

Administrative and financial problems and solutions

नमस्कार ।

संध्या बन्दन के साथ सभी का अभिनन्दन ।।

Judiciary neither controls the sword nor the purse yet it is one of the strongest of the three organs of the democracy.

The power of judiciary lies, not in deciding cases, not in imposing sentences, not in punishing for contempt but in the trust, faith and confidence of the common man.

Judiciary ensures that the laws made by the legislature are in consonance with the spirit of the Constitution of India and the administrative actions of the State, its instrumentalities and public bodies are not arbitrary but fair, legal and in accordance with law. One can easily say that judiciary is the watchdog of the legislature and the executive.

In the recent past, due to abdication of responsibilities by the legislature and the executive to some extent, the role of judiciary has acquired much larger proportion and the people of the country have pinned more hope in the judiciary. In this scenario, the expectations of the people from the judiciary has increased manifold. Now the challenge is upon judiciary to rise upto the expectations of the countrymen.

I am conscious that judiciary is not leaving any stone unturned to take the bull by horn but for the certain latent problems in the system.

The judiciary at the subordinate level faces several administrative and financial problems apart from that of infrastructure etc. that impedes its working. These problems faced by the judiciary and their likely solutions are the subject matter of discussion today in this third session of the

conference. It is hoped that the discussion on these problems would be fruitful enough in pinpointing the major problems and in finding out corrective ways for improving the working of the judiciary as a whole and in speeding up justice delivery system.

My endeavour would be to give an overall picture of few of the problems and their possible solutions without going into much details of each of them to make the discussion more focused and lively.

I begin with one of the most talked about problem of mounting arrears of cases. The delay in decision of cases tarnishes the image of the judiciary. Our judicial officers are working overtime to grapple with the mounting arrears but still find the situation virtually beyond control. This is primarily due to enormous increase in the litigation and low judge : population ratio. Every Judge in U.P. is handling work of 3 or 4 courts which is humanly impossible. It would therefore not be proper to blame the judiciary and the judicial officers for arrears of cases rather the State Government should be impressed upon to increase the sanctioned strength of Judicial Officers with the corresponding infrastructure facility and logistics to solve this menace. The large pendency of cases and the delay in deciding them in fact, reflects upon the inaction of the executive and not the judiciary.

The Lawyers in the noble profession of Law who undoubtedly form the backbone of judiciary, if I may be permitted to say so, are one another important factor for causing delay in the dispensation of justice resulting in mounting arrears. It is a common experience of all of us that Lawyers very frequently go on strike or boycott work for no rhyme and reason. This has to be checked by all means to improve

the efficiency of judiciary. At times, even the High Court finds it difficult to control Lawyer's, leave aside the subordinate judiciary. The benchmark decision of the Supreme Court in **Ex. Capt. Harish Uppal's case**¹ clearly holds that Advocates have no right to go on strike but even then Bar Associations resolves to abstain from work for reasons of no concern. The only possible solution to put fetters on frequent strikes of Lawyer's is by asking the administrative authorities to initiate proceedings both departmentally through Bar Council and criminally by lodging FIR against the office bearers of the Bar responsible for passing such resolutions in disobedience of the Law laid down by the Supreme Court.

Another most important administrative problem faced by the subordinate judiciary is shortage of staff at every level. The already existing trained and experienced staff is retiring slowly causing large vacancies. The recruitment is slow which also gets entangled in litigation. The vacancies thus remain unfilled hampering the judicial work. This has compelled engagement of unauthorised hands from outside who have no sense of responsibility towards the Institution.

The new employees in most of the judgeship are totally ignorant about the court working. There is no proper system to train them. This problem can be taken good care of by requesting and deputing retired District Judges or even former service Judges of the High Court residing in the said district to spare sometime on weekends to train such staff.

The concept of 24x7 working in most of the work places is a recent phenomena but it was inherent part of the Indian Judiciary from the very inception. All Judges are supposed to be

1 AIR 2003 SC 739

on duty and working 24x7 rather 24x365. They cannot even leave the station of posting on weekends without the leave of the competent authority. They cannot even go on leave without the prior sanction except for a casual leave. The experience is that leave applications of the officers come up for consideration after the officer has left the station or has availed the leave. There may be variety of reasons even genuine ones for the delay in forwarding applications for leave or station leave and getting sanction before proceeding ahead but in this era of information and technology such delays can easily be avoided by sending leave applications of such nature by email at the official email address of the competent authority or the staff attached to such authority, followed by a hard copy as usual. The sanction may also be communicated in electronic form but the practice of leaving station and going on leave without proper sanction or intimation has to be avoided rather stopped.

There is some hardship faced by some senior officers incharge of particular projects etc. in the judgship specially the District Judge in handling administrative work which restricts their sitting on the dais to lessor time.

The court timings as prescribed are for discharging judicial work. The officers are expected to sit in time and for the full duration of the working hours. All administrative work is to be avoided during these hours. It has to be attended after or before the court hours. If this is followed it would certainly improve the judicial efficiency.

