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FAST TRACK COURTS

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FAST TRACK COURTS

Introduction

Denial of 'timely justice' amounts to denial of 'justice' itself. Two are integral to each other. Timely disposal of cases is essential for maintaining the rule of law and providing access to justice which is a guaranteed fundamental right. However, the judicial system is unable to deliver timely justice because of huge backlog of cases for which the current judge strength is completely inadequate. Further, in addition to the already backlogged cases, the system is not being able to keep pace with the new cases being instituted, and is not being able to dispose of a comparable number of cases. The already severe problem of backlogs is, therefore, getting exacerbated by the day, leading to a dilution of the Constitutional guarantee of access to timely justice and erosion of the rule of law¹.

Several initiatives have been taken from time to time to improve the justice delivery system and for making it affordable and accessible to the common man all across the country. Increasing access by reducing delays and arrears in the system has also been the constant endeavor of the Union Government. These initiatives of the Union Government *inter-alia* include measures for strengthening the judicial system, reviewing the strength of the judges periodically and setting up of part time/special courts, improving infrastructure in the courts and increasing use of Information and Communications Technology for court management as well as for providing citizen-centric services at all levels starting from Supreme Court/ High Courts to the district and subordinate courts. One of such initiative was the creation of Fast Track Courts ².

Fast Track Courts (FTCs)

The Eleventh Finance Commission (2000-2005) recommended a scheme for creation of 1734 Fast Track Courts (FTCs) in the country for disposal of long pending cases in Sessions courts and other courts. The FTCs were established to expeditiously dispose of long pending cases in the Sessions Courts and long pending cases of under trial prisoners. The term of scheme on the Fast Track Courts which were recommended by

¹ India, Law Commission, Report No. 245 on 'Arrears and Backlog: Creating Additional Judicial (wo)manpower', July 2014

² PIB Release dated 30.4.2012

the Eleventh Finance Commission ended on 31st March, 2005. Based on the directives of the Supreme Court of India, the Government accorded its approval for the continuation of 1562 Fast Track Courts that were operational as on 31st March, 2005 for a further period of 5 years i.e. up to 31st March, 2010 with a provision of Rs. 509 crores. The scheme of central assistance for Fast Track Courts was further extended for a period of one year i.e. upto 31st March, 2011 and it was decided that there will be no central funding for Fast Track Courts beyond 31st March, 2011³.

Features of Fast Track Courts

Fast Track Courts were meant to expeditiously clear the large scale of pendency in the district and subordinate Courts under a time-bound programme. A laudable objective of the five year experimental scheme was to take up on top priority basis sessions and other cases involving undertrials. Under the government's action plan, the fast track courts would take up as their next priority sessions cases pending for two years or more, particularly in which the accused persons had been on bail. According to an official figure, the total number of cases pending in the nearly 13,000 district and subordinate courts in the country was a whopping 2.40 crore. Of these, over 50 lakh criminal and over 25 lakh civil cases were pending for a period ranging from one to three years. These were in addition to over 10 lakh pending sessions cases. The others were more than three years' old. The 21 High Courts accounted for over 34 lakh pending cases. Over ten per cent of these were more than ten years' old.

The scheme envisaged the setting up of an average of five fast track courts in each district of the country. State-wise distribution had, however, been done keeping in view the pendency of cases and the average rate of disposal of cases in courts. Uttar Pradesh got the largest number of 242 additional courts followed by Maharashtra's 187, Bihar's 183, Gujarat's 166 and West Bengal's 152. Karnataka's tally was 93, Jharkhand's 89, Andhra Pradesh's 86, Madhya Pradesh's 85, Rajasthan's 83, Orissa's 72, Tamil Nadu's 49, Uttaranchal's 45, Kerala's 37, Haryana's 36, Chhatisgarh's 31 and Punjab's 29.

³ Rajya Sabha, Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, Report No. 67, January 2014

Assam had 20 fast track courts, Jammu and Kashmir 12, Himachal Pradesh 9, Goa and Arunachal Pradesh 5 each and Mizoram, Manipur, Nagaland, Sikkim and Tripura 3 each. Jammu and Kashmir and Punjab were not content with the allotted number of fast track courts. They had notified to the Centre that they were to respectively establish 43 and 34 additional courts.

Judges

The scheme envisaged the appointment of *ad hoc* judges from among retired sessions/additional sessions judges, judges promoted on ad hoc basis and posted in these courts or from among members of the Bar. Selection of judges were to be done by the High Courts. The Centre had directed the State Governments that consequential vacancies resulting from ad hoc promotion of judges be filled through a special drive. This was to ensure that further pendency was not created in existing courts of magistrates and civil judges.

