

COMPUTERISATION IN MUFASSAL COURTS

By

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It is laudable one that at long last High Court appointed computer managers to take up computerization in Mufassal area. Before discussing *pros* and *cons* of computerization one shall bear in mind our Constitution, judicial independence, financial constraints and states welfare programmes and its obligations. Courts languages are notified in several districts. In border districts, Oriya, Tamil, Kannada and Marathi *etc.*, are notified as Court languages. Every State has its mother tongue and sometimes two or three languages to serve the needs of society. Most of the computers use systems discovered, improved and controlled by American Multinational Companies. However much we boast, the chips used in computers have to be imported. They are mainly in English. They have to be modified to suit our computerization. An R&D Department is required. Indian National Language in Hindi. Are there computers using national languages and State languages. Are the Managers recruited know the languages and computerization. Are the National Law Universities computerized their system into Hindi or still using only English Language. Is computerization going to take place on war footing can it be made successful with Electricity power cuts in Mufassil area. What are the steps taken to avoid hacking and virus cleaning. Is internet system accessible throughout A.P. and agency areas. Is there any promise to have continuous flow of funds, during every year. The said questions have to be answered. I place my random thoughts while candidly and critically dealing about computerization keeping in view of problems referred by me *supra*.

(1) Managers must be directed to acquire knowledge of various mother tongues namely Telugu, Urdu, Hindi and English.

(2) The NALSAR Universities and Law Universities shall introduce courses and produce systems modified suitably in the above said languages.

(3) No advocate shall be enrolled unless he has undergone a course to have knowledge and usage of computers.

(4) District Court and High Court shall conduct classes for staff and also conduct examination like departmental examinations and certify their efficiency.

(5) Voice type computer systems shall be opted for judiciary after getting them modified.

(6) A data shall be built up in all languages.

(7) Speedy typing on computers shall be encouraged.

(8) Virus cleaning disc, shall be supplied to all computers and if necessary secured from the standard companies.

(9) An old computer shall be replaced with new computers after expiry of time. If old system is not available, it has to be modernized. Some common good fund shall be kept on hand in order to attend to repairs, replacement modernization and alteration for and also spare parts. Nicknet shall also be involved.

(10) Using websites shall be for limited use. Notices and other orders shall be printed and pasted to all respective Notice Boards in all Courts throughout till subjects, poor litigant public and common man develop knowledge in computers or till they acquire computers.

(11) Information shall be supplied to press in total instead of giving brief information directing the persons to drive to web system since there is no possibility of villagers and town people to have access to web system, so that transparency is there.

(12) Pasting notices with complete information shall be made on notice boards and Xerox copies shall be supplied on payment by the Court with seals.

(13) Computerised causelist and Court diaries shall be pasted in a book and made available before in charge clerk or superintendent with accessibility to one and all and shall be initialled by computer managers or superintendents.

(14) Results of judgment alone shall be mentioned in the web sites and in Court diaries with delivery dates.

(15) Suitable amendments shall be made to C.P.C. and C.R.P.C. civil rules of practice and criminal rules of practices.

(16) A dictionary shall be made available to use suitable words in website in mother tongues.

(17) Computer is only for feeding data and shall not be used to decide the result as reasons and findings shall be given only by Judge using expertise in men and matters while keeping the object of search for truth.

(18) Law Universities such as NALSAR shall be encouraged to introduce course suitable to Steno-cum-Computer Operator.

(19) A pool of trained staff shall be prepared and shall be given promotion only on merit, suitability and efficiency in dealing or usage of computers including mini gadgets.

(20) Computer managers shall train a minimum of ten staff members at a time for two months and watch progress.

(21) Good quality of ink and ribbon namely cartridges shall be used for printers.

(22) Computers shall be updated with new techniques during every year.

(23) One shall remember that unless Constitution is amended, High Court continues to deliver judgments in English and total computerization in mother tongue is not possible in view of Article 348 of the Constitution of India. Under Article 351 Union has to develop and promote Hindi being National Language. Under Article 350-A State has to provide adequate facilities for providing education to children belonging to linguistic minority in mother tongue.

(24) A panel of Engineers with knowledge in software and hardware shall be prepared and these services shall be used in respect of minor repairs avoiding waiting for companies to send Engineer and a clause shall be included in the contracts while negotiating.

(25) District Judge shall report the progress in computerization in Mufassal Court at time of inspections, radiation effect over staff members and disposal of waste computer materials *etc.* All waste material in the State shall be gathered and handed over for recycling to avoid any dangerous effect to atmosphere and staff.

(26) At time of inspection of District Courts by High Court, High Court shall make it a point to see the actual progress made in computerization and address itself to take into account difficulties faced by District Court and other Courts in district and its staff.

(27) Record Rooms shall be altered to suit the needs of preservation of discs and damaged computers, electronic gadgets and record with modern preservation techniques *etc.*, destruction rules should be altered accordingly.

(28) Concentrating on the above points, progress can be shown in computerization. Cyber offences shall also be kept under watch constantly securing information from police. My critical view of system shall be used for progress. It is a long away to go in showing progress in all branches in the department and computerization has umpteen benefits and has to be taken advantage. Indian National Language *i.e.* Hindi and mother tongues of States and linguists minorities and languages as mentioned in eighth schedule in Constitution have to be developed. Lot of progress has been made in Tamilnadu and other States in computerization of Courts.

Mother tongue has been given top priority. High Court cannot forget the articles mentioned by me supra are Articles 343, 348, 350, 351, 350-A, 350-B or 349 and eighth schedule wherever Constitution has exhaustively dealt with mother tongue and usage of other languages. The Government has already notified the languages to be used in Courts with the concurrence of High Court. It is in the fitness of things High Court has to order computerization in Court languages keeping in view of its constitutional obligation and the High Court being zealous guardian of Sovereign, Socialist, Secular Democratic Republic and Articles of the Constitution of India.

RIGHT TO BAIL AS A CONSTITUTIONAL RIGHT

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Introduction

Krishna Iyer, J., remarked that the subject of bail :

“.....belongs to the blurred area of criminal justice system and largely hinges on the hunch of the bench, otherwise called judicial discretion. The Code is cryptic on this topic and the Court prefers to be tacit, be the order custodial or not. And yet, the issue is one of liberty, justice, public safety and burden of public treasury all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process.”

It is precisely this much needed jurisprudence of bail which is discussed in the course of this paper in the light of the personal liberty of a person and the value of that personal liberty under our constitutional system. This study attempts to explore the varied dimension of the concept of bail – as a right that must be respected by the Courts

and as a matter of concession left to the judicial discretion of the Courts.

The right to bail is inextricably linked to the knowledge and awareness of the accused of his right to obtain release on bail; this is further linked to Article 22(1) of the Constitution which provides that no person who is arrested shall be denied the right to consult and to be defended by legal practitioner of his/her choice. It is however remains an issue to be examined whether this provision carries with it the right to be provided the services of a legal practitioner at State cost, particularly in the light of Article 39A of the Constitution which directs the State to provide free legal aid - but is this an obligation on the part of State, enforceable in a Court of law.

Where does the right to bail fit into the constitutional scheme in the context of criminal jurisprudence contained in Articles 20, 21 and 22 of the Constitution ? How may these human rights of accused as conferred by the Constitution be balanced against the growing