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A Study on Backlog of Cases

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ABSTRACT

Justice delayed is Justice Denied which means if justice is not carried out at the right time, then even if it is carried out later, it is not real justice because when there was a demand for justice, there was a lack of justice. Basically, one goes to court in order to get justice, but when there is a delay in justice, individuals lose their hope, and hence justice is denied. As 'justice delayed is Justice Denied'; similarly, the saying, justice hurried is Justice Buried is equally true. During the drafting of the constitution of India, the vision of the founding father was to ensure justice for every citizen; keeping this vision in mind, the preamble of the Indian constitution consisted of the word JUSTICE. As we know, India was a colonial country, and for the last 500 years, all the rights of the Indians were suppressed; so to enhance their Right, Art -39A was introduced in the Indian constitution, which directs the state- to secure equal justice and the free legal aid for the citizens. But the experience of the last 57 years shows that the state has failed squarely in addressing some very basic issues, quick and expensive justice, and protecting the right of the poor and vulnerable. Since India is a vast country of various religions, India has a large no. of the population with a lack of symmetric arrangement of courts and public offices; here, the system is collapsing with 30 million cases that take so much time that even a generation is not sufficient to get any type of redressal. As per the current scenario of our country, it will take 300 years to clear the backlog of cases in Indian Courts. In this article, we will study the reasons for the backlog of cases and measures to tackle it.

Keywords: Court, Cases, Pendency, Justice.

I. INTRODUCTION

In India, the total number of cases in the Supreme Court of India till August 2, 2022, is 71,411, of which 56,365 are civil and 15,076 are criminal. Of these cases, more than 10,491 cases have been pending for more than a decade. More than 42,000 cases were under consideration for less than five years, and 18,134 cases for 5 to 10 years. Until July 29 of this year, 59,55,907 cases were considered in 25 Supreme Courts of the country. The number of backlogs in the lower courts is 4.13 million.

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In the Upphar Cinema case³ A couple year ago a committee was set up under the vision of justice V.S. Malimath to examine changes and it's report came, it took 6 years to prove 59 people were died because of criminal negligence of cinema management and the Delhi government.

The justice delay in the Nirbhaya case⁴, which was 3 Judges-bench headed by Justice R Bahumati and other judges, Justice Bhushan and Justice A S Bopanna, where all 4 men were convicted for the 2012 Nirbhaya gang-rape case and murder cases were finally hanged 7 years after the brutal crime.

Similarly, the Ayodhya verdict⁵, which was 5 Judge-Bench headed by the Chief Justice of India and the other judges Justice S A Bobde, Justice Ashok Bhushan, Justice D Y Chandrabhushan and Justice Abdul Nazeer, the judgement came on November 9, 2019, and with this one of the eldest cases was solved, the constitution bench announced the construction of Ram Mandir at the site where the Babri Masjid once stood in Ayodhya thus ending the centuries-long disputes between the Hindus and Muslims. SC also told the central govt to allocate prominent and suitable five-acre plots for Muslims to construct a mosque in Ayodhya.

In practice, this backlog means that many important questions of law do not receive timely answers. Important constitutional law cases, many of which concern the fundamental rights of citizens, have been going on for years or even decades. Delays in criminal cases cause a lot of problems because the accused - many of them in prison - often have to wait years for a verdict. Pendency also makes economic activity more difficult because contract enforcement becomes more expensive.

II. FACTORS RESPONSIBLE FOR THE BACKLOG

Timely disposal of cases in courts depends on several factors which, inter-alia, include availability of adequate number of judges and judicial officers, supporting court staff and physical infrastructure, complexity of facts involved, nature of evidence, co-operation of stakeholders viz. bar, investigation agencies, witnesses and litigants and proper application of rules and procedures. There are several factors which may lead to delay in disposal of cases. These, inter-alia, include vacancies of judges, frequent adjournments and lack of adequate arrangement to monitor, track and bunch cases for hearing. Below contains few more reasons

³ Assn. Of Victims Of Uphaar Tragedy vs Union Of India and ors., II (2003) ACC 114,

⁴ Mukesh & Anr vs State For Nct Of Delhi & Ors on 5 May, 2017, CRIMINAL APPEAL NOS. 607-608 OF 2017

⁵ M Siddiq (D) Thr Lrs vs Mahant Suresh Das & Ors on 9 November, 2019, Civil Appeal Nos 10866-10867 of 2010

and the brief of the reasons:

Lack of adequate judges:

The number of Judges is not sufficient as per populace of our nation, which causes the hindrance in justice. The population of India is more than 100 crores, but the number of judges is only 17,615. During appointment of Judges in a landmark case, All India Judges case⁶, SC expressed its desire to increase the number of judges every 5 years.

