Research Paper Law

DISPOSAL OF BACKLOG CASES: A MILESTONE TO ACHIEVE

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ABSTRACT

This paper is an attempt to examine the reasons behind "delay in justice delivery system" through backlog of cases and lack of manpower in the judicial administration system. Although the clearance of pending cases in the present day is the most difficult task to be managed still endeavour is being taken for the same by implementation of various mechanisms for speeding up the disposal process in this field.

KEYWORDS backlog, pendency, delay, justice

INTRODUCTION

Justice delayed is Justice denied and Justice hurried is Justice buried. The quoted line "Justice delayed is Justice Denied" written by William Ewart Gladstone has a perfect application in the judiciary administrative system. The delay in justice is like a common phenomenon in the nation. The reasons for delay is not confined to the judiciary, the role of lawyers as well as the litigants are the other factors for such delay. The present study says, according to data available with the Supreme Court of India the number of pending cases with the Supreme Court is 64,919.The pending cases in the 24 High Courts of the country were 4,456,232in which 3,432,493 were civil and 1,023,739 criminal. This backlog of cases refers to a situation in which a court's caseload is so overburdenthat it is unable to hear or try cases in a timely manner because the number of cases on the docket exceeds the capacity of the court.At the current rate, analysts say that it could take anywhere between 350 to 400 years to sort out the entire backlog.The problem has assumed such a huge proportion that unless it is solved speedily and effectively, it will in the near future demolish completely the whole edifice of our judicial system.

REVIEW OF LITERATURE

Jawaharlal Nehru, in 19thMarch, 1955, while addressing the members of the Punjab High Court at the inauguration of its new building in Chandigarh, said, "Justice in India should be simple, speedy and cheap."The Supreme Court in Harish Uppals v. Union of India,case observed that lawyers had no right to go onstrike or give a call for boycott not even a token strike, will certainly discourage the lawyer to go on strike unless theyreally had a strong cause.The Supreme Court in Ganesh Narayan v. S. Bangarappa,observed that "the slow motion becomes much slower motion whenpolitically powerful or high and influential persons figure as accused". The former Chief Justice of India, Justice B. P. Singh said, "the situation today is so grim that if a poor is able to reach up to the stage of a High Court, it should be considered as an achievement". The legal luminary like Mr.NaniPalkhiwala advocate Supreme Court of India opined that,"Justice in common parlance is considered as blind, but in India, it is lame too and hops on crutches. It is on the verge of collapse with more than 30 million cases clogging the system".

RESEARCH PROBLEM

After going through the views expressed by judiciary in several cases, opinion of the experts and eminent persons revealed through the review of literature mentioned above the researcher observes the following problems for the present study.

(1) Delay in disposal of cases prevents justice being rendered.
(2) Over-burdened Judiciary fails to deliver prompt justice.
(3) Accused, victims and other concerned people suffer a lot due to unnecessary and improper delay in disposing cases.

HYPOTHESIS

(1) Delay in disposing cases is a hindrance to good governance, moral integrity and degradation in standard of public life.
(2) Lack of adequate infrastructure (both physical and man power) is responsible for delay in disposal of cases.

RESEARCH METHODOLOGY

The present study shall be based on both doctrinal and non-doctrinal approaches.While the concepts of justice, right, infringement, legality, enforcement etc. will be explained utilizing the doctrinal approach; the application, impact, causal connections and effectiveness etc. will be dealt through non-doctrinal approach.The data will be collected from the published research works and published data from different sources.

JUDICIAL INTERPRETATION ON DELAY IN JUSTICE

'Delay' in justice refers the time consumed in the disposal of cases, in excess of the time within which a case can be reasonably expected to be decided by the Court. The Supreme Court observed that "An independent and efficient judicial system is one of the basic structures of our constitution. It is our constitutional obligation to ensure that the backlog of cases is decreased and efforts are made to increase the disposal of cases".The Supreme Court in HussainaraKhatoon Vs. State of Bihar,held that, "speedy trial is of essence to criminal justice and there can be no doubt that the delay in trial by itself constitutes denial of justice". In Kartar Singh Vs State of Punjab, Supreme Court of India has furtherobserved that, the concept of speedy trial is read in to Article-21 as an essential part of fundamental right to life and liberty preserved under the Constitution. In Salem Advocate Bar Association Vs Union of India,the words added by amendment, it appears, fix outer time frame, by providing that steps must be taken within thirty days from the date of the institution of the suit, to issue summons. Keeping in mind the laws delay and the limited number of Judges which are available, it has now become im-

perative that resort should be had to Alternative Dispute Resolution Mechanism with a view to bring to an end litigation between the parties at an early date.

REASONS FOR DELAY IN COURTS.

