



Pile of Files: Remedies to Unburden the Honourable

Nikhil Kaushik,

B.A LL.B (Hons.), LL.M

Advocate, High Court of Punjab & Haryana at Chandigarh

Our obsolete ways to dispose of cases has resulted in clogging of system. Problem of pendency is known to everyone who is the stakeholder or somehow involved in the judicial system. In catena of Law Commission Reports, Finance commission reports, Standing committees of Government we has witnessed about the menace of delayed justice in our country. Having the population of more than 125 crores, India is suffering from the syndrome of Collapsing in timely disposal of litigation. No one institution can be blamed for this rather each and every stakeholder contributes its role in clogging the Indian Courts. Delay also leads to drastic social impact. Non timely resulting leads to scant regard for rule of Law. This article is a humble attempt to highlight the suggestions to tackle the backlog of cases in Indian Judicial System.

- 1) Establishment of more Tribunals: To eradicate the menace of pending cases some other bodies quasi judicial in nature needs to be established. Some suggestions are: Tribunal for Service related matter in every state.
- 2) To Bifurcate the Courts: Presently same person is holding the Civil & Criminal courts especially in District Judiciary. There should be a plan to appoint Civil Judges who will deal with Civil cases only, likewise Criminal Magistrates to oversee only criminal court.
- 3) Bifurcation of fields among Judges: Likewise at the Superior Judiciary or say Higher Judiciary level Judges should be given the task of their expertise only. i.e. to say If a predominately civil lawyer is elevated to Bench he should be entrusted with civil issues. Through this both effective and quick judgment will come.
- 4) Responsibility of Bar and Bench: Bar is advised not to seek unwanted adjournment on the same line Judges must strictly comply with the provisions of Order 17 Rule 1.
- 5) To curb the unnecessary litigation in Bud: This can be done by not noticing/summoning and calling the defendant rather to dismiss frivolous litigation at initial stages. At the same time sensitization of citizens is required so that they can not



fall in unnecessary litigation.

6) By deducting unnecessary court holidays and to increase working hours: The latest remark of Justice UU Lalit is relevant here *“If children can go to school at 7 am, why can't Supreme Court start work at 9 am”*

7) Specialized Police for Investigation Purposes: This aspect has been repeatedly argued in various reports. But still in majority of states there is a common police for multiple functions ranging from traffic duty , VIP security, cyber cells, disaster management etc and same officials are deputed in hiper technical Investigation task. Government Should recruit a special class of person for Investigation who are well versed in Law as well. Through this Police Report will be present on time and will be exhaustive as well.

8) Hiring of Ad hoc Judges: Article 127 & 128 of Constitution of India are relevant in this regard which deals with appointment of Ad hoc and Retired Judges.

9) In case of immediate urgency policy of Special Recruitment of Judges to be promoted especially in District / Lower judiciary among eminent Lawyers and Government Pleaders.

10) If the regular appointments are not possible for any reason then tenure of Sitting to be increased till the regular appointment is made subject to their mental & physical capacity to do work.

11) To strengthen ADR mechanism: There is urgent need to promote this area and to realize the importance of Section 89 of CPC, 1908 and the aim behind Arbitration & Conciliation Act, 1996. Further special incentives/ rewards to be given for ADR settlers.

12) Lok Adalat mechanism should be strengthened by proper implementation of provisions of Lok Adalat Act,1987.

13) Concept of Plea Bargaining which was introduced in India in 2005 on 142nd Law Commission Recommendation in Code of Criminaal Procedure in Sections 265-A to 265-L to be promoted in spirit.

14) To Sensitize Government Departments and suggest/ direct them establish Departmental Courts: As state is largest litigator it is advised to firstly settle disputes of Government at respective department.

15) To grant some constitutional Powers to District & Sessions Judges by the way of Constitutional Amendments.: viz. Power to issue writs so that burden of Civil & criminal



writ petitions is reduced to certain level in Higher Courts. By this Justice will be provided at near step.

16) To provide certain Judicial Powers especially the power to grant bail to Executive Magistrates in petty cases subject to Judicial Review.

17) Likewise Predominately civil cases which includes lesser amount of Judicial brain can be allocated to Executive officials who are well versed in civil laws. Viz. Matrimonial disputes can be settled by Women & child development department or family welfare/ social welfare officials and thereafter parties can approach traditional courts to redress their grievances.

18) Special Courts for handling trivial cases to be established viz. Traffic offences can be adjudicated by law graduates. This theme was also highlighted in 245th Report of Law Commission in 2014.

19) There should be separate High Court for each state: Though many states have their own H.C's but where it is not it is to be established on urgent basis. Along with this there should be at least one another bench subject to the population & territorial area.

20) Strict surveillance of Higher Courts upon lower one in order to analyse the case disposal ratio.

21) Hearing of matters on priority basis: One of the test to determine priority is how much public interest is involved in a particular litigation.

22) Facility of Video conferencing in courts to be promoted so that Judge can adjudicate the matter even after court hours if it is suitable to him by prior intimation to pleaders and parties.

23) Establishment of special service know as Indian Courts & Tribunal Service (I.C&T.S) for the administrative support to judges. This scheme was discussed in 2018-2019 Economic Survey.

24) To restructure and redefine Archaic Laws: Vague drafting of Laws which leads to multiple interpretation by various courts is also one of the reason of pendency . We have laws date back 1880's. In order to remove flaws there is urgent requirement to simplify and redefine confusing areas.

25) Role of Information Technology: Upgraded technological devices in courts can certainly help in speedy disposal of cases.

26) Limit on Appeals: Some where we have to declare a decision as final so that



unnecessary approach to Courts can be minimised.

In All India Judges Association & others vs. Union of India(2003) Hon'ble Apex Court observed that strength of Judges must be increased every year by 10 per million for the next five years so that desired ratio of 50 per million can be obtained which was recommended by 120th report of LCI.

But unfortunately these guidelines are merely on papers. Survey of 2018 states that over 3 crore cases are pending in India and there is acute shortage of 6000 Judges.

The above points are some of the suggestions to eradicate the problem of pendency of cases. The core issue is the regular appointment of Judicial officers as well as allied staffs like Public Prosecutors, Police officials etc. along with this proper , sufficient and separate budget needs to be allocated to Judiciary which can be controlled by Judiciary itself in order to improve judicial infrastructure.

References:

1. Reports of Law Commission of India
2. Reports of Finance commission & Economic Survey
3. Justice Frustrated , edited by Shruti Vidyasagar, Bloomsbury Publishing, 2020.
4. Justice, Courts and Delays, Vol. 2 , Arun Mohan, Universal Law Pub. Co., 2009
5. Delays in Court Cases in India, Shiva Prasad Bose, Notion Press, 2021.
6. Authorities of Hon'ble Supreme Court of India & High Courts.