Allocation of judicial work may be another problem. The District Judge or the Civil Judge, Senior Division or the Chief Judicial Magistrate at times finds it difficult to distribute the work equally or to evolve a proper method of equal distribution

of work which at times may be a cause of concern or grievance to the Bar. Some guidelines have to be provided by the High Court to tackle this problem.

At one point of time, District and Sessions Judge or the Additional District and Sessions Judges were supposed to handle only session trials after their commitment. However, with the enforcement of various new Acts unmindful of the importance of the criminal trial work, additional jurisdictions without any further supporting staff have been conferred and assigned to the District Judges and to the Additional District Judges. This has greatly hampered the sessions trials. An effort should be made to segregate sessions courts, the courts of appellate or revisional civil jurisdiction and the courts or tribunals of special jurisdiction under the various different Acts so that each one of them work simultaneously, independently and parallel to one other without burdening any particular one with variety of jurisdictions.

The Subordinate Judicial Officers are handicapped for want of proper library. The budget for the library of subordinate courts is too small. There is no sanctioned post of a qualified Librarian in any judgeship. Only a untrained clerical staff available is deputed to manage the library. The management of library cannot be left in such raw hands. A Librarian should be a qualified person who is able to supply the required journals and law books to the Officers on demand, to search out relevant law on a given subject and provide even the copies of the unreported judgments which may otherwise be available on the Net.

This difficulty can easily be overcome by getting a post of Librarian sanctioned for each judgeship in addition to the

existing staff.

Today, we have a temporary arrangement of Court Managers in every district but probably either they are not being assigned work properly or we are not able to take proper work from them. They have been simply supervising the construction work which is hardly a job to be done by a Court Manager. The court manager as the name suggests is supposed to work to facilitate the working of the courts by arranging files, their movement and in managing the office attached to every court etc.

There is an enormous increase in the financial transactions relating to both the administrative and judicial functioning but there is no post of even an accountant in any judgeship. This work is handled by a Nazir who is not trained to work as an accounts-keeper. I feel it is necessary to have a post of an Accountant or a financial officer in each district which will relieve a judicial officer from supervising this kind of work.

I have been informed that in Madhya Pradesh there is a system of having a Registrar in every judgeship, who acts as an administrative officer handling inquiries, staff promotions, posting, security, office furniture and equipment and the work of drawing and disbursing of salaries etc. but there is no such corresponding officer in State of U.P. The creating of such a post would obviously ease the Judicial Officers from the burden of such functions.

In short, the suggestion is that we should have an Accountant/Finance Officer, a librarian and a Registrar in every Judgeship and may be a Civil Engineer also to supervise the infrastructure including the maintenance of court buildings including residential accommodations.

It is a hard reality that all Judicial Officers have not been provided with stenographers. Most of them are writing judgments in hand or typing them on their laptops. This is a big problem. A time has come that High Court should ensure that each and every Judicial Officer is provided with a steno to speed up the working of all officers.

One thing which I have noticed is that every month each Judgeship sends reports of the meetings of the officers and that of the monitoring cell as well as that of Jail inspections. The preparation of these reports and forwarding them to the High Court and the Administrative Judge appears to be an unnecessary burden. It can be reduced if we develop a system of uploading these reports on the website for perusal by the High Court and the Administrative Judge.

Similarly, large number of monthly statements are required from the judgeship which consume enough time affecting judicial functions. Some of them are of no purpose. Somebody has to devote time and to find out unwanted statements so that their submission if necessary be dispensed with. It will reduce the unnecessary burden from the shoulders of the lower judiciary. Alternatively, these statements/reports may be permitted to be uploaded on website for perusal of the Administrative Judge or the High Court.

On the financial side, the funds made available to the District Judgeship are by no means adequate. Even for small things estimates have to be prepared and sent to the High Court and it is only after due sanction of the budget and the release of the funds that those small things are taken care of by the judgeship. This long procedure has to be curtailed by providing sufficient funds in the hands of the District Judges in

the beginning of the year so as to meet out such small expenses. It is surprising that no separate budget except under the head of 'stationery' is provided to the judgeships for purchasing judgment paper. The paper for recording statements of the witnesses as of practice is purchased by the litigants or the clerk of the counsel and is handed over to the court staff. A petty amount of Rs.10/- per statement as fee for supplying copies of the statements is collected. This money has to be accounted for by each court of the judgeship everyday which is a cumbersome process and it is a source of corruption. It is therefore, suggested that the copies of the statement be supplied free of cost to avoid financial irregularity and to ease the burden of accounting.

One by one, I have tried to highlight some of the broad problems which came to my mind and have outlined few suggestions. Now, I leave these points for elaborate discussion by the panel speakers.

In the end, I would like to remind that judiciary is the crown of democracy and our officers should be proud to be its part.

Thanking you for giving a patient hearing.

सत्यमेव जयते ।।

(Introductory address by the Chairman Hon'ble Mr. Justice Pankaj Mithal to the Third Session of the State Level Judicial Officers Conference)