

Light of Mediation from the Perspective of Ease of Doing Business

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India is a country of different religions and different languages so here comes a big difference in the understanding between people which creates a sprawl-brawl in businesses and when it comes to cross boundary mercantile transactions, things get more complicated.

To overcome these fights the term Mediation (it is defined as a structured, interactive process where an impartial third party assists disputing parties in resolving conflict through the use of specialized communication and negotiation techniques) came into picture. Hence, in this research we study the importance of mediation from the perspective of ease of doing business and we also compare this method with another like arbitrage and many more. There are some institutions like ICC, LCIA and ICSID which were handle the matters relating to international commercial disputes but here in this research we only study how the Mediation will helpful in resolving these disputes. Mediation is one of the unique and successful method. So, here in this paper we can find that how the mediation is different or better than other and to what extent it is helpful in easing the business in India as well as outside the country. After the Covid online mediation become popular which is the plus point for it and by this cost of medication also decreasing.

Introduction

SIMEON DJANKOV, Michael Klein and CaraleeMcLiesh created the ease of doing business index at World Bank Group working together.

An annual assessment conducted by the World Bank was published as the Doing Business Report (DBR) including 190 economies ranked on ease of doing business in a country, which was based on 11 parameters and span over the business lifecycle. The ease of doing business score depicts the absolute position of an economy relative to the best regulatory performance whereas an

economy's position relative to that of other economies was indicated by the ranking.

In 11 parameters we have Enforcing contracts in one of them and in this we resolve the commercial disputes. So, here comes the term Mediation (*a structured, and interactive process assisted by an impartial third party for resolving conflicts and disputing through the use of distinctive communication and negotiation techniques*) which came into existence in 1996 for resolving commercial disputes. In short, we say that whichever we study is related to mediation, defined as a dispute resolver, which is also contributing to the ease of doing business. In this article we have tried to study the Mediation in ease of doing business.

Literature Review

There are many researches done on the mediation in the subject of law but few in Economics which links with ease of doing business so, here we study the mediation with respect of ease of doing business in the subject of Economics.

We analyse some literatures mentioned below:

“Resolving Commercial Disputes in India: Focus on ‘Mediation’ as an Effective Alternative ‘Towards Ease of Doing Business’” .

The Effect of Governance on International Trade and the Mediating Role of Business Regulations.

Online Dispute Resolution: An Indian Perspective.

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Literature Gap

After reviewing few given literatures, we found one major thing that there is not any one article or literature where we see to what extent mediation makes businesses easy in India and not any one article compares the mediation in ease of doing business with the help of index.

There is no literature available which explains the reason why after 2020 EODB index will discontinued.

So, we will explore these untouched things in our study.

Statement of Problem

- To what extent mediation makes business easy in India?
- How it is different or better than others?
- After the advent of E - mediation or online mediation, what has been the effect on the value of mediation because of it? (Increase or Decrease)
- Comparing the previous year index of India's ease of doing business.
- Out of 11 indicators mediation fits in which one.
- After 2020 why the EODB index will not come.

Objective

Our only objective is to analyse or get the answer of those problems which we mentioned above.

Area of Study Analytical Framework

Whatever we conclude or analyse in this paper is on the basis

of secondary data only from authentic sources like from the official website of EODB (Ease of Doing Business) Department of Justice and from Department for Promotion of Industry and Internal Trade (DPIIT) and few other sources like these. We also take some qualitative data from other articles which we mention in the reference section.

In this paper we focused on the effects of Mediation on EODB and to what extent it will helpful in making business easy so, we study it only with the secondary data which is helpful for us making some conclusions and logical arguments.