The Arrears Committeeheaded by Justice V. S. Mallimath identified various causes of accumulation of arrears of cases in the High Courts. Some of the principal causes are:

(1) Litigation explosion;
(2) Accumulation of first appeal;
(3) Inadequacy of staff attached to the High Court;
(4) Inordinate concentration of work in the hands of some members of the Bar;
(5) Lack of punctuality among judges;
(6) Granting of unnecessary adjournments;
(7) Indiscriminate closure of Courts;
(8) Indiscriminate resort to writ jurisdiction;
(9) Inadequacy of classification and granting of cases;
(10) Inordinate delay in the supply of certified copies of judgments and orders etc.

PENDECY OF CASES

The more number of institutions of cases has resulted in huge pendency of cases in all the courts. There were **64,919** cases pending in the Supreme Court as on December, 2014.

Table-1 shows the number of pending cases in the Supreme Court as on December, 2014.

Table-1 Statement of Pending Cases in the Supreme Court as on December, 2014

	Pending from the Previous Month	Institution during the month	Disposed of during the month	Previous matters disposed & updated this month	Pending at the end of the month
	(A)	(B)	(C)	(D)	(A+B)-(C+D)
Admission Matters	35284	6765	6314	1314	34421
Regular Hearing Matters	29635	15690	1655	15297	28373
Total	64919	22455	7969	16611	62794

Out of the 62,794 pending matters as on 31-12-2014, if connected matters are excluded, the pendency is only 35,561 matters as on 31-12-2014.Out of the 62,794 pending matters as on 31-12-2014, 18,392 matters are uptoone year old and thus arrears (i.e. cases pending more than a year) are only of 44,402 matters as on 31-12-2014.

The pending cases in all the 24 High Courts as on 31-12-13 were 4,456,232 (3,432,493 civil and 1,023,739 criminal cases). The position of subordinate courts is worst. There were 8,278,355 civil cases and 18,560,901 criminal casestotalling26,839,256 cases pending as on 31-12-13.

Table 2 shows the number ofpending cases in all the High Courts.

Table-2 Statement of Pending Cases in all the High Courts as on December, 2013

SL NO	Name of the High Court	Cases brought forward from the previous quarter	Freshly instituted cases during this quarter	Disposed of cases during this quarter	Pending cases at the end of this quarter
1	ALLAHABAD	1032082	68821	57505	1043398
2	ANDHRA PRADESH	229176	21055	17772	232459
3	BOMBAY	346162	33561	29886	349837
4	CALCUTTA	305917	28512	54423	280006
5	CHHATISGARH	48476	5614	7677	46413
6	DELHI	64159	9272	8779	64652
7	GUJURAT	82606	15944	15344	83206
8	GAUHATI	40074	7270	6432	40912
9	TRIPURA	5866	815	847	5834
10	MEGHALAYA	1184	473	468	1189
11	MANIPUR	3666	504	317	3853
12	HIMACHAL PRADESH	59028	9234	8189	60073
13	JAMMU KASMIR	90209	10310	7481	93038
14	JHARKHAND	71580	6659	5281	72958
15	KARNATAKA	191171	33634	27833	196972
16	KERALA	130593	19489	17923	132159
17	MADHYA PRADESH	260835	27580	26804	261611
18	MADRAS	541262	69495	53278	557479
19	ORISSA	366037	15375	9486	206822
20	PATNA	131980	20141	19966	132155
21	PUNJAB HARYANA	256348	30360	25172	262760
22	RAJASTHAN	311549	31080	34989	307640
23	SIKKIM	88	57	25	120
24	UTTARAKHAND	19872	3968	3154	20686
TOTAL		4589920	469223	439031	4456232

VACANCIES OF JUDGES IN THE COURTS

The approved number of judges is inadequate to deal with the huge number of cases at all the levels of courts. This is also one of the major factors for the delay. As on 1st January, 2015 the statement shows approved strength is 31 working strength is 28 vacancies is 3 in the Supreme Court of India. Similarly with all High Courts approved strength is 984 working strength is 639 vacancies is 345.

VALIDATION OF HYPOTHESIS

From the above data representation it is evident that the institution of cases in the Supreme Court as well as in the High Courts far exceeds than disposal. This has resulted in huge pendency of cases in all the courts. The huge backlog of cases prevents justice being rendered. The present working strength is inadequate even to dispose of the pending cases. The backlog cannot be swept out completely without additional strength, particularly when the institution is likely to increase and not come down in recent years.Lack of adequate infrastructure (both physical and man power) is responsible for delay in disposal of cases.

CONCLUSION

Disposal of backlog cases is like a milestone to achieve. To get speedy justice and speedy trial is the fundamental requirement under Article 21 of the Constitution of India. So, there is need to find out mechanisms to render social justice to the people, poor and needy who want their grievances redressed through law courts. Apart from making the working of the judiciary strengthen, there is urgent need to provide the existing infrastructure of courts by means of Alternative Dispute Resolution processes and other redressal mechanisms. This endeavour has been made all over the world to take action against backlog of cases and have proved success in achieving it.