REIMAGINING ADR IN INDIA: DISTRICT-LEVEL ARBITRATION, MSME DISPUTES, AND THE PATH TO ACCESSIBLE JUSTICE

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ABSTRACT

Due to the mounting pressure on India's judicial system,[1] it has become imperative for the nation to embrace Alternative Dispute Resolution methods such as, arbitration, mediation and conciliation and negotiation. As per the Arbitration and Conciliation Act of 1996[2], the main purpose of alternative dispute resolution is to facilitate quick, economical, and amicable dispute resolutions that favor the parties involved. Given the current business environment in India and its rising economic performance due to MSMEs, arbitration has played a pivotal role.

Nevertheless, the efficacy of the ADR system is compromised by several inherent weaknesses within the existing system, such as its heavy reliance on an urban infrastructure, prohibitive cost factors, complicated procedures, and inadequate reach. The legislative provision under the Micro, Small and Medium Enterprises Development Act, 2006 [3]continues to suffer from delays and restricted scope.

Therefore, the objective of this study is to investigate the structural and institutional weaknesses in the ADR framework in India and the possibility of decentralizing arbitration to the district level. This study seeks to explore whether decentralization will be effective in addressing the access issue and making the process efficient. This study will also explore the possibility of utilizing technology such as ODR in resolving disputes involving MSMEs.

Keywords: ADR, MSME Disputes, Decentralization, District Arbitration, Access to Justice, Legal Infrastructure

[1]National Judicial Data Grid, Pending Cases in India (2025), https://njdg.ecourts.gov.in.
[2]The Arbitration and Conciliation Act, 1996 (India).
[3]The Micro, Small and Medium Enterprises Development Act, 2006 (India).

1. INTRODUCTION

The Alternative Dispute Resolution (ADR) process has become an indispensable part of modern legal systems, especially in countries faced with a huge number of cases and lengthy judicial proceedings. In India, the conventional legal system has been experiencing problems of backlog and inefficiency for years now, thus making it necessary to find other ways of resolving conflicts, which would be speedy, economical, and convenient. Some of the common ADR procedures include arbitration, mediation, and conciliation processes, among others. In India, the origin of ADR dates to the pre-colonial period when panchayats were used as forums for resolving disputes at the village level.[4] These indigenous mechanisms were characterised by accessibility, speed, and minimal procedural complexity.

After India's independence, a formal legal system based on the British model was adopted. This system soon became overwhelmed because of the rising number of cases filed in court. It was realized that changes had to be made to the existing laws. As such, the Arbitration and Conciliation Act, 1996 was enacted to update and improve the arbitration laws following the UNCITRAL Model Law. [5] Subsequent amendments in 2015 and 2019 further aimed to enhance efficiency, reduce judicial intervention, and promote institutional arbitration.[6]Despite these developments, ADR mechanisms in India remain largely concentrated in urban centres, limiting their accessibility for smaller stakeholders, particularly Micro, Small, and Medium Enterprises (MSMEs).[7]

The significance of ADR stems from its potential for reducing judicial workloads and ensuring prompt resolution of disputes. The Indian judiciary presently faces a backlog of millions of cases, posing a serious problem of delayed justice. [8]ADR offers a viable solution by diverting disputes away from courts and resolving them through flexible and less formal procedures. Additionally, ADR fosters a business-friendly environment by ensuring predictability and efficiency in dispute resolution, which is essential for economic growth and investor confidence.[9] Arbitration, in particular, is preferred in commercial disputes due to its

[4]Upendra Baxi, The Crisis of the Indian Legal System (Vikas Publishing House, 1982).
[5]The Arbitration and Conciliation Act, 1996 (Act No. 26 of 1996).
[6]Law Commission of India, Report No. 246: Amendments to the Arbitration and Conciliation Act, 1996 (2014).
[7]Mehak Kapoor, From Panchayats to Global Standards: The Legal and Jurisprudential Transformation of Arbitration in India, 3 White Black Legal L.J. 6818, 6821(2026).
[8]National Judicial Data Grid (NJDG), Pendency of Cases in India (2025).
[9]Ministry of Law and Justice, ADR Policy in India (Government of India Report).

enforceability and party autonomy.

MSMEs form the backbone of the Indian economy, making substantial contributions to GDP, exports, and job creation. Based on official figures, MSMEs contribute about 30% of the GDP of India and provide employment to over 110 million people.[10] Even though they play an important role economically, MSMEs encounter several legal and financial problems especially with regard to disputes. The first serious problem that small firms experience is the late payment of bills by large organizations.[11] Although the Micro, Small and Medium Enterprises Development Act, 2006 has provided a mechanism to solve such disputes with the establishment of Facilitation Councils, the efficacy of these councils is restricted owing to certain procedural inefficiencies.[12]

In addition, the very expensive nature of arbitration procedures acts as a significant barrier for MSMEs to pursue legal remedies. While arbitration is supposed to be an affordable form of conflict resolution, in reality, it has proven to be quite costly.[13] This leads to a situation of unequal bargaining power, whereby large firms are more capable of resorting to arbitration than small ones. In addition, poor knowledge and legal understanding further complicate the issue since most small firms are oblivious to the options that are open to them.[14]

Here, the idea of arbitration on a district level proves to be a viable remedy for narrowing the gap between access and ADR. The creation of arbitration centres on the district level can help cut down expenses, raise awareness, and make dispute resolution services available to the parties. It can further tap into local resources and minimize logistic obstacles.[15] Decentralization is consistent with the overall goal of accessing justice, which is a key principle of the Indian legal system. Using alternative dispute resolution techniques within the judicial process at the district level makes it possible for an equitable dispute resolution process to be developed.

