BRIEF NOTE ON LEGISLATIVE, POLICY AND JUDICIAL INITIATIVES FOR THE EXPEDITIOUS DELIVERY OF JUSTICE

I. Introduction

Independence, fairness and competence of the judiciary are the cornerstones of the Indian legal system. However, courts in the country are at present constrained by a large number of pending cases, which in turn has had an adverse impact on the timeliness of justice delivery. This has necessitated urgent steps to address the problem of delays and arrears in our judicial administration. The steps being taken in this regard include strengthening of courts through increase in sanctioned strength of judges and judicial officers, filling up of vacancies and improvements in judicial infrastructure. At the same time the problems of delays and arrears are also being addressed through other legislative and policy initiatives, such as, re-engineering of court procedures, identification of areas prone to excessive litigation, and promotion of alternative dispute resolution mechanisms to reduce the burden of courts.

While addressing the issue of judicial delays has been a focus area for the judiciary and the Government for some time now, this issue has gained further prominence in the context of the Government's recent efforts to improve the ease of doing business in India. The time taken for disposal of cases through court processes is an important indicator for determining the efficiency of the judicial system, which in turn affects the country's investment climate. Several amendments have been made to procedural laws to reduce delays in court processes, such as limiting the number of adjournments and imposing costs for causing delays, but the desired impact of these changes has not yet been fully realized.

With this background, the National Mission for Justice Delivery and Legal Reforms has prepared this note identifying the notable legislative, policy and judicial developments that are relevant in the context of ensuring the expeditious disposal of civil and criminal cases. It is hoped that the dissemination of this information and training of judges and judicial officers will contribute to more effective implementation of the policies and legislative provisions aimed at securing speedy delivery of justice. Other stakeholders, such as policymakers, lawyers, litigants and the public at large could also benefit from increased awareness on these issues.

II. Relevant Legislative Initiatives

Delays in the trial of cases are often attributable to the complicated procedures involved. For instance, there may be delays in the service of summons and notices, parties may seek frequent adjournments, or a number of frivolous and miscellaneous applications may be filed before the courts. These procedures often complicate the trial process causing delays and inconvenience to litigants. To overcome this, the procedural laws governing both criminal and civil matters have been amended from time to time to introduce necessary reforms.

A. Amendments to the Code of Criminal Procedure, 1973 (CrPC)

The CrPC has been amended several times in recent years to introduce provisions that enable criminal courts to expeditiously dispose of the cases pending before them. Some of the relevant changes brought about in CrPC are as follows:

i. Audio-video recording of confessions and statements[1]

A proviso was added to Section 164 (1) to provide that any confession or statement made to a Magistrate may also be recorded by audio-video electronic means in the presence of the advocate of the accused.

ii. Special summons in cases of petty offences[2] and power to try summarily[3]

- Section 206 empowers a Magistrate taking cognizance of a petty offence to issue special summons to the accused giving him/her the option to plead guilty and pay the specified fine without appearing before the court. The scope of this provision has been enlarged by:
    a. allowing a Magistrate of second class empowered to conduct summary trials under Section 261 to issue special summons;[4]
    b. increasing the maximum fine that can be specified in the special summons to Rs. 1,000.[5]

- Section 260 provides for the summary trial of offences specified under that provision. The scope of summary trials has been widened in case of theft and other property-related offences by increasing the value of the covered property to include properties of up to Rs. 2,000.[6]

iii. Evidence for prosecution[7]

A proviso was inserted in Section 242 directing the Magistrate to supply witness statements recorded during the police investigation to the accused in advance.

iv. Plea bargaining[8]

- In 2006, a new Chapter XXIA on plea bargaining was added to the CrPC which makes it possible for an accused to voluntarily make an application for plea bargaining in certain types of criminal cases. Plea bargaining is applicable to offences other than those for which the punishment of death, imprisonment for life or imprisonment for over seven years has been provided under the law. However, it does not apply to cases involving socioeconomic offences or those that are committed against a woman or child below 14 years of age.

- It is the responsibility of the court to satisfy itself that the plea bargaining application has been made voluntarily by the accused. Upon doing so, the court will give the accused and the prosecution/ complainant the opportunity to arrive at a mutually satisfactory disposition, which will then be recorded by the presiding officer of the

[1] Section 164 as amended by the Code of Criminal Procedure (Amendment) Act, 2008 (w.e.f 31-12-2009).
[2] Section 206.
[3] Section 260.
[4] Amended vide The Code of Criminal Procedure (Amendment) Act, 2005. (w.e.f 23-6-2006).
[5] Amended vide The Code of Criminal Procedure (Amendment) Act, 2005. The previous limit was Rs. 100.
[6] Amended vide The Code of Criminal Procedure (Amendment) Act, 2005. (w.e.f 23-6-2006). The previous limit was Rs. 200.
[7] Section 242 as amended vide the Code of Criminal Procedure (Amendment) Act, 2008 (w.e.f 31-12-2009).
[8] Chapter XXI-A containing Sections 265A to 265L inserted by the Criminal Law (Amendment) Act, 2005 (w.e.f 5-7-2006).

court. Once the court delivers a judgment following the plea bargain process, no appeals are permitted from the same.

v. Recording evidence through electronic means in warrant cases[9]

Section 275 deals with recording of evidence of witnesses by a Magistrate in warrant cases. A proviso has been added to Section 275(1) allowing the evidence of a witness to be recorded by electronic means through audio-video recording, in the presence of the advocate represented the accused.[10]

vi. Limitations on power to adjourn proceedings[11]

- Section 309 deals with the power of the court to postpone or adjourn proceedings. The newly substituted sub-section (1) makes it mandatory for the trial court to hold the trial on day-to-day basis until all the witnesses in attendance have been examined. Adjournment beyond the following day is to be allowed only if found to be necessary on account of reasons to be recorded.[12]

- Trial of cases under Sections 376, 376 A, 376B or 376D of the Indian Penal Code should as far as possible be completed within a period of two months from the date of filing of the charge sheet.[13]

- A new proviso has been inserted in Section 309(2) to provide that (a) no adjournments shall be granted except for circumstances beyond the control of that party; (b) the fact that the pleader of a party is engaged in another court will not be a ground for adjournment; and (c) the court may record the statement of a witness on its own in situations where the pleader of a party is not present or is not willing to examine the witness.[14]

vii. Power to examine the accused[15]

A new proviso has been inserted in Section 313 relating to the examination of accused, where the court may take the help of the prosecutor and defence counsel in preparing relevant questions that are to be put to the accused and the court may permit filing of written statement by the accused as sufficient compliance of this section.[16]

viii. Compounding of offences[17]

