

to save the accused from mental torture and humiliation, and harassment, as we have experienced that due to non-filing of a charge-sheet accused suffers unbearable mental torture apart from sustaining disturbance in his normal life and avocation.

The judiciary no doubt strongly reacted against delay in filing charge-sheet or in prosecuting a criminal case by the Police,

treated it as offending the right of speedy trial Quashed the proceedings, on this score alone *vide* 1994 II APLJ SC (1), 1978 (1) ALT (DB) 178 but still procedural safe guard is required by amending CR.PC.

It is high time we have to check the pulse of administration of justice and take necessary steps to check the delay in rendering justice, otherwise the dooms day of judiciary is not far off.

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### JUSTICE DELAYED IS JUSTICE DENIED

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#### INTRODUCTION:

Judiciary holds an important place in any system of Government because it determines the rights of the citizens *inter se* as also their rights *vis-a-vis* the State. People approach Courts believing that relief would be granted to them at a reasonably early date. The inability of the Courts to deliver quick and substantial justice to the needy therefore, erodes the faith of the people in the dignity of the Court and in the majesty of law.

The reasons for delay in delivering justice are many. There are several parties to the litigation who contribute to the law's delays, *viz.*, the litigant himself, the lawyer who conducts the case, the Judge who hears and decides it, the prosecuting agency in a criminal trial and last but not the least, the state's Bureaucracy who are the respondents in most of the Writ Petitions in the High Courts. There is no an average 8-9 years gap between the institution and disposal of cases. Civil suits drag on for several generations; fruits of a decree are not being enjoyed in the Party's life time; in a trial in which man's freedom is involved there are cases where

the accused (under trial) was imprisoned for 5-6 years and ultimately acquitted; service matter sometimes come up for hearing after retirement; specially directed matters, where specific dates are fixed for hearing in view of the special circumstances of the case are not being heard because of the heavy work-load in the Courts. Fruits of litigation are not always available in one's own life time.

Delays such as these bring the judicial administration into disrepute and shake the confidence that public have in the judiciary. The habit of challenging every legislations; every constitutional amendment, every rule, regulation, order or project mostly by upper economic class and the stay that follows makes the Court a dilatory agency. Though law's delays have been in existence from very early days, they cannot be looked upon with complacency.

#### *Causes :*

The various factors contributing to the delay in dispensation of justice are as follows:

1. The state under our constitution undertakes numerous welfare activities and inevitably get involved in the disputes with private individuals. The Government is unwilling to get the pending cases against them decided early and long adjournments are asked on the usual pretext of seeking instructions from the concerned.

2. The bewildering plurality of legislation, subordinate legislation, amendments and repeals; the absence of compendiums and non-availability of current legality on a given point make even judges illiterate in law.

3. Half baked legislations by the Legislature without bestowing thought or expertise on the subject of enactment contribute to the inflow of cases in the Courts.

4. The percentage of illiteracy in our country is high and large number of people are socially and economically backward. They are ignorant of laws as well as their rights.

5. Unduly long time is taken by the Counsel for their arguments and millions of work-hours of both lawyers and clients are wasted in just waiting for their cases to reach.

6. Much delay and injustice is caused by interlocutory *ex-parte* injunctions which are in most cases obtained to blackmail rival parties.

7. Laxity in granting adjournments result in serious waste of time of the Court and inconvenience to the suitors especially those who come from a distance.

8. Filling of revisions in the High Court and obtaining stay of trial on various grounds also cause delay in delivering justice.

9. The procedural and technical delays at the High Court and Supreme Court affect the administration of justice in the lower Court.

10. The law's delays so far as appellate Courts are concerned are mostly in the

preliminary stages from the filing to the reaching of the case for hearing.

11. A protracted trial takes less time than is needed to get a decree drafted and its copy granted. The poor litigant who wins the case has to wait longer for executing the decree than to prove his claim.

12. Parties often delay the disposal of cases by going in appeal or revision against every order passed by a Judge. Plurality of appeals, revisions, reviews, remands, remittals, references, jurisdictional objections, Court-fee confusions, limitation queries and such other technicalities supported by a bunch of precedents on each point make the litigation a nightmare.

13. Complaints are mounting that the Judges do not deliver the judgments quickly. Instances of cases are cited where judgments were not delivered after conclusion of arguments for months/years together.

14. Judicial administration, management of Courts work, posting of Judges and other personnel, organisation of business within the registry, recruitments, promotions, transfers and a host of other matters including convenience of the litigant public: these need expertise which some Judges, however eminent jurists may not possess. There is not research and development wing for the Court system and the registry is not familiar with administrative reforms.

15. Judiciary suffers neglect in our administrative system. It remains primitive in technology and training and is a low priority in our State budgets and National plans.

#### **Remedies:**

The problem of delayed justice can be solved by following means:

1. Settlement of Government litigation through Government advocates, refusal to urge technical points to defeat justice, and

getting ready with their pleadings and papers quickly will free our higher Courts from the trouble of wasting judicial time.

