



DELHI HIGH COURT MEDIATION AND CONCILIATION CENTRE,

DELHI HIGH COURT, SHER SHAH ROAD, NEW DELHI.

Dated: 26/06/2020

NOTICE

On-Line Mediation Project at Samadhan, duly approved by Hon'ble the Chief Justice, for holding mediation session through video conferencing till such time the regular functioning of the Centre is resumed, is attached below.

(Veena Ralli)
Organizing Secretary



SAMADHAN ON LINE MEDIATION PROJECT

The Samadhan On-Line Mediation Project is an attempt to provide Mediation Services through CISCO WEBEX by holding sessions through Video Conferencing both in pending cases as well as in fresh cases to be referred by the Hon'ble Court or to be filed by the parties for pre-litigation mediation / conciliation and help resolve disputes between the parties without their physical presence at the Delhi High Court Mediation and Conciliation Centre, **Samadhan** during this Covid-19 Pandemic till such time the regular functioning of the Centre is resumed.

Mediation is a process for resolving disputes with the assistance of a neutral third party who is trained and skilled to help the parties resolve their disputes and arrive at a consensus. During the process, mediators may meet the parties for a joint or caucus session(s) to explore the underlying interests of the parties that has caused them to take hardened positions on the issues between them. The core elements of mediation are **self-determination, confidentiality and voluntary participation**. Samadhan has successfully mediated various matters of different jurisdictions from 2006 till date and is recognized as a model court annexed mediation Centre.

The world is changing fast and use of technology has become part of every facet of life. It is imperative that Samadhan adopts this new way of life. On-Line Mediation is a futuristic approach and is just as effective as traditional mediation where parties sit face to face and resolve their issues. It is time that mediation reaches each house without being restricted by distance or borders and becomes more acceptable to people sitting at their homes. On-Line Mediation would definitely be a step forward in making this world a better place for everyone till the situation changes and it is safe to sit across the table to hold negotiations for the purpose of resolution of disputes.

As per the data maintained by the Centre, at present, the pendency of cases, category-wise, is as under :

Court Referred Mediation Matters	: 670
Pre-Litigation/ Conciliation Matters	: 172
Pre-Institution Mediation	: 4
Total	: 846



The proposed step wise method to provide On-Line Mediation is strictly in accordance with the Rules framed by this Court for mediation/conciliation and the same shall be as under :

Fresh Reference From Court

1. The Court, if satisfied that there are elements of settlement between the parties in a matter before it, may refer the parties to Samadhan for conducting mediation sessions On-Line through Video Conferencing and shall record in its order the email addresses and mobile numbers of all the consenting parties and their respective lawyers. A copy of the order shall be emailed to the Centre at email address dhcmcc@gmail.com. On receipt of the order the Centre shall fix an early date to commence the On-Line session unless the Court has fixed any specific date and time for the said purpose.
2. On receipt of the order from the Court, a Mediator shall be appointed and the order shall be emailed to the Mediator. The Centre shall coordinate with the Mediator, the parties and their lawyers for facilitating holding of mediation sessions in terms of the referral order through CISCO WEBEX facilities provided to the Centre.
3. A link with the time and date shall be sent separately through email to the Mediator and the parties and their counsel for every meeting to be held for the purposes of conducting mediation.
4. Once the Mediator and the Parties have joined the Samadhan On-Line Mediation, an undertaking shall be given by everyone so as to maintain confidentiality of the process as per ANNEXURE – A, that shall pop up on the screen and will be mandatory for everyone to accept. Thereafter the Mediator shall make the opening statement and apprise the parties and their respective Counsel (s) about the Online Mediation Process.
5. The Mediator shall have the option to have joint sessions with the parties in addition to the caucus (private) sessions. In joint session the parties will be able to interact with each other and in caucus, the parties who are not in the session, shall be requested to wait patiently in the virtual waiting room. During caucus only the party/ counsel in session shall be sitting in the virtual meeting room with the Mediator and others will not be able to see or listen to what is being talked in the meeting room to maintain confidentiality.
6. Once the session is over, the Mediator may choose to call upon the parties for a session on another date or conclude the mediation.