This research seeks to critically examine whether decentralising arbitration to the district level can enhance access to justice for MSMEs in India. It explores the structural and economic

[10]Ministry of MSME, Annual Report 2023–24 (Government of India).
[11]Reserve Bank of India, Report on Delayed Payments in MSMEs (2022).
[12]The MSME Development Act, 2006, § 18.
[13]Sumeet Kachwaha*,* Arbitration in India (Kluwer Law International 2021).
[14]NITI Aayog, Strengthening MSMEs in India (2021).
[15]Vidhi Centre for Legal Policy, Reforming Arbitration Timelines in India (Policy Brief, 2021).

barriers that currently hinder the effective use of ADR by small businesses and evaluates the potential of district-level arbitration as a reformative measure. Accordingly, the study is guided by the following research questions: (i) Can district-level arbitration improve access to justice for MSMEs? (ii) Why are MSMEs unable to effectively utilise existing arbitration mechanisms? (iii) What legal and institutional reforms are necessary to strengthen ADR at the grassroots level? (iv) How can technology and policy interventions support the decentralisation of arbitration in India?

2. LITERATURE REVIEW

Varun's article examines the relationship between Alternative Dispute Resolution (ADR) mechanism and access to justice in India, particularly focusing on marginalised communities. It traces the constitutional grounding of ADR under Article 39A of the Indian Constitution[16]and its statutory incorporation under Section 89 of the Code of Civil Procedure, 1908[17], while employing a mixed methods approach to compare ADR outcomes with traditional litigation. The author argues that although ADR is designed to provide speedy and cost effective justice, structural inequalities continue to undermine its effectiveness. ADR processes often privilege parties with higher legal literacy, financial capacity and institutional access thereby reproducing existing socio-economic disparities. This finding is critical as a demonstrate that the mere existence of ADR frameworks does not ensure equitable access, especially for small Enterprises and district level disputants thereby highlighting the need for structural reforms.[18]

Singh and Garg provide a comprehensive conceptual and doctrinal overview of ADR in India, examining arbitration, mediation, conciliation and negotiation within the framework of Arbitration and Conciliation Act, 1996 and the Mediation Act, 2023.[19] Their analysis reveals that while ADR mechanism have evolved significantly in terms of legislative backing and institutional development, the accessibility remains uneven and largely confined to urban and formal commercial sectors. The authors emphasise that ADR's foundational objective is to provide efficient and amicable dispute resolution; however this objective remains unfulfilled for MSMEs operating outside metropolitan regions.[20]

[16]India Const. art. 39A.
[17]The Code of Civil Procedure, 1908, § 89 (India).
[18]Varun J, 'ADR and Access to Justice' (2024) 3(1) Journal of Alternate Dispute Resolution 23.
[19]The Mediation Act, 2023 (India).
[20]Singh K and Garg J, 'Alternative Dispute Resolution (ADR): Concept, Development, Methods, and Role in

The Law Commission of India's 246th Report provides a critical institutional perspective on the shortcomings of India's arbitration regime, identifying excessive judicial intervention, procedural delays and high costs as major impediments. The commission's recommendations including the promotion of Institutional arbitration, the introduction of fast track procedures and the limitation of court interference underscores the necessity of more of a more structured and efficient arbitration ecosystem. These recommendation directly support the argument for district level arbitration centres.[21]

Similarly, the NITI Aayog's ODR report highlights systemic barriers such as high litigation cost, lack of awareness, and digital in literacy while advocating for the adoption of Online Dispute Resolution (ODR) as a means of improving access to justice. The report identify MSMEs as a key sector that could benefit from accessible and technology driven dispute resolution mechanisms. It further argues that without targeted interventions to improve awareness and infrastructure, ADR and ODR will remain underutilised.[22]

The analysis by Cyril Amarchand Mangaldas on the MSMED Act, 2006 reveals that while a statutory dispute resolution mechanism exists through Micro and Small Enterprises Facilitation Councils (MSEFCs), its implementation is fraught with challenges. Issues such as council inaction, procedural in efficiencies, and the limited scope of MSME Samadhaan portal significantly restrict the effectiveness of this mechanism.[23] Complementing this, the Arbitration Digest article highlights the jurisdictional tension between the Arbitration Act and the MSMED Act and identifies an accountability gap when councils fail to act.[24]

Jaiswal and Duggal's analysis of the 2024 public procurement guidelines reflects a broader policy shift towards mediation and proportional dispute resolution, recognising that arbitration costs are often disproportionate to the value of smaller disputes. [25] Further, the scholarly

India' (2026) 16(1) European Economic Letters 1361.

