



Vidhi

Centre For Legal Policy

BETTER LAWS. BETTER GOVERNANCE

August 8, 2016

To
Mr. Jaideep Bose
The Editor
Times of India
7, Bahadur Shah Zafar Marg,
Vikram Nagar, New Delhi - 110 002

Dear sir,

SUB: Objections to News Report carried in the Delhi Edition of your newspaper on 31st July, 2016 regarding Interim Report on Mediation

I am Alok Prasanna Kumar, presently working as Senior Resident Fellow at Vidhi Centre for Legal Policy ("Vidhi"). I am writing to you regarding an article that appeared in the Times of India on July 31, 2016, titled, "*Decade-old mediation centre finds no takers*", by Mr. Abhinav Garg.

The said article has cited a Vidhi report of which I am one of the co-authors, suggesting that our report has concluded that the Delhi Mediation Centre has been a failure.

We wish to point out certain inaccuracies and out-of-context conclusions that have been drawn in this article as follows:

A. Inaccuracies

1. The headline accompanying the report itself is misleading and contrary to the contents of the report. At the outset, the very fact that 13,646 cases have been referred between 2011 and 2015, of which 56% were successfully settled - a commendable figure by any means - suggests that the Mediation Centre cannot be termed as one which has "no takers".
2. Even this figure of "56%" is an incomplete reading of the data presented. The settlement rate of cases has been steadily on the rise between 2011-15 (except in 2013). In fact, in 2015 the settlement rate was as high as 75%.
3. The article states that 56% cases have been settled by trained mediators, implying that mediators alone are responsible for the absence of settlement. This makes no reference to "non-starters" where cases were not mediated due to parties' disinclination to mediation and other cases which couldn't be settled since parties wouldn't agree.
4. The article incorrectly states that percentage of cases referred have steadily declined. This is contrary to the numbers in the report which show that between 2011-15 there was a steady increase in the total cases referred. Only in 2015 has the number of case referrals declined marginally - for causes yet to be established. Referrals alone are not indicative of the mediation centre's "failure".

VIDHI CENTRE FOR LEGAL POLICY

LEGISLATIVE ADVISORY | POLICY RESEARCH | GOOD GOVERNANCE

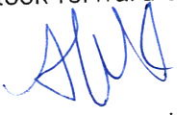
D-359, Defence Colony, New Delhi - 110024
www.vidhilegalpolicy.in | vclp@vidhilegalpolicy.in

B. Conclusions drawn out of context.

5. The Article mentions that only 3% of the total cases filed before the Delhi High Court are referred to mediation. This conclusion is inaccurate given the caveat in our Report, where we have categorically mentioned that the referrals to Delhi Mediation Centre are of fresh cases as well as pending cases. As our report also makes clear, mediation is not just about trying to clear backlogs, but attempting to mend inter-party relationships and resolves disputes beyond just legal issues.
6. Unlike what's stated in the Article, it has not been categorically stated in the report "lack of 'acceptance of mediation as a dispute resolution mechanism among members of the judiciary in the Delhi HC' as one of the reasons for low referrals". This being an interim report, this is a tentative suggestion only contrary to what has been stated in the report.
7. The comparison made between the Bangalore and Delhi Mediation Centre in the Article does not adequately address the differences in the kinds of cases which come to these centres as pointed out in our report and simply uses rate of settlement as a measure of efficiency, which our report does not seek to do. Rather the various factors such as infrastructure, number of mediators et al have to be taken into account as we have discussed in our report.
8. The last two paras of the article reproduced certain language from our report reading it out of context, and driving at conclusions contrary to the objective of the study. The report is an interim report, part of a larger study of court annexed mediation in India, and is an ongoing exercise which will be completed later this year. Focusing only on certain shortcomings tentatively mentioned, to the exclusion of all else, is a skewed and incorrect interpretation of our interim report. At the interim stage it has only reflected our findings from a quantitative review, while a qualitative review of the data is still pending. To project our Report and its findings evincing foregone conclusions is misleading.

For these reasons, I would request you to kindly take the appropriate action as you deem fit in relation to the article carrying these inaccuracies and out of context statements. In any event, I would be grateful if the present letter is also re-published in the Times of India so that readers carry the correct impression of the contents of our report and the functioning of the Delhi Mediation Centre.

I look forward to hearing from you soon.


Alok Prasanna Kumar
Senior Resident Fellow
Vidhi Centre for Legal Policy

