

6. Prohibition of entry into specified area;
7. Registration and allied formalities;
8. Demand and forfeiture of security;
9. Control or regulation over the volume of circulation, advertisement and/or supply of the paper.

### ***Post – Publication Penal Restraints***

There are various legal provisions which define offences and provide for punishment of a person who commits such an offence by printing, publishing and/or circulation of an objectionable matter prohibited by law as to :

1. Sedition;
2. Promoting class hatred;
3. Obscenity;
4. Injury to religious feeling;
5. Defamation;
6. Public mischief;
7. Contempt of Court;

### ***Conclusion***

In view of the circumstances, we submit, the concept of “freedom of the press”, in modern times must be adjusted with the constitutionally warranted ‘reasonable restrictions’ which may be imposed in view

of exigency of the times to countervailing ‘public interest’.

In our opinion, it is the duty of the Press Council to ensure that media reports satisfy the requisite test and standards of true journalism, and the exercise of press freedom is not motivated to subserve any narrow interest other than public interest.

Stressing the issue of responsibility of media and press, Justice *Verma*, former Chief Justice of India, rightly holds that the object promote public interest, any information which is not in public interest and is distasteful must be strictly avoided. The need of objectivity, sobriety and restraint is great. The fundamental duties in Articles 19(2) and (6) of the Constitution must always be kept in view as indication to the media/press as to the extent of their duty or responsibility and the kind of self-restraint needed in the exercise of press freedom. As such the seven basic principles of public life, namely, selflessness, integrity, objectivity, accountability, openness, honesty and leadership need to be observed by the press in constructive role so as to expose antisocial and anti-national forces and to ensure, as ‘peoples’ embudsman accountability of public men everywhere possible in order to strengthen democracy and to crusade for a just social and economic order that promotes human rights and eliminates disparities.

## **LAW AND COMMON MAN IN INDIA**

*By*

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### ***Introduction***

In our democracy set-up, all laws are made for all men, - common or uncommon. By common man, in common parlance, we understand – a man on the street. A man

who may not have any status, office, post or rank in society. He is only a human being an ordinary citizen with expectations of a just and human order. He may be a Tom, Dick or Harry, Ram, Rahim or Shyam. The expression includes a cobbler, sweeper, baker,

butcher, a priest, or a soldier. A person of whatever name and nomenclature known in the society. A legal system and its effectiveness has to be gauged or measured by the extent of its usefulness to the common man. In our Constitution, the preamble begins with the expression "We the people of India". This word 'we' does include also the wealthy, powerful and highly placed but the Constitution envisages therein a common man who may have no status or rank in society, he may be from amongst 'lowly and the lost' for whom national poet Ravindra Nat Sang. That is the suffering human race which stirred and inspired Gandhiji, the father of the Nation. The question is whether our legal or judicial system has been able to reach this common man. This will require examining the system and face some of its bitter truths with a view to achieve improvement. I will put the subject in three parts.

- (i) the law-making in relation to the common man.
- (ii) its application through the legal profession.
- (iii) the dispensation of justice through the Judges.

Based on the legislative entries in the Constitution and the Directive Principles of State Policy contained therein, host of laws have been enacted to uplift the lot of so-called common man in India who is sometimes recognized as a member of weaker section of the society – a scheduled caste or a tribe, a labourer, a farmer and socially and educationally backward citizen including woman. With Constitution, first came the laws removing untouchability, avoiding caste considerations in the governance of the country.

The free legal aid movement has failed before it could start in full swing because of the half-hearted Government patronage and no corresponding co-operation from the members of the legal profession. Unless the lawyers take profession as a means of doing

service to the community, no relationship can be established between the Court and the common man who has to daily suffer injustice because Courts are inaccessible to him. *Michael Zander* has studied the legal system of Britain to suggest law reforms and records with satisfaction in his book 'A matter of justice' that in Britain, a large number of competent senior Barristers are busy in acting as *Amicus Curiae* in Courts and in providing legal aid to the poor for which they are paid by the State. The situation in India is just the reverse. Our members of legal profession are required to inculcate the spirit of dedication to the cause of justice and for community service.

