

INAUGURAL ADDRESS
OF
HON'BLE THE CHIEF JUSTICE OF INDIA
SHRI JUSTICE DIPAK MISRA
FOR
NATIONAL CONFERENCE ON 'INITIATIVES TO REDUCE
PENDENCY AND DELAYS IN JUDICIAL SYSTEM'
JULY 27, 2018

My esteemed colleagues of the Supreme Court, Hon'ble Chief Justices of the High Courts, Hon'ble Judges of the High Courts, Eminent Professors, Judicial Officers from various parts of the Country, Faculty Members of the Indian Law Institute, friends from the Electronic and Print Media, Ladies and Gentlemen.

The agenda for this conference is not something new to the stakeholders of the Indian Judiciary. The problem of pendency and delays has to be accepted but I must inform the members of the Indian judiciary, that we are totally committed to arrive at a solution and bring change in this position. We are consciously investing in innovative strategies to tackle the issue of pendency and delays.

I may clarify an aspect. It is to be remembered that every delay is not an arrear. Pendency of large number of cases must not

be confused with arrears. The concept of docket explosion is also a sign which signifies that the Indian citizenry reposes faith in the judicial system of the country and are approaching the courts in their quest for justice.

It is only those cases which are not disposed of within the stipulated period of time or within their case life, that ultimately turn into an arrear. Hence, we must not rush to declare every delay as an arrear and get into a state of disturbance by such ill-founded concepts. Our concerted efforts to reduce and finally eliminate the five year old cases in the subordinate courts are befitting results. Arrears Committees of the High Courts have already been advised to supervise this issue and orchestrate a time bound action plan to curtail the growth of such arrears.

I must acknowledge that our initiatives have started yielding results. Though we have a judge population ratio of approximately 19 per million which is far lower as compared to other countries like US and China yet we have been successful to control the arrears at the subordinate judicial level to around two crore ninety lakhs in the past few years. Such progress speaks eloquently of our constant and ingenuous efforts.

One of the factors intensifying the problem of delay and arrears is the high number of posts lying vacant in the subordinate judiciary. Though the judiciary as an institution has been making endeavours to ensure that vacancies are identified well in advance and are filled as and when they become vacant, yet the subordinate courts of the country are working with a strength of only 16,900 judicial officers as against the sanctioned strength of 22,200 as on 1st April, 2018, leaving about 5,300 posts vacant. These 5,300 vacant posts constitute around 24% of the total sanctioned strength.

Despite constant monitoring on the judicial side and repeated resolutions in the Chief Justices' Conferences, the current situation cannot be called to be satisfactory. In a few populous states, the vacancy in the subordinate courts is even upto 35%. If I may specify, the High Courts of Allahabad, Patna, Delhi and Jharkhand are having more than 30% vacancies of Judicial Officers. I may also inform that the High Courts are taking steps to fill up the vacancies.

It is high time that we firmly resolve and prepare a pan India action plan so as to eradicate the problem of vacancies in subordinate courts. We must not lose sight of the fact that

maximum number of litigants approaching the Indian judicial system have their first experience with the Indian Judiciary at the trial court, and hence, if posts of judicial officers remain vacant at the trial court level, then it would essentially blur our vision for “Access to Justice” for all.

I have requested the Chief Justices of all High Courts to explore the possibility of hearing, Criminal Appeals and Jail Appeals in which Legal Aid Counsel has been provided on Saturdays. I am really happy to share with you all that the results have been really encouraging.

This in turn prompted me to urge the High Courts to also explore the possibility of hearing on Saturdays, Criminal Appeals which have been pending for more than 10 years after obtaining consent of counsels of both the parties. Without exaggerating much, I may pleasantly share with you all that these initiatives have resulted in heartening results, as over 3,000 appeals and revisions have been decided till date by specifically constituted benches for hearing the aforesaid criminal appeals on Saturdays. It has thus proved a step in the right direction.

I must admit, there can be many other numerous ways to give succour to those who are waiting in the queue for justice.

It is axiomatic that the right to life and liberty as a facet of Article 21 is one of the most cherished fundamental right guaranteed under our constitution. Pendency of cases of undertrials for long periods of time jeopardizes this cherished right and raises serious questions about the efficacy of the Indian judicial system. We must make all efforts to protect the liberty of innocent undertrials languishing in jails.

This year, in the month of May, I once again requested the High Courts to explore the possibility of hearing Criminal Appeals during the Summer Vacation in which convict has been in Jail for 5 years or more, of course, after obtaining consent of counsels of both the parties. The information which has been received so far reflects that around 240 cases have been decided during summer vacation in May-June 2018.

This number may at a first look appear to be diminutive, but we have to remind ourselves that Rome was not built in a day. Just imagine, a convict who has been in Jail for 5 years and his Criminal Appeal was decided during this Summer Vacation because of this new initiative, what amount of wonders, would have this done to the confidence of the convict as well as all other stakeholders in our Judicial System.

Seeing a positive result of all these initiatives, I got further encouraged to make yet another request to the high courts to initiate a “Disposal Review Mechanism” which shall, in particular, concentrate on monitoring the status of institution and disposal of cases and thereby evolve a mechanism to devise new strategies so that new cases which are being instituted, do not end up increasing the arrears.

I am absolutely certain that this conference and the working sessions tomorrow would facilitate and foster fruitful and profitable deliberations which will keep in view the needs of the district judiciary, particularly manpower and infrastructure so that the issue of arrears and delay could effectively dealt with.