The list of compoundable offences has been rationalised. Offences that were earlier compoundable with the permission of the court are now compoundable without the court's permission. In the case of offences which are compoundable only with the permission of the court, two petitions must be filed – one for permitting the offence to

[9] Section 275.
[10] Proviso inserted by the Code of Criminal Procedure (Amendment) Act, 2008 (w.e.f 31-12-2009).
[11] Section 309.
[12] Section 309(1) as substituted by the Criminal Law (Amendment) Act, 2013 (w.e.f 3-2-2013).
[13] Proviso to Section 309(1) as substituted by the Criminal Law (Amendment) Act, 2013 (w.e.f 3-2-2013).
[14] Proviso to Section 309(2) inserted by the Criminal Law (Amendment) Act, 2008 (w.e.f 1.11.2010).
[15] Section 313.
[16] Sub-section (5) inserted by the Code of Criminal Procedure (Amendment) Act, 2008 (w.e.f 31-12-2009).
[17] Section 320.

be compounded, and the second regarding the fact that the offence has been compounded.[18]

ix. Appeal by the State Government against sentence[19]

Under the revised Section 377, the State Government must direct an appeal against the inadequacy of sentence passed by a Magistrate to the Court of Sessions. The State Government can only appeal to the High Court in cases where the sentence has been passed by a court other than a Magistrate's court.[20]

x. Maximum period for which an undertrial prisoner can be detained[21]

A new Section 436A has been inserted to provide that undertrial prisoners who have spent half of the maximum period of imprisonment specified for a particular offence in jail (except for those punishable by death) shall be entitled to be released by the court on their personal bond with or without sureties.

B. Amendments to the Code of Civil Procedure, 1908 (CPC)

The following is a summary of some of the key changes brought about in the CPC for the expeditious disposal of civil cases:

i. Compensatory costs for causing delay[22]

- Section 35B of the CPC entitles that on any date fixed for hearing of a suit if a party fails to take the step which he was required to take or obtains an adjournment for taking such step on the next date, the court may make an order for the payment of reasonable costs to the opposite party in respect of expenses incurred by him for attending the court on that date.

- This section further states that if such an order of cost is passed by the court then payment of such cost will be a condition precedent to the further prosecution of the suit.

ii. Settlement of disputes outside the court[23]

- Section 89 requires courts to refer matters where there exist elements of a settlement to any of the identified alternate dispute resolution mechanisms, namely, (a) arbitration; (b) conciliation; (c) judicial settlement including settlement through Lok Adalat; or (d) mediation.

- The scope of this section and the process to be followed by courts under it has been detailed by the Supreme Court in certain landmark judgments. These decisions are discussed in the following section on relevant judicial pronouncements.

[18] Amended vide the Code of Criminal Procedure (Amendment) Act, 2008 (w.e.f 31-12-2009).
[19] Section 377.
[20] Substituted by the Criminal Procedure (Amendment) Act, 2005 (w.e.f 23-6-2009).
[21] Inserted vide Criminal Procedure (Amendment) Act, 2005 (w.e.f 23-6-2005).
[22] Section 35B was inserted by Act 104 of 1976 (w.e.f 1-2-1977)
[23] Section 89 inserted by Act 46 of 1999 (w.e.f 1-7-2002).

iii. Delivery of summons by court[24]

The court can direct service of summons to the defendant through speed post, courier services approved by the High Court, or by any other means of transmission provided in the rules made by the High Court, including fax and electronic mail. Such modes of delivery can also be used in cases where the defendant resides outside the jurisdiction of the court.

iv. Summons given to the plaintiff for service[25]

On an application being made to the court under Order V, Rule 9-A, the court may allow the plaintiff to serve the summons to the defendant himself/herself. Few High Courts, such as those in Delhi and Bombay, allow service through e-mail and fax.

v. Written statement[26]

An amendment was made in Order VIII, Rule 1 requiring the defendant to file the written statement within 30 days from the date of service of summons and allowing the court to extend this period till 90 days, for reasons to be recorded in writing. The Supreme Court has in the *Salem Advocates Bar Association* case[27] held that although this provision of having the 90 day limit is directory and not mandatory in nature, the court should generally permit filing of written statement beyond the upper limit of 90 days only in exceptionally hard cases.

vi. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay costs[28]

Where on the day fixed for hearing it is found that service of summons on the defendant has not been affected on account of the plaintiff's failure to file the process fee or pay court fee or any other reason attributable to the plaintiff, the court may dismiss the suit. However, such an order should not be made if the defendant or his/her agent is present in court despite such failure.

vii. Limit on number of adjournments[29]

This is an important amendment that was introduced to limit the number of adjournments that may be granted in a case. The court may if sufficient cause is shown, grant adjournments at any stage of the suit after recording reasons in writing, provided that no such adjournment should be granted more than three times to a party during the hearing of the suit.

The Supreme Court has in the *Salem Advocates Bar Association* case[30] has held that grant of any adjournment let alone first, second or third adjournment is not a right of a

[24] Order V Rule 9, Sub-Rule 4 as amended in 2002 (w.e.f. 1-7-2002).
[25] Order V Rule 9 A as inserted in 2002 (w.e.f. 1-7-2002).
[26] Order VIII, Rule 1, amended in 2002 (w.e.f. 1-7-2002).
[27] *Salem Advocates Bar Association v Union of India* AIR 2003 SC 189.
[28] Vide Order IX, Rule 2 as amended in 2002 (w.e.f. 1-7-2002).
[29] Vide Order XVII Rule 1 as amended in 1999 (w.e.f 1-7-2002).
[30] *Salem Advocates Bar Association* v. *Union of India*, (2005) 6 SCC 344.

party. However the Court has observed that the limitation of three adjournments does not apply where an adjournment is to be granted on account of circumstances which are beyond the control of a party. Even in cases which may not strictly come within the category of circumstances beyond the control of a party, the court may, by resorting to the provision of imposition of higher costs allow more than three adjournments having regard to the injustice that may result on refusal thereof, with reference to peculiar facts of a case.

viii. Imposition of costs for adjournments[31]

In every case where the courts are granting adjournments it shall fix a day for the further hearing of the suit and shall make such orders as to costs occasioned by the adjournment or such higher costs as the court deems fit. This provision is subject to the following provisos-