[21]Law Commission of India, 246th Report on Amendments to the Arbitration and Conciliation Act, 1996 (Government of India, August 2014).

[22]NITI Aayog, "Designing the Future of Dispute Resolution: The ODR Policy Plan for India*"* (Oct. 2021), https://www.niti.gov.in/sites/default/files/2021-11/odr-report-29-11-2021.pdf.

[23]Cyril Amarchand Mangaldas, "India's MSME Arbitration: Lifeline or Legal Labyrinth?" (Lexology, 20 August 2025).

[24]Biswajeet Shekhar Panda, Reconciling the MSMED Act and Arbitration Act: Navigating Legal Conflicts, THE ARBITRATION DIGEST (Mar. 27, 2025), https://thearbitrationdigest.com/reconciling-the-msmed-act-and-arbitration-act-navigating-legal-conflicts/.

[25]Saloni Jaiswal & Kabir Duggal, The Way Forward: An Analysis of India's New Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement, AM. REV. INT'L ARB. (Sept. 24, 2024), https://aria.law.columbia.edu/the-way-forward-an-analysis-of-indias-new-guidelines-for-arbitration-and-mediation-in-contracts-of-domestic-public-procurement/.

analysis highlights fast track arbitration for disputes under INR 3 crore, though enforcement delays and institutional inefficiencies persist.[26]

Empirical studies on Lok Adalat demonstrate their success in delivering accessible dispute resolution at the grassroot level; however their jurisdiction does not extend to MSME contractual disputes.[27] Similarly, research identifies challenges such as Lack of awareness and trained professionals in mediation and Lok Adalat systems.[28]

Institutional analyses reveal that arbitration infrastructure remains concentrated in metropolitan centres with minimal district level presence.[29] Practitioners perspectives confirm that institutional arbitration has not expanded effectively beyond major cities.[30] Comparative studies highlight gaps in legal literacy, institutional capacity and geographical accessibility.[31] Additionally scholarship identify cultural resistance and high cost as barriers to institutional arbitration.[32] Finally, comparative analysis include that MSME disputes are better structured arbitration than in formal mechanisms.[33]

Collectively, the Literature demonstrate that while ADR in India has developed significantly, it remains inaccessible to MSMEs at the district level necessity centralised arbitration framework.

3. RESEARCH METHODOLOGY

This study uses the doctrinal and analytical method in assessing the efficacy of the framework for Alternative Dispute Resolution (ADR) in the country, especially the ease of access by Micro, Small, and Medium Enterprises (MSMEs). The doctrinal method is characterized by an intensive and extensive examination of the literature, including legislation and case laws on issues pertaining to arbitration and dispute resolution. In this context, the study conducts an in-depth review of the provisions under the Arbitration and Conciliation Act, 1996 and Micro,

[26] “Arbitration in India: Recent Developments and Challenges” (2023) International Journal of Creative Research Thoughts Vol 11.
[27] Yadav SK and Rai OP, 'Lok Adalat and Alternative Dispute Resolution Mechanisms' (2024) 5(2) ShodhKosh 984.
[28] Khan MH and Shabran DR, 'Mediation and Lok Adalat: Challenges' (2024) 5(3) ShodhKosh 2194.
[29] “Institutional Arbitration in India: Challenges and Prospects” (2023) GNL University ADR Magazine.
[30] “How Are Institutional Arbitration Centres Faring in India?”(Law.Asia, January 2025).
[31] 'Alternative Dispute Resolution in India: Effectiveness, Challenges, and the Road Ahead' (De Facto Law Journal, May 2025).
[32] Tyagi N, 'Challenges to Making Institutional Arbitration a Success in India' (2015) SSRN.
[33] Relyea G and Bhattacharya N, 'Comparing Mediation and Lok Adalat' (Mediate.com, 2019).

Small and Medium Enterprises Development Act, 2006.[34] The analytical dimension of the research evaluates the practical effectiveness of these frameworks, particularly in addressing issues of cost, delay, and accessibility at the district level.

The study will employ both primary and secondary sources for data collection. The primary sources consist of statutory legislations, court rulings, and legal regimes concerning ADR in India. The analysis of relevant court rulings on arbitration law and MSME dispute resolution will determine the level of judicial involvement and difficulties of enforcement.[35] In addition, statutory provisions such as Section 18 of the MSME Development Act, 2006 are analysed to understand the functioning of Micro and Small Enterprises Facilitation Councils (MSEFCs).[36]

Secondary sources may include academic papers, books, policy documents, etc. that give valuable information regarding the working and development of alternative dispute resolution mechanisms. Policy papers by credible organizations like the Law Commission of India and NITI Aayog are widely used for understanding the problem of delay, high cost, and non-existence of infrastructure.[37] Scholarly commentaries and practitioner analyses further contribute to the understanding of contemporary challenges, including the role of institutional arbitration and Online Dispute Resolution (ODR).[38]

The scope of this research is mainly limited to the laws related to ADR in India with special emphasis being given to the practice of arbitration in resolving disputes of MSMEs. Although there are some references made to best practices from around the world just for gaining an insight into the topic, no detailed comparative study will be carried out as part of this research. The research will be conducted to discover loopholes in the existing system and analyze the possibilities of decentralizing arbitration at the district level.

