



MOST IMMEDIATE
BY SPECIAL MESSENGER / MAIL

Dated: 02.02.2024

R.O.C.No. 12453-A/2023/C3

From
M.Jothiraman, B.Sc., M.L.,
Registrar General,
High Court, Madras-600 104.

To
XXXXX

Sir/Madam,

Sub: Court - Judges - 133rd Report of the Parliamentary Standing Committee - Discussion about Vacation - Placed before the Hon'ble Committee to monitor the implementation of the Resolutions adopted in the Chief Justices' Conference - Committee decided to hear the opinion of Bar Associations / stakeholders on the report of the Parliamentary Standing Committee - Meeting scheduled to be held on 07.02.2024 (Wednesday) - Requesting to attend the meeting and offer opinion - Regarding.

I am to state that the Hon'ble Committee to monitor the implementation of the Resolutions adopted in the Chief Justices' Conference, in the meeting held on 29.01.2024 has discussed about the recommendations in the 133rd Report of the Parliamentary Standing Committee, relating to 'Vacations in High Courts'.

In the said meeting, the Hon'ble Committee has decided to hear the Bar Associations for the purpose of recording their opinion on the subject matter, particularly with regard to the recommendation relating to functioning of the Courts all year round.


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Received
at 4.30 pm on
02/02/2024.

Therefore, I am directed to request you to attend the meeting, scheduled to be held on 07.02.2024 (Wednesday) at 5.00 p.m., in the Meeting Hall, Library Annexe Building, High Court, Madras (through Video Conferencing for the Bar Associations at Madurai Bench of Madras High Court, Madurai in 25th Court Hall, Madurai Bench of Madras High Court, Madurai).

I am to enclose herewith a copy of the 133rd Report of the Parliamentary Standing Committee (relevant portions).

Yours faithfully,


for Registrar General

To

1. The President, Madras High Court Advocates Association, High Court, Madras (w.e.).
2. The President, Madras Bar Association, High Court, Madras (w.e.).
3. The President, Women Lawyers' Association, High Court, Madras (w.e.).
4. The President, Law Association, City Civil Court, Chennai (w.e.).
5. The President, Madras High Court Madurai Bench Advocates' Association, Madurai (w.e.).
6. The President, Madurai Bar Association of Madurai Bench of Madras High Court, Madurai (w.e.).
7. The President, Madurai Bench of Madras High Court Bar Association, Madurai (w.e.).
8. The President, Madurai Bench High Court Advocates Association, Madurai (w.e.).
9. The President, Women Advocates Association, Madurai (w.e.).

REPORT NO.

133



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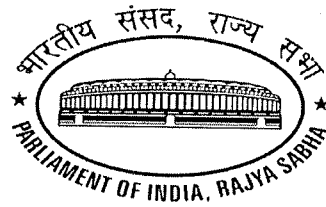
PARLIAMENT OF INDIA
RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE

ONE HUNDRED THIRTY-THIRD REPORT
ON THE SUBJECT
"JUDICIAL PROCESSES AND THEIR REFORM"

(Presented to the Rajya Sabha on 7th August, 2023)

(Laid on the Table of Lok Sabha on 7th August, 2023)



Rajya Sabha Secretariat, New Delhi
August, 2023 / Sravana, 1945 (Saka)

IV. VACATIONS IN THE SUPREME COURT AND HIGH COURTS

Extant Constitutional/Legal Provisions

49. Vacations for the Supreme Court and various High courts are prescribed as per the rules framed by the respective courts for which they have been empowered under the provisions of the Constitution. The Supreme Court of India, in the exercise of the powers conferred on it under Article 145, the Constitution of India is empowered to make rules for regulating the Court's practice and procedures which include its sittings and vacations, etc.

50. Accordingly, the Supreme Court has framed the 'Supreme Court Rules, 2013 which was notified on 27.05.2014. Order II of Part I of the Supreme Court Rules, 2013 provides for sittings of the Supreme Court, length of summer vacation, and the number of holidays of the Court and also the Benches of the Hon'ble Judges during summer vacation and winter holidays. The Supreme Court Rules, 2013, inter-alia, provided that the period of summer vacation shall not exceed seven weeks and the length of the summer vacation and the number of holidays for the court and the offices of the court shall be such as may be fixed by the Chief Justice and notified in the official Gazette so as not to exceed one hundred and three days, excluding Sundays not falling in the vacation and during court holidays. The earlier rules i.e. Supreme Court Rules, 1966 provided for a period of summer vacation in the Supreme Court for 10 weeks. Accordingly, on an average the Supreme Court sits for 214 days a year.