(a) when the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the court finds that granting an adjournment is necessary for exceptional reasons to be recorded by it.
(b) no adjournment is to be granted at the request of a party, except where the circumstances are beyond the control of that party
(c) the fact that the pleader of a party is engaged in another court, shall not be a ground for adjournment
(c) where the illness of a pleader or his inability to conduct the case for any reason, other than his being engaged in another court, is put forward as a ground for adjournment, the court shall not grant the adjournment unless it is satisfied that the party applying for adjournment could not have engaged another pleader in time,
(d) where a witness is present in court but a party or his pleader is either not present or is not ready to examine or cross-examine the witness, the court may, if it thinks fit, record the statement of the witness and pass appropriate orders.

ix. Statement and production of evidence[32]

New provisions relating to the statement and production of evidence have been added to the CPC requiring parties to furnish in advance written arguments in support of their oral arguments with a copy to the opposite party. No adjournment is to be granted for filing written arguments except when the court deems fit for reasons to be recorded in writing. Further, the court has been permitted to fix time-limits for oral arguments by the parties.

x. Recording of evidence[33]

The examination in chief of the witnesses of both parties should be rendered on affidavit and furnished to the court with copies to the other party. The evidence (re-examination and cross examination) of witnesses whose evidence has been submitted by affidavit can be taken by a commissioner appointed by the court for this purpose. The commissioner shall submit his/ her report to the court within sixty days from the issuance of the commission unless the period is extended by the court for reasons to

[31] Vide Order XVII Rule 2 as amended in 1999 (w.e.f 1-7-2002) and in 1976 (w.e.f 1-2-1977).
[32] Order XVIII, Rule 3A to 3D as amended in 2002 (w.e.f. 1-7-2002).
[33] Order XVIII Rule 4 as amended in 2002 (w.e.f. 1-7-2002).

be recorded in writing.

xi. Pronouncement of judgment[34]

The judgment of the court should be pronounced in open court immediately after a case has been heard or as soon as practicable thereafter after fixing a date for the same and informing the parties. However, in cases where it is not feasible to do so, an endeavour shall be made to pronounce the judgment within 30 days from the date on which the hearing was concluded. If that is not possible on account of exceptional circumstances, the court should fix a future date which should ordinarily not be beyond 60 days after the hearing of the case is concluded.

III. Policy and administrative initiatives by State Governments and High Courts

This section contains an overview of the recent policy and administrative initiatives targeted at reducing pendency and improving the justice delivery system in the country.

National and State litigation policies

The Law Commission of India in its 100th Report observed that bulk of litigation in courts, including, in particular, writ petitions in the Supreme Court and the High Courts, consists of cases to which the Government is a party. Therefore, prioritising the cases to be pursued by the Government and the manner in which those cases are conducted can significantly contribute towards saving valuable court time. With this objective, the Ministry of Law and Justice has drafted a National Litigation Policy that seeks to guide the Government in acting as an efficient and responsible litigant. Similarly, State Governments have also framed State Litigation Policies through which they have committed that a review of the existing cases will be undertaken and wherever found necessary, frivolous and ineffective cases will be withdrawn. Empowered Committees have accordingly been constituted at the State and District Levels to identify cases which have become ineffective and infructuous with passage of time. Simultaneously, the High Courts have advised the judicial officers and judges to invoke relevant provisions of law such as Section 258 of CrPC, which relates to the power to stop proceedings, to remove the deadwood from our judicial system. Himachal Pradesh has framed Guidelines for withdrawal of stale and ineffective criminal cases by the State in 2013.[35] The cases are mainly petty offences and cases relating to traffic and police challan. The guideline provide for detail procedure for identifying and removing these cases from the judicial system.

The proper implementation of these policies at the National and State level can help in significantly reducing the number of pending cases in courts. The National Mission has been corresponding with the States regarding the implementation of their State Litigation Policies. In this regard, a ten-point action plan for effective implementation of the policies was evolved during the National Consultation with State Governments and High Courts in December, 2013. States have accordingly been requested to undertake a Mission Mode Campaign for the reduction of government litigation and to share details of the success of this campaign during the period from July-December, 2014 with the National Mission.

[34] Order XX Rule 1 as amended in 2002 (w.e.f 1-7-2002).
[35] http://hphighcourt.nic.in/pdf/Guidelines16082013.pdf

Reforms in service of summons

Delay in service of summons is a major hurdle in the speedy delivery of justice. As noted above, certain amendments have already been made to the CPC to address this issue. In addition to the legislative changes, the National Mission had requested High Courts and State Governments to consider measures such as a one-time collection of process fee, clubbing of process fee with the court fee, and the use of ICT systems for service of process. Several High Courts have responded positively to the suggestion on collection of one time process fee by stating that they have either implemented or are in the process of considering such measures.[36]

As regards the suggestion on adoption of ICT, it is noted that a majority of High Courts are yet to formalize and adopt ICT tools for the purpose of expediting process service. There are however certain exceptions, such as the High Courts of Madhya Pradesh, Bombay and Tripura that have already taken positive steps towards the use of ICT systems. The Madhya Pradesh High Court has adopted two pieces of software for this purpose, the Centralized Process Generation System (CPGS) and POS devices. The CPGS streamlines the procedure by assigning a single ID to each application, so that each process then falls under a single application and can be individually monitored and tracked online. The POS is a device used by process servers, similar to a CGPS tracking device, which allows process service to take place with the electronic surveillance of the court.

In Bombay, there is a service of e-suvidha in all the districts which has all the facilities ranging from filing of various applications, depositing the required fees and ensuring the timely delivery. This service also provides immediate information to the *nazarat* branch about the deposit of the amount by a party. In addition, the software i.e. Case Management Information System at the High Court and Case Information System at district courts generates notices, summons, writs etc. through e-mail, fax and/or mobile. In Tripura High Court a Case Information System (CIS) has been introduced not only at the High Court level, but also at the level of subordinate courts. Additionally, litigants can receive information through a SMS based service.

Addressing areas prone to excessive litigation

The National Mission is looking into the areas of law that are prone to excessive litigation and considering suitable policy and legislative measures that may be adopted to curb such litigation. For instance, a large number of cases relating to dishonor of cheques are currently pending before courts under the NI Act. An Inter-Ministerial Group (IMG) was constituted to suggest measures to deal with the large number of pending cases of this nature, which suggested measures such as, promoting the use of ADR mechanisms; adoption of summary procedure by courts dealing with these cases; and encouragement of electronic modes of payment to reduce the overall number of disputes. The Department of Financial Services has accepted the broad recommendations of the IMG and has moved the necessary proposal for amendment of NI Act, which is before the Ministry of Law and Justice. The next step would be for the Department of Legislative Affairs and the Department of Legal Affairs to resolve any pending issues regarding the draft bill on an urgent basis so that the same may be tabled before the Parliament for approval.

