

Gujarat Consumer Protection (Mediation) Rules, 2022

Background

The Consumer Protection Act, 2019 (the Act) aims to protect the consumers' interests. It deals with establishing authorities for timely and effective administration and settlement of consumers' disputes across the country. Section 102 of the Act empowers the State Governments to make rules for carrying out the provisions of the Act. Recently the Gujarat Food, Civil Supplies, and Consumer Affairs Department has notified the Gujarat Consumer Protection (Mediation) Rules, 2022 (mediation rules).

What is mediation? It is a voluntary, binding process in which an impartial and neutral mediator facilitates a settlement between the disputing parties.

Who is a mediator? A mediator is a neutral and impartial person carrying out the process of mediation between the disputed parties.

Salient features of the mediation rules

1. On the proposal of a selection committee consisting of the President and a member of the State/District Commission, every mediation cell established in the state shall have a panel of mediators.
2. The mediator shall make every effort to encourage a voluntary resolution of the parties' disagreements, including assisting them in eliminating any misunderstandings and generating ideas for resolving their disputes but shall not impose any term or settlement on the parties. Before getting the parties' signatures on the agreement, the mediator must explain the terms of the agreement to them.
3. The parties and the mediator shall keep the events of the mediation proceedings secret. They shall not utilise/rely on any information, document, or other item produced, the suggestions and admissions made, or the views expressed during the mediation processes. The mediation rules prohibit audio or video recording of the mediation proceedings.
4. No mediator shall be liable in any civil or criminal prosecution for any act done or omitted in his capacity as a mediator in good faith. A party may not compel the mediator to testify in a court or other forum regarding any information obtained or action taken by him during the mediation proceedings.
5. Issues that should not be referred to mediation:
 - a. cases involving medical negligence resulting in serious injury or death;
 - b. cases involving defaults or offences for which one or more parties have filed applications for compounding of offences;
 - c. cases involving serious and specific allegations of fraud, fabrication of documents, forgery, impersonation, or coercion;
 - d. cases involving criminal and non-compoundable offences;
 - e. cases involving public interest or the interests of a large number of people who are not parties to the case before the Commission.

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6. The mediation process lasts upto three months. It will automatically stand terminated three months after the date of the initial appearance before the mediator unless the Consumer Commission extends the time for completion of the mediation. In such a case it will end when the additional time expires.

7. The rules also deal with

- a. eligibility of the persons for the empanelment as a mediator and certain disqualifications, the establishment of the mediation cell;
- b. fees of the mediator;
- c. removal and re-empanelment of the mediator;
- d. code of conduct;
- e. reporting mechanism by the mediation cell to the District/State Commission, etc.

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https://fcsca.gujarat.gov.in/Portal/Document/1_1300_2_146148-D.pdf

Therefore

The mediation process is an amicable alternate dispute resolution mechanism that circumvents the conventional litigation and arbitration channels, rendering it more practical and adaptable. It is a voluntary process initiated by the disputing parties willing to enter mediation. Mediation is a faster, confidential, time and cost-effective method than conventional adjudicative procedure.

