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THE MEDIATION ACT 2023: WILL IT TRANSFORM DISPUTE RESOLUTION IN INDIA?

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The Indian judicial system has been facing an ever-increasing backlog of cases for several years, often resulting in delayed justice and lengthy litigation. In such a situation, mediation has emerged as an effective alternative that allows parties to resolve disputes in a quicker, less expensive, and more amicable manner. Recognizing the growing need to promote mediation, Parliament enacted the Mediation Act, 2023¹, to provide a structured legal framework for mediation in India. The Act aims to encourage parties to settle disputes outside the courtroom while reducing the burden on the judiciary. Although the legislation is an important step towards strengthening alternative dispute resolution, its success will ultimately depend on how effectively it is implemented in practice. This article examines the key provisions of the Mediation Act, 2023, and analyses whether it has the potential to transform the landscape of dispute resolution in India.

Before the enactment of the Mediation Act, 2023, mediation in India was governed by a combination of statutory provisions, judicial decisions, and court-referred mediation mechanisms. Although laws such as the Code of Civil Procedure, 1908, the Arbitration and Conciliation Act, 1996, and the Commercial Courts Act, 2015 recognized mediation in certain situations, there was no comprehensive legislation exclusively governing the mediation process. This fragmented legal framework often led to inconsistencies in procedure and uncertainty regarding the enforceability of mediated settlement agreements. As mediation gained recognition as an effective method of dispute resolution, the need for a uniform legal framework became increasingly evident. The Mediation Act, 2023 was enacted² to address these gaps and strengthen the institutional framework for mediation in India.

The Mediation Act, 2023 introduces several significant reforms aimed at making mediation a more effective and accessible mode of dispute resolution. One of its most notable features is the

¹ The Mediation Act, 2023, No. 32 of 2023 (India)

² The Code of Civil Procedure, No. 5 of 1908, § 89 (India); The Arbitration and Conciliation Act, No. 26 of 1996 (India); The Commercial Courts Act, No. 4 of 2016, § 12A (India).

introduction of pre-litigation mediation, encouraging parties to attempt an amicable settlement before approaching the courts in certain cases. The Act also recognizes online mediation, making the process more convenient and accessible in today's digital era. Further, it provides legal recognition to mediated settlement agreements, ensuring that settlements reached through mediation are enforceable and carry legal certainty. Another important aspect of the Act is the establishment of the Mediation Council of India, which is responsible for promoting mediation, maintaining professional standards, and encouraging the development of mediation services across the country³. Through these provisions, the Act seeks to strengthen public confidence in mediation and promote it as a credible alternative to traditional litigation.

The Mediation Act, 2023 has the potential to bring significant improvements to India's dispute resolution system. One of its greatest advantages is that it encourages parties to resolve disputes in a timely and cost-effective manner, thereby reducing the burden on an already overburdened judiciary⁴. Unlike traditional litigation, mediation focuses on cooperation rather than confrontation, allowing parties-term relationships is often as important as resolving the dispute itself. Additionally, the confidential nature of mediation protects the privacy of the parties, making it a more attractive option than public court proceedings. By promoting voluntary settlements and reducing unnecessary litigation, the Act has the potential to improve access to justice while making the legal system more efficient.

Despite its progressive framework, the Mediation Act, 2023 is not without its challenges. The effectiveness of the legislation will largely depend on its implementation across the country. One of the major concerns is the lack of awareness about mediation among the general public, as many individuals continue to prefer litigation over alternative dispute resolution. In addition, the availability of trained and qualified mediators remains limited, particularly in smaller towns and rural areas. Questions have also been raised regarding the exclusion of certain categories of disputes from mediation and the practical difficulties that may arise in enforcing mediated settlement agreements in some situations. Unless these challenges are addressed through adequate training, public awareness, and institutional support, the objectives of the Act may not be fully realised⁵. The Mediation Act, 2023 has the potential to significantly transform dispute resolution in India by promoting a culture of dialogue and amicable settlement rather than prolonged litigation. However, the enactment of a law alone cannot guarantee success. Its effectiveness will depend on the

³ The Mediation Act, 2023, No. 32 of 2023 (India).

⁴ The Mediation Act, 2023, §§ 31–37 (India).

⁵ NITI Aayog, Designing the Future of Dispute Resolution: The ODR Policy Plan for India (2021)..

establishment of strong institutional mechanisms, the availability of trained mediators, greater public awareness, and the willingness of parties to adopt mediation as a preferred mode of dispute resolution. If these challenges are addressed effectively, the Act can contribute to reducing the burden on courts, improving access to justice, and encouraging a more efficient and collaborative legal system. Therefore, while it may not bring about an immediate transformation, it certainly lays a strong foundation for the future of dispute resolution in India.

The Mediation Act, 2023 represents a significant step towards modernizing India's dispute resolution framework by providing a comprehensive legal structure for mediation. It reflects the growing recognition that not every dispute needs to be resolved through lengthy court proceedings and that consensual methods can often produce more effective and lasting outcomes. Although the Act faces practical challenges in its implementation, it has the potential to strengthen alternative dispute resolution and improve the overall efficiency of the justice delivery system. With sustained institutional support, public awareness, and effective implementation, the Mediation Act, 2023 can play a crucial role in shaping a more accessible, efficient, and people-centric⁶ system of justice

⁶ The Mediation Act, 2023, No. 32 of 2023 (India)