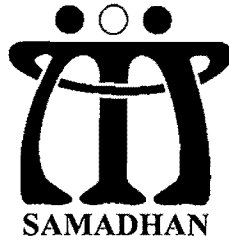


7. In case the Mediation is concluded successfully, the Mediator shall prepare the "Settlement Draft". The Settlement Draft should be finalized by circulating to all concerned through email.
8. Once both parties have consented to the terms of the settlement, the Mediator shall read out the terms of the "Settlement Agreement" to the parties and take their oral consent during the session.
9. Once the terms of the Settlement are agreed between the parties, the Mediator shall draw the final Settlement Agreement and shall then make a PDF of the "Settlement Agreement" and email the same to the parties through the email of the Centre for their consent.
10. The parties shall revert through their registered email giving their consent to the Settlement Agreement attaching the PDF of the Settlement Agreement. Draft of the consent email is annexed as **ANNEXURE-B**.
11. On receipt of consent from all the parties through email agreeing to the terms of the Settlement Agreement, the Mediator/ Centre shall verify the contents of all the consent emails and the attached PDF documents to confirm the accuracy of the contents of the "Settlement Agreement".
12. The Centre shall then email the final Settlement Agreement to the Mediator who shall email the same to the Center using his/her digital signature on the Settlement Agreement for authentication.
13. The Mediator, the parties and their lawyers shall strictly abide by the undertaking to maintain confidentiality while the settlement drafts are being circulated, consented to, verified and finalized.
14. The final Settlement Agreement with the Digital Signatures of the Mediator shall then be sent to the Hon'ble Court by the Centre.
15. The Parties shall also agree in the Settlement Agreement to move an appropriate application before the Hon'ble court for taking the said Settlement Agreement on record and for passing orders in terms thereof. The Parties shall also appear for recording of their statement through video conferencing before the Hon'ble Court.
16. In case of Non -Settlement or Non Starter, a report shall be prepared by the mediator to the said effect, maintaining confidentiality of the process and be sent to the Hon'ble court.



Pre Litigation/ Conciliation

1. A party may approach the Centre by writing an Email and attaching an application for pre litigation/ conciliation on its email address **dhcmmc@gmail.com**. The party approaching the Centre shall provide contact information of the other party i.e. residential address, telephone number and email address.
2. The party shall deposit the mandatory fee of Rs.21,000/-(Rupees Twenty One Thousand Only)Rs.20,000/-(Rupees Twenty Thousand Only) towards mediation charges and Rs.1000/- (Rupees One Thousand Only) towards the administrative charges through Net Banking in the account of the Registrar General, Delhi High Court. The account details shall be intimated to the applicant through email after receiving the application and its verification by the Centre.
3. Having received the request for initiating On-Line Mediation/ Conciliation along with the requisite fee, the Centre shall appoint a Mediator/ Conciliator and then issue **a request notice** to the other side through email, calling upon the opposite party to participate in the voluntary On-Line Mediation / Conciliation process and give consent to participate in the voluntary mediation process not beyond ten days from the date of issue of the request notice. In case of the opposite party agreeing to participate in the process of pre-litigation mediation / conciliation, date and time shall be fixed by the Centre in consultation with the Mediator/ Conciliator for holding mediation/ conciliation session online and both the parties shall be informed through email/ SMS/ WhatsApp messages.
4. In case the request notice sent by the Centre is not acknowledged or no response is received by the Centre to the request notice issued for On-Line Mediation/Conciliation then a final request notice, for a date not later than 10 days from the date of the request notice, shall be sent through email.
5. In case the final request notice remains unacknowledged or the opposite Party does not give consent for participation or refuses to participate, then the matter shall be closed as a Non-Starter.
6. In case the opposing party either fails to appear on the date and time fixed for On-Line Mediation/Conciliation or takes a rigid position on the first session of mediation/conciliation, leaving no scope of negotiations, in the opinion of the Mediator, for the purposes of resolution of their dispute, then also the matter shall be closed as a Non-Starter.