As per the Centre's action plan, the fast track courts were required to dispose of 14 sessions trial cases and/or 20 to 25 criminal/civil cases every month. The State Governments and High Courts were requested to make effective arrangement for representation on behalf of the prosecution and to ensure quick process service. Statement indicating the number of Fast Track Courts operating in various States, as well as indicating the number of cases transferred to FTCs disposed and pending is enclosed as ***Annexure-I and II*** respectively.

Attributes

A unique feature of the scheme was that it would prove to be cost effective. This was so because the new courts had been charged with the exclusive work of disposing of undertrial cases in the first year of their existence. A large majority of undertrials being those who had been booked for petty/minor offences, they were bound to be discharged forthwith as most of them had been behind bars for periods which were longer than the punishment warranted by the offence. In plain terms, that meant a huge saving in jail

expenditure. The State Governments were spending an aggregate of Rs. 361 crore annually on the 1.80 lakh undertrials⁴.

Funding

Setting up of Subordinate Courts is the responsibility of the State Government under the Constitution of India. The Central assistance under the above said scheme is limited to an approved norm i.e. Rs. 4.80 lakh per court per annum (recurring) and Rs. 8.60 lakh (non-recurring). Any expenditure incurred by the State in excess as recurring and /or non-recurring expenditure was to be borne by the State Government. The Central assistance for the Fast Track Courts were provided for the period 2000-01 to 2010-11. State-wise statement indicating central Grants released to States for Fast Track Courts from 2000-2001 to 2010-11 is enclosed at **Annexure-III**. It was discontinued after 31st March, 2011. Several States have continued these courts from their own resources. Except Union Territory of Andaman and Nicobar Islands, all the States are continuing Fast Track Courts. The State Governments maintained that the continuation of these Courts is necessary to reduce the pendency of cases; however, the continuation of these Courts by States is leading to financial burden on the State exchequer. The State Governments wanted the Fast Track Courts to be continued with 100 per cent Central assistance. A Parliamentary Committee in its report reiterates its recommendations, that all possible steps to be taken up by the Government to ensure that the FTC's are set up in appropriate situations in the States and the States do not face impediments in this regard. ⁵.

The Central Government has decided to provide funds upto a maximum of Rs. 80 crore per annum on a matching basis upto 31.3.2015 from the 13th Finance Commission Award for meeting expenditure on salaries of the 10 per cent additional positions of Judges being created in the subordinate judiciary following the direction of Supreme Court in the case of Brij Mohal Lal Vs Union of India The State Governments and Chief Justices of High Courts have been requested that they may utilise these positions for creation of FTC's also⁶.

⁴ <http://pib.nic.in/feature/feyr2001/fmay2001/f010520012.html>

⁵ *Op.cit.*, Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice

⁶ Lok Sabha Starred Question No. 224 dated 24.11.2014

Suggestions by Law Commission

The issue of arrears and delay and problem of Judicial man power planning has attracted attention of almost all major stakeholders including the judiciary, executive, media, policy makers, and public in general. However, despite their spurt of rising attention, the problem still remains a challenge. The Law Commission in its 245th Report made some suggestions to reduce backlog and arrears in justice delivery system. These are:

Rate of Disposal Method

That, given the existing availability of data, the Rate of Disposal Method and formulae be followed for calculating adequate judge strength for Subordinate Courts, instead of Judge-Population or Judge-Institution Ratio, Ideal Case Load Method or the Time Based Method.

Number of judges to be appointed on a priority basis

That, data obtained from High Courts indicates that the judicial system is severely backlogged, and is also not being able to keep pace with current filings, thus exacerbating the problem of backlogs. The system requires a massive influx of judicial resources in order to dispose of the backlog and keep pace with current filings. The data indicates the need for taking urgent measures for increasing judge strength in order to ensure timely justice and facilitate access to justice for all sections of society.

Increasing the age of retirement of Subordinate Court Judges

That, in order to meet the need for a large number of appropriately trained Subordinate Court Judges, the age of retirement of Subordinate judges be raised to 62.

Creation of Special Courts for Traffic/Police Challan Cases

That special morning and evening Courts be set up for dealing with Traffic/Police Challan cases which constituted 38.7% of institutions and 37.4% of all pending cases in the last three years, before the Subordinate Judicial Services. These Courts should be in addition to the regular Courts so that they can reduce the case load of the regular Courts.

Provision for Staff and Infrastructure

That, adequate provisions be made for staff and infrastructure required for the working of additional Courts.

