REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. 254-262 OF 2012

IMTIYAZ AHMAD **.....APPELLANT**

VERSUS

STATE OF U.P. & ORS. **.....RESPONDENTS**

J U D G M E N T

Dr D Y CHANDRACHUD, J

These Appeals arise from a batch of interlocutory orders of the Allahabad High Court in a criminal writ petition (1786 of 2003). On 9 April 2003 a learned Single Judge of the High Court admitted a writ petition filed by the second and third respondents and stayed an order dated 7 December 2002 of the Additional Chief Judicial Magistrate, Gautam Budh Nagar, directing the registration of a case against them. The case was adjourned before the High Court on several dates on which it was listed. As a result of the adjournments, on the date of the institution of the Special Leave Petitions, the writ petition was pending in the High Court for six years.

2This Court was concerned with the pendency of similar cases before the High Courts, where proceedings were stayed at the stage of the registration of an FIR, investigation, framing of charges or during trial, in exercise of the power conferred by Article 226 of the Constitution or Sections 397/482 of Code of Criminal Procedure,1973. Hence this Court, by an order dated 8 January 2010 called for reports from the Registrars General of the High Courts, in regard to

serious cases involving: (i) murder; (ii) rape; (iii) kidnapping; and (iv) dacoity. On the basis of the data received, reports were presented to the Court by the amicus curiae. These reports were considered in an order dated 1 February 2012 by a Bench of two learned Judges, including one of us (the learned Chief Justice of India). In the order of this Court dated 1 February 2012 the findings in the second report submitted by the amicus curiae were summarized thus :

> "(a) As high as 9% of the cases have completed more than twenty years since the date of stay order;
>
> (b) Roughly 21% of the cases have completed more than ten years;
>
> (c) Average pendency per case (counted from the date of stay order till July 26, 2010) works out to be around 7.4 years;
>
> (d) Charge-sheet was found to be the most prominent stage where the cases were stayed with almost 32% of the cases falling under this category. The next two prominent stages are found to be "appearance" and "summons", with each comprising 19% of the total number of cases".

3 During the course of the hearing of these proceedings, the Union Government has been impleaded as a party to the proceedings having regard to the fact that seminal issues are involved directly impacting upon the administration of justice. This Court has assumed jurisdiction since the long delays in the disposal of cases, particularly criminal cases, has a serious impact both on the rule of law and on access to justice which is a fundamental right guaranteed under Article 21 of the Constitution.

4 In 1958, the fourteenth Report of the Law Commission of India on the Reform of Judicial Administration dealt with the issue of delay and arrears and identified inadequate judge strength as the "root cause" of the problem. This perspective has been reiterated in several successive reports, including of the Law Commission. These include the 77th Report of the Law Commission of India

on “Delay and arrears in trial courts”, November, 1978 (Ministry of Law and Justice, Government of India); 78th Report of the Law Commission of India on “Congestion of under trial prisoners in jails”, February, 1979 (Ministry of Law and Justice, Government of India); 79th Report of the Law Commission of India on “Delay and Arrears in High Courts and other Appellate Courts”, May, 1979 (Ministry of Law and Justice, Government of India); 121st Report of the Law Commission of India (method of review of judge strength at regular intervals), 1987; 124th Report of the Law Commission of India – The High Court Arrears – A fresh look, 1988; Report of The Arrears Committee (Three Chief Justices Committee : Kerala, Calcutta & Madras), 1989-90.

5 The 120th Report of the Law Commission on Manpower Planning in the Judiciary (1987) suggested a formula for the fixation of judge strength, adopting a demographic approach. The Report suggested that demographics should be the basis for fixation of judge strength. Its rationale was set out thus :

> “ As to the possible accusation that the working out of the ratio of Judges strength per million of Indian population is a gross measure, the Commission wishes to say that this is one clear criterion of manpower planning. If legislative representation can be worked out, as pointed out earlier, on the basis of population and if other services of the State – bureaucracy, police etc. – can also be similarly planned, there is no reason at all for the non-extension of this principle to the judicial services. It must also be frankly stated that while population may be a demographic unit, it is also a democratic unit. In other words, we are talking of citizens with democratic rights including right to

> access to justice which it is the duty of the State to provide."