7. In both the cases when matter is closed as a Non- Starter, the amount of Rs.20,000/- (Rupees Twenty Thousand Only) deposited towards mediation charges shall be refunded to the person who deposited the said amount.
8. An amount of Rs. 500/-(Rupees Five Hundred Only), for each session shall be charged at the end of the proceedings which shall be deposited in the same account in the name of the Registrar General as mentioned above. Details of the number of sessions held for the purposes of mediation / conciliation shall be intimated to the parties with the amount payable by them through email. The copy of Mediation/ Conciliated Agreement/Non-Settlement or Non Starter Report shall be supplied to the parties only on showing proof of deposit of the charges.
9. In case the Mediation/Conciliation is concluded successfully, then the Mediator/ Conciliator shall prepare the “Conciliated Agreement” which shall be finalized by circulating to all concerned through email in accordance with the procedure detailed in paragraph(s) 7 to 13 above under the head Fresh Reference from Court.
10. The parties shall provide stamp paper of Rs.100/- (online) and shall also provide their passport size photographs. The finally approved Conciliated Agreement shall be signed digitally by all the parties /their respective counsel(s) and the Mediator.

Pre-Institution Mediation

On receipt of an application/ petition from the Authority under the Commercial Courts Act, 2015, as amended up to date, the same shall be marked to a Mediator who shall conduct mediation as detailed above through Video Conferencing and shall finalize and **facilitate** execution of the Settlement Agreement through digital signatures of all parties and their counsel(s). The Centre shall give one copy each to the parties and forward one copy through email to the Authority as required under the said Act.

Pending Matters

To start On-Line Mediation in all the pending matters, court referred or pre-litigation / conciliation a message shall be sent to the parties and lawyers through SMS/ WhatsApp on the telephone numbers provided by them or through email on the addresses provided in the Consent Form or a call shall be made to get consent of the parties for their participation in the mediation sessions through video conferencing as per ANNEXURE- C. On obtaining consent of all the parties, the process of mediation/conciliation sessions shall start through video conferencing which shall be concluded as detailed above depending upon their nature i.e. Court referred or pre-litigation/ conciliation.



ANNEXURE-A

UNDERTAKING TO MAINTAIN CONFIDENTIALITY

1. I, do hereby declare that I have voluntarily agreed to participate in the process of mediation through Video Conferencing on the system provided by the Hon'ble Delhi High Court and agree to be bound by the Rules framed therefore.
2. I fully understand that the process of mediation is confidential as per Rules framed by the Hon'ble High Court and I undertake to maintain complete confidentiality in respect of all the disclosures made or conversations held or any other event(s) that take place and/ or information that may be exchanged or transpires and/or the document disclosed/ exchanged or which comes to my knowledge during the course of mediation Sessions.
3. I undertake not to make any video or audio recording of the Mediation Sessions/proceedings and matters relating thereto.
4. I fully agree that with a view to maintain confidentiality of the process, any information received by me during the process of mediation shall not be used or caused to be used before any court/authority/forum and shall not be handed over to any third person so as to cause any gain/benefit/loss to any third person or to prejudice to the other side in any manner whatsoever.
5. I undertake that in case I commit any breach of the above undertaking, I shall be liable for adverse orders and all consequences arising therefrom.

I Agree.



ANNEXURE-B

Draft Consent Email

To,
The Organizing Secretary
Samadhan
New Delhi

Consent Email

I, _____ son of _____ resident of _____ do hereby give my consent to the "Settlement Agreement" received by me vide Email dated _____ from Samadhan as under:

1. That I have read and verified the contents of the "Settlement Agreement" attached herewith.
2. That the terms of the "Settlement Agreement" for Consent" have been drafted by the Mediator on my instructions and contains the true statement of terms as desired by me.
3. That I undertake to duly abide by the terms of the "Settlement Agreement".
4. That my consent to the terms of the "Settlement Agreement" is being given by my own free will and wish and without any undue influence or pressure.

Party's Name



ANNEXURE –C

As per our record a matter titled.....Vs..... bearing No. is pending for conducting mediation between the parties before the Delhi High Court Mediation and Conciliation Centre, Samadhan. Due to the outbreak of the Pandemic, COVID -19, no session could be held since March 17, 2020. Now as per the directions of the Hon'ble High court, we are initiating E-Mediation sessions through CISCO WEBEX that has the facility to conduct private and joint sessions. The mediation sessions shall be completely confidential as per the Rules framed by the Hon'ble High Court for the said purpose. Please send your consent to continue with mediation/ conciliation by SMS on this very telephone number or through email on dhcmcc@gmail.com.