[36] Bombay High Court has already amended its process fee rules to charge a one-time process fee. Similar practice is also being followed in the Union Territory of Puducherry and Goa. The proposal is also under active consideration by the High Courts of Rajasthan, Allahabad, Delhi, Karnataka, Himachal Pradesh and Patna.

Policy and legislative changes are also being considered to tackle the large number of cases that are pending under the MV Act and to actively promote computerised systems for payment of challans. The National Mission has been corresponding on these issues with the Ministry of Road Transport and Highways and has shared two policy notes with them on 'Alternative Mechanisms for Collection of Traffic Challans' and 'Victim Friendly Mechanisms for Accident Compensation'. The Ministry of Road Transport and Highways has recently prepared the draft Road Transport & Safety Bill 2014[37] with a vision to provide a framework for safer, faster, cost effective and inclusive movement of passengers and freight in the country. The draft Bill suggests several legislative changes to ensure that traffic challan cases are reduced or resolved without resorting to litigation and motor accident cases are disposed of expeditiously.

Administrative and policy decisions by High Courts

Based on information provided by the State Governments and High Courts it is noted that they have undertaken several measures geared towards identifying areas of high litigation and formulating mechanisms for speedy disposal of cases. For instance, special pendency reduction campaigns have been resorted to by several High Courts for dealing with specific categories of cases, such as those under NI Act, MV Act and cases that have pending for more than five years. In addition, consistent organising of lok adalats and mega lok adalats is seen as an effective mode of pendency reduction. Focused pendency reduction drives have been carried out in the past few years. In the pendency reduction campaign that was initiated for the first time in July, 2011, High Courts were requested to prioritise disposal of cases that had been pending for a long duration, particularly those relating to senior citizens and marginalised sections of society. In 2012 the focus of the campaign was to make the judicial system free of cases that were over five years old and in 2013 the campaign focused on weeding out ineffective and infructuous cases from the judicial system.

The High Courts were also requested to draw up a 'Vision Statement' for the total elimination of pendency and delays from the judicial system and a 'Court Development Plan' geared towards achieving that objective. Some High Courts have furnished such Vision Statements and Court Development Plans covering aspects relating to human resource planning, infrastructure development, computerization and other measures such as operation of morning/ evening shift courts and organizing lok adalats aimed at the reduction of pendency of cases.

The following is a summary of some of the key actions taken by High Courts for the reduction of pendency in courts:

- **Allahabad High Court** has initiated several steps to address the problems posed by areas of high litigation. Pendency Reduction Campaigns are continuously being resorted to by the judiciary. Further, Lok Adalats are being organized in the District Courts regularly during weekends. A total of 32,2710 cases were settled in 766 Lok Adalats organized during March 2014 to June 2014. A total of 171 Reconciliation and Mediation Centres are functional in districts and 2 centres have been set up in Allahabad High Court and cases are being referred to these centres by judicial officers on a regular basis. The Mediation Centre in principal seat of Allahabad High Court has a settlement rate of

[37] The draft bill is available at http://morth.nic.in/writereaddata/linkimages/RTSB%20BILL-5241785876.pdf

47.1% and the collective settlement rate of all theses Mediation Centres in the State of Uttar Pradesh is about 26%.

Further, the High Court has taken necessary steps to bridge the gap between the sanctioned courts and functional courts and has assured that the gap will be entirely bridged by the end of this year. The High Court has also suggested creating the post of full time Secretary to the District Legal Services Authority (DLSA) and of the Registrar at the entry level in the Higher Judicial Service in each judgeship of the State. Formation of mobile courts and conferring the magisterial powers upon the government servants and retired personnel under Section 13 of the CrPC are also recommended as effective mechanisms for speedy disposal of petty cases.

Looking at the pendency of the cases, the State Government has been pursued to sanction various additional courts. Further, an agreement has been reached between the State Government and High Court for creation of a total number of 81 Fast Track Courts to deal with rape cases. The High Court is also actively considering the issue of increasing the posts of training reserve and has requested the State Government to increase the posts of training reserve from 35 to 120 in the cadre of Civil Judge Junior Division. The High Court has recently constituted a Committee of five Judges for recruitment of supporting staff in the District Courts and has centralized the process of recruitment of Class III and Class IV staff in the District Courts.

- **Bombay High Court** has formulated an 11 point programme for speedy disposal of cases. These initiatives include:

    (i) Grouping of identical matters of death and injury claims in motor accidents claims.
    (ii) Identifying appropriate cases deserving closure under Section 258 of CrPC.
    (iii) Weeding out of stale and ineffective cases by District Committee formulated for that purpose.
    (iv) Making effective use of special summons in petty offences as per Section 206 of the CrPC.
    (v) Supplying copies of charge sheets as per Section 207 of CrPC to the undertrial prisoners in jail itself to ensure expeditious committal in sessions triable cases.
    (vi) Monitoring regularly service of court through review meetings with district police officials.
    (vii) Holding special drive for plea bargaining under Section 265A of CrPC in cases instituted by local bodies and institutions.
    (viii) Focusing on disposal of some special categories of cases such as those relating to undertrial prisoners, cases pending for more than 5 years or more, cases involving weaker sections of society, senior citizens, cases of atrocities against women, cases under Section 138 of NI Act, cases under Prevention of Corruption Act.
    (ix) Holding Lok Adalats/ National Lok Adalats with proper planning and sound ground work.
    (x) Special Board Scheme for earmarking specific days in a week exclusively for holding trials of 5 year plus matters as Special Board Days.

- **Calcutta High Court** has sent a large number of criminal cases that are compoundable in nature to Lok Adalats for disposal under the Legal Services Authorities Act, 1987. Lok

Adalats were held on all working days for one hour either before or after court hours and for the whole day on non-working days. Two days in a week were fixed for disposal of old cases, giving priority hearing to cases involving senior citizens, women and people belonging to weaker sections of society. The High Court also encourages increased use of ADR mechanisms to settle cases outside the litigation process and has requested the State Government to increase the number of Fast Track Courts for expediting trial of special categories of cases.