Unnecessary Delays:

Lawyers are usually appointed to resolve disputes and provide the necessary justice by representing the case before the judge, but lawyers can now be delayed. The causes of delay are far from family duty. But the attorneys were paid for their appearances and time, but with each dismissal the costs and pending cases increased. In general, lawyers handle different cases in different courts at the same time and adjourn to try many cases at the same time. Unfortunately, in our system, there is no such law or code that determines the term of consideration of the case. And everyone took advantage of it and did not rush to finish the work. In today's generation, lawyers are no longer interested in justice, they only interfere in the court process and easily deafen their clients by enjoying oral contentions.

Demand-side and supply-side:

Pendency has various reasons on both the demand side (increasing number of new cases) and the supply side (slow clearance rate). The reasons for the demand for wide judicial power in the Indian constitution are excessive state litigation and rapid social and economic changes leading to more disputes etc. Reasons for the provision include civil and criminal procedure codes that do not encourage speedy resolution of cases, willingness of judges to hear appeals within their own jurisdiction and suo moto (judicial action taken without a request from the parties involved). And the large number of judicial vacancies in the country.

Judicial vacancies and productivity:

Many experts have suggested that the Indian government should tackle the challenge of increasing pendency in Indian courts by appointing more judges to the bench. While this reasoning seems intuitive (and, undoubtedly, India has very few judges per capita compared to other leading economies), it is also important to consider the productivity of the country's judges. To this end, judicial productivity is calculated as the ratio of judges to case disposals

⁶ All India Judges Association vs Union Of India . on 27 July, 2022, Writ Petition(Civil) No.643/2015

per year. While empirical evidence on this metric is sparse, one 2008 study suggests that judicial productivity in Delhi district courts is about half of that in Australian courts. Increasing the number of judges without finding ways to improve their productivity is, at best, a half measure.

Misuse of PIL, RTI Mechanism:

The High Courts and Apex Courts are flooded with Public Interest Litigation. To suggest that PIL is irrelevant to private public interest and political competition is its misuse. The Supreme Court has from time to time shown its serious concern over misuse of PIL. Justice Sikri and Justice Ashok Bhushan while hearing the PIL case for political reasons said now is the time to rethink the concept of PIL as judicial processes are being misused.⁷ In this way, Judge R.F. Nariman rejected the demand to send Indian Muslims to Pakistan.⁸ In 2017, CJI TS Thakur imposed a fine of Rs 25 lakh on Suraz India Trust and its chairman Rajeew Dahiya, including a ban on filing any case in an Indian court, for filing more than 64 frivolous petitions.⁹ Thus, such frivolous and frivolous filing of PIL is misusing the valuable time of the courts.

III. GOVERNMENT'S CONTRIBUTION TO REDUCING THE BACKLOG

Review of pending cases in the courts is the domain of the judiciary. No time limit has been fixed for consideration of different types of cases by the respective courts. The government has no direct role in deciding cases in court. The Central Government is fully committed to expedite disposal of Article 21 cases and reduce the backlog. The government has taken several initiatives to provide a judicial ecosystem for faster disposal of cases. Some of them are:

Pendency Reduction/Follow-Up Committees:

As per the decision of the Chief Justice Conference in April 2015, Pendency Reduction Committees were set up in the High Courts to deal with over 1000 cases pending for 5 years. . Later commissions were also formed among the district judges. A backlog commission was established in the Supreme Court to prepare measures to reduce the hearing of cases in the Supreme Court and district courts. In the past, the US Secretary of State for Law and Justice has discussed the issue with chief justices and prime ministers to draw attention to cases that have been pending for more than five years and to launch a campaign to reduce sentences. The Department has developed an online portal for all High Courts to report compliance with the

⁷ Article on TOI 'PILs being misused, time to revisit the concept, says SC' Available on www.timesofindia.com/india.sc-pil-being-misused-for-personal-political-gains/amp_articleshow/61788844.cms , Accessed on Sep 10, 2022.

⁸ Article on Outlook "PILS: From Public interest to 'Publicity interest' litigations" Available on www.outlookindia.com/magazine/amp/india-news-gavel-on-the-duds/301330 , Accessed on Sep 10, 2022.

⁹ Ibid.

Arrears Eradication Scheme guidelines of the Malimath Committee.