The Report indicated that though the US in 1981 had one-third of India's population, it had a judge to population ratio of one hundred seven judges per million, while in India it was only ten judges per million. The Law Commission suggested that the judge to population ratio be immediately increased from ten judges to fifty judges per million. The Report suggested that by 2000 India should achieve a target of one hundred and seven judges per million (which the US had in 1981).

6 If these recommendations had been acted upon India would have judge strength of 1,10,071 in 2000 (with the population of 1028 million) and 1,36,794 as on 31 December 2015. However, the sanctioned strength of the judiciary at all levels on 31 December 2015 was only 21,607.

7 This Court in a judgment delivered on 21 March 2002 in **All India Judges Association** v. **Union of India**[1] endorsed the views of the Law Commission in its 120th Report and directed that a judge to population ratio of fifty judges per million be achieved within a period of five years and not later than ten years in any case. This Court observed :

> "The increase in the Judge strength to 50 Judges per 10 lakh people should be effected and implemented with the filling up of the posts in phased manner to be determined and directed by the Union Ministry of Law, but this process should

1 (2002) 4 SCC 247

> be completed and the increased vacancies and posts filled within a period of five years from today. Perhaps increasing the Judge strength by 10 per 10 lakh people every year could be one of the methods which may be adopted thereby completing the first stage within five years before embarking on further increase if necessary".

The Report of the Parliamentary Standing Committee on Arrears in Courts (2002) supported the application of the demographic norm as the starting point for determination of judge strength. In a letter dated 2 April 2013, the then Prime Minister of India also accepted the recommendation of the Chief Justice of India to double the existing number of courts. When this issue was taken up at the Joint Conference of Chief Ministers and Chief Justices in 2013 it was resolved to create new posts of judicial officers with requisite staff and infrastructure.

8 In order to address the issue of arrears, a policy decision was taken by the Union government to constitute fast track courts and funds were allocated under the Eleventh Finance Commission for a period of five years (2000-05). When the issue of the discontinuation of fast-track courts came up, this Court in **Brij Mohan Lal** v. **Union of India**[2] held that the policies of the State should not derogate from undermining judicial independence and if a policy was counter-productive or liable to increase the case load, the court intervene judicially. Though this Court desisted from interfering with the policy decision in regard to discontinuing fast track courts, keeping in mind the huge pendency of

---

2 (2012) 6 SCC 502

cases, a direction was issued for the creation of additional posts in the district judiciary to the extent of ten per cent of the total regular cadre within a stipulated period.

9 In a recent Report prepared by the Centre for Research and Planning of the Supreme Court of India titled "Subordinate Courts of India : A Report on Access to Justice 2016" a detailed analysis has been made of the pendency of cases in the district judiciary. The following table which has been compiled in the Report shows the figures of institution, disposal and pendency in the district judiciary for 2013-15 :

Year	Opening Balance	Institution	Disposal	Pendency	Cases more than 5 Yrs Old	Criminal Cases more than 5 Yrs Old	Sanctioned Strength	Working Strength	Vacancy
2015	2,65,09,688	1,90,44,877	1,83,78,256	2,71,76,029	62,01,794	43,19,693	20,558	16,176	4,382
2014	2,68,39,293	1,92,81,971	1,93,28,283	2,64,88,408	64,29,011	44,13,011	20,174	15,585	4,589
2013	2,69,07,252	1,86,70,907	1,87,37,745	2,68,38,861	59,80,700	41,80,216	19,526	15,128	4,398

Based on its analysis of the figures for institution, disposal and pendency of cases, the Report concludes thus :

> "The 2013-2015 statistics show that the judicial system is able to tackle the flow of fresh cases. In 2013, the institution was 1.86 crore with the disposal of 1.87 crore cases. In 2014 the institution stood at 1.92 crore and disposal at 1.93 crore cases and in 2015 the figure of institution was 1.90 crore while disposal was 1.83 crore. Over the last 3 years period, the pendency has remained at 2.68 crores, 2.64 crores, and 2.74 crore cases respectively. In contrast to these figures, the Indian

> subordinate judiciary has a sanctioned judicial workforce of merely 20,558 officers and a working strength of 16,176 officers. Keeping these figures in mind, it is simple arithmetic to conclude that the existing judicial officers are not sufficient to keep pace with the existing situation".