- **Delhi High Court** has been carrying out a pendency reduction campaign on account of which the pendency of cases in the subordinate courts has considerably gone down in recent years. The Court has adopted a 'Case Flow Management System' and Thursdays have been earmarked as '*Old Matters Day*'. Special emphasis was laid for early disposal of cases pertaining to senior citizens, minors, disabled and other marginalized groups. The Delhi High Court also undertook special efforts for the efficient functioning of District Mediation Centres in Delhi. Further steps have been initiated to identify and weed out cases of petty nature and the cases involving minor disputes which have become infructuous with the passage of time by invoking relevant provisions of law.

- **Gauhati High Court** has formulated an Action Plan for the disposal of cases which are more than five years old. Special courts are designated to try the specific categories of cases involving offences under Electricity Act, NI Act, etc. In addition, Lok Adalats and Holiday Courts are being organized to dispose of traffic challan cases, petty cases and victim compensation cases under Motor Vehicles Act.

- **Gujarat High Court** set targets for disposing of all pending civil suits and appeals instituted up to the year 2005. Public notices were issued through newspapers drawing attention of the litigants and advocates to speed up disposal of long pending matters.

- **Himachal Pradesh High Court** has set specific targets for the disposal of pending cases instituted till 2005 in the High Court. In Subordinate Courts, the target was to dispose of all petty cases pending since 2008 and other cases pending since 2005. Three courts of Special Judicial Magistrate have been established at Shimla, Mandi and Kangra for hearing traffic challan cases. Four Courts of Special Judicial Magistrates have been established to try cases under Section 138 of Negotiable Instruments Act, 1881, at Shimla, Kullu, Mandi and Solan Districts.

- **Jharkhand High Court** has undertaken special initiatives to combat pendency of cases instituted under Motor Vehicles Act and NI Act. The High Court has designated additional courts of Judicial Magistrates to deal with pendency of cases under NI Act and MV Act.

- **Karnataka High Court** has set a target for disposal of 3,240 cases that have been pending in the High Court for more than 7 years. A similar target for disposal of 45,863 cases which were more than 7 years old was set for subordinate courts. In addition, the High Court along with the Karnataka State Legal Authority is encouraging the settlement of cases by resorting to ADR systems. The success rate of settlement of cases by mediation is about 64%. Lok Adalats and Mega Lok Adalats are also being organized regularly.

- **Kerala High Court** has framed 'Case Flow Management Rules' for subordinate courts

for reducing pendency. The High Court also framed and implemented the ADR Rules to help in disposing large number of cases through ADR mechanism for which purpose the Kerala Mediation Centre has been established in the High Court and Mediation Centres have been established in most of the districts. An initiative was also taken to incorporate a new Rule 97-A in the Rules of the High Court of Kerala for faster service of the process, hearing on day-to-day basis, automatic termination of stay after the expiry of two months, *etc.*

- **Madhya Pradesh High Court** has made significant efforts to address the issue of pending cases through Pendency Reduction Campaigns and Mega Lok Adalats. All subordinate courts have been requested to take up cases that have been pending for over 5-15 years for disposal under an expedited mission mode campaign. The areas constituting bulk of pending cases have been identified by the High Court and special courts are designated for hearing cases under NI Act, MV Act and Electricity Act. 13 Special Courts have been designated for the trial of cheque bounce cases in the major cities of the State where the pendency of such cases are on higher side.A scheme for weeding out stale criminal cases has also been formulated. Further, special emphasis has been laid for disposal of long pending cases relating to senior citizens, corruption matters, juveniles and release of undertrials. As a result of these efforts there has been a significant reduction (about 30%) in the overall number of cases which have been pending for over 5 years.

- **Madras High Court** has instructed courts to give top priority to cases which are more that 5/10/20 years old and to conduct the trial of such cases on a day-to-day basis. The Court is also encouraging the ear-marking of a day per week exclusively for hearing long pending cases. The High Court has also emphasized on regularly organizing Lok Adalats on all working days and supporting the running of mediation and conciliation centers. Further, the High Court has adopted a 10 points programme for speedy disposal of criminal cases, *namely:*

    (i) immediate steps to be taken on filing of the report under Section 173 (2) of CrPC whereby copies for each of the accused are to be filed along with the final report.
    (ii) All Session trials to be dealt with by Fast Track Courts, and none of the Session Courts should have more than 25 trial cases at their docket.
    (iii) All cases where the offences are compoundable are to be disposed of on priority basis.
    (iv) Nine Fast Track Courts have been constituted at Magistrate level to exclusively deal with cases under Negotiable Instruments Act 1881.
    (v) All Magistrates have been directed to dispose of the cases under Motor Vehicles Act on a priority basis.
    (vi) Jan Lok Adalat i.e. Lok Adalat within the prison compound, is to be conducted by the Magistrates, to dispose of petty and compoundable criminal cases.
    (vii) A Special time-bound drive to be conducted to dispose of Summary Trials under Chapter XXI of CrPC by the District Judges and Judicial Magistrates.
    (viii) District Judges and Chief Judicial Magistrates directed to take up application for withdrawal of prosecution under Section 321 of CrPC on priority basis.
    (ix) In courts where criminal appeals are in excess of 25 in number, it has been advised that the excess cases be withdrawn and transferred to courts where such appeals are below 25.

(x) Similar advice has been given in relation to criminal revisions pending in any court where the pendency of such cases is in excess of 25 cases.

- **Manipur High Court** is undertaking plans to modernize infrastructure of judiciary in all district headquarters and sub division headquarters and is working actively towards filling up of vacancies. The High Court is also establishing designated courts to try cases relating to offences against women, children and senior citizens.

- **Meghalaya High Court** has taken various steps for operationalizing all sanctioned courts and filling up of vacant posts of judicial officers in the State. Instructions have been issued to all courts under the jurisdiction of High Court of Meghalaya to hold Lok Adalats on regular basis to reduce pendency of cases in the State. The infrastructure for District Courts is also being built in several districts of the State.

- **Orissa High Court** has taken several steps to dispose of and reduce pendency of cases in courts. Lok Adalats/ Mega Lok Adalats are being organized on a regular basis. The High Court has set targets for disposal of very old cases. For petty matters, a target was fixed for disposal of 2/3rd of the pending cases. All the District Judges were instructed to oversee taking of necessary steps for maximum possible disposal of petty cases and to give top priority for disposals of cases involving senior citizens, minors, disabled persons and other marginalized groups. A target was fixed for disposing all the pending matters upto the year 1998, for which a special incentive was given with doubling of the prescribed yardstick. 25% of the extra incentive was given for disposal of more than 7 years old cases. All the District Judges were instructed to dispose of all cases involving undertrial prisoners on priority basis within 6 months where the custody period of accused in Sessions Cases is more than 2 years and to dispose of the cases before Magistrates within 2 month where custody period is more than 6 months.

