

Arbitration can clear court backlog

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ARBITRATION AND mediation are the way out of protracted legal battles that have been the bane of Indian judiciary.

According to former Chief Justice of India MN Venkatachaliah, who heads the Bangalore-based Indian Institute of Arbitration and Mediation, arbitration and mediation can be applied to companies as well as individuals.

The director and administrator of the organisation's Kerala

Chapter, Anil Xavier says there is a tremendous scope for arbitration and mediation in the country, especially Kerala. "With projects like Smart City and container terminal project, Kochi is set to become a hub of business activities. With the arrival of several transnational ships in Kochi, there will be a greater need for arbitration and mediation, which many of these companies are used to. These shipping companies are averse to getting involved in protracted legal cases."

"In most developed countries, 75 per cent of the company cases, and even those concerning individuals,

are mediated and rarely tried in courts. In Kerala, 75 per cent of the cases pending in the courts can

'75 per cent of the cases pending in Kerala courts can easily be solved through mediation'

easily be solved through mediation," Mr Xavier added.

Arbitration and mediation got legal acceptance in the country in 1996. But it picked up only in 2000.

Now, the institute is helping 15 candidates take the examination for accreditation under international arbitration laws.

"One reason why so many companies opt for arbitration is that it is faster and cheaper than going to court. Instead of months of depositions, the process of discovery is normally limited to each side turning over requested documents. Arbitrating a dispute might be over in a few months rather than the several years that a lawsuit takes. And, instead of trying to educate a jury, you present the case to arbitrators, who are already familiar with your industry and with the

issues. They are less likely to issue a runaway verdict," says Mr Xavier.

IIAM, he said, is dedicated to the promotion of amicable and fair settlement of disputes. "It aims to create an environment in which people can work together to find enduring solutions to conflict and tension."

IIAM offers facilities for alternative dispute resolution, which includes international and domestic commercial arbitration and mediation through a panel. It also conducts training programmes on alternative dispute resolution and provides accreditation to mediators and arbitrators.