Analysing the data from the National Crime Records Bureau, the report notes that the present strength of judicial officers is able to complete trial in approximately thirteen per cent of cases brought for trial under the Indian Penal Code during each year. The ratio of cases brought for trial to the number of cases in which trial is completed stands close to the figure of seven over the past five years.

10 During the course of the hearing, the Union Government has fairly dealt with the issues which have been debated in the case in a non-adversarial manner, accepting that access to justice is a constitutional right. Initially, in the counter affidavit on behalf of the Union Ministry of Law and Justice, reference was made to the measures which were adopted by the Government to secure speedy justice and reduce delays. Among them were the following :

I. Appointment of Court Managers in High Courts and Sub-ordinate Courts.
II. Vision Statement and Action Plan adopted by the National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays.
III. Preparation of National Arrears Grid.
IV. National Mission for Justice Delivery and Legal Reforms.

V. National and State Legal Service Authorities constituted under Legal Service Authorities Act, 1987.
VI. National Court Management System (as proposed by the Chief Justice of India).

The terms of reference of the 19th Law Commission (adverted to by the Union government in its affidavit dated 18 January 2012) were broad enough to include consideration of the steps necessary for tackling judicial arrears. Clause (h) of the terms of reference was :

> "H. To consider and to convey to the Government its views on any subject relating to law and judicial administration that may be referred to it by the Government through Ministry of Law and Justice (Department of Legal Affairs)".

Hence, the Union Government urged that the Law Commission could be requested to address on the basis of a scientific study, the issue of setting up additional courts and providing additional infrastructure for ensuring access to justice and speedy disposal of cases. The Law Commission was requested by the order of this Court dated 1 February 2012 to inquire into the matter and to endeavour to submit its report within six months. Three interim progress reports were received from the Law Commission. By an order dated 5 July 2013 this Court noted that the fourth and final progress report had also been received. On 1 May 2014, this Court recorded the receipt of the final report and recommendations of the Law Commission and sought a response of the states to the report including on the "rate of disposal" method proposed as a basis for

determining vacancies required for – (i) clearance of arrears in different states; and (ii) for breakeven between institution and disposal of cases in the future. Subsequently, by an order dated 20 August 2014, the National Court Management Systems Committee (NCMSC) was requested to examine the recommendations made by the Law Commission and to formulate its recommendations to this Court on the subject. Professor Dr G Mohan Gopal, Chairperson of NCMSC has submitted a note for calculating the required judge strength for the district judiciary while also formulating his response to the rate of disposal method suggested by the Law Commission.

11 The rate of disposal method suggested by the Law Commission seeks to assess the judge strength required in the district judiciary to clear the backlog of cases as well as to ensure that a fresh backlog is not created. Under this method, the Law Commission seeks to address two concerns :

i) the large existing backlog of cases; and

ii) the number of judges required to ensure that new filings are disposed of in such a manner that a further backlog is not created.

The expression “backlog” is defined as the difference between institution and disposal of cases. The Law Commission has set down a goal of ensuring that there are no pending cases at the end of each review period.

The rate of disposal method suggested by the Law Commission can best be explained from the following extract of its final report of February 2014 :