  All the Chief Judicial Magistrates were instructed to hold court inside the jail premises for disposal of cases pertaining to undertrial prisoners in petty cases. All the Special Judges of CBI and Vigilance departments were instructed that the trial of cases under the Prevention of Corruption Act be held on a day to day basis without any deviation in order to preclude unwarranted adjournments and avoidable delays in the speedy disposal of those cases.

  All District Judges have been instructed to take effective steps for disposal of government litigations as a special drive during the period from 01.07.2014 to 31.12.2014 under Mission Mode Campaign for reduction of pendency. Instructions have also been issued by the High Court that day to day posting of cases should be done intelligently and realistically with the object of putting valuable time of the Court to optimum use. There should not be overloading in posting; balance between old cases and new cases should be maintained. The Sessions Judge and the CJM should lay utmost importance on prompt execution of pending warrants.

- **Patna High Court** is working towards more efficient allocation of resources for disposal of cases, fixing rational non-mandatory time frames for the disposal of cases and other recommendations of the Law Commission contained in its 245th Report relating to timely disposal of cases. The same are being placed before the National Court Management Scheme Committee of the Patna High Court for consideration.

- **Punjab & Haryana High Court** has taken up several steps like reduction of summary trial cases through special drive, disposal of 20 years old cases, fast tracking of cases of heinous crimes against women and supply of monthly statements through e-mail *etc*. The Court has formulated Annual Action Plans fixing targets for disposal of old cases and cases of other specified categories with a view to reduce pendency and ensuring expeditious disposal of old cases. The High Court has issued specific instructions to subordinate courts to dispose of cases which are more than five year old in time bound manner. Exclusive courts have been established for the purpose of fast tracking cases of heinous crimes against women. Courts of Additional District and Sessions Judges were declared as Special Courts under Narcotic Drugs and Psychotropic Substances Act, 1985. Exclusive courts have also been set up in the districts where pendency of NI Act cases is more than 2,500 cases. The High Court has also been organizing Lok Adalats and taking prompt steps to fill up vacancies of judicial officers.

- **Rajasthan High Court** has been implementing the Mission Mode Programme for reduction of pendency in courts. The key directions issued to District and Sessions Courts in this regard relate to proper distribution of case load amongst the courts, instructions to Chief Judicial Magistrates to identify ineffective and infructuous cases and holding meetings of the District Level Monitoring Committees so that such cases may be may be withdrawn and identification of cases that can be disposed under Section 258 of CrPC. In addition, courts were advised that appeals and stay applications pending before higher courts in civil cases which have been disposed of or the relief sought under them has become infructous should be identified and disposed of at the earliest. It was also suggested that bunching of similar cases can be done and similar cases can be identified for this purpose with the aid of computerization. The courts were also asked to give priority to long pending cases pertaining to specific categories of persons such as senior citizens, disable persons, etc. Further, the quick disposal of petty cases under MV Act, NI Act, Municipal laws, etc was also encouraged by the High Court.

- **Sikkim High Court** has undertaken initiatives for weeding out old, infructuous and ineffective cases and has undertaken Pendency Reduction Drive to expedite the disposal of cases pertaining to marginalized sections of society, MACT, senior citizens, women and differently-abled persons and the three plus old cases. Special Courts are designated as Children's Courts to try the cases under Protection of Child Rights Act, 2005 and Protection of Children from Sexual Offences Act, 2012. Lok Adalats are regularly held at High Court, District Courts and Taluka Courts. The State Government has constituted a State Level Empowered Committee to monitor pendency of cases in the courts of Sikkim.

- **Tripura High Court** is working towards fixing of time frames for disposal of certain classes of old cases. The High Court is engaged in review of progress by District Judges and by Chief Judicial Magistrates and constant monitoring of sine die cases. Further, the Court is in the process of setting up appropriate mechanisms to identify ineffective and infructuous cases in keeping with State Litigation Policy. For speedy disposal of all petty cases, Holiday Courts are regularly conducted in different Sub Divisions of the State of Tripura. The Tripura State Legal Services Authority has been provided required fund to organize Permanent and Mega Lok Adalat to reduce pendency of cases.

IV. Relevant Judicial Pronouncements

The Supreme Court in the *Hussainara Khatoon* case recognised for the first time the right to speedy trial as being a part of the fundamental right to life guaranteed under Article 21 of the Constitution.[38] Following this, the Court has reiterated this position in a number of cases and also held that the right to be tried speedily is available to accused at all stages, namely, investigation, inquiry, trial, appeal, revision and retrial.[39] Recently, the Court made an observation in the ongoing *Bhim Singh* case[40] regarding the need to fast track all types of criminal cases so that criminal justice can be delivered timely and expeditiously.

Besides recognizing the fundamental right to speedy trial, the Supreme Court has time and again pointed to the need for proper implementation of existing statutory provisions geared towards expeditious delivery of justice. In *Gurnaib Singh* v. *State of Punjab*[41], the Supreme Court emphasized that it is the primary duty of the trial judge to monitor the criminal trial process and ensure that it takes place in accordance with the provisions of the CrPC. The trial court should not allow the parties or their counsel to control the trial process. Based on the records of examination-in-chief, cross examination and adjournments granted in this case the Court found that the case was conducted in a piecemeal manner and the entire trial was at the mercy of the counsel. Reiterating the views expressed in previous cases, the Court noted that the mandate of Section 309, CrPC of holding trial expeditiously and examining witnesses on day to day basis ought to be properly followed. The Court also observed that witnesses are often made to wait from morning till evening only to be told at the end of the day that the case has been adjourned to another day. Allowing repeated adjournments causes inconvenience to witnesses and creates circumstances for their harassment by the opposite party.

The Supreme Court in *Thana Singh* v. *State of Central Bureau of Narcotics*[42] issued certain directions applicable to cases under the Narcotics Drugs and Psychotropic Substances Act, 1985. The directions *inter alia* related to restrictions on grant of adjournments and creating an environment that encourages witnesses to come forward and give testimony. The Court observed in this regard that "*it would be prudent to return to the erstwhile method of holding "sessions trial" i.e. conducting examination and cross examination of a witness in consecutive days over a block period of three to four days*". This would permit a witness to take the stands after making one time arrangement for travel and accommodation. Accordingly, the Court directed the concerned courts to adopt the method of "sessions trial" and assign block dates for examination of witnesses. The Court also advised concerned courts to make use of Section 293, CrPC to take evidence from official witnesses in the form of affidavits so as to expedite the proceedings.

