

IN THE SUPREME COURT OF INDIA , NEW DELHI

Under **Article 32** of the Constitution of India

Extraordinary original jurisdiction

In the matter of Public interest litigation

Shrikant prasad

Petitioner

Versus

1.Union of india

Through home secretary, ministry of home affairs

North block, new delhi 110001

2.Union of india

Through law secretary

Ministry of law and justice

Shastri bhawan ,new delhi 110001

3.Government of Andhra Pradesh

Through chief secretary

a.p secretariat office, velagapudi 522503

4.government of arunachal Pradesh

Through chief secretary

Civil secretariat ,itanagar 791111

5.Government of assam

Through chief secretary

Assam sachivalaya ,dispur 781006

6.Government of bihar

Through chief secretary

Main secretariat ,patna 800015

7.Governemnt of chattisgarh

Through chief secretary

Mahanadi bhawan ,mantralaya nayaraipur 492002

8.Government of goa secretariat

Through chief secretary

Porvroim bardez, goa 403521

9.Government of Gujarat

Through chief secretary

Sachivalaya ,Gandhi nagar ,382010

10.Government of Haryana

Through chief secretary

Haryana civil secretariat ,sec 1 chandigarh-160019

11. Government of himachal Pradesh

Through chief secretary

H.P secretariat , shimla 171002

12. Government of jammu Kashmir

Through chief secretary

Civil secretariat , jammu 180001

13. Government of Jharkhand

Through chief secretary

Project building , dhurwa road ranchi 834004

14. Governemnt of Karnataka

Through chief secretary

Vidhana shoudha , bangaluru 560001

15. Government of kerala

Through chief secretary

Secretariat, thiruvananthapuram 695001

16. Government of Madhya Pradesh

Through chief secretary

Mantrayalaya, ballabh bhawan Bhopal 462004

17. Government of Maharashtra

Through chief secretary

Main building, mantralaya, Mumbai 400032

18. government of Manipur

Through chief secretary

South block,old secretariat ,imphal 795001

19.Government of Meghalaya

Through chief secretary

Rilang building ,Meghalaya secretariat shillong,

793001

20.Government of Mizoram

Through chief secretary

New secretariat complex ,aizawl 796001

21.government of Nagaland

Through chief secretary

Civil secretariat kohima 797004

22. government of odisha

Through chief secretary

Odisha secretariat,bhubaneshwar 751001

23.government of Punjab

Through chief secretary

Secretariat ,Chandigarh 160001

24.government of rajasthan

Through chief secretary

Secretariat ,jaipur 302005

25. Government of Sikkim

Through chief secretary

New secretariat ,gangtok 737101

26. Government of Tamilnadu

Through chief secretary

Chennai 600009

27. Government of telangana

Through chief secretary

Rama Krishna rao bhawan ,adarsh nagar Hyderabad

500063

28. Government of tripura

Through chief secretary

New agartala799010

29. Government of uttar Pradesh

Through chief secretary

Lal bahadur shastri bhawan lucknow 226001

30. Government of uttrakahnd

Through chief secretary

Subhash road, uttrakhand dehradun 248001

31. Government of west Bengal

Through chief secretary

Sarat chatterjee road ,mandirtalashivpur,howrah

711102

32.union territory of Andaman and nicobar

Through chief secretary

Andaman and nicobar, portblair 744101

33. union territory of delhi

Andaman and nicobar

Delhi secretariat ,ip estate new delhi 110002

34. union territory of puducherry

Through chief secretary

Main building , chief puducherry 605001

35 high court of Bombay

Through registrar general

Fort Mumbai 400001

36. Calcutta high court

Through registrar general

Bbd bagh,Kolkata 700001

37. madras high court

Through registrar general

George town Chennai 600108

38. Allahabad high court

Through registrar general

Nyay marg ,prayagraj 211001

39.karnataka high court

Through registrar general

Ambedkar vidhi,bengaluru 560001

40.patna high court

Through registrar general

Jawaharlal Nehru marg ,patna 800028

41.jammu Kashmir high court

Through registrar general

Noor bagh ,Srinagar 190009

42.gauhati high court

Through registrar general

Mg road ,guwahati 781001

43.orissa high court

Through registrar general

Chandni chowl ,cuttack 753002

44.rajasthan high court

Through registrar general

Dangiyawas bypass,jodhpur 342001

45.madhya Pradesh high court

Through registrar general

Jabalpur 482001

46.kerala high court

Through registrar general

Marine drive ,kochi 682031

47.gujarat high court

Through registrar general

Ahmadabad 380060

48.delhi high court

Through registrar general

Justice sb marg new delhi 110003

49.himachal Pradesh high court

Through registrar general

Ravenswood shimla 171001

50.punjab and Haryana high court

Through registrar general

Sector 1 chandigarh 160001

51.sikkim high court

Through registrar general

Sungava ,gangtok 737101

52.chhatisgarh high court

Through registrar general

Bilaspur 495220

53.uttrakhand high court

Through registrar general

Nainital 263002

54.jharkhand high court

Through registrar general

Ranchi 834002

55 tripura high court

Through registrar general

Agartala 799010

56.manipur high court

Through registrar general

Imphal 795002

57.meghalaya high court

Through registrar general

Shillong 793001

58.telangana high court

Through registrar general

Ghansi bazaar ,madina 500066

59.andhra Pradesh high court

Through registrar general

Nelapadu ,Amravati -522237.