> "For the present, and based on the information we currently have, the Commission has used the Rate of Disposal Method to calculate the number of additional judges required to clear the backlog of cases as well as to ensure that new backlog is not created. Under this method, two concerns are addressed : (a) There is a large existing backlog of cases and (b) New cases are being instituted daily which are adding to the backlog..
>
> In order to address both these concerns, we use the Rate of Disposal Method to provide for two sets of judges : (a) Number of judges required to dispose of the existing backlog and (b) Number of judges required for ensuring that new filings are disposed of in a manner such that further backlog is not created.
>
> Under the Rate of Disposal Method, the Commission first looked at the current rate at which judges dispose of cases. Next we determined how many additional judges working at a similar level of efficiency would be required so that the number of disposals equals the number of institutions in any one year time frame. As long as the institution and disposal levels remain as they currently are, the Courts would need these many additional judges to keep pace with new findings in order to ensure that newly instituted cased do not add to the backlog..
>
> Second, working with the current rate of disposal of cases per judge, we also looked at how many judges would be required to dispose of the current backlog. We have defined the backlog as those cases which have been pending in the system for more than a year."

The method has been explained thus :

> "(1) The method calculates the number of judges required in each cadre of subordinate Court judges, i.e., Higher Judicial Service, Civil Judge

Senior Division and Civil Judge Junior Division. For each of these three cadres we have separately analyzed figures for institution, disposal and the working strength of judges, from 2010 to end-2012.
(2) Disposals for one cadre of judges (e.g., Higher Judicial Service) is divided by the working strength of judges in that cadre. Working strength refers to sanctioned strength minus vacancies and deputations. This division gives us the annual Rate of Disposal per judge in a cadre for each year from 2010 to 2012. The average of this annual rate of disposal figures gave us the Average Rate of Disposal per judge in that cadre.
(3) We take an average of the annual institutions before each cadre of judge for the years 2010-12. The average institution is divided by the Average Rate of Disposal per judge for that cadre to give us the number of judges required to keep pace with the current filing, and ensure that no new backlog is created. We call this figure the Break Even Number.
(4) Subtracting the current number of judges from the Break Even Number gives us the Additional Number of Judges required to ensure that the number of disposals will equal the number of institutions.
(5) The backlog for a particular cadre of judges (defined as all cases pending before that cadre of judges for more than a year) is then divided by the rate of disposal for that type of judge. This gave us the number of judges required to clear the backlog within a year. Dividing this number by 2 gives the number of judges required to clear the backlog in 2 years, and so forth."

Therefore, the formula for determining the Additional Number of Judges for Breakeven can be represented as follows :

$$ARD = [(D_{2010}/J_{2010})+(D_{2011}/J_{2011})+ (D_{2012}/J_{2012})]/3$$
$$BEJ=(AI/ARD)-J$$

Where,
BEJ= Additional No. of Judges required to Break Even.
AI= Average Institution
ARD= Average Rate of Disposal
D_{2010}, D_{2011}, D_{2012} = Annual Disposal for that year
J_{2010}, J_{2011}, J_{2012} = Annual Working Strength of Judges for that year
J= Current Working Strength of Judges
The formula for determining the **Number of Judges for disposing of Backlog** required to dispose of pending cases within a given time period is:

$$AJBk = (B/ARD)/t$$

Where,
AJBk= No. of Judges for disposing of Backlog
B= Backlog, defined as the number of cases pending for more than a year.
t= The time frame, in number of years, within which the backlog needs to be cleared".

12 The Law Commission has noted that in the past, it was suggested that judges required to dispose of the backlog are needed only until the backlog is cleared. Hence, it was proposed that short-term, ad-hoc appointments should be made from amongst retired judges for clearing the backlog. However, the previous experience of the functioning of ad hoc appointments in the district judiciary reflected serious concern especially of the lack of accountability in their functioning and performance. Moreover, additional infrastructure would be required to be created even for ad-hoc judges appointed in the system. The proposal to have a shift system has been resisted by the Bar since it results in an increase in the working hours.

