



Parliamentary Standing Committee Report on Mediation Bill, 2021

For Prelims: Mediation Bill, Standing Committee, Mediation Council

For Mains: Significance of new Mediation Bill, Dispute Redressal Mechanisms, Government Policies & Interventions

Why in News?

Recently, Parliamentary Standing Committee on Law and Justice has recommended substantial changes to the Mediation Bill, 2021.

- The bill was introduced in Rajya Sabha in December, 2021, with an aim to reduce the [pendency of cases in courts](#).
- As soon as the bill was introduced in the Rajya Sabha, the Chairman of the Rajya Sabha referred it for examination.

What are the Issues Highlighted by the Panel?

- **Pre-Litigation:**
 - The panel highlighted many key issues **including mandatory and coercive nature of pre-litigation mediation**.
 - Making pre-litigation mediation necessary may result in case delays and provide another instrument in the hands of truant litigants to prolong case disposition.
- **Clause 26:**
 - The panel was against clause 26th clause of the draft which gives power to the supreme court or the High court to make laws of pre-litigation according to them.
- **Non-Applicability to Non-Commercial Disputes:**
 - The members **questioned the non-applicability of the provisions of the Bill to disputes/matters** of non-commercial nature involving the Government and its agencies.
- **Appointments:**
 - The panel had discussions also about the **qualifications and appointment of the Chairperson** and Members of the proposed Mediation Council.

What are the Recommendations?

- **Pre-Litigation:**
 - It recommended to **make pre-litigation mediation optional and further introduced it in a phased manner** instead of introducing it with immediate effect for all civil and commercial disputes.
 - While implementing pre-litigation mediation under the Commercial Courts Act, 2015, should be studied before mandating it across other case categories.
- **Appointment of chairperson:**