Periodic Needs Assessment by High Courts

That the present work is based on analysis of institution, disposal and pendency figures upto 2012. Needless to say, over time these figures are likely to change, affecting the requirement for additional Courts to keep pace with filings and disposals. The High Courts may be required to carry out Periodic Judicial Needs Assessment to monitor the rate of institution and disposal and revise the judge strength periodically, based on institutions, disposals, pendency and vacancy.

Need for system-wide Reform

That a systemic perspective, encompassing all levels of the judicial hierarchy, is needed for meaningful judicial reform. Taking measures for the timely disposal of cases at all levels of the judicial system, including by monitoring and increasing judge strength throughout the system; encouraging Alternative Dispute Resolution Methods, where appropriate and more efficient allocation and utilization of resources is required to fulfill the goal of providing timely justice to litigants. In particular, the Commission emphasizes the urgent need to increase judge strength in High Courts to ensure that appeals/revisions from additional cases disposed of by the newly created Subordinate Courts, are dealt with in a timely manner, and that the already heavy backlog in the High Courts is adequately addressed. Therefore, a piecemeal approach to delay reduction should be eschewed in favour of a systemic perspective⁷.

Conclusion

Setting up of courts including Fast Track Courts (FTCs) is the responsibility of the State Governments. In the Conference of Chief Ministers and Chief Justices held in New Delhi on 7th April, 2013, it has been resolved that the State Governments shall, in consultation with the Chief Justices of the respective High Courts, take necessary steps to

⁷ *Op.cit.*, Law Commission, Report No. 245 on 'Arrears and Backlog: Creating Additional Judicial (wo)manpower'

establish suitable number of FTCs relating to offences against women, children, differently abled persons, senior citizens and marginalized sections of the society, and provide adequate funds for the purpose of creating and continuing them. Government has requested the State Governments and the Chief Justices of the High Courts to implement this decision.

The 14th Finance Commission has endorsed the proposal to strengthen the judicial system in States which includes, *inter-alia*, establishing 1800 FTCs for a period of five years for cases of heinous crimes; cases involving senior citizens, women, children, disabled and litigants affected with HIV AIDS and other terminal ailments; and civil disputes involving land acquisition and property/rent disputes pending for more than five years at a cost of Rs.4144 crore. The 14th Finance Commission has urged State Governments to use additional fiscal space provided by the Commission in the tax devolution to meet such requirements⁸.

⁸ Rajya Sabha Unstarred Question No. 1486 dated 8.5.2015

Annexure-I**Statement of Number of Fast Track Courts as on the date mentioned**

Sl. No.	Name of the State	No. of FTCs functioning	As on
1	Andhra Pradesh	72	April, 14
2	Arunachal Pradesh	0	March, 14
3	Assam	20	Oct.12
4	Bihar	179	March.11
5	Chhattisgarh	21	April,14
6	Goa	5	July, 14
7	Gujarat	61	Feb.,11
8	Haryana	6	Dec.10
9	Himachal Pradesh	0	June, 14
10	Jammu & Kashmir	5	June, 14
11	Jharkhand	11	March, 14
12	Karnataka	39	March, 14
13	Kerala	38	Aug., 13
14	Madhya Pradesh	84	Dec.10
15	Maharashtra	92	June, 14
16	Manipur	2	Oct.12
17	Meghalaya	3	June, 14
18	Mizoram	3	March 11
19	Nagaland	2	Oct. 12
20	Odisha	30	June, 14
21	Punjab	20	March, 14
22	Rajasthan	0	March.14
23	Sikkim	1	March, 14
24	Tamil Nadu	32	June, 14
25	Tripura	2	June, 14
26	Uttar Pradesh	80	Feb. 15
27	Uttarakhand	0	July, 14
28	West Bengal	77	Aug., 14
29	Delhi	10	March, 14
	Total	895	

Source: Rajya Sabha Unstarred Question No. 1486 dated 8.5.2015

Annexure-II**Statement regarding number of cases transferred to Fast Track Courts (FTCs),
disposed by FTCs and pending in FTCs**