13 The note submitted by Professor Dr G Mohan Gopal raises certain concerns about the rate of disposal method suggested by the Law Commission. These concerns as set out in the note submitted by him, are summarized below :

i) The definition of backlog (difference between institution and disposal) does not take into account the fact that every case requires a reasonable period for its disposal based on the nature of the dispute involved in that case. Under the above definition, even cases which have been filed towards the end of a year must be disposed of by 31 December to eliminate the backlog. In the absence of established time frames in our system for disposal of cases the elimination of a backlog is virtually unimplementable since it is impossible for courts to dispose of cases filed days or weeks before the end of a specified reference period;

ii) The rate of disposal method unintentionally incentivizes lower disposals because lower the rate of disposal, the greater the number of additional judicial positions which that court will get under this methodology. The method proposed by the Law Commission is (according to the critique) not designed to improve productivity nor does it concern itself with judge to case ratio;

iii) The rate of disposal method does not give weightage to cases based upon their nature and complexity and all types of cases are treated at par. Complex cases require greater amounts of judicial time and effort than simple cases;

iv) The rate of disposal method does not take into account the reasonableness of the work load of judges. Any assessment of judge strength must take due account of the "maximum permissible reasonable work load" for a judge before mental and physical fatigue start impairing the quality of working;

v) Merely focusing upon the reduction of backlog is not adequate since what is required is a scientific method to assess the judge strength needed to deal with the backlog as well as the flow of new cases.

14 NCMSC has suggested that the clearance of backlog is not the sole or central basis for determining judge strength. Several other critical parameters include (i) rate of case clearance: the number of cases disposed of as a percentage of institution; (ii) on time disposal rate – the percentage of cases resolved within an established time frame; (iii) pre-trial custody periods wherein an under-trial is in custody pending trial of a criminal case; and (iv) trial date certainty – the proportion of important case processing provisions that are held according to the schedule finalized. Professor Dr G Mohan Gopal suggests that the rate of disposal method does not make a substantial departure from past approaches that have not yielded desired results.

15 The Chairperson of NCMSC has proposed an interim approach which augments the disposal rate method of the Law Commission with the prevailing unit system of the High Courts to attribute a weightage to cases based on their nature and complexity. Under the unit system the High Courts have established disposal norms for the district judiciary based on units allocated for disposal of different cases. On the basis of the units prescribed, performance is rated from “excellent” and ‘very good’ to ‘unsatisfactory’. The approach which has been suggested, based on the unit system, is as follows :

"**Applying The Unit System to Assess Required Judge Strength**

(i)Number of judges required to dispose of the annual "flow" of new cases ("break even")

25. Every court should calculate in units its average annual filing over the previous five years for all types of cases.

26. Divide the annual filing units above by the number of annual units required to be disposed of by a judge for VERY GOOD performance.

27. This will give for each court, the number of judges required to ensure "break even", i.e., disposal equals the number of new cases filed every year in that court.

(ii)Number of judges required for disposal of backlog of cases

28. First, every court should calculate in units its "backlog", i.e. the number of cases of all categories pending for more than the maximum time standard set by it for disposal (e.g., three years)

29. Second, a suitable time period may be established within which this "backlog" should be cleared (e.g. 5 years).

30. Third, divide the total backlog in units by the number of years within which it has to be cleared (e.g., 5 years). This will give the required annual disposal of "backlog".

31. Fourth, divide the required annual disposal of backlog by the number of annual units required to be disposed of by each judge (units required for VERY GOOD performance).

32. This gives the number of judges required to dispose of "the backlog" within the prescribed time frame.

33. The judge strength so assessed should be monitored annually.

34. Needless to say, it will be desirable that unit systems are rationalized and strengthened with as much uniformity of approach across the country as feasible, addressing variations and limitations of systems currently in place.

iii. Total number of judges required for achieving "break even" plus "disposal of backlog"

> 35. Add the number of Judges required for "break even" to the number of Judges required for disposal of backlog, as determined above.

iv. **Trigger for creation of new courts**

> 36. When for any court, the total number of units required to be disposed annually ("breakeven" plus backlog, if any) is greater than 1.5 times the disposal norm for a "very good performance" judge, a new court would need to be created."

