

not prolong beyond a particular time. Every case, if it is properly appraised before hand, should be made to finish within a stipulated time. There is no need to hurry. There is no need to hustle. But, at any rate the judicial officers must be quite clear, when they are approaching the case, how much of judicial time it should really require and should not allow it to degenerate into prolonged litigation. Therefore, justice, which is quickly done, will be the justice, which will be appreciated. Justice must not only be done but seem to be done. Justice delayed is justice denied. Justice hurried is justice buried.

5. There is a certain amount of criticism always levelled against the judicial

officers and their conduct. But well-balanced and well-sentenced criticism is a matter for anyone to take note of. They must take the criticism in the right spirit. In fact, the more they ignore these things, the better it is for the administration of justice. The judicial officers should, by their behaviour, by their conduct, by their treatment of cases and the members of the Bar, increase respect for themselves. In order to prove themselves to be worthy and successful judicial officers, they must put in devout, indefatigable and incessant efforts and unstinted industry in the discharge of their judicial functions and maintain the highest judicial traditions in dispensation of justice.

WHY DELAY IN ADMINISTRATION OF JUSTICE ?

By

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In the present circumstances, the subject assumes very much importance as the role played by the Judges and the advocates in Administration of justice is being criticised by the public due to enormous arrears mounted in Subordinate Courts, Higher Courts. The litigent public have to wait for longer periods for getting disposal of their cases. There are various reasons for the delay of dispensation of justice.

The saying of “*Justice delayed is justice denied*” is visualised in every Court these days whether it is Supreme Court, High Court or District Court or lower Court. The said saying is also criticized by different jurists on various occasions. In the words of:

(1) The former Chief Justice *P.N.Bhagawati* in his address on 26th November, 1985, on the occasion of Law day, expressed his grief and anguish saying

“I am pained to observe that the judicial system is almost on the verge of collapse. These strong words I am using, but it is with considerable anguish I say so.”

(2) On the other occasion former Chief Justice *M.N.Venkatachallaiah* (Now Chairman of National Human Rights Commission) admitted at a seminar in March, 1994 that:

“Criminal justice system had failed to provide the desired result.”

(3) Even prior to these statements Chief Justice *Y.V.Chandra Chud*, has spoken on the eve of his retirement;

“To the judiciary not being equal to the task before it. And had compared the judicial system to a “bullock cart”.

Indeed, in April, 1994 a three member bench of Supreme Court headed by Chief Justice *M.N. Venkatachallaiah*, had observed that the judicial system in Uttar Pradesh was a joke *“there is something rotten in the State of Denmark”*. That is how the Supreme Court described the functioning of Uttar Pradesh Government and Courts in Uttar Pradesh. (The poineer 27-4-1994).

When we read the criticism of great jurists, we realise the facts before us. Because the delayed justice is inherited and acquired from ages together. The victims are large number of communities, who suffer hardship by reaching Courts with expensive system. It is not possible for an ordinary citizen to enforce his right to enjoy the fruits when in need.

Added to the above critics, another important key note delivered by Justice *V.R.Krishna Iyer* at the “National workshop on corruption at the Grassroots” held at SIRD Marainalainagar, Chennai on December, 3rd 1998 is reproduced below with regard to delay in cases :

“One blunder the Court has committed is the Hawala case. Justice *Verma* did a heroic thing when he started the Hawala cases. But what happened to the Hawala cases? Where are these Judges slumbering? What is happening to the High Court Chief Justice charges with corruption and disproportionate wealth? For 12 years the Supreme Court has stayed. When the Chief Justice came to inaugurate the Bar Association Centenary, and said cases must be disposed of quickly, I was speaking as a felicitation speaker and I said, “Justice, please realise that, in your Court, for 12 years, a criminal case for corruption against a

Chief Justice of a High Court has been pending and you have no qualms to disturb your conscience.” Luckily he went back chastened. Meanwhile he died in London on account of some misfortune. What I am trying to say is, the judiciary is corrupt.

You know charges were levelled against some Judges in the Supreme Court and three Judges who enquired found them guilty, but nothing happened. What has happened to the Chief Justice who retired? Seven charges were proved. And the question for the Chief Justice above him was to recover the money. It was very very delicate. “Should I say that this man seems to be corrupt?” The Chief Justice of India ultimately said,” I do not want to damage the institution. So I recommend . . . He recommended. I have known that. I had seen him. So what I am trying to say is that our Judges . . . *Mr. Subramaniam* was law Minister. In his time, he would have been horrified if he was told that Judges of the Supreme Court and the High Courts take 3 years or 4 years or 2 years after the arguments are closed to pronounce judgment. Corruption, I call it corruption. It need not be money. But so many people are waiting for judgment from the Supreme Court - to lay down the law - or the High Court to give guidance. But they don’t do it. They take 1 year, 2 years. What are we to do with the Judges? If we do something there will be protests about the “Independence of Judiciary.”