Methodology

The secondary data for the EODB rankings is collected from

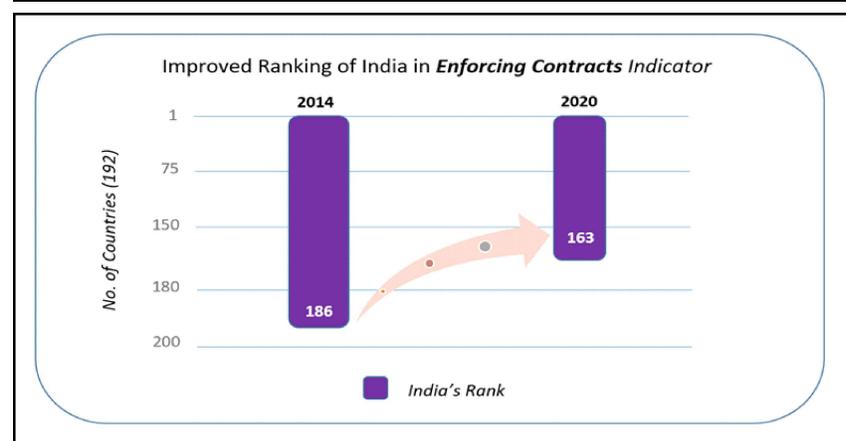
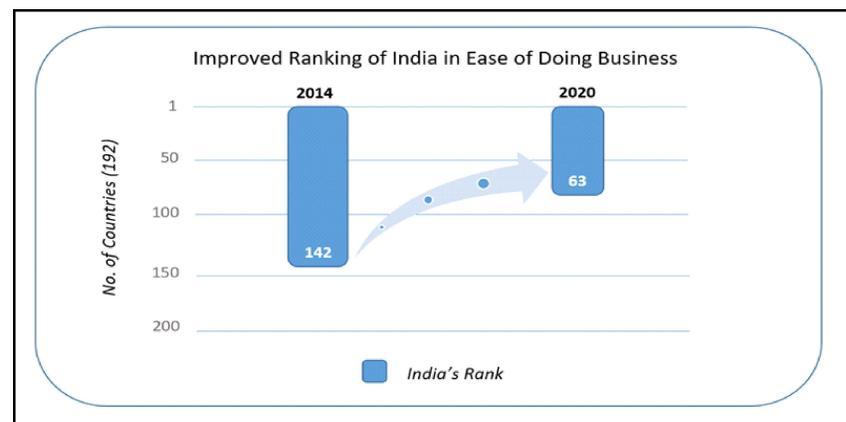
the authentic websites and in case if we need primary data, we collect it through questionnaires survey.

We need the ranking of economies depicted on the basis of the ease of enforcing contracts for comparing the dispute resolve by the Mediation or will mediation be contributing in ease of doing business index. All the data we use, is secondary which were collected from authentic sources.

Analysis & Discussion

We have 11 indicators on which basis we calculate the EODB index or rank the country, these are:

Starting a Business, Protecting Minority Investors, Dealing with Construction Permits, Paying Taxes, Getting Electricity, Trading across



Borders, Registering Property, Enforcing Contracts, Getting Credit, Resolving Insolvency. (for 2020 ranking, the labour market parameter was not considered, hence 2020 ranking was based on the above 10 parameters)

Out of these 11 parameters, success of the ease of doing business report is dependent on the enforcing contracts indicator. It is dependent on the time and cost spent to resolve a standardized commercial dispute and promotion of good practices in the judiciary. Hence, the World Bank has included parameters like, Time, Cost and Quality of Judicial Process for depicting the countries in order of Ease of Doing Business Ranking.

Abraham Lincoln had once said:

“discourage litigation, persuade your neighbours to compromise whenever you can. point out to them how the normal winner is often a loser in fees, expenses, cost and time”.

It is necessary to resolve the commercial disputes in less time to enhance the confidence of investors in the countries dispute resolution mechanism, where we say with the help of Mediation, we can save our precious time and reduce the cost of settling commercial disputes. Also, it is a reliable platform for both the contracting parties.

Findings

- Mediation comes in Enforcing Contracts indicator and it contributes to improve the ranking in Enforcing contracts indicator which is directly improve the EODB index.

- India improved its ranking in EODB index as well as Enforcing contracts.
- After 2020 the World Bank group has discontinued the ‘Doing Business Report’ due to the ongoing work on the formulation of a new approach for business assessment and investment climate in economies worldwide.

Policy Suggestion

In Enforcing contracts ranking we only consider those disputes, solved with the help of judicial process what happens if we also consider those which resolve with Mediation, did the rank will increase or not?

Conclusion

In the dapper world there is conflicts arises due to miscommunications and also because we have different accents of languages in our nation so, there might be arises gap in understanding the things but Mediation can help into bridge this gap. Inclusion of clarity and objectivity in defining a complex situation, which depends on the support of parties on all sides to find a common ground and forge a mutually beneficial solution.

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