Sl. No	Name of the state	Number of cases transferred to FTCs since inception	No. of cases disposed off since inception by FTCs	No. of cases pending in FTCs	As on
1	Andhra Pradesh	265545	248457	17088	April, 14
2	Arunachal Pradesh	4162	1660	2502	March, 11
3	Assam	84098	72240	11858	Oct.12
4	Bihar	239278	159105	80173	March.11
5	Chhattisgarh	94670	76575	18095	March.11
6	Goa	10185	8590	1595	Feb., 14
7	Gujarat	537636	434296	103340	Feb.,11
8	Haryana	38359	33590	4769	Dec.10
9	Himachal Pradesh	54651	47480	7171	Dec.12
10	Jammu & Kashmir	NA	NA	NA	
11	Jharkhand	110027	87789	22238	March 11
12	Karnataka	218402	184067	34335	Aug.10
13	Kerala	135839	116843	18996	Aug., 13
14	Madhya Pradesh	360602	317363	43239	Dec.10
15	Maharashtra	423518	381619	41899	Feb.11
16	Manipur	3512	3287	225	Oct.12
17	Meghalaya	1288	973	315	Oct.12
18	Mizoram	1868	1635	233	March 11
19	Nagaland	845	786	59	Oct. 12
20	Odisha	73093	67700	5393	March.12
21	Punjab	58570	46347	12223	Dec.10
22	Rajasthan	149447	123024	26423	March.11
23	Sikkim	NA	NA	NA	
24	Tamil Nadu	411957	371336	40621	Aug., 10
25	Tripura	5812	5591	221	March 11
26	Uttar Pradesh	0	0	0	March 11
27	Uttarakhand	112726	103208	9518	June,12
28	West Bengal	196240	166711	29529	Aug., 14
29	Delhi	NA	NA	NA	
	Total	3592330	3060272	532058	

NA- Not available

Source: Rajya Sabha Unstarred Question No. 1486 dated 8.5.2015

Annexure-III

Central Grants released to states for Fast Track courts form 2000-01 to 2010-11

Sl.No	Name of the state	Released from 2000-01 to 2004-05	Central Grant released by Department of Justice						Grand Total
			2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	
1	Andhra Pradesh	2250.00	550.50	412.80	412.80	142.40		1096.00	4664.50
2	Arunachal Pradesh	52.69	19.20	14.40	14.40	14.40	14.40	14.40	143.89
3	Assam	530.10	128.00	96.00	96.00	91.20	96.00	96.00	1133.30
4	Bihar	4766.40	960.30	720.00	720.00	720.00	720.00	720.00	9326.70
5	Chhattisgarh	791.10	198.40	129.60	129.60	148.80	148.80	129.60	1675.90
6	Goa	125.10	32.00	24.00	24.00	19.20	14.40	24.00	262.70
7	Gujarat	3226.68	1062.80	1355.90	571.20	580.80	-	777.60	7574.98
8	Haryana	422.31	102.40	33.60	67.20	38.40	76.80	67.20	807.90
9	Himachal Pradesh	108.59	57.60	43.57	0	38.40	43.20	43.20	334.56
10	J&K	300.60	-	-	-	-	-	-	300.60
11	Jharkhand	2319.30	569.80	226.00	190.17	249.60	196.80	192.00	3943.67
12	Karnataka	2431.80	595.40	610.80	230.40	182.40	446.40	441.60	4938.80
13	Kerala	815.25	198.40	148.80	148.80	148.80	148.80	148.80	1757.65
14	Madhya Pradesh	2223.90	422.50	215.40	259.80	312.00	316.80	316.80	4067.20
15	Maharashtra	4352.40	1197.20	1101.60	782.40	417.60	412.80	537.60	8801.60
16	Manipur	90.00	12.80	9.60	9.60	9.60	9.60	9.60	150.80
17	Meghalaya	90.00	19.20	14.40	0	28.80		28.80	181.20
18	Mizoram	90.00	19.20	17.68	14.40	14.40	14.40	14.40	184.48
19	Nagaland	54.90	12.80	18.18	9.60	9.60	9.60	9.60	124.28
20	Orissa	1866.60	262.40	196.80	158.40	158.40	168.00	168.00	2978.60
21	Punjab	746.10	115.20	48.00	51.20	0	163.20	81.60	1205.30
22	Rajasthan	2238.05	531.40	753.64	398.40	398.40	398.40	398.40	5116.69
23	Sikkim	29.70	-	-	-	-	-	-	29.70
24	Tamil Nadu	1151.90	313.70	235.20	235.20	0	470.40	235.20	2641.60
25	Tripura	73.80	19.20	3.80	0	0	11.56	0	108.36
26	Uttar Pradesh	6319.80	288.00	3075.69	495.52	1161.60	1161.60	1094.40	13596.61
27	Uttarakhand	1173.60	1549.80	216.00	129.60	0	-	99.62	3168.62
28	West Bengal	3972.60	761.80	571.20	571.20	571.20	571.20	571.20	7590.40
Total		42613.27	10000.00	10292.66	5719.89	5456.00	5613.16	7315.62	87010.60

Grants released to the States from 2000-01 to 2004-2005 by Ministry of Finance.

Source: Lok Sabha Unstarred Question No. 183 dated 18.12.2013