16 While evaluating the limitations of the rate of disposal method suggested by the Law Commission which have been noted in the report submitted by the Chairperson, NCMSC, certain aspects would have to be borne in mind. The criticism that the rate of disposal method places an incentive on lower disposals in certain courts has its own limitations. A lower rate of disposal may not necessarily reflect upon the efficiency with which a judge has conducted the court. Trials are held up because of a paucity of public prosecutors. Witnesses cited by the state, particularly police personnel, remain absent on dates fixed for trial, resulting in delays. Service of summons is delayed because of the laxity of police. In several northern states, particularly, the State of Uttar Pradesh soaring summer temperatures have in the absence of basic infrastructural facilities including continuous power supply resulted in the institutionalization of morning courts in several districts. The convenience of ordinary litigants and witnesses with limited resources, who travel from afar without proper means of transportation cannot be disregarded by the presiding judicial officer.The functioning of courts which lack even rudimentary infrastructure is affected, as a

result. In a number of states, it has been the experience that there are impediments faced by the district courts including strikes of lawyers and abstention from work for causes unrelated to the functioning of the judge or court concerned. The loss of mandays on account of such causes results in a wastage of productive judicial time. Hence, it would not be correct to assert that the rate of disposal method places an incentive upon the unproductive or inefficient. Ground realities cannot be ignored merely on the basis of statistics.

17 Another aspect which merits emphasis is that while prescribing units for disposal, a robust attempt must be made by the High Courts to ensure that due importance is given to the disposal of old cases. The units prescribed for disposal must provide adequate incentives to attend to complex and time consuming cases. Failing this, the out-turn proscribed for the district judiciary is attempted to be achieved without due attention being given to the disposal of those cases which remain pending for long as a result of their complexity, the number of witnesses involved and such other factors. This is an aspect which needs to be looked into by the High Courts in consultation with the district judiciary. District judges with long years of experience in the service are in a position to appreciate practical realities and to indicate the manner in which the unit system can be revised in each state to encourage judges at both the trial and the appellate level to take up those cases which consume judicial time and which should not be placed on the back-burner for fear that the judge will not be able to fulfill the units expected. The Chief Justices should initiate the process of revising unit based

norms in relation to their states. Each state has its own requirements specific to it which have to be borne in mind. The unit system must be framed so as to recognize the output of judicial officers in disposing of those cases which clog the system.

18 In prescribing the judge strength it is necessary to ensure that a backlog does not result in the future as a result of an increase in annual filings. The rate of increase in future filings has to be anticipated. Anticipation of what the future holds is an estimate. One method of estimating the extent of the increase in future filings is to have regard to the increase reflected over a comparable period in the past for which data is available. Those figures can be extrapolated to determine the increase in annual filings. The enhancement in the strength of the district judiciary should be such that a 'five plus zero' pendency is achieved (wiping out the backlog within a target period of five years).

19 In response to the recommendations submitted by the Chairperson, NCMSC, an affidavit has been filed on behalf of the Union of India in the Ministry of Law and Justice. The Union government has stated that while it is broadly in agreement with this approach, the methodology suggested by NCMSC can be adopted subject to certain stipulations. The relevant part of the response is extracted below :

> "6. The Ministry of Law and Justice, Government of India is broadly in agreement with the recommendations made by NCMS Committee as indicated above. The methodology suggested by

> NCMS Committee can be adopted for determining the adequacy of judge strength with following stipulations.
>
> > (i) All High Courts must evolve uniform data collection and data management methods under the ongoing E-Courts Mission Mode Project and make available online Real time Data on pendency of various categories of cases to the respective State Governments and Central Government.
> >
> > (ii) The trigger for creation of new posts must be activated only after 90% of the sanctioned strength has been filled up, failing which the creation of additional posts will have no impact or consequence on reduction of pendency".

20 The report which has been submitted to this Court by the Chairperson, NCMSC observes that in the long term, the judge strength of the courts in the district judiciary will have to be assessed by a scientific method to determine the total number of judicial hours required for disposing of the case load of each court. In the interim, a weighted disposal approach, as explained above has been suggested. Since the Union government is broadly in agreement with this approach, we deem it appropriate and proper to permit it to be utilized at this stage for the purpose of determining the required judge strength of the district judiciary. The Union government has, however, suggested two broad stipulations. The first is that all the High Courts must make available real time data on the pendency of various categories of cases. In this regard, both the NCMSC as well as E-Committee are actively engaging with the High Courts. An endeavour