Last comes the examination of our judicial system manned by Judges. In his much talked of books in the legal circles, 'JUDGES' *David Pannick* has given a very interesting account of outlook of a layman or a common man to lawyers, Judges and Courts. By quoting several instances, the learned author says that Judges are common, men, are high snobs, highly ritualistic and technical in their performance and behaviour so much so as they seem to be totally apathetic to the miseries of the common man. The Judge survives in literature and in popular belief, if not often in Courts; as "that evil old man in scarlet robe and horse hair wig whom nothing short of dynamite will ever teach what century he is living in but will at any rate interpret the law according to the books and will in no circumstances take a money bribe. "Layman or a litigant appearing as a party or a witness finds a Judge extremely cold and less responsive to his woes and tragedies. On the excuse of huge vacancies in the Bench, heavy load of work and lengthy procedure of hearing, they have become extremely harsh and insensitive to the lot of the common man who happens to approach them occasionally with grievance at huge cost and trouble. It is not uncommon for a Judge to insist a common man appearing before him with his own case unaided by a

lawyer, to engage one because it is a botheration to a Judge to understand his complaint. As a witness when he appears to assist the Court, he has usually to suffer rebukes and sometimes insults and humiliation both from the members of the Bar and the Bench. Judges and lawyers talk in foreign language and in terms so technical that a common man is unable to understand whether his case is properly placed and understood or not. *David Pannick* in his book writes that avert from laws delays and cumbersome procedure 'What irritates amongst them beyond endurance is the ridiculous habit of lawmen dressing up for the occasion on the wig and gowns and using language that layman cannot understand'.

After lengthy arguments, which are heard after three or four years of the institution of cases more after has to wait for months to know the decision and yet another few months to understand it through someone, and yet, another few months to get on executable writ, decree or order. Thereafter to get ultimate relief based on that decision sometimes is a starting point for another cause of expense and trouble. Thus, we have not been able to make our Courts easily accessible forums for giving justice to common man. His expectations from this institution have already been belied and those who are per force approaching it get totally disillusioned. A method has yet to be evolved where the process of obtaining justice is less expensive, cumbersome and reasonably quick. Laws' delays have become proverbial right from the times of *Shakespeare* who ranked the laws delay's amongst the 'whips and scorns of time'. "Being involved in a law suit is like being ground to bits in a slow mill it is being roasted at a slow fire; it is being stung to death by single bees, it is being drawn by drops; it is going mad by grains.

Legal Aid Movement and Lok Adalats have failed to satisfy him because if at all they dispense justice that is a sub-standard

quality. How justice through a fair procedure, less expensive and quick can be administered is still the problem facing all associated with this institution. Less expensive, less technical, less formal, cheap and quick – that is sort of justice of common man looks for. It is not impossible to achieve.

### **Suggestion :**

- (i) To bring law and justice closer to common man, he should be provided with a forum created by the State for getting legal advice on easy terms.
- (ii) All registered lawyers should be held as duty bound to devote sometime in a week, month or year for free legal aid through the State forum.
- (iii) The legal service for the poor should be free or reimbursed by the State.
- (iv) The Judges should be appointed in good number. At least no vacancy should be allowed to remain unfilled for an ably long period of time. The Judges should administer substantial justice and avoid too technical approach.
- (v) Hearing, if possible, should be in the language which the litigant understands, attempts should be made to secure his presence when deciding his case.
- (vi) Even if arguments are lengthy and points intricate, Judges should be allowed to deliver final result or conclusion at the earliest and the reasons for decision may follow latest with prescribed time for eventual appeals.
- (vii) The writ or order or operative part to the decision of a judgment be communicated to the party and certified copy be supplied to him by post on an approximate expense charged at the time of institution of cases. The Judges should, if claimed by the parties, grant hearing to the parties themselves.