The great jurists visualised and criticized the delay and functioning of Courts but have not set any remedies to enable the Courts to render quicker justice. They have realised only at the level of higher thinking. But what practically happening in the lower Courts, why delay is caused! Taking into consideration of Hyderabad, Secunderabad and R.R. District Courts, the number of

Courts either criminal or civil have been established taking into consideration of the population of 1950's. Now the population increased arithmetically, at the same time the cases have also multiplied 10 to 20 fold. But the number of Courts and Judges remained same. Therefore, the work load on the lower Courts has been increased considerably, as such the lower Courts have to work upto 6-00 p.m. or 7-00 p.m. to coupe up with the day to day work load. Added to the normal work the criminal Courts are burdened with cheque bounced cases under Section 138 NI Act. Therefore, the pendency of cases increased without any proportionate disposal. This work load can be realised only by those who attend regularly.

For example the criminal Courts at Secunderabad and Hyderabad are approximately instituted with 2000 cases per annum. Whereas, the disposal is hardly 500 to 800 cases per annum. Likewise, the cases are kept on pending and multiply year by year because of various reasons. Therefore, Courts are helplessly adjourning the cases for years together. Consequently either the parties are vexed with the delay and drop out without any remedy or adopt various different methods and means and get their legitimate right executed at the earliest or forced to enter into compromise and close their cases.

Even the Supreme Court and High Courts are established under the Constitution of India (Chapter IV Article 124). The number of Judges are also prescribed by the Constitution. Accordingly, the Supreme Court is having 25 Judges excluding Chief Justice of India. When the Constitution was framed it prescribed only 7 Judges for Supreme Court. But raised to thirteen, vide Act, 17 of 1960, subsequently, to seventeen (Amendment Act, 1977) and again to 25 in 1986 *vide* Amendment Act dated October, 22nd of 1986.

In the same way High Courts are established (Chapter V Article 125). The number of Courts available in A.P. High Court are 31 and will always function only 22 to 24.

The Constitution of India does not fix any minimum number of Judges of a High Court. Each Court is to consist of such number of Judges as may be deemed necessary by the President of India. But the President is under a constitutional obligation to review the strength of each High Court. *Vis-a-vis* the arrears of cases pending therein (AIR 1991 SC 631).

The other lower Courts such as Mofusil and District Courts are appointed through judicial service of the State, shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with State Public Service Commission and with the High Court exercising jurisdiction. (Article 234 of Constitution of India).

Although we have provisions to increase the number of Courts and Judges from time to time taking into consideration of the work load of the Courts and multiplicity of cases, no one feels pinch of delayed practice of Courts except the ordinary citizen who approach the Courts for executing his right. Thereby, ordinary community of Society will have to suffer with delayed justice. Atleast at this stage if the Government and Law Ministry do not take steps to meet the demands of the community, the community at large will have to suffer with delayed procedure by swallowing their own tears.

We must painfully admit that the legal system suffers from several ills. The foremost among them, are long delays, docket explosion, mounting pending cases and great expenses. The canker of corruption also seems to have made in roads into the

judiciary. Obviously most damaging are its delay and expense. These ills are having a very deleterious effect on the administration of justice. Unless early corrective action is taken, the credibility of the very system will be at stake. The judiciary derives its power and prestige solely from the public confidence it enjoys. The same very much depends on its independence, impartiality and integrity. It should be the concern of all us, Judges as well as lawyers, to see that, this foundation, on which credibility of judiciary rests, is not eroded.

The question arises whether the safeguards have helped in providing healthy justice system in the country, that can ensure the rule of Law, equality before law and enforcement of Fundamental Rights to ordinary citizen. "It is difficult to answer this in the affirmative". To that effect Additional Sessions Judge *Shiv Narayan Dhingra* said on 27th August, 1996 while passing orders in 1984 mass murder of Sikhs, case (after assassination of former Prime Minister Smt. *Indira Gandhi*) "That the basic principles of equality before law, as enunciated in the Constitution, was not working in the country".

With all that, the development in population and multiplicity of cases have not taken place over fortnight and can be traced back to centuries, when there was a general decline in the standards and norms remained their sanctity.

Courts are not constituted in proportionate to population or multiplicity of cases

We all agree that India is a developing country. Since the date of its independence developed rapidly in all spheres of life like, Rail, Road, Air, Education, Police, Defence, and Technology *etc.* We also send our representation to the Parliament and State Assemblies based on population. But the important organ of democracy *i.e.*, judiciary

is neglected. The Courts are not developed in accordance with population and arithmetic increase of cases. This is one of the foremost reason for delayed justice.

All over the world the Courts are established taking into consideration of their population to ensure speedy disposal of cases. The following data will make us realise how best we have advanced or developed in the judicial system. There being no scientific study is undertaken to assess growing need being experienced as regards Judge's strength at the cadres of the judiciary. We are far behind the developed countries in judicial system.

Data for 1 million of population

The Law Commission of India in its 20th report found the following data of Judges in different countries and had recommended in 1987, that the Judges in India also are required to be raised in accordance with the population and multiplicity of cases. Further the Law Commission recommended to raise 50 Judges per million population instead of 10.5 Judges (present position). The comparative study of data collected will make us realise, How our Courts and Judges are over burdened with the cases.