should be made to ensure that real time data is duly compiled and made available online by the High Courts as part of the National Judicial Arrears Grid. We are not inclined to accept the second stipulation that new posts should be created only after 90 per cent of the sanctioned strength has been filled up. For one thing, filling up of vacancies in the district judiciary is an on-going process. In many states, the process of filling up posts is pursued in conjunction with the State Public Service Commissions. Many of the delays are not in the control of the High Courts. Moreover, it is necessary to provide for the required judge strength in every state district judiciary so as to facilitate the creation of infrastructure. In several states, the available infrastructure is inadequate and insufficient to meet even the existing judge strength. Hence, a scientific assessment of the required judge strength will form the basis of ensuring that the state governments put into place the infrastructure required for tackling judicial delays.

21 By an order of this Court dated 29 November 2016, this Court had permitted the Union government to place on the record the following information in regard to funds made available by the Fourteenth Finance Commission for meeting the needs of the state judiciary and the modalities for disbursement and utilisation :

> "i) Whether any break-up of the said allocation has been provided for by the Finance Commission and/or Government of India or any guidelines as to

> the areas in which the said amount will be expended.
> ii) In case such a break-up is prescribed, a copy of the communication/order under which the same has been provided be placed on record.
> iii) What is the manner by which the Government of India proposes to monitor the utilization of the amount set apart for judiciary by the States. State wise allocation be also indicated."

In pursuance of these directions, an affidavit has been filed on behalf of the Union Ministry of Law and Justice. The affidavit indicates that the Department of Justice had submitted the following proposals to the Fourteenth Finance Commission involving a total requirement of Rupees 9749 crores :

I.	Pendency Reduction	: Rs.858.83 crore
II.	Establishment of Fast Track Courts	: Rs.4144.11 crore
III.	Establishment of Family Courts in districts without such courts	: Rs.541.06 crore
IV.	Re-designing existing court complexes to become more litigant friendly	: Rs.1400 crore
V.	Augmenting technical support for ICT enabled courts	: Rs.479.68 crore
VI.	Scanning and Digitalisation of Case Records of High Courts and District Courts	: Rs.752.50 crore
VII.	Enhancing Access to Justice	
	i) Support for Law School based Legal Aid Clinics with focus on undertrials	: Rs.50.50 crore
	ii) Organizing Lok Adalats	: Rs.93.61 crore
	iii) Support for Mediation /conciliation in ADR centres	: Rs.300 crore
	iv) Incentives to Mediators /Concilators	: Rs.503.44 crore
VIII.	(a) Training and capacity building of judges, public	

prosecutors, mediators, lawyers: Refresher, ongoing : Rs.550 crore
(b) Establishment of State Judicial Academies in Manipur, Meghalaya and Tripura : Rs.75 crore

Total Cost : Rs.9749 crore"

State-wise and sector-wise details have been annexed to the affidavit. The Fourteenth Finance Commission endorsed the proposals of the Department of Justice and has urged the state governments to use the additional fiscal allocation provided in the form of tax devolution to meet the requirements of the state judiciaries. The Prime Minister of India has addressed a letter dated 23 April 2015 to the Chief Ministers calling upon them to allocate funds required for the activities recommended by the Fourteenth Finance Commission in the state budgets from 2015-2016 to improve the working of the judicial system and provide speedy justice. Following the joint conference of Chief Justices of High Courts and Chief Ministers of States held in April 2015, the Union Minister of Law and Justice addressed letters to the Chief Justices and Chief Ministers in June 2015 requesting them to institute a mechanism for regular interaction to resolve outstanding issues particularly those relating to infrastructure and man-power needs of the judiciary. It may be noted here that at the Conference of Chief Justices of High Courts held in April 2016, the following resolution was adopted :

"Resolved that the following strategy be adopted by the High Courts:

i) Constitution of a dedicated cell for the utilization of funds. The composition of the Cell should consist of policy makers, experts in planning and budgeting, senior judicial officers and persons to be nominated by the Chief Justice. The Cell shall be assigned the task of:
   (a) Preparing perspectives/annual plans and time lines;
   (b) Drawing up budget estimates;
   (c) Monitoring and review of the implementation of each scheme;
   (d) Taking up the matter with the State Government to ensure release of funds.

