

CHAPTER 21

ORGANISATION OF THE JUDICIARY IN GENERAL

It has already been pointed out, that notwithstanding the adoption of a federal system, the Constitution of India has not provided for a double system of courts as in the *United States*. Under our Constitution there is a single integrated system of courts for the Union as well as the States which administer both Union and State laws, and at the head of the entire system stands the Supreme Court of India. Below the Supreme Court stand the high courts of the different States¹ and under each high court there is a hierarchy of other courts which are referred to in the Constitution as "subordinate courts" i.e. courts subordinate to and under the control of the high court [Articles 233–237].

No Federal Distribution of Judicial Powers.

The organisation of the subordinate judiciary varies slightly from State to State, but the essential features may be explained with reference to Table XVI, *post*, which has been drawn with reference to the system obtaining in the majority of the States.

The Supreme Court has issued a direction² to the Union and the States to constitute an All India Judicial Service and to bring about uniformity in designation of officers both in criminal and civil side. Concrete steps in this direction are yet to be taken by the Government.

At the lowest stage, the two branches of justice — civil and criminal — are bifurcated. The Union Courts and the Bench Courts constituted under the Village Self-Government Acts, which constituted the lowest civil and criminal courts respectively, have been substituted by Panchayat Courts set up under post-Constitution State legislation. The Panchayat Courts also function on two sides, civil and criminal, under various regional names, such as the *Nyaya Panchayat*, *Panchayat Adalat*, *Gram Kutchery*, and the like. In some States, the Panchayat Courts, are the criminal courts of the lowest jurisdiction,³ in respect of petty cases.

The hierarchy of Courts.

The Munsiff's Courts are the next higher civil courts, having jurisdiction as determined by high courts. Above the Munsiffs are Subordinate Judges who have got unlimited pecuniary jurisdiction over civil suits and hear first appeals from the judgments of Munsiffs. The District Judge hears first appeals from the decisions of Subordinate Judges and also from the Munsiffs (unless they are transferred to a Subordinate Judge) and himself possesses unlimited original jurisdiction, both civil and criminal. Suits of a small value are tried by the Provincial Small Causes Courts.

The District Judge is the highest judicial authority (civil and criminal) in the district. He hears appeals from the decisions of the superior Magistrates and also tries the more serious criminal cases, known as the Sessions cases. A Subordinate Judge is sometimes vested also with the powers of an Assistant Sessions Judge, in which case he combines in his hands both civil and criminal powers like a District Judge.³