Country	No. of Judges Per 1 million population
1. U.S.A.	107.0
2. ENGLAND	50.9
3. AUSTRALIA	57.7
4. CANADA	75.2
5. U.K.	110.0
6. PAKISTAN	40.0
7. INDIA	10.5 only

The present Chief Justice of India, Honourable Dr. Justice *A.S. Anand*, in his

address at All India Seminar on judicial reforms, organised by Supreme Court advocates on Record Association on 4th, 5th and 6th December, 1998 at Vigyan Bhawan, New Delhi observed that, the recommendations of Law Commission in 1987 to raise the strength of Judges for quick disposal of cases “remained burred in the report with no follow up action”. If that being the case, who will make the Law Commission or Government of India to follow up with the recommendations and act upon to fulfil the Lacuna.

Taking into consideration of above ratio, our Courts are working to their best of ability in disposing of the cases. But the delay defeats justice is always realised. Under such circumstances, can we expect a quicker disposal of cases. Who will realise this issue: It is not higher judiciary who enjoy three fold jurisdiction of original, appellate and advisory in character, to advise the Government to constitute Courts in proportion to population for a quicker disposals?

The recent statement of Minister for Law and Justice Sri.P.Chandrasekhar (Eenadu Daily dated 12-9-2000) that he has taken steps to establish 30 extra Munsif Courts in the State to dispose of the pending criminal cases. According to his statement there are about 2,95,780 criminal cases pending in various criminal Courts in the State. But he has thrown the burden on the Finance Department *i.e.* Finance Ministry for allocation of funds for establishing the new Courts.

Role of Bar and Bench

The Bar and Bench being two wheels of a chariot of justice delivery system. It is needless to say that one of the causes for the delay in disposal of cases is request for adjournments. It has become exceptionally easy task to got adjournment of cases these days. The only remedy is to avoid uncalled

for adjournments and it malady can only be resolved if the Bar and Bench make sincere efforts together. But is it going to happen? Yes : If we *i.e.*, Bar and Bench have introspection and to preserve people’s faith in the Rule of Law and effectiveness of justice delivery system, the Bar and Bench have together to make concerned efforts and have to workout collectively for new modalities to eradicate this growing menace and promote the sanction sanctorium of Temple of the Justice. For this the following suggestions are made:

- (1) The Bench is required to organise periodical seminars on the subject and find out the working solutions.
- (2) The Bench and Bar is required to meet and invite complaints on the subject and workout the feasible methods within the Courts itself after thorough discussions with members of the Bar and formulate office orders.
- (3) The Courts must be delegated with powers to frame their own office orders to easeout the growing pendency of cases.
- (4) Simplification of procedural formalities.
- (5) Modernisation, antomation and computerisation of administration machinery of the Courts.
- (6) To invite suggestions, methods to establish effective, expeditious procedures (within Court level, apart from CPC and Civil Rules of Practice) for quicker administration of justice.

Who approach Lok Adalat

These days the Lok Adalats are established to get quicker disposal on compromise basis. Who approach the Lok Adalat for compromise ?

- (1) Only those community who have failed to get justice for years together.
- (2) Vexed with delayed procedure.
- (3) Unable to bear further expenses.
- (4) Unable to enjoy the fruits waiting for justice in normal course due to old age.
- (5) No means for further living *etc.*

What type of cases are compromised in Lok Adalat

- (1) Family Matters.
- (2) Check Bounced Cases.
- (3) Private complaints (Criminal Cases).
- (4) Accident claims *etc.*

But what about other cases. Can they be settled in Lok Adalat. If so why not they be referred to Lok Adalat for settlements.

Is there any need to constitute more number of Courts ?

It is submitted that when the Legislature and the Executive have badly let down the citizen, the community at large has only hope and faith in judiciary. Judiciary, with its activism, is seen as ultimate saviour of the citizen. But in carrying the light of hope for the citizen, the judiciary must ensure that the cases are dealt with in stipulated periods and disposed of as and when community expects. No matter whether the saying that the "Justice hurried is justice burried" goes against or for. But the judiciary must operate its business within its

parameters of activism to achieve its goals and objectives.

Taking into consideration of pendency of cases in the lower Courts and High Courts, and the rate of filing of cases as well as their disposal *etc.* The Chief Judges of District Courts and Chief Justice of High Courts have every right to recommend suitable persons for appointment of Judges without interference of the executive or establish *ad hoc* Courts. The concerned authorities know very well when the vacancies arise or when the work load increases because of pendency of cases. Even under their discretion appoint *ad hoc* Judges and Courts for disposal of pending cases. In this way, I hope the arrears of cases pending can be cleared. Therefore, there is every need to establish more number of Courts to lessen the burden on available Courts in order to render speedy justice.

In view of the above-said facts, the Supreme Court, High Courts and Government *ie.*, Law Ministry, Human Rights Commission has to take a serious view of the delayed cases as well as work load on the lower Courts and constitute number of Courts in proportion to the population and arithmetic multiplicity of cases, in order to render quicker justice to those community who honestly seek for justice through Court of Law.

Last but not the least, that as in the case of medical profession, legal profession also needs emergency wards and intensive care units to meet the emergencies in the administration of justice.