Further the Supreme Court in the case of *State of Gujarat vs. Kishanbai*[43] decided in 2014 has expressed its concern on the glaring lapses observed in the investigation of the case as well as the inconsistencies found in the evidence produced by prosecution. In its judgement, the

[38] *Hussainara Khatoon* v. *Home Ministry* (1979) 3 S.C.R. 169.
[39] *A.R. Antulay* v *R.S. Nayak* (1992) 1 SCC 225.
[40] Orders dated August 1, 2014 and September 5, 2014 in *Bhim Singh* v. *Union of India*, Writ Petition (Criminal) No. 310 of 2005. In the same case the Court has also issued directions regarding the proper implementation of Section 436A, CrPC relating to timely release of undertrial prisoners.
[41] (2013) 3 SCR 563.
[42] (2013) 2 SCC 603.
[43] Criminal Appeal No. 1485 of 2008.

Hon'ble Court has observed that such lapses cause a serious threat to society as offenders of heinous crimes go scot free and the victims are unable to secure justice. To streamline the procedure for criminal investigation and prosecution Hon'ble Court has given certain guidelines for the State Governments. Some of the actionable points emerging out of this decision are summarized below:

- Once the investigation in a criminal case is completed, the prosecution should review any and all shortcomings and identify any changes or corrections that need to be made, and undertake further investigation if the need arises.
- Evidence that is gathered during the course of investigation must be truly and faithfully utilized by confirming that all relevant witnesses and materials for proving the charges against the accused are conscientiously presented during trial. Otherwise, due to a lack of sufficient evidence, the case should not reach the trial stage.
- Home Department of each State will draw from and incorporate the above guidelines in its existing training programmes for junior investigation / prosecution officials, and do the same for refresher training programmes for senior investigation / prosecution officials. Responsibility for this should vest in the Standing Committee mentioned above.
- Once a case results in an acquittal, the concerned investigating/prosecuting official(s) responsible for such acquittal must be identified. A finding needs to be recorded in each case, whether the lapse was innocent or blameworthy. Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for. Taking into consideration the seriousness of the matter, the concerned official may be withdrawn from investigative responsibilities, permanently or temporarily, depending purely on his culpability.

In the context of civil trials, the Supreme Court has issued a very important set of directions in the *Ramrameshwari Devi* case[44]. Noting that the appellants in the said case had abused the judicial system by filing a series of frivolous applications to delay the proceedings before the trial court, the Supreme Court *inter alia* ordered that the following steps need to be taken by trial courts while dealing with civil cases:

- It is the bounden duty and obligation of the trial judge to carefully scrutinize, check and verify the pleadings and the documents filed by the parties. This must be done immediately after civil suits are filed.
- The Court should resort to discovery and production of documents and interrogatories at the earliest according to the object of the Code. If this exercise is carefully carried out, it would focus the controversies involved in the case and help the court in arriving at truth of the matter and doing substantial justice.
- Imposition of actual, realistic or proper costs and or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.
- The Court must adopt realistic and pragmatic approach in granting mesne profits. The Court must carefully keep in view the ground realities while granting mesne profits.

[44] *Ramrameshwari Devi* v. *Nirmala Devi,* (2011) 8 SCC 249.

- The courts should be extremely careful and cautious in granting ex-parte ad interim injunctions or stay orders. Ordinarily short notice should be issued to the defendants or respondents and only after hearing concerned parties appropriate orders should be passed.
- Litigants who obtained ex-parte ad interim injunction on the strength of false pleadings and forged documents should be adequately punished. No one should be allowed to abuse the process of the court.
- The principle of restitution should be fully applied in a pragmatic manner in order to do real and substantial justice.
- Every case emanates from a human or a commercial problem and the Court must make serious endeavour to resolve the problem within the framework of law and in accordance with the well settled principles of law and justice.
- If in a given case, ex parte injunction is granted, then the said application for grant of injunction should be disposed of on merits, after hearing both sides as expeditiously as may be possible on a priority basis and undue adjournments should be avoided.
- At the time of filing of the plaint, the trial court should prepare complete schedule and fix dates for all the stages of the suit, right from filing of the written statement till pronouncement of judgment and the courts should strictly adhere to the said dates and the said time table as far as possible. If any interlocutory application is filed then the same should be disposed of in between the said dates of hearings fixed in the said suit itself so that the date fixed for the main suit may not be disturbed.

The concept of ADR has now become an integral part of the civil trial process with the insertion of Section 89 in the CPC. Use of mediation, conciliation, arbitration and lok adalats for the settlement of disputes can help ease the burden of courts while at the same time enabling parties to settle their disputes in a timely and cost efficient manner. In this context, it would be pertinent to refer to the decision of the Supreme Court in *Salem Advocates Bar Association* v. *Union of India*[45] where the Court held that after referring a matter to the admissions and denials, courts should direct the parties to opt for one of the modes of ADR specified in Section 89. The 'Civil Procedure Alternative Dispute Resolution and Mediation Rules 2003' framed as per this decision lay down the procedure to be followed by both courts and parties in choosing the appropriate method of ADR. The Court directed all the High Courts, Central Government, and State Governments for expeditious follow up action on this issue.

Subsequently, in *Afcons Infrastructure Ltd.* v. *Cherian Varkey Construction Pvt. Ltd.*[46] the Supreme Court issued important clarifications relating to the inconsistencies in the drafting of Section 89 of CPC. The Court also laid down the summarized procedure to be followed by the referral judge while referring matter to any of the ADR methods under Section 89. As per the procedure, preliminary hearings are to be fixed once the pleadings are complete but prior to the framing of the issues. At this stage, the judge should independently consider the suitability of the case for referral to ADR. In the event that the case falls under a suitable category, the judge should obtain the consent of both parties and explain to them the choice of ADR methods available, nature and process of the mechanism, and the costs involved. In case of no consent, the judge should refer simple matters to Lok Adalat and more complex matters to mediation. Once the settlement is reached through ADR, the court will proceed to make a decree in terms of settlement in accordance with principles of Order 23 Rule 3 of

[45] AIR 2003 SC 189.
[46] (2010) 8 SCC 24.

CPC and in case no settlement is arrived at, the court will proceed with the hearing of the suit. Therefore, based on this case, courts may mandatorily refer certain categories of matters for ADR through mediation, Lok Adalats and judicial settlement, as deemed suitable, even the consent of the parties.