51. Similarly, the duration of vacations in the High Court is regulated by the Rules/Procedures framed by the concerned High Court as per the powers vested unto High Courts under Article 225 of the Constitution of India to make rules of the Court regulating its practice & procedures including its sittings and vacations.

Present Status

52. As per the information provided by the Supreme Court of India to the Government, during the last three years, the average number of court working days of the Supreme Court were 224 (Year 2019), 217 (Year 2020), and 202 (Year 2021).

53. The High Courts generally enjoy 20 holidays in a year beside Christmas and winter holidays and summer vacations. According to the available information, all High Courts in the country normally have on an average 210 working days in a year.

54. In year 2009, the Law Commission in its 230th Report on “Reforms in the Judiciary – Some suggestions” has suggested that the number of working days must be increased considering the huge pendency of cases at all levels of judicial hierarchy. The Report recommended that the vacations in the higher judiciary must be curtailed by at least 10 to 15 days and the court working hours be extended by at least half an hour. The Report was duly forwarded by the Government to the Chief Justices of all High Courts to consider the suggestions for adoption.

Views of the Government

55. The Department of Justice, in their written submission before the Committee informed that previously in the year 2002-03, they had examined the matter of increasing the number of working days in Courts. In order to reduce the huge pendency prevailing in the High Courts, the Department requested all the High Courts to fix the period of vacations in such a way that the number of working days of High Courts generally do not fall below 222 days in a year. At present, as per the information available with the government, on an average High Courts function for 210 days.

56. The Department of Justice has stated that court vacations particularly summer vacations spanning 7 weeks (10 weeks prior to 2013) are customary practice continuing from colonial days. Vacations of Supreme Court and High Courts need to be relooked in a holistic way vis-à-vis the present practice in the higher courts of other countries as well as other constitutional institutions in the country and also in the context of existing huge pendency of arrears of cases and increased volume of fresh cases being instituted on regular basis.

ANALYSIS AND RECOMMENDATIONS OF THE COMMITTEE

57. The need for judicial vacations has been questioned time and again by various stakeholders considering the huge pendency of cases and long delays in disposing off the cases, there has been a demand to curtail long court vacations and revise the working hours of the court.

58. At the same time, it can also be seen that as far as the Supreme Court of India is concerned it has the highest caseload among the apex courts around the world and it also works the most. In terms of the number of judgments delivered too, with 34 judges, the Supreme Court of India is way ahead of others.

59. A comparative statement of working days of apex courts of some democratic countries during the calendar year 2020, compiled from the available calendars of the respective countries, is as follows:

Countries	Days marked as holidays	Months with no oral arguments	Number of sitting days
Australia	10	2	97
Bangladesh	84	1	180
India	94	1	190
Singapore	33	2	145
UK	1	2	189
United States	10	3	79

Source: Numbers pulled from calendars of respective apex courts.

60. During the deliberations on this issue, most of the members were of the opinion that the need of the hour is an efficient judiciary that is not only committed to meeting the needs and interests of the citizens but also communicates this commitment by modifying its practices to suit the needs of the country. The judiciary, therefore, needs to be sensitized from shutting down courts en masse for a couple of months a year.

61. Shri Vivek K. Tankha, one of the Members of the Committee expressed the following opinion on this issue:

"The point that I have always been raising is that vacations came as a concept from the British days, when Britishers used to go back to England to enjoy their holidays. My case is that there can be no vacation of a High Court or the Supreme Court. Judges can be on vacation; staff can be on vacation; a sovereign body does not go on vacation. That was an imperial concept or alien concept. So, if there is a way of refashioning it, let every judge be entitled to 'X' number of days of holidays, which he himself will decide. It could be spread over the year, while the court functions on all days, except on Saturdays and Sundays. This would mean that about 100 days would come back as court's working. And, if 100 days come back as

court's working, see the number of cases that would also get addressed and decided."

62. However, on the contrary, some of the members were of the view that in a profession that demands intellectual rigor and long working hours, for both lawyers as well as judges' vacations are much needed for rejuvenation.

63. Shri P. Wilson in his submission has expressed his opinion in the following manner on this issue:

" (a) layman does not understand that the Judges and lawyers do not stop working after Court hours. After Court hours, the Judges tend to dictation and correction of judgements, research, reading case files for the next day etc. Similarly, it is only during the vacation time that Judges get to pen judgements in complicated cases requiring elaborate judgements. That apart, in a highly stressful profession like legal profession, adequate mental and physical break is required to ensure that there is no strain on mental and physical health. Very few professions have such a constant level of stress on an everyday basis as lawyers and judges experience. Therefore, it would not be prudent to extend Court hours or reduce Court vacation days.