For further enhancing and augmenting the functioning of the Indian Judiciary, concerted efforts to increase the manpower and strengthening the infrastructure, shall be pursued in each of the planned sessions. Such efforts shall be done in the back drop of a well-planned strategy developed keeping in mind the local needs and future requirements. I am sure that every High Court will make conscious decisions in this regard in coordination with the State governments.

We must make optimum utilization of this dialogue to achieve our mission of securing “Justice for All” which is the first and foremost goal under the preamble of our Constitution. Mere acknowledgement of the fact that our judicial system is swamped with a huge number of pending cases, would not suffice anymore. We must also reckon to the statistics at the micro level during our interactions in the four planned sessions so as to determine the action areas and fix definite targets.

It is a great move that there will be specific discussion on the role of the 'Case and Court Management Techniques' to strengthen the judicial system. Effective case management which is the heart and soul of the judicial process, enriches the quality of justice dispensation through timely, fair and efficient use of processing methods. Case management system is a highly innovative mechanism which enables as well as empowers the judges and the court staff in delivering timely and qualitative justice.

The effective case management reforms depend upon establishment of adequate infrastructure to manage judicial data and records in a reliable and objective manner. Such integration of different initiatives and measures will help in developing a holistic mechanism which would help in providing inherent backup to

different initiatives for performing better towards a common goal of strengthening the access to justice. Technology can surely do wonders if used wisely as well as appropriately.

I am of the convinced opinion that Alternative Dispute Resolution (ADR) mechanism is a game-changer in the entire process of handling the challenges of pendency and delays. It is something which has been part of India's culture. Every system evolves with time, so has ADR undergone several changes and what we practice today is a legislatively and judicially sanctioned and approved version and technique oriented art of mediation or conciliation and arbitration. People associate with ADR methods quite easily and are quite receptive to its use for settlement of their disputes. Hence, we must seize such opportunities and employ ADR methods through courts as courts are empowered to do so under section 89 of Civil Procedure Code.

While our major focus in this conference is on revisiting our strategies in the fields of case and court management, ADR and use of technology, I would say that strengthening of the vitality of judicial reforms also need to invest in training new generation of judges who could execute the necessary reformatory measures in relevant areas of the court's functioning. What may be workable in

the Delhi may not produce similar results in Chhattisgarh and vice-versa. Basically, the solutions need to be subject specific, areas specific, pendency growth specific and above all culture specific. We shall not forget that we are dealing with judicial problems in a country which has distinct cultural shades, diverse socio-economic necessity and assorted need of justice depending upon the dominance of local customs and many other distinct patterns of human behavior.

Having said that, a mere revisiting of our ongoing initiatives will not be adequate. At the moment we need to indulge in serious thinking to cull out some plan, some ideas, some framework for immediate use, an immediate solution. We may call it temporary relief but we surely need such urgent measures for immediate implementation.

Institutional regeneration/fortification dynamism meaning thereby that the institution has several duties and responsibilities and constitutional promises to keep and for the said purpose, it has to continue striving tirelessly and incessantly. It is basically about affirming a path to fulfil constitutional promises which must effectively reach at the ground level.

We have to make attempts to balance and reconcile many ideas to arrive at the solution of 'Timely and Effective Justice' so as to make the goals of justice a reality for the citizens.

The avalanche of litigation and the docket of pending cases have to be controlled with deft approach. I have certain suggestions:

1. Time Limit to dispose of technical pleas by all courts.
2. Mechanism to monitor progress of cases from filing till disposal, categorise cases on the basis of urgency and priority and also grouping of cases.
3. Set annual targets and action plans for subordinate judiciary and High Courts to dispose of old cases and maintain a bi-monthly or quarterly performance review to ensure transparency and accountability.
4. Keep track to bridge the gap between institution and disposal of cases so that there is not much backlog
5. Shortage of Judges is no doubt a factor responsible for pendency but at the same time, it is found that some courts have been functioning and performing better in the same conditions. Adopt such courts as models. This

underscores the need to understand that existing capacity has to be better and fully utilized rather than solely concentrating on developing additional capacity.

6. Modernisation, computerization and technology – court automation systems, e-courts, digitization of court records, access to information about cases, if possible, could be made available to litigants in a more simpler mode instead to going through multiple web pages, otherwise “access to justice” would remain illusory and we would distance ourselves more from the common man who is the real beneficiary of the justice dispensation system.
7. Strive for more alternative methods of dispute resolution in various forms like arbitration, mediation, pre-litigation mediation, negotiation, lok adalats, well-structured and channelized plea bargaining, etc.
8. Committees at the high court level have to be proactive and functional committees. They should meet at least once a fortnight and keep their surveys and reports in digitized format.

9. Frame strict guidelines for grant of adjournments especially at the trial stage, also stricter timelines for cases, not permitting dilution of time frames specified in CPC for procedural steps in the civil proceedings.
10. Explore options of Saturday Courts for cases other than criminal appeals. Every drop counts for it is common place that little drops of water make the mighty ocean. It is small things that add up to produce the huge. It is through persistent efforts and continued application that major accomplishments would finally result.
11. Consider and explore options for setting up fast track courts and fixing time limits or deadlines for certain categories of cases especially in subordinate courts.
12. Multi-pronged approach and momentum required. Lackadaisical attitude and the mindset of delay has to go.
13. Emphasis has to be given to basics and minutest details with meticulous planning since you must have heard the way Benjamin Franklin had described how for want of just a horse-shoe nail, a kingdom was lost.

14. High Courts may form think tanks with Judges and lawyers and academicians to consider and explore other innovative modes and initiatives to reduce delays and pendency.

15. Our motto should be – “Shaping our judicial future: Inspiring change through “Timely and Effective Justice”

I am sure we shall arrive at our targeted destination in a glorious manner.

Thank you.