ii) Submitting a request for funds from the State Government within time for financial years 2016-17 to 2019-2020;

iii) Ensuring that funds are spent in accordance with the budgetary allocation and speedy and effective utilization. For this purpose, periodical meetings and reviews be conducted; and

iv) Monitoring of schemes and outcomes through special on-line portals and ICT tools. Progress made be reviewed in State Court Management System meetings and quarterly progress reports be forwarded to the Supreme Court for review by National Court Management System".

Thereafter, in the Conference of Chief Justices and Chief Ministers, the following resolution was adopted :

> "With a view to facilitate proper and timely utilization of funds made available by the 14th Finance Commission to the State judiciaries, it was resolved that:
>
> (i) Finance Secretaries of each State be associated with the work of the High Court committees in-charge of monitoring 14th Finance Commission funds;
> (ii) Proper coordination be ensured between the Central and State Governments in regard to the submission of utilization certificates in

relation to infrastructure projects of the state judiciaries;

(iii) In respect of the e-Court Scheme and Infrastructure scheme which are being monitored by the Department of Justice, intimations of funds remitted to the State Governments under these two Schemes shall also be forwarded by the Department of Justice to the High Courts.

(iv) State Governments shall (i) lend such assistance to the High Courts as is required for proper utilization of 14th Finance Commission funds; and (ii) grant a one time exemption for 2016-17 to facilitate proper utilization".

The Union Minister of Law and Justice has since addressed communications to the Chief Ministers of States requesting that the state Finance Secretaries should assist the registries of the High Courts to prepare perspective plans/individual plans for activities to be undertaken in the justice sector. A letter has been addressed to the Chief Justices on 26 September 2016. The affidavit explains that necessary mechanisms have been set up under the resolutions of the Conference of Chief Justices and Chief Ministers and of the Chief Justices respectively.

22 Having regard to the above background, we now proceed to formulate our directions in the following terms :

i) Until NCMSC formulates a scientific method for determining the basis for computing the required judge strength of the district judiciary, the judge strength shall be computed for each state, in accordance with the

interim approach indicated in the note submitted by the Chairperson, NCMSC;

ii) NCMSC is requested to endeavour the submission of its final report by 31 December 2017;

iii) A copy of the interim report submitted by the Chairperson, NCMSC shall be forwarded by the Union Ministry of Law and Justice to the Chief Justices of all the High Courts and Chief Secretaries of all states within one month so as to enable them to take follow-up action to determine the required judge strength of the district judiciary based on the NCMSC interim report, subject to what has been stated in this judgment;

iv) The state governments shall take up with the High Courts concerned the task of implementing the interim report of the Chairperson, NCMSC (subject to what has been observed above) and take necessary decisions within a period of three months from today for enhancing the required judge strength of each state judiciary accordingly;

v) The state governments shall cooperate in all respects with the High Courts in terms of the resolutions passed in the joint conference of Chief Justices and Chief Ministers in April 2016 with a view to ensuring expeditious disbursal of funds to the state judiciaries in terms of the devolution made under the auspices of the Fourteenth Finance Commission;

vi) The High Courts shall take up the issue of creating additional infrastructure required for meeting the existing sanctioned strength of

their state judiciaries and the enhanced strength in terms of the interim recommendation of NCMSC;

vii) The final report submitted by NCMSC may be placed for consideration before the Conference of Chief Justices. The directions in (i) above shall then be subject to the ultimate decision that is taken on receipt of the final report; and

viii) A copy of this order shall be made available to the Registrars General of each High Court and to all Chief Secretaries of the States for appropriate action.

23 List the proceedings for disposal of the criminal appeals before the appropriate bench in the third week of July 2017.

….....CJI
[T S THAKUR]

..... ….....J
[Dr D Y CHANDRACHUD]

.....J
[L NAGESWARA RAO]

New Delhi
January 02, 2017.