However, in my considered view the vacation courts a minimum number of judges can work by rotation and can sit on all days of the week, albeit in reduced numbers, hearing only urgent cases. This is because, often we see that judges of Vacation Courts sit from 10.30 am to as late as 9 or 10 pm and thereafter correct orders. If both sides counsel's are agreeable final hearing cases can also be listed and heard during the vacation."

64. Shri Mahesh Jethmalani expressed a similar sentiment on the issue stating that:

"As far as duration of holidays is concerned, you will see that the judges do a lot of work. The present Chief Justice of India wakes up at 3.30 in the morning. Judges are supposed to read hundreds of briefs and then they need time to give reasoned judgement. There is high amount of litigation. Please don't blame the judiciary for this. We have the most litigious population in the whole world and

we have the lowest number of Judges per litigant. We need more judges. Reducing holidays will cure everything will never be the answer. As we know the Supreme Court is doing a very good job, we have to find out the reasons with regard to the High Courts. There may be the question that they need to curtail holidays of the High Courts or there may be the question of increasing Bench strength, which has not yet been implemented, to be gone into by the judiciary or by the Government, or maybe it is due to lack of candidates. It may be simplistic thing to take away holidays and expect that litigation or arrears will go away. There are other reasons. Judges need holidays, the staff needs holidays. There is a large number of employees working in the courts. They also need holidays. Quality will suffer if you do not give them a break. You need good judgements. You need time to consider the rival arguments because often the Supreme Court or the High Courts deal with important Constitutional issues and a lot of thinking and input is involved in these cases. It is not that the Supreme Court judges are going to foreign countries in the holidays. Judges are also working and giving judgements in the vacation period."

65. The demand for doing away with vacations in the Courts emanates primarily due to two factors, one is the huge pendency of cases in our courts, and the other is the inconvenience faced by the litigants during the vacations of the courts. A common man holds a perception that despite having such huge pendency of cases their judges go on long vacations. Further during the vacations, the litigants have to suffer a lot despite having a handful of vacation courts/benches.

66. Though in this connection it may be noted that for the past few years, the pendency in the Supreme Court has remained static and in the year 2022 the disposal of cases was more than the number of cases instituted in that year. Thus it can be seen that as far as the disposal of cases is concerned, the performance of our Supreme Court is quite good. The problem lies with the legacy arrears of about 35000.

67. With regard to High Courts, the pendency is humungous. More than 60 lakh cases are pending as on date, which is a reason for deep concern. Though it is also a grim fact that almost all the High Courts have a very high level of vacancies. As on 31.12.2022 overall vacancies in the High

Courts stood at 30% of the sanctioned strength and in many of them had vacancies ranging from 40 - 50%. Thus vacations are not the only cause of high pendency in the higher judiciary.

68. Replying to the criticism of the Judiciary on vacations, the Chief Justice of India Shri DY Chandrachud, in one of his interviews given to the India Today¹ recently, had inter alia stated the following:

"What people don't know is, that most of the time in the vacation is spent on preparing judgements which you have kept in reserve because you've just no time during the week when you are working seven days just trying to keep ahead of the curve to deal with your cases"

He further stated that:

"It's not just about the statistics. It's about thinking through your cases. It's about reading the law, reading about where the law is going in other jurisdictions, thinking about where you want our society to be in terms of the output which you are going to produce. So unless you give your judges time to introspect, reflect, think about the work which you are going to do, you are not going to have a quality of justice"

69. From the foregoing discussion it can be seen that vacations in the Judiciary are not the only factor for pendency. For reducing pendency there is a need to have a multipronged strategy. However, at the same time, it is an undeniable fact that vacations in the judiciary are a 'colonial legacy' and with entire court going on vacation *en mass* causes deep inconvenience to the litigants.

70. In this scenario, the Committee is of the view that the suggestion of the former Chief Justice of India Shri RM Lodha on court vacations, that instead of all the judges going on vacation, all at one time, individual judges should take their leave at different times through the year so that the courts are constantly open and there are always benches present to hear cases, should be considered by the Judiciary.

¹ <https://www.indiatoday.in/india/story/vacation-spent-on-cji-dy-chandrachud-on-off-days-for-supreme-court-judges-2348459-2023-03-18>