Nevertheless, the study is characterized by several limitations. As being doctrinal in character, it mainly draws upon secondary sources without making use of empirical techniques like field studies and interviews with the relevant stakeholders. Thus, the study might lack some practical

[34] The Arbitration and Conciliation Act, 1996; The Micro, Small and Medium Enterprises Development Act, 2006.
[35] Booz Allen & Hamilton Inc. v. SBI Home Fin. Ltd., (2011) 5 SCC 532 (India). Vidya Drolia v. Durga Trading Corp., (2021) 2 SCC 1 (India).
[36] The Micro, Small and Medium Enterprises Development Act, 2006, § 18.
[37] Law Commission of India, 246th Report on Amendments to the Arbitration and Conciliation Act, 1996(Government of India, August 2014); NITI Aayog Expert Committee on ODR, Designing the Future of Dispute Resolution: The ODR Policy Plan for India (2021).
[38] Sumeet Kachwaha, Arbitration in India (Kluwer Law International 2021); 'Institutional Arbitration in India: Challenges and Prospects' (2023) GNLU ADR Magazine.

issues concerning the implementation of ADR for small and medium enterprises in various locations. Moreover, the constantly changing process associated with the development of ADR, especially its online aspects, could affect the application of the findings in the future.[39] Despite these limitations, the research provides a comprehensive legal and policy analysis that contributes meaningfully to the discourse on decentralised dispute resolution and access to justice in India.

4. LEGAL FRAMEWORK

The legal Framework governing Alternative Dispute Resolution (ADR) in India is primarily structured around statutory and enactment and judicial interpretation, with arbitration emerging as the most formalised and widely used mechanism for resolving commercial disputes .The framework is largely anchored in the Arbitration and Conciliation act, 1996, complemented by sector Pacific legislation such as the Micro, Small and Medium Enterprises Development Act, 2006. Together, these statue seeks to promote efficient, cost effective and accessible dispute resolution; however their practical implementation reveals significant structural and institutional challenges.

The Arbitration and Conciliation Act, 1996 (hereinafter "Arbitration Act") was enacted to consolidate and modernize arbitration law in India in line with the UNCITRAL model law.[40] The act emphasizes party autonomy, minimal judicial intervention, and the enforceability of arbitral awards. Key provisions include section 7, which defines and arbitration agreement, Section 11, which governs the appointment of arbitrators, Section 16, which recognise the doctrine of *kompetenz-kompetenz* allowing arbitral tribunals to rule on their own jurisdiction and Section 34 which provides limited grounds for setting aside arbitral awards.[41] Additionally, Section 36 ensures the enforceability of arbitral awards as decrees of the court, thereby strengthening the credibility of arbitration as a dispute resolution mechanism.

Significant amendments to the Arbitration act in 2015 and 2019 were introduced to address inefficiencies and promote institutional arbitration. The 2015 amendment aimed to reduced judicial intervention by restricting the scope of interference at the stage of appointment of arbitrators under section 11 and limiting the grounds for challenging and arbitral awards.[42] It

[39] Ministry of Law and Justice, India Justice Report (2022); NITI Aayog, Strengthening MSMEs in India (2021).
[40] The Arbitration and Conciliation Act, 1996 (based on UNCITRAL Model Law).
[41] The Arbitration and Conciliation Act, 1996, §§ 7, 11, 16, 34, 36.
[42] Law Commission of India, 246th Report on Amendments to the Arbitration and Conciliation Act, *1996* (2014).

also introduced timelines for completion of arbitration proceedings under Section 29A, thereby addressing concerns regarding delays. The 2019 Amendment further sought to institutionalise arbitration by establishing the Arbitration Council of India and promoting accredited arbitration institutions.[43] Despite these reforms, concerns persist regarding the high cost of arbitration, delays in enforcement, and the continued reliance on ad hoc arbitration, particularly affecting smaller stakeholders such as MSMEs.

While on the other hand, there is the MSME development Act, 2006 which outlines the process for settling any disputes arising from delays in payment made to the micro and small enterprises. Section 18 of the Act outlines the procedure for referring the disputes to the Micro and Small Enterprise Facilitation Councils (MSEFCs), where they conduct conciliation then arbitrate[44]. Such a statutory process seeks to offer a quicker and easier alternative to MSMEs, taking into consideration their weakness in business deals. The MSEFCs have powers equal to those of arbitration tribunals, and their decisions are binding through the Arbitration Act.

However, the functioning of the Facilitation Councils has been subject to criticism. Issues such as procedural delays lack of infrastructure, and Limited jurisdiction significantly undermine their effectiveness[45]. Furthermore, the jurisdiction of these organizations is limited only to matters pertaining to payments, meaning that all other commercial disputes of MSMEs fall out of their purview. Consequently, there emerges an uneven legal framework wherein MSMEs have to rely upon traditional arbitration procedures that are unaffordable.

The judicial approach to arbitration in India has evolved significantly, reflecting a shift from excessive intervention to a more arbitration-friendly stance. In *Booz Allen and Hamilton Inc v SBI Home Finance Ltd*, the Supreme Court clarified the distinction between arbitrable and non-arbitrable disputes, thereby providing greater certainty in arbitration law[46]. Similarly, in *Vidya Drolia v Durga Trading Corporation*, the Court reaffirmed the principle of minimal judicial interference and emphasised the importance of respecting party autonomy[47].Furthermore, in *Ssangyong Engineering & Construction Co Ltd v NHAI*, the Court narrowed the scope of "public policy" as a ground for setting aside arbitral awards, thereby strengthening the finality

[43] The Arbitration and Conciliation (Amendment) Act, 2019.
[44]The Micro, Small and Medium Enterprises Development Act, 2006, § 18.
[45]NITI Aayog, Designing the Future of Dispute Resolution: The ODR Policy Plan for India (2021).
[46]Booz Allen & Hamilton Inc. v. SBI Home Fin. Ltd., (2011) 5 SCC 532 (India).
[47]Vidya Drolia v. Durga Trading Corp., (2021) 2 SCC 1 (India).

of arbitration.[48]

Despite this progressive judicial stance, challenges remain in the enforcement of arbitral awards and delays caused by court proceedings at various stages. Judicial intervention, through reduced, continues to affect the efficiency of arbitration, particularly in cases involving challenges under Section 34 and appeals under Section 37 of the Arbitration Act.

The existing legal framework, while comprehensive in design suffers from several structural issues. One of the most significant concerns is the persistence of the delays despite of the adoption of ADR mechanism. Arbitration proceedings, which are intended to be time bound of an extent beyond prescribe timelines due to procedural complexities and court involvement.[49] Additionally, the lack of institutional infrastructure particularly at a district level, limits the accessibility of arbitration for MSMEs and smaller stakeholders. Institutional arbitration centres are largely concentrated in metropolitan areas, creating geographic and financial barriers.

Furthermore, the continued dominance of Ad Hoc arbitration results in inconsistency, lack of standardisation and higher cost. The lack of an effective decentralized arbitration system further compounds this problem and makes the goal of providing equal access to justice harder to achieve. It must be noted here that despite the existence of a sound legal Framework, the implementation of the same has been hampered by various factors, especially when it comes to MSMEs functioning beyond urban areas.

5. PROBLEM ANALYSIS

Despite the development of the ADR process in India, its actual effectiveness is limited owing to several constraints including structural, economic, procedural, and institutional factors. In this regard, it becomes extremely difficult for MSMEs to take advantage of arbitration and other processes because of the lack of required support and funding. It has been observed through an extensive examination of these factors that the effectiveness and utility of ADR process still face many problems on the ground.

One of the most significant structural issues is the urban centric concentration of arbitration

[48] Ssangyong Eng'g & Constr. Co. Ltd. v. NHAI, (2019) 15 SCC 131 (India).
[49] Sumeet Kachwaha, Arbitration in India *(*Kluwer Law International 2021).

infrastructure. Institutional arbitration centers, experienced arbitrators and specialized legal practitioners a predominantly located in metropolitan city such as Delhi Bombay and Bengaluru.[50] These geographic concentrations create many challenges for MSMEs who are trying to conduct business in the district levels, semi-urban, and rural areas because they have to spend extra efforts in reaching these institutions

The non-existence of arbitration centers in the district level makes the problem more serious by keeping out a significant number of people from the ADR system. Furthermore, there is also a deficiency in arbitrator training centers that could help decentralize arbitration because the lack of such trainings and certification systems makes it difficult for trained arbitrators to handle complex cases in other areas other than urban cities.[51]

Apart from the structural constraints, there is another important factor that acts as a hindrance in making arbitration available to MSMEs: the financial burden. While arbitration should ideally be economical, it may involve heavy costs, ranging from those of the arbitrator to institutional and legal fees. [52] For MSMEs, which typically operate with limited financial resources, these costs can be prohibitive.

The expensive nature of arbitration results in an imbalance in which the large corporations are better positioned to resolve disputes whereas small businesses are deterred from seeking recourse. This economic imbalance violates the concept of equal opportunity for justice and enhances the prevailing inequalities in business relations. Moreover, the lack of a subsidized form of arbitration for MSMEs reduces their capacity to engage in such processes.[53]

Yet another important problem lies in the ignorance about ADR processes that exists among MSMEs. There are quite many small business owners who either remain ignorant of the very fact of existence of alternative dispute resolution procedures or have insufficient knowledge about their work.[54] This lack of awareness is compounded by Limited outreach and inadequate dissemination of information by governmental and institutional bodies. As a result, MSMEs often Resort to traditional litigation, which is time consuming and costly, or avoid pursuing legal remedies altogether. The underutilization of ADR mechanism due to informational

[50]'Institutional Arbitration in India: Challenges and Prospects' (2023) GNLU ADR Magazine.
[51]Law Commission of India, 246th Report on Amendments to the Arbitration and Conciliation Act, 1996 (2014).
[52]Sumeet Kachwaha, Arbitration in India (Kluwer Law International 2021).
[53]NITI Aayog, Strengthening MSMEs in India (2021).
[54]NITI Aayog Expert Committee on ODR, Designing the Future of Dispute Resolution (2021).

barriers highlights the need of targeted awareness campaigns and capacity building initiative promoting ADR at the grassroot level.

The procedural difficulty associated with arbitration also discourages MSMEs. Although arbitration was meant to be flexible, Indian arbitration is now more rigid and is akin to court litigation. The process of preparing arbitration agreements, following procedural steps, and handling paperwork necessitates the help of legal experts, which makes the process costly.[55] The reliance on lawyers makes the process of arbitration less accessible because many smaller businesses cannot afford legal counsel. Furthermore, problems in the selection of arbitrators, the process, and challenges faced by arbitral decisions make arbitration a lengthy process, which defeats its intended purpose of making conflict resolution swift and simple.[56]

Weaknesses within the current ADR Framework make these difficulties even worse. The dispute resolution process that takes place under the Micro, Small and Medium Enterprises Development Act, 2006, especially by MSEFCs, is supposed to ensure that there are specific forums in which the MSME disputes can be settled. Nevertheless, the councils have been facing problems related to inefficiency, lack of infrastructure, and inconsistency in operations across different states.[57] The lack of timelines and accountability has resulted in many pending cases, affecting the efficacy of the MSEFCs as an expeditious dispute resolution mechanism. Moreover, the scope of MSEFCs is quite limited as their role has been restricted only to handling disputes related to payments, while other commercial disputes are beyond their scope.[58]

Another major problem is that of uncoordinated dispute resolutions procedures which result in jurisdictional disputes and problems with uncertainty. This can be evidenced by the conflict created by the interplay between Arbitration and Conciliation Act, 1996 and MSME Development Act, 2006 which created legal uncertainties on the question of statutory arbitration under Section 18.[59] These disputes lead to yet another legal proceeding, which only serves to delay settlement of the issue. Moreover, lack of any kind of coherent structure in terms of ADR procedures at the district level causes even more fragmentation in the system.

[55] Avtar Singh, Law of Arbitration and Conciliation (Eastern Book Company).
[56] The Arbitration and Conciliation Act, 1996, §§ 11, 34.
[57] NITI Aayog, ODR Policy Plan for India (2021).
[58] The Micro, Small and Medium Enterprises Development Act, 2006, § 18.
[59] ‘Reconciling the MSMED Act and Arbitration Act’ (The Arbitration Digest, 2025).

Together, the above-mentioned problems point to the limitation of the present-day ADR system, which is its inability to address the needs of MSMEs. Indeed, although changes were introduced to the legal environment to improve the efficiency of arbitration, structural obstacles, costly nature, lack of knowledge, complex procedures, and insufficient institutional support continue to hamper its availability. All this makes it critically important to design and implement a decentralized model of dispute resolution, especially by creating a local arbitration system.

6. STATISTICS

Further empirical evidence makes it necessary to undertake reforms in India's dispute resolution system. According to the figures provided by the National Judicial Data Grid, currently, Indian courts have a caseload of more than 4 crore pending cases. This represents severe delay in India's judicial system. [60]This problem has severe economic consequences, especially for businesses that depend on quick settlement of disputes.

As noted previously, India's MSMEs constitute more than 30 percent of the total GDP, about 45 percent of export, and provide employment opportunities to over 110 million Indians.[61] However, despite their critical role in boosting economic growth, they encounter several problems. For instance, they experience difficulties when recovering overdue payment and settling other disputes. Studies show that delayed payment remains a recurring problem for them.[62]

Another concern that discourages Indian MSMEs from accessing ADR relates to high costs associated with arbitration in India, especially small-value arbitrations.[63] Besides, the inadequate implementation of institutional arbitration and poor performance of Facilitation Councils make it difficult for them to benefit from arbitration.

In conclusion, statistics reveal that making ADR accessible to disputants is both a necessity and an economic requirement. Therefore, efforts should be made to enhance ADR.

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[60] National Judicial Data Grid (2025).
[61] Ministry of MSME, Annual Report 2023–24.
[62] Reserve Bank of India, Report on Delayed Payments in MSMEs (2022).
[63] Sumeet Kachwaha*,* Arbitration in India (2021).

7. HYPOTHESIS

The research performed within the current work was built upon the following main hypotheses:

"The decentralization of arbitration at the district level will significantly contribute to improving access to justice for Micro, Small, and Medium Enterprises (MSMEs), as it will facilitate reducing costs, increasing the accessibility and awareness about the process of dispute resolution and provide quick and effective handling of cases provided that all the necessary institutional capabilities are created."

