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ONLINE DISPUTE RESOLUTION: A NEW JUDICIAL SYSTEM IN INDIA

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Abstract: *E-commerce is rapidly expanding in India, as the country is seen as creating a sizable and lucrative market for e-commerce businesses. However, most e-commerce startups in India are also unclear about the country's e-commerce rules. As an effect, most e-commerce websites do not obey Indian laws and are unwittingly infringing Indian laws. India's regulatory authorities have begun to challenge the practises of India's e-commerce websites, and many of them are awaiting imminent legal action.*

The conflict persists not just between regulatory authorities and e-commerce website operators, but also between e-commerce websites and their customers. When engaging with such e-commerce businesses and portals, the majority of users remain unaware of their digital rights. There is also scarcity of forums and dispute resolution platforms in India for digital customers to file charges. In brief, the Indian government will continue to manage e-commerce dispute settlement in India.

With the exponential growth of the Internet and electronic commerce, dispute resolution processes are required to assist in the resolution of conflicts between parties situated anywhere in the world in an equitable, expeditious, and cost-effective manner. ADRs are developing through emerging technology, making it easier to resolve a conflict by electronic mechanisms. Online dispute resolution (ODR) has been deemed a "logical and normal step" for the resolution of conflicts that occur on the Internet without the physical intervention of the parties concerned.

The aim of this paper is to explore the meaning and scope of implementation of ODR, its processes and ODR efficiencies

Keyword:- Dispute, Online, Resolution, Judicial System

Introduction

Globally, the term “On-line Dispute Resolution (ODR)” refers to various types of online dispute resolution using ADR-methods.

ODR enhances current ADR approaches by assuming that such conflicts (specifically e-disputes) can also be settled easily and sufficiently through the Internet. ODR is characterised as the use of applications and computer networks to resolve disputes using ADR procedures. ODR may be used to settle E-disputes.

Because of the pandemic, not just India's but the overall global economy are in jeopardy. COVID has had a different influence on each of our lives. People's lives may have come to a halt in one sense, but the function of the judiciary seems to be never-ending, bringing with it the challenges that courts face in resolving past as well as forthcoming issues adapting to new circumstances. While courts have taken steps to settle disputes online through virtual courts, where litigants can file complaints and pay fees electronically.

With the advent of the Information Technology Act of 2000, e-commerce, and e-governance in India, technology has given rise to an effective and pragmatic method of coping with problems, with the objective of further reducing the pressure on already overburdened courts and governments. One such tool is online dispute resolution (ODR). It uses automation and the integration of present production with Alternative Dispute Resolution to settle minor conflicts online (ADR). The online coordinator, who is an authenticated judicial official such as a lawyer or mediator, is tasked with putting the rights and arguments of all sides together through ADR approaches such as mediation, arbitration, or negotiation. It is not only less intimidating, but it also raises the likelihood of obtaining justice.

Advantages of ODR

- It aids in the reduction of court congestion.
- It increases citizen participation in the conflict resolution process.
- Parties to ODR should reach their own settlement with the assistance of an independent mediator. As a result, ODR sessions are adaptable and free of the rigours of procedural rules.
- It is the best option for exchanging documents online through e-mediums. When the location of the proceedings is predetermined, that is, by video calls, it becomes relatively

cheaper when the papers do not need to be shipped by post and can be distributed electronically.

- ODR allows for the documentation of oral or visual messages, claims, and pleadings that are entirely reliant on digital archives.
- It makes the task of saving data easier.
- Allows for a more open method of obtaining justice.
- It is a non-confrontational system in which the litigant is not required to appear in court and the obligation for resolving the conflict is delegated to ODR, which only provides input into the merits of the issue.
- Cost is an important consideration in any civil or criminal prosecution. ODR is a cost-effective procedure that limits the time and money expended on litigation.
- The ODR procedure requires both time and resources. On the one hand, while arbitration hearings can last years and ADR proceedings can last months before passing an award, the ODR process only takes a few weeks to pass awards for disputing parties.

Disadvantages of ODR

- The procedure is not as simple as it seems. It has the potential to lead to misunderstandings between the parties and the appellate authority. It becomes hard to ascertain the credibility of witnesses and individuals. Since the procedure lacks face-to-face contact, it can jeopardise the legitimacy of parties that live in various nations and communicate in different languages.
- Since the whole process takes place on the internet, there is no face-to-face contact.
- ODR is only appropriate for a narrow set of subjects such as e-commerce, domain names, and so on, and it may not be appropriate for serious disputes such as invasion, and includes discovery and claims, slander, and so on.
- Adequacy of secrecy cannot be guaranteed. Also where data privacy laws are in place, it remains problematic for officials when hackers attempt to compromise the records.
- It can give rise to issues of jurisdiction. In the case of international law, four factors must be held in view:
 - Parties' specifics and merits
 - The procedure for obtaining the argument.

- Arbitration trials may be governed by the law of the country in which they are held.
- Conflict between the legislation of each respective nation that apply to each of the preceding statutes.

Scope of ODR

ODR is intended to settle a wide range of conflicts, like civil, financial, manufacturing, and banking disputes, as well as building or partnership disputes, cover liability, and insurance-related disputes. ODR's field of application is expanding to include new subject areas such as telecommunications law and labour law.

ODR's adaptability in a developing country like India is in its early stages. However, as a result of the pandemic epidemic, ODR is gaining notoriety. A combined analysis of the provisions of the Indian Evidence Act, 1872, the Arbitration and Conciliation Act, 1996, and the Information Technology Act, 2000 reveals that Indian laws allow for the legitimacy and technological feasibility of ODR frameworks.

In this period of Digital India, where technology is evolving rapidly not only in urban and suburban areas, but also in rural villages, it is reasonable to assume that with successful utilization of such technology, accessibility to justice and equality can be assured and taken to each and every Indian, regardless of geographical limitations.

Finally, ODR has an impact on the environment: 11 billion sheets of paper are utilized in Indian courts annually. Any year, this use costs the environment 1.3 million trees and 109 billion litres of water. A rapid but seamless shift to a digital network will also help the world by making our judicial and extra-judicial systems more environmentally sustainable, thus reducing climate change and other problems.

Characteristics of ODR

- **Voluntary:** Parties may opt to utilize ODR as a dispute resolution mechanism; furthermore, they may also resolve their argument in another venue. Likewise, parties have the right to withdraw at any period.
- **Informal:** In contrast to ADR procedures such as consultation or arbitration, the nature and structure of the whole process is informal and casual.

- **Confidential:** Until the parties consent accordingly, the whole ODR procedure is purely confidential.

Conclusion

ODR includes multiple conflict settlement approaches like e-Negotiation, e-Conciliation, e-Mediation, e-Arbitration, and hybrid frameworks including Medola, Mini tribunal, Med Arb, Fast track arbitration, Neutral Listener Agreement, Rent a Judge, Concilio-Arbitration, and so on. It can use perhaps an adjudicatory or a non-adjudicatory mechanism to make its decision binding or non-binding on the parties. The need of the hour is to provide accessibility to the justice delivery system to all segments of society. A great infrastructure for easy accessibility and guaranteeing that justice is served in the shortest possible period and in an appropriate way by increasing literacy rates, reducing language and socioeconomic disparities, and providing easy accessibility to e-court be a turning stone toward achieving the same. As a result, the move toward advancing ODR is critical to facilitating global stability and encouraging diplomatic relationships in cross-border conflicts.

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