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WORDS OF WISDOM

Prez offers mediation advice

Says Effective Communication Can Resolve Most Disputes

Dhananjay Mahapatra TNN

New Delhi: President Pranab Mukherjee on Saturday drew on his vast past experience as the governments chief troubleshooter to advise the judiciary,lawyers and litigants that sticky disputes could be resolved through mediation only if mediators succeed in communicating well to defuse the ego of litigating parties.

At a personal level,as someone who has been in public service for many decades,it is my experience that most disputes become difficult to resolve due to either miscommunication or egoism of the individuals involved, Mukherjee said inaugurating the National District Level seminar on Mediation at Vigyan Bhavan.

He said,I have always found that effective communication combined with sensitivity to the concerns of individuals concerned makes resolution of most disputes possible.At a very basic level all that is required is an informal and confidential process and third party assistance that can help negotiate and amicably resolve matters in the common interest.It is not about cutting the pie,but making all feel victorious in the process.

The President said mediators need to apply a human touch in their negotiations to convince the parties that mediation protected the interests of both sides and felt that mediation and alternative methods of dispute resolution should form part of legal education. Legal education in todays India also needs to incorporate alternate methods of dispute resolution as an essential course for a new breed of socially conscious lawyers, he said.

Chief Justice of India (CJI) Altamas Kabir acknowledged Mukherjee as one of the best mediators of our times,a thought that was shared without reservation by external affairs minster Salman Khurshid too.Justice Kabir agreed with the President and said the mindset towards mediation must change.

The idea of mediation is to help people,not to throw them out on grounds of technicalities, the CJI said.He said he had seen instances where a Lok Adalat did not take up a case because a litigant had failed to file proper memorandum of appearance.

Perhaps,this could explain that a decade since mediation was introduced as a legal tool for resolution of disputes in Section 89 of Civil Procedure Code,the national success rate is a little below 40%.In the United Kingdom,this rate has touched 89%,while Australia has registered asuccess rate of 70% in mediation of commercial disputes.

The Mediation and Conciliation Project Committee was launched at the Supreme Court in 2005,which now has produced 3,500 trained mediators across 417 mediation centres.

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