Fund allocation for judicial infrastructure:

As on date, Rs. 9013.21 crores have been released since the inception of the Centrally Sponsored Scheme (CSS) for Development of Infrastructure Facilities for Judiciary in 1993-94. The number of court halls has increased from 15,818 as on 30.06.2014 to 20,993 as on 30.06.2022 and the number of residential units has increased from 10,211 as on 30.06.2014 to 18,502 as on 30.06.2022 under this scheme. In addition, 2,677 court halls and 1,659 residential units are under construction (as per Nyaya Vikas Portal). The Centrally Sponsored Scheme for the Development of Infrastructure Facilities for Judiciary has been extended till 2025-26 at a total cost of Rs. 9,000 crore, out of which central share will be Rs. 5,307 crore. Besides, construction of Court Halls and Residential Units, it would also cover construction of lawyer's halls, toilet complexes and digital computer rooms.

Filling up of vacancies in the Supreme Court, High Courts and District and Lower Courts:

From 01.05.2014 to 15.07.2022, 46 judges were appointed to the Supreme Court. 769 new judges and 619 additional judges were appointed in the High courts. The number of judges of the Supreme Court has increased from 906 in May 2014 to 1108. The authorized and working capacity of judicial officers in district courts and lower courts from December 2013 to July 29, 2022, from 19,518 and 15,115 to 24,613 and 19,288.

IV. SUGGESTIONS TO COMBAT WITH THE BACKLOG OF CASES

Role of an individual: There is a need to spread awareness about law, order and rights of an individual to pursue justice among every citizen of the nation. Further, the role of lok adalat is introduced to every individual, so that is help to shift some burden from lower courts.

Removal of unnecessary adjournments:

The most important changes that should take place in judiciary is that the removal of unnecessary grounds for adjournments as it is just wastage of time of court and court need to impose fine for silly reasons for adjournment.

Reduction in filing number of case:

Frivolous litigation should be discouraged; the quantum of cases going to the courts must be reduced. There are many civil cases which can be resolved outside the courtroom amicably. LokAdalat and mediation are such processes that should be spread in rural areas so that people are aware of alternative dispute resolution methods outside the courtroom. The government should try to organize permanent lokadlats in the villages so that people can benefit from such

courts.

Natural Justice:

Natural justice is a natural way of resolving disputes between parties because it consists of a common sense of what is right and what is wrong. This is common law and goes back to the term *ius naturala* which means natural law. Natural justice by itself has a very wide meaning, which helps to implement judicial justice on a natural basis, in simple terms. This is another way of distributing the burden of the courts because there is by nature speedy justice.

Increase in the number of judges and courtrooms:

The number of judges should be increased due to the creation of vacancies. Similarly, courtrooms should be expanded to handle more cases. Former CJI judge TS Thakur once lamented the inaction of the executive in increasing the number of judges.¹⁰ He accused the Center of not taking necessary measures to increase the number of judges.

Increase in working days:

Supreme Courts and High Courts have significantly reduced working days in one year. Generally, it is about 190 days before the Supreme Court and 174-210 days before the Supreme Court (varies from state to state). In 2014, former judge R.M. Lodha suggested that the working days of the courts, especially the high courts, should be extended to reduce the backlog.¹¹ The government should consider extending the working days of the courts to clear the backlog of cases.

V. CONCLUSION

The huge pendency of cases in our judicial system tends to provide the same as asserted above. Justice is rightly called the shield of innocence and guardian of civil rights, as Martin Luther King said, Injustice anywhere is a threat to justice everywhere. Judiciary is the wing of the State and hence if the proper working of judicial system comes under threat it is onus of the State to remove flaws of the mechanism so that timely Justice to every section of the society could not be hampered.

There are different advisory bodies like Law Commission which provide suggestions time to time in order to fix the bugs created in the judicial system. Despite it, the law schools and private think tanks also provide suggestions to the Government in order to combat when such

¹⁰ ClearIAS The problem of pending Cases in Indian Courts: How to tackle? Available on www.clearias.com/pending-cases-in-indian-courts/, last accessed on sep 10, 2022

¹¹ Ibid.

problem persists. The courts are sitting on a ticking time bomb, and there has never been an urgent need for judicial strengthening. Therefore, it is necessary to give a general and realistic point of view to the current situation of the Indian court. The government tried many solutions like fast track courts and frequent Lok Adalat, but it failed due to poor implementation. These steps may reduce the backlog of cases, but their poor implementation has not made these steps work.