.....**RESPONDENTS**

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION
OF INDIA FOR ISSUANCE OF WRIT, ORDER, DIRECTION OR
ANY OTHER APPROPRIATE DIRECTIONS BY INVOKING POWER
UNDER ARTICLE 142 OF CONSTITUTION OF INDIA TO THE
UNION OF INDIA AND ALL STATE & UNION TERRITORIES TO
ADOPT VARIOUS MEASURES FOR EXPEDITIOUS DISPOSAL OF
CRIMINAL CASES THROUGH APPOINTMENT OF JUDGES IN
SUBORDINATE COURTS IN THE PROPORTION AS PER DECISION
OF THIS COURT IN ALL INDIA JUDGES ASSOCIATION& ORS VS
UNION OF INDIA &ORS 2002 SC .

To,

Hon'ble The Chief Justice of India and His Lordship's
Companion

Justices of the Supreme Court of India.

The Humble petition of the Petitioner above named.

1. That the present writ petition is being filed seeking issuance of Writ in the nature of Mandamus, order, Direction or any other Appropriate Writ as fundamental rights of the persons who are involved in criminal cases ie- (accused ,victims and

prisoners) has been violated as under **Article 21** and seeking relief by invoke the power under **Article 142** of the constitution of india for _appointment of judges and magistrates in the subordinate criminal courts of india as per the decision held by this court in_ **All india judges association vs union of india& ors 2001. Attached as Annexure 1, Page no 34-35**

1a . That the Petitioner-in-person has not represented any government authority for the relief claimed in the instant writ petition as it is not necessary because it is already in the knowledge of authorities/department that a large number of judges are required . Attached as **Annexure 2,Page no 36-41**

1b. That the Petitioner-in-person has not filed any other Petition either before this Hon'ble Court or any other court seeking similar relief.

2.That the petitioner named shrikant Prasad is a final year student of law at faculty of law ,university of delhi.email id

Petitioner is a student and do not have any source of income and petitioner Proof of identity is attached in the petition. **Attached as page no 53**

3.That the petitioner has based the instant writ petition from authentic information and documents obtained from various government departments, portals and RTI applications.

4.This writ petition arises out of with the observation of the long pendency of cases in subordinates courts of India for years and years where more than 2.99 crore cases are pending 56000 cases pending since more than 30 years.

5.The delays in the administration of justice causing mental harassment of victims and accuse which is the denial of Article 21 of the constitution of India as held in Hussainara Khatoon (IV) v Home Secretary, State of Bihar [(1980) 1 SCC 98] by this honourable court.

6.That the Petitioner-in-person has not represented any government authority for the relief claimed in the instant writ petition as it is not necessary because it is already in the knowledge of

authorities/department that a large number of judges are required to adjudicate the matters expeditiously.

Attached as **Annexure 2 ,page 36-41**

7.That the petition, if allowed, would benefit the citizens of this country generally as rule of law is essential for democracy and such brazen violation of law by the respondents can be stopped by the orders of this Hon'ble Court only.

8.That the persons affected by such acts of the State are numerous and are not in a position to approach the Hon'ble Court hence the petitioner is filing the present PIL on behalf of such affected persons.

9.That the present petitioner has not filed any other petition in any High Court or the Supreme Court of India on the subject matter of the present petition.

10.Court may impose exemplary cost if it find that the petition was frivolous or instituted with oblique or malafide motive or lacks bonafide.

FACTS OF THE CASE

A.There are 3,44,73,068 Cases pending in India's district courts out of which 2,50,23,800 are pending in criminal side. The issue of judicial backlog and delay is widely acknowledged and extensively written

about, but it seems to be nowhere close to being resolved. Today, a litigant can be stuck in court corridors for decades if a case goes all the way to the Supreme Court. The original litigant may not be alive by the time the apex court resolves the issue. It is a stretch to describe any verdict given after

decades as 'justice'. **Attached as Annexure 3, page 42**

B) apart from the cost to the litigant, these delays imply that judges, particularly those in the superior courts are hearing older cases rather than dealing with current pressing issues. Such delays also favour the illegal actions of one party, while prolonging the violation of the rights of the other. The root cause of this level of pendency is the shortage of judges. Issues are starting with listing practices.

No of judges in per million population **-Annexure 4 page 43**

C) On an average, a district court judge or magistrate has about 50 to 60 cases listed before him daily. It is impossible to meaningfully hear so many cases in a day. Multiple adjournments thus become inevitable. This happens every day in each court

across the country, throughout the year. The backlogs keep piling up as daily problems intensify over time and become structural problems that cripple the functioning of the institution.