Such hypothesis was formulated based on the following assumptions. Despite the fact that the arbitration is being regulated and developed through the Arbitration and Conciliation Act, it still remains unavailable for many MSMEs, since it is mainly situated in urban areas, costs much money and is quite complicated. Furthermore, there is a hypothesis stating that the development of new forms of arbitration and conciliation processes, especially those outlined in the Micro, Small and Medium Enterprises Development Act, could become a solution for existing problems.

However, it is important to mention that the presented hypothesis is conditioned by some aspects. Thus, to apply this strategy effectively, it will be necessary to develop institutional capabilities and technologies.

8. ANALYSIS AND DISCUSSION

Decentralization of arbitration to the district level can be seen as a major paradigm shift in terms of dispute resolution mechanisms in India, especially considering that it addresses the accessibility problems of MSMEs. Even though the concept seems ideal and consistent with the principle of access to justice, its practicality can only be determined through an analysis of various factors.

Initially, the practicality of district level arbitration needs to be considered in relation to infrastructure and organizational capability. The setting up of district level arbitration centers will require infrastructure and also people to run them. As opposed to metro arbitration institutions, the district level institutions lack the most basic infrastructure like case management procedures and arbitrators among others. [64] The success of such a decentralization

[64] 'Institutional Arbitration in India: Challenges and Prospects' (2023) GNLU ADR Magazine.

model would thus require substantial investments in building capacities, which include the training and certification of arbitrators, establishing operating procedures, and linking with current judicial and administrative structures. It would also require coordination among state governments and their judicial and regulatory bodies to achieve consistency across districts.

Administrative hurdles faced by the make it difficult to implement district level arbitration. The lack of uniformity in the regulatory structure for institutional arbitration, although there is an Arbitration Council of India, has caused irregularities in standards and procedures.[65] The above-mentioned issues may become further exaggerated at the district level because of the differences in capacity and resources. In addition, guaranteeing that the arbitrators in smaller areas remain independent can prove difficult when dealing with tightly knit business communities. These issues show that there is a need for effective regulation and appointments in the process.

A comparative analysis of international models provides valuable insights into the potential design and implementation of decentralized arbitration system. The Singapore arbitration model, anchored by institutions such as a Singapore International arbitration Centre (SIAC), demonstrates the importance of strong institutional support streamline procedures and government backing. [66] The success of Singapore hinges upon the focus on institutional arbitration, professional training, and best practices worldwide that have helped to make Singapore a highly efficient venue for arbitration. Yet, the model that Singapore follows is extremely centralized and resource-based, and hence it cannot be applied in India as such. Nonetheless, certain features such as rules, credibility, and case management can perhaps be adopted in India.

Also, the way in which the UK handles small claims and the ADR process provides a better basis for comparison with respect to disputes involving MSMEs because the UK focuses on cause-effectiveness and accessibility in its handling of small claims through ADR.[67] The key point in this model is that it requires appropriate matching between the method of dispute settlement and the kinds of disputes together with their magnitude, particularly relevant to MSMEs in India. It may help develop an effective scheme for dispute resolution via arbitration

[65]The Arbitration and Conciliation (Amendment) Act, 2019 (establishing Arbitration Council of India).
[66] Gary Born, International Commercial Arbitration (Kluwer Law International).
[67] UK Ministry of Justice, Small Claims Mediation Service Report (2022).

based on districts.

The importance of technology, particularly Online Dispute Resolution (ODR) technology, cannot be overlooked when dealing with the issue of achieving balance between a centralized system of arbitration and easy access to such systems. Through the use of ODR technology, one is able to arbitrate their disputes from far off distances without having to pay any fees for using physical premises.[68] In India, initiatives supported by institutions such as NITI Aayog have emphasised the potential of ODR to transform dispute resolution, especially for MSMEs.[69] Digital ODR systems can be seen as complementary to district-based systems since they offer a mixture of traditional methods and modern technology.

However, in order for ODR systems to succeed, challenges such as illiteracy in terms of digital media use, poor access to the internet, and lack of faith in the process must be addressed. These challenges will be more obvious in rural or semi-urban areas, as there may be no technology available to MSMEs in these districts.Decentralization of arbitration has some important policy implications, and this requires a concerted effort on the part of several players. The role of government cannot be overlooked as far as the formulation of an enabling environment for district level arbitration is concerned. The government would need to offer financial assistance for the construction of infrastructure facilities as well as create mechanisms for the recruitment of arbitrators. There could be legislative changes needed to resolve any conflict that might arise between the provisions of the Arbitration and Conciliation Act, 1996 and the Micro, Small and Medium Enterprises Development Act, 2006.

Not only can states initiate the process through PPPs, but PPPs will be crucial in the construction of arbitration institutions as well. Private organizations, lawyers, and professional bodies can help by providing technical knowledge, skills, and innovation for the establishment of effective dispute resolution mechanisms. PPPs may also assist in the construction of specialized arbitration processes, particularly for SMEs.