Cases under Section 138 of the Negotiable Instruments Act, 1988 constitute a large portion of the overall pending cases in courts. In order to ensure the speedy and expeditious disposal of such cases, the Supreme Court has in the *Indian Bankers Association* case[47] directed all criminal courts dealing with Section 138 cases to observe the following process:

- The Metropolitan Magistrate/ Judicial Magistrate should scrutinize the complaint and other accompanying documents (if any) on the day they are filed. If the same are found to be in order, the Court should take cognizance of the matter and direct issuance of summons to the accused.
- Summons to the accused must be properly addressed and sent by post as well as by e-mail using the address obtained from the complainant. The Court may in appropriate cases take the assistance of the police or the nearby Court to serve the notice. A short date should be fixed for notice of appearance.
- The summons may indicate that accused may make an application for compounding of the case at the first hearing, in which case the court may pass orders at the earliest.
- The accused should be asked to furnish a bail bond to ensure his/ her appearance during trial. The court will also ask the accused to take notice under Section 251, CrPC so as to enter his/her plea of defence and will then fix the case for defence evidence, unless an application is made by the accused under section 145(2) of the NI Act for recalling a witness for cross examination.
- The examination-in-chief, cross-examination and re-examination of the complainant must be conducted within three months of assigning the case. The court has the option of accepting affidavits of the witnesses, instead of examining them in court.

V. Best practices for the expeditious disposal of cases

The following innovative initiatives are being undertaken in many countries to address the issue of backlog of cases and for the reduction of pendency:

- **Encouraging the use of pre-trial proceedings:** Several jurisdictions adopt the practice of conducting pre-trial conferences prior to the commencement of the trial. This involves a meeting in chambers between the judge, counsel for the accused, and the prosecution where the case is discussed, administrative issues are dealt with, and the specific issues for trial are narrowed down in order to save time and resources.

- **Court performance measurement and monitoring:** Regular assessment and monitoring of the performance of courts is an effective way to bring about improved efficiency, efficacy, transparency, and accountability in the judicial system. This can done by introducing measurement indicators based on globally accepted benchmarks such as: leadership and management, court planning and policies, court resources, court proceedings and processes, client needs and satisfaction, affordability and access of court services, and public trust and confidence.

- **Mandatory prior notice in civil cases:** The Law Commission of India in its 221st

[47] *Indian Bankers Association v. Union of India*, (2014) 5 SCC 590

Report on the Need for Speedy Trial suggested that a provision similar to Section 80 of the CPC should be introduced for all categories of civil cases. Section 80 requires that a litigant who proposes to initiate legal proceedings against the State or a public officer must give two months' written notice in advance to the concerned party. The Law Commission suggested that a similar provision can be introduced for all the other matters also. This will help in curtailing unnecessary litigation as many parties may choose to settle the cases even prior to the initiation of formal legal proceedings. A provision of this nature would however be subject to an exception for urgent matters where the Court can dispense with the notice after hearing reasons for the urgency.

VI. Recent Recommendations of the Law Commission

The Law Commission of India has in its 245th report titled "Arrears and Backlog: Creating Additional Judicial (Wo)manpower" made several useful recommendations relating to reducing arrears and delays in courts. This report was prepared pursuant to the directions on the Supreme Court in the case of *Imtiyaz Ahmad v. State of Uttar Pradesh.*[48] The Law Commission has recommended using the "Rate of Disposal Method" for calculating adequate judge strength required in district and subordinate courts in various States. This method involves the assessment of the present rate at which judges in various courts dispose cases and using that efficiency rate to determine the number of judges required to dispose the new cases being instituted and the existing backlog of cases.

The other recommendations of the Law Commission in the Report include increasing the retirement age of judges of subordinate courts, creation of special morning and evening courts for traffic/ police challan cases, provision of adequate staff and infrastructure for the working of additional courts and enabling uniform data collection and data management method by High Courts in order to ensure transparency and to facilitate data based policy prescriptions for the judicial system. The recommendations of the Law Commission are currently under consideration of the Supreme Court and have been forwarded to the State Governments and High Courts for their consideration and views.

Further, the Law Commission of India has in its 246th report titled "Amendments to the Arbitration and Conciliation Act 1996" recommended various changes focused at plugging the loopholes in the existing arbitration law and achieving minimal court intervention in arbitration matters. The Law Commission has suggested suitable amendments to the current law to expedite the conduct of arbitral proceedings; restrict the grounds to challenge international arbitral awards and promote institutional arbitration. This report is in the process of being reviewed by the Department of Legal Affairs to determine the appropriate changes needed to the law.

VII. Way Forward

Judicial education is an essential element of an efficient justice delivery system, which helps to ensure the continued improvement in judicial standards. As discussed in this note, there are several legislative, administrative, policy and judicial measures that have been taken in the last few years with the goal of reducing pendency and ensuring the expeditious disposal of cases. Proper training and sensitization of judges on these issues can help in achieving better implementation. High Courts and Judicial Academies can play a very important role in this regard by further strengthening the capacity of our judiciary.

[48] *Imtiyaz Ahmad v. State of U.P. and Ors,* AIR 2012 SC 642

ANNEXURE

TEN ACTION POINTS ON IMPLEMENTATION OF STATE LITIGATION POLICIES

i. There is a need to ensure that the Empowered Committees at all level as reflected in the Litigation Policies are set up at the earliest.

ii. It is necessary to spell out, in clear, terms of reference for these committees at different levels along with mandate and the frequency of their meeting.

iii. The Empowered Committees should have access to a complete database on the pendency. This detail must be available category-wise and district wise to the Committees at the various levels.

iv. States need to ensure, with approval of the finance departments, that financial delegation is notified at different levels to take a decision on the withdrawal of cases.

v. Excessive litigation prone sectors need to be identified and special interventions can be made to reduce pendency of cases in those areas.

vi. The Law Departments must periodically convene meetings of nodal officers. Targets for weeding out infructuous cases be fixed, timelines for filling replies be strictly mentioned in these meetings.

vii. If cases of grievance redressal under the Services Delivery Acts have been addressed by State scheme, then those cases should be immediately weeded out.

viii. Issues relating to implementation of State Litigation Policies should be taken up in the meetings of Secretaries so that all Secretaries are made aware of the same.

ix. Departments need to be encouraged to put a target of reduction of cases in their respective have a Results Framework Document (RFD). Law Department must include overall targets of reducing Government litigation in their RFD.

x. State should encourage arbitration / mediation clauses in contracts. For Government / Public Sector contracts arbitration / mediation clause be made compulsory.

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