

**NINTH SEMESTER LL.B. (FIVE YEAR) AND FIFTH SEMESTER  
LL.B. (THREE YEAR) DEGREE EXAMINATION, MAY 2011**  
**ARBITRATION, CONCILIATION AND ALTERNATE DISPUTE RESOLUTION SYSTEMS**

Time : Three Hours

Maximum : 80 Marks

**Part A**I. Answer any *five* questions. Each question carries 4 marks :

- (a) Explain the concept of Alternate Dispute Resolution and discuss the reasons for the growing importance of Alternate Dispute Resolution System.
- (b) Who is Ombudsman ? What are the functions of the Ombudsman ?
- (c) What is arbitration ? Explain its nature and essentials.
- (d) Discuss the form and contents of arbitral awards.
- (e) What are tribunals ? What is their importance in the ADR system ?
- (f) Discuss the place of the Lok Adalats in dispute resolution.

(5 × 4 = 20 marks)

**Part B**II. Answer any *three* problems. Each problem carries 10 marks : —

- (a) A P.W.D. Contract between the Engineering Department and the Contractor contained a clause, without specifically mentioning the word "arbitration" in any part of the contract that the decision of the Superintending Engineer shall be final, conclusive and binding on all parties to the contract upon all questions relating to the meaning of the specifications, designs, drawings etc. The question is whether the above clause in the contract amounted to an arbitration agreement even though the specific word "arbitration agreement" appeared nowhere in the contract. Decide stating reasons.
- (b) The validity of an arbitration award is challenged on the ground that after the conclusion of the arbitration proceedings all the arbitrators did not meet together to reach a final conclusion. It is contended that the absence of joint deliberations rendered the award invalid according to the law regulating arbitration proceedings. Examine and decide.
- (c) When a first reference to arbitration did not include the whole claim, a subsequent reference was made including the claim left out at the first instance. It is contended that the subsequent reference including the claims left out at the first instance is barred by the rule of constructive res judicata. Decide.

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- (d) A party to an award who had alienated certain of the properties which he obtained on the strength of the award applied to the court for setting aside the award on the ground that the shares allotted to him were unequal. It is contended by the opposite party that the first party is estopped from challenging the validity of the award because he had already alienated the properties allotted to him on the strength of the award. Decide.

(3 × 10 = 30 marks)

**Part C**III. Answer any *two* questions. Each question carries 15 marks : —

- (a) Discuss the meaning, essentials and importance of Conciliation, Negotiation and Mediation as a package of dispute settlement measurement in the ADR System.
- (b) Discuss the statutory provisions under the Arbitration Act regarding the power of court to refer to arbitration. What are the circumstances in which the arbitral tribunal may order the termination of arbitral proceedings without making the final award ? Describe the circumstances in which the arbitral award may be set aside.
- (c) Explain foreign awards and discuss the binding nature of such awards. What are the legal provisions regarding enforcement of foreign awards ? Discuss with reference to New York Conventions Awards and Geneva Convention Awards and examining the powers of courts and their jurisdiction in matters relating to foreign awards.

(2 × 15 = 30 marks)