However, the overall findings have revealed that although DLA has much scope for enhancing access to justice, the success of the process requires an amalgamation of reforms along with technology and policy support. The implementation of a blend of DLA and electronic dispute

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[68] NITI Aayog, ODR Policy Plan for India (2021).

[69] NITI Aayog Expert Committee on ODR, Designing the Future of Dispute Resolution (2021).

resolution system would be the best option for the country in order to ensure the provision of access to justice. Adopting international experiences and making appropriate adjustments according to national requirements will allow India to create an efficient and inclusive ADR system.

9. CASE STUDY

A relevant illustration of the challenges faced by MSMEs in dispute resolution can be observed in cases involving delayed payments by larger corporations. In several instances, MSMEs have approached Facilitation Councils under the Micro, Small and Medium Enterprises Development Act, 2006 for recovery of dues. However, delays in conciliation and arbitration proceedings, coupled with challenges in enforcement, have often undermined the effectiveness of this mechanism.[70]

For example, disputes involving delayed payments frequently remain pending before Micro and Small Enterprises Facilitation Councils due to procedural inefficiencies and lack of resources. In contrast, where arbitration has been conducted through institutional mechanisms or expedited processes, resolution timelines have been significantly shorter, demonstrating the potential effectiveness of structured arbitration frameworks.[71]

This contrast highlights that while ADR mechanisms exist in theory, their success depends on institutional efficiency, accessibility, and proper implementation. It reinforces the argument that decentralised and well-regulated arbitration systems are necessary to ensure timely and effective dispute resolution for MSMEs.

10. RECOMMENDATIONS

With the limitations faced in the current model of ADR, the need of the hour is to adopt a comprehensive reform strategy for small companies.

The first step towards that end would be setting up of district arbitration centers. The key is that these centers must operate as part of the ADR system linked to the district court or commercial court of the same district. This would greatly reduce the cost of dispute

[70] “India’s MSME Arbitration: Lifeline or Legal Labyrinth?” (Cyril Amarchand Mangaldas, 2025).
[71] ‘Arbitration in India: Recent Developments’ (2023) IJCRT.

resolution.[72]

Standardised procedures will have to be formulated under the direction of the Arbitration Council of India.

Finally, the implementation of a subsidised arbitration system for MSMEs cannot be overlooked as an important solution to their problems. The government can look into offering financial support to MSMEs or limiting arbitrators' fees in MSME-related arbitrations.[73] This will ensure that small businesses can use formal procedures to resolve disputes without discouragement because of high costs.

Thirdly, it is important to establish capacity and create awareness. It is necessary to organize training so that there is creation of capacity to develop a team of effective arbitrators in the districts who will focus on dealing with commercial disputes. Besides, it is important to carry out awareness programs to sensitize MSMEs about the idea of ADR.[74] Such initiatives can be implemented through collaboration between government agencies, industry bodies, and legal institutions.

Fourthly, the incorporation of ODR in the arbitration process will improve efficiency. The use of tools that enable disputants to lodge cases through the online portal and conduct hearing and other case management processes online will go a long way in improving efficiency.[75]

A blend of both the physical and virtual platforms would make sure that inclusivity was achieved through technology. Finally, it is important to strengthen the Micro and Small Enterprises Facilitation Councils (MSEFCs), in accordance with the provisions of the Micro, Small and Medium Enterprises Development Act, 2006. This can be achieved by setting up a timeline and process for doing so. The MSEFCs can be made more relevant by expanding their scope beyond payment disputes.

11. CONCLUSION

The present study has undertaken an in-depth analysis of the effectiveness of the ADR process within India, particularly with respect to the accessibility of the same for the MSMEs. Although

[72] Law Commission of India, 246th Report on Amendments to the Arbitration and Conciliation Act, 1996 (2014).
[73] NITI Aayog, Strengthening MSMEs in India (2021).
[74]Ministry of MSME, Annual Report 2023–24 (Government of India).
[75]NITI Aayog, ODR Policy Plan for India (2021).

the recent developments in terms of legislative amendments through the Arbitration and Conciliation Act, 1996 and other legislation have improved the legal standing of the process of arbitration, the actual application of the same continues to be hampered due to several factors. In this context, it has been observed that the existing setup of arbitral tribunals, marked by an urban bias, heavy costs, cumbersome procedures, and lack of knowledge among others, does not cater to the needs of the MSMEs.

The observations from the above study have proved the hypothesis proposed at the very outset. In essence, it has been concluded that decentralization of the process of arbitration up to the district levels can greatly enhance its accessibility and efficiency, subject to certain institutional changes and development.

Moreover, the research underscores the importance of extending reform to include aspects such as capacity building, increased awareness, and technological application. The inclusion of ODR in dispute resolution, training arbitrators, and improving dispute resolution systems specifically for MSMEs is essential in ensuring an inclusive ADR process.

Lastly, the restructuring of dispute resolution systems in India entails the adoption of a decentralization approach in ADR processes. It becomes imperative to guarantee that these mechanisms are available to MSMEs due to their significance in the Indian economy.

It is therefore necessary to embrace decentralization in the adoption of ADR processes in India.