D) There are 20 judges per 10 lakh people in the country as compared to 17 in 2014, the Law Ministry said on 6 February 2019 which is a very low in numbers to deal with the cases of 133 crore population. **Attached as Annexure 4, page 43.**

E) Over 5,000 vacancies are vacant in district & subordinate courts the submission made by minister of state for law PP Chaudhary in Parliament on 18th December 2018 in parliament.

Data attached as **Annexure 5, page no -44**

F) We are fortunate that the eCourts project has made available vast quantities of judicial data. Such wide availability of judicial data enables us to dive deeper into the problem of pendency to determine specific causes. It helps us identify that the pendency problem varies from state to state and even from district to district.

G) The causes of pendency range from inadequate staff support and lawyers asking for frequent adjournments to witnesses not turning up and the lawyer being

underprepared. There is no one-size-fits-all administering justice. The establishment of a dedicated and trained cadre to provide support to the judiciary through case management, assistance with budgeting, handling administrative tasks and ensuring maintenance of court infrastructure will go a long way in enabling the judiciary to focus on the administration of justice.

.Rti application transferred to all high courts for vacant posts Attached as **Annexure 6, Page 45**

.Reply of rti by Guwahati and uttrakhand high court Attached as **Annexure 7, Page 46 & Annexure 8 ,Page 47-48** Respectively.

Questions of Law

1. are the respondent legally justified in not increasing the number of magistrates and judges in subordinate courts of India by appointments.
2. Does the pendency of cases for several years in subordinate courts not denies the right to life granted to the citizens of India by the constitution of India 1950.
3. Does the omission of respondents in increasing the numbers of judicial officers at districts courts justified by non-compliance of directions used by this honourable court in ***all India judges***

association & Ors vs Union of India and Ors 2002

sc.

4. Does such a long-awaited conclusion of cases are fruitful for the victims and accused.

5. if an accuse is ultimately gained acquittal after years then would the unlawful detention not a violation of constitutional rights.

GROUND

REASONS OF PENDENCY

The problem of pendency is known to everyone who is somehow involved in seeking justice. Pendency is a problem arising due to a long clog of different sets of problems with different natures that were left unnoticed. The Stakeholders are also significant for the purpose of the accumulation of the backlog at an increasing rate. All those problems increase the time consumed by the Court of Law, resulting in a delay in providing the Justice sought. Major among those problems being:

A. ADMINISTRATIVE PROBLEM: Our legal system is clogged with pending cases, and the situation has

deteriorated not just because of a lack of judges to dispose of the matter, but other factors have also contributed to the worsening of the situation of huge arrears of pending cases in the country. One important factor can be categorized as administrative problems, which is not given much emphasis, but its role in worsening of the situation has been paramount. A report published by the Supreme Court of India mentioned that the subordinate judiciary has not been provided with a sufficient number of courtrooms, support staff and residential accommodation for judges, which leads to a severe shortage of resources required to dispose of a case within a reasonable period of time. **This report stated that the subordinate judiciary requires more than 5000 courtrooms to accommodate more than 20000 judicial officers,** and the number of courtrooms in the present scenario is not sufficient to cater to the demand. These problems do not end here; there is also a need to fill more than 40000 staff positions, which have been lying vacant for many years and the administration has done very little to address this

issue. The data provided reveals the deteriorating condition of our subordinate judiciary along with constant pressure under which they are working every day due to a lack of human resources. These problems require immediate attention along with proper actions from the administration with the objective to resolve them [ii]. Along with heavy working burden already on the subordinate judiciary due to the reasons above, the problem is grave due to fewer working days.

B. INFRASTRUCTURAL PROBLEMS:

Infrastructure is the basic requirement for anybody to work to the best of its ability. Courts have formed devoted stakes for court administrators to benefit court processes, enhance case drive for productive judicial time. But some courts have occupied up such posts and many courts have not yet filled the devoted stakes so far. Old technology used in administration and the slow change is a heavy loss on adaptation and a hindrance to the efficiency of courts. The low budget allocation towards the Judicial infrastructure has resulted in a depleted structure of buildings which is miserably grim due to

which the Judges are unable to deliver quality judgments in efficient time.

C. TIME CONSUMPTION OF CASES :

Every case that is heard in the Court of Law, requires a certain time to be heard before it attains finality. But the time invested in the investigation, hearing of the cases, and delivery of the judgment is not the best effective and efficient utilization of the Courts Time. In January; 2019, the Supreme Court Judge asked People not to file frivolous cases and stop wasting the time of the courts. Many procedural conducts are not being followed by the Courts, like, providing more than three adjournments in cases, which is not advised by the Law and leads to the pendency of cases.

D. JUDICIAL OFFICERS :

It is an evident situation that if a person is overwhelmed by the work supposed to be completed by him, the effectiveness and efficiency of the person will deteriorate at a high scale. A similar situation can be seen in the Indian Judiciary, where the Judicial officers are overwhelmed by the count of

cases they have to deal with, and with the continuous addition of new cases. The problem of pendency arose due to the lack of the appointment of new Judicial officers to match the requirement and fill up the vacant positions.

E. LITIGATION ISSUES:

The new cases are increasing exponentially. As the literacy rate is increasing, the awareness of the people regarding their rights and the obligations the state has towