



# **FACULTY OF JURIDICAL SCIENCES**

**COURSE: B.A.LL.B.**

**Semester: VIII**

**SUBJECT: Alternative Dispute**

**Resolution**

**SUBJECT CODE: BAL803**

**NAME OF FACULTY: Mohammad Aqib**

# Lecture-25



## LECTURE 25: Settlement of Disputes and Restrictions on role of Conciliators

### Settlement:

- 1. Settlement of Dispute [Section 67 (4), 72, 73]:** The role of the conciliator is to assist the parties to reach an amicable settlement of the dispute. He may at any stage of the conciliation proceedings make proposals for the settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of reasons. Each party may, on his own initiative or at the invitation of the conciliator, submit to the conciliator the suggestions for the settlement of the dispute.

When it appears to the conciliator that there exist elements of a settlement likely to be accepted by the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties the conciliator may reformulate the terms of a possible settlement in the light of such observations. If the parties reach agreement on a settlement of the dispute, a written settlement agreement will be drawn up and signed by the parties. If the parties request, the conciliator may draw up or assist the parties in drawing up the settlement agreements. When the parties have signed the settlement agreement it becomes final and binding on the parties and persons claiming under them respectively. The conciliator shall authenticate the settlement agreement and furnish its copy to each of the parties.

Where the conciliator held some meetings with the parties and drew up the settlement agreement by himself in secrecy and sent it to the court in sealed cover, the Supreme Court held that an order passed by the High Court confirming such settlement agreement received from the conciliator was wholly unsupportable. The section clearly requires that in order to be binding and to have the status of an arbitral award, it must be signed by the parties.

- 2. Status and effect of settlement agreement [Section 74]:** Section 74 provides that the settlement agreement shall have the same status and effect as an arbitral award on agreed terms under Section 30. This means that it shall be treated as a decree of the court and shall be enforceable as such.

**Restrictions on role of conciliators [Section 80]:** Section 80 places two restrictions on the role of the conciliator in the conduct of conciliator proceedings:

- 1) Clause (a) of Section 80 prohibits the conciliator to act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceeding in respect of a dispute which is subject of the conciliation proceedings.
- 2) Clause (b) of Section 80 prohibits the parties to produce the conciliator as a witness in any arbitral or judicial proceedings.