Prospects of Alternative Dispute Resolution

Why in news?

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A committee under Arbitration and conciliation has recently submitted a report on making India a hub of arbitration.

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What is Arbitration and Conciliation Act?

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- The Arbitration and Conciliation Act, 1996, was enacted in order to minimise the supervisory role of the courts in settlement of disputes.
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- The Act permits an arbitral tribunal to use mediation, conciliation or other procedures during arbitral proceedings in order to encourage the settlement of disputes.
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- Recent amendments were made to the bill which led to some significant changes, such as time-bound arbitration, widening the powers of the arbitral tribunal, settling the judicial vulgarities under Section 34 of the Act, etc.
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What are recent changes in the Act?

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- Two new sections namely 29A and 29B—have been added, which provide for time limit for arbitral award and fast-track procedure, respectively.
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- Section 29A provides a time limit of 12 months plus six months (total of 18 months) within which the arbitral award should be made, failing which the mandate of the arbitrator should be terminated.
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- Another section provides the parties to the arbitration agreement may opt

for the fast-track procedure wherein the award has to be made within six months of the reference to the arbitrators.
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- The appeal against the arbitral award is restricted to grounds mentioned under Section 34 of the Act, wherein the recourse to a court against an award is limited to the extent provided for under the section itself.
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- Even if such an appeal is preferred to the court against an arbitral award, the same shall have to be disposed of expeditiously within a period of one year from the issuance of notice to the other party.
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What are the significance of the bill?

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- If the dispute between the parties is referred to the normal course of litigation, it usually takes an average of 6.5 years in order to reach an effective solution.
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- This is mainly due to the delays caused by the stays granted by the High Courts and the Supreme Court.
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- In comparison, under the Arbitration and Conciliation Act, 1996, the interference by the courts is limited to what is provided for in the Act.
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- It is notable that even after the termination of arbitral proceedings, the Act provides for limited scope of court intervention.
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- The payments recovered shall be made into a designated escrow account with the stipulation that the amount so released will be used first for the payment of the lenders dues.
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- It will also be used for the completion of the project and then for the completion of other projects of the same PSU/department, as mutually agreed upon.
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- This will result in a paradigm shift from the current perception of delays in resolution of commercial disputes in India to it being viewed as an investor-friendly destination.
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What are the steps to make India an Arbitration Hub?

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- The government of India is committed for speedy resolution of commercial disputes, and to make India an international hub of arbitration and a centre of robust ADR (alternative dispute resolution).
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- This mechanism will cater to international and domestic arbitration, at par with the global standards available.
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- The ADR mechanism has evolved over the years and has resulted in yielding better and time-effective outcomes as compared to the conventional option of filing the dispute before the courts.
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- ADR has also become a favourable tool for the resolution of disputes without further burdening the already overburdened judicial system of our country, and has emerged as an aid to improve the financial health of the country.
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- India has constituted a 10-member High Level Committee under the chairmanship of a retired judge of the Supreme Court for making reforms in dispute resolution mechanism.
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- The suggested reforms will lessen the burden of the judiciary, and provide a fillip to the development agenda of the government.
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Source: Financial Express

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