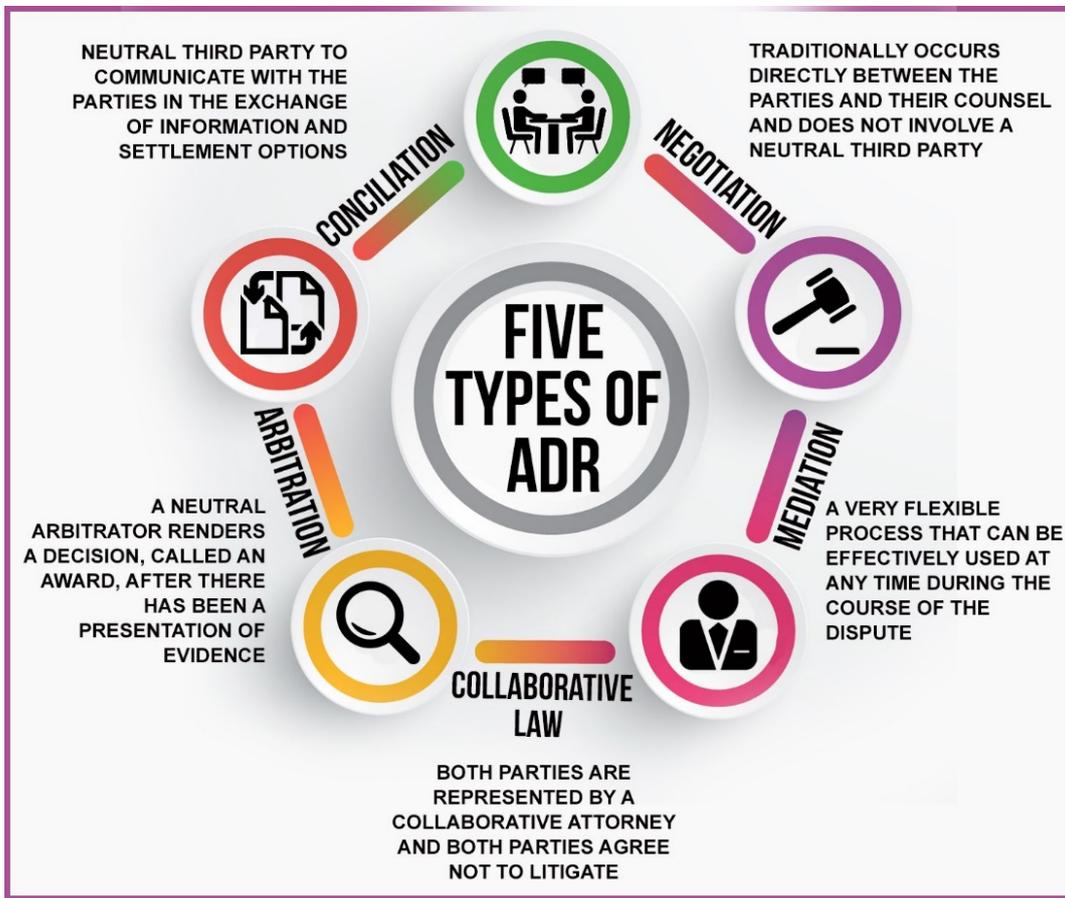
- The panel recommended that the Central Government can **appoint the Chairperson and Members of the Mediation Council of India through a selection committee.**
 - In the bill it was given that **people dealing with problems related to 'Alternative Dispute Resolution' can become members** and chairman of the council if they show 'capacity' and 'knowledge and experience' in mediation.
- **Establishment of Mediation Council in Each State:**
 - Given the vast range of duties and obligations allocated to the Mediation Council of India, mediation councils should be established in each state.
 - These State Mediation Councils **should operate under the general supervision, direction, and control of the Mediation Council of India** and perform such functions as it may specify.
- **Unique Registration Number:**
 - The **Mediation Council** should issue each **mediator with a unique registration number**, and those provisions be made in the bill to allow the Mediation Council to continuously evaluate the mediator by holding training sessions on a regular basis and that the mediator earns a minimum number of credit points on a yearly basis in order to be eligible to conduct mediation.
 - Instead of multiple bodies registering mediators, **the proposed Mediation Council of India should be made the nodal authority** for the registration and accreditation of mediators.
- **Reducing Time Limit:**
 - The panel recommended reducing the time limit from 180 days to 90 days and further an extension period of 60 days instead of 180 days.
- **Reframing Definition:**
 - They also recommended reframing the new definition of mediation and do not put it separately under clause 4 as it is already given in clause 3.

What are the Highlights of the Mediation Bill, 2021?

- The objective of the bill is to settle any civil or commercial disputes through mediation before seeking court or tribunal's intervention.
- After two mediation sessions, a side may withdraw from mediation.
- The mediation procedure must be completed within 180 days, which the parties may extend by another 180 days.
- The **India Mediation Council** will be established to regulate the whole process.
 - Its tasks include registering mediators and recognising mediation service providers and mediation institutes.
- Further, the agreements resulting from mediation will be binding and enforceable in the same manner as court judgments.

What is Mediation?

- Mediation is a **voluntary, binding process** in which an impartial and neutral mediator facilitates disputing parties in reaching a settlement.
- A mediator **does not impose a solution** but creates a conducive environment in which disputing parties can resolve all their disputes.
- Mediation is a **tried and tested alternative method of dispute resolution**. It has proved to be a great success in the cities of Delhi, Ranchi, Jamshedpur, Nagpur, Chandigarh and Aurangabad.
- Mediation is a **structured process where a neutral person** uses specialised communication and negotiation techniques. Litigants participating in the mediation process have unequivocally endorsed it.
- Other than mediation there are some other dispute resolution methods such as **Arbitration, Negotiation and Conciliation**.
- Mediation is a type of **Alternative Dispute Resolution** because they offer an alternative to litigation.
 - ADR proceedings can be initiated by the parties or mandated by legislation, the courts, or contractual provisions.



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