in respect of such plaint.

Where a matter referred to a *lok adalat* under the terms of sect. 89(2) of the Code of Civil Procedure read with sect. 20(1) of the Legal Services Authorities Act, is settled, the refund of the court fee is governed by sect. 16 of the Court Fees Act read with sect. 21 of the Legal Services Authorities Act, and the plaintiff is entitled to a refund of the whole of the court fee paid on the plaint (*Vasudevan V.A. v. Stat of Kerala* (AIR 2004 Ker 43)).

A *lok adalat* award is on a par with a decree on compromise, final, un-appealable, binding and equivalent to an executable decree, and ends the litigation between the parties (*P.T. Thomas v. Thomas Job* ((2005) 6 SCC 478, 486)).

Public confidence in the judicial system is the need of the hour more than ever before. The judiciary has a special role to pay in achieving the socio-economic goals enshrined in the Constitution. While maintaining their aloofness and independence, judges have to be aware of social changes in the task of achieving socio-economic justice for the people.

## 13. Conclusion

ADR, thus, is a much easier and faster way of securing justice compared to expensive litigation. Despite the fact that there is a need for justice dispensation

through ADR, there is not much acceptance of this by the people. This includes not only by people in the lower socio-economic strata of society, but even those belonging to highly affluent and educated society. There is, thus, a need in India for the ADR movement to be carried forward with greater speed. Considering the fact that delay in justice is tantamount to justice denied, one should adopt this method. In India, where major economic reforms are under way within the framework of constitutional law, strategies for the swifter resolution of disputes in order to lessen the burden on the courts and provide a means for the expeditious resolution of disputes, will have to be evolved. There is no better option but to strive to develop alternative modes of dispute resolution (ADR). The technique of ADR is an effort to design arbitration, mediation, conciliation, mediation-arbitration, mini-trials, private ajudication, final offer arbitration, court-annexed ADR and summary jury-trials. With the advent of ADR, there is new avenue for people to settle their disputes.

## References

Aggarwal, S.P. Pleadings – An Essential Guide (2nd ed., LexisNexis 2013).

*Konkan Railway Corporation Ltd. & Ors. v. M/s. Mehul Construction Co.* ((2007) 7 SCC 201).

*P.T. Thomas v. Thomas Job* ((2005) 6 SCC 478, 486).

*Rajasthan State Road Transport Corporation v. Krishna Kant* ((1995) 5 SCC 75).

Rao, P.P. Reclaiming the Vision – Challenges of Indian Constitutional Law and Governance (LexisNexis 2013).

*Sheela Barse v. State of Maharashtra* (AIR 1983 SC 378).

*Vasudevan V.A. v. Stat of Kerala* (AIR 2004 Ker 43).

Venugopal, Krishnan, & Sudhish Pai, V. Restatement of Indian Law: Legislative Privilege in India (LexisNexis 2011).

## Information about the author

**Krishna Agrawal (Jaipur, India)** – Director, Indian Institute of Comparative Law, Former Dean, Faculty of Law, University of Rajasthan (6/146 Malviya Navgar, Jaipur, 302017, India; e-mail: kbagrawal09@rediffmail.com).