2. Reforms of legislative drafting and quick amendments when Courts point out pit-falls will reduce litigation and waste of resources. Laws must be simple and unambiguous.

3. A decision of the Supreme Court on important questions of law have to be delivered as early as possible and the decision must be made known to the public immediately after it is delivered.

4. The Government as well as intellectuals and associations including Bar Associations must make efforts to popularise various legal rights, relevant and material Constitutional provisions to the people.

5. Fixing time limit for oral arguments and in certain cases permitting written arguments in advance after serving copies to the opponent, having a fixed time-table for hearing of cases posted for a particular day and hour will go a long way in disposing more cases.

6. While granting interlocutory injunctions, the junior officers have to exercise proper discretion.

7. Unnecessary adjournments must be avoided and day-costs to the other party should be insisted upon when one party asks for an adjournment unless there are compelling reasons for it.

8. Informal methods like Lok Adalats, lawyer organised settlements, pre-trial negotiations, legal literacy campaigns, legal aid and advice centres run by the Bar and the like have to be developed to reduce the burden on the Courts. Arbitration wherever possible should be encouraged.

9. The state has a duty to ensure that justice is administered substantially,

effectively, speedily and cheaply. Courts have to be set up in rural areas so as to be within the reach of the poor and common man. Cost of litigation also has to be brought down.

10. Traditional Court proceedings have to be suitably amended to enable the Court to speedily and satisfactorily dispose of the cases. Time limit has to be fixed for disposal of cases in the statutes themselves and they have to be scrupulously followed. Increasing the number of Tribunals and administrative authorities and investing them with adjudicatory powers will reduce the inflow of cases in the regular law Courts.

11. In attention is paid to the subordinate judiciary and most of the litigants go satisfied from these, a lot of appellate work can be saved. Those are the Courts of common man. Best talent should be attracted to man these Courts and for this, better salary structure and promotional avenues have to be opened because stagnation and frustration breeds inefficiency and corruption.

12. For efficient civil justice administration, service of processes is essential. The illiteracy and ill-informed conditions of the process-servers, bailiffs and Amins necessitates proper guidance as to the manner of service and verification of returns. The sharp practices of these employees have to be checked by the controlling authority.

13. Judicial officers should keep themselves fully informed of the arrears of the work, instructions and the delays that are taking place and they should try to rectify them.

14. An energetic judicial officer can control his file and avoid delays except where the matters are not completely in his control.

15. A time-frame has to be fixed for the judges to deliver the judgment after the conclusion of the arguments. Judgment should be brief and concise.

16. A strong, independent, efficient and disciplined Bar with good traditions and co-operative spirit is essential for speedy, satisfactory and effective disposal of the causes before the Courts. They should discourage false and frivolous litigation.

17. The State must create adequate number of Courts to cope up with the worked. Appointment of Judges and presiding officers of the Court must be prompt and it must be on the grounds of merit, ability and character. Quality justice is no less important than speedy justice. Equally important is adequate, contended and efficient staff in all Courts to make the cases ready and implement the orders passed promptly.

18. Administration of justice is the responsibility of the State and the State has to spend from public exchequer on their services. The State earns a large sum from litigation which has now come to be treated as source of revenue.

19. Our planning commission must organise judicial 5 year plans with focus on problems of judicial administration, Court executive, Court management, modernisation of procedures, judiciary planning public relations and the Court.

20. It may not also be out of place to state that the existence of the Statutory Appeals, Reviews and Revisions are only illusory and decisions are arrived at based on considerations other than on merit of the matter. This virtually makes the provisions nugatory as not much of justice is rendered and almost all the decisions that are taken in these quasi-judicial proceedings land themselves in the Courts. The purpose for which these

provisions are made is reduce the burden of the Courts.

21. Last but not the least, the attitude of the Executive needs a change. It may not be an exaggeration if one were to say that majority of the cases that come up before the Courts is relating to non-following of the statutory provisions while dealing with the representations and appeals preferred by the litigant public. Doors of the Courts are knocked seeking directions that their representations and appeals are disposed off within a reasonable time, in other words fix the calendar of the authorities. If this kind of litigation is reduced, the Board would be less burdened and can spare its valuable time and energies in solving important issues than these mundane matters.

### ***Conclusion:***

In the final analysis, the strength and failure of our judicial system would depend on the manner in which it would satisfy the common man's quest for justice. Justice administered in Courts of law, quasi judicial and administrative Tribunals must be real, substantial, speedy, effective and cheap and the State and all those concerned must strive towards this end. The existing Court system must be simplified, low-priced and rendered easy to access, available for the indigent and the handicapped. Modernisation of the judicial process and appointment of judges committed to the values of the Constitution are an urgent need.

If both the Bench and Bar who are responsible for administering justice, with determination promote the common cause, the problem of delay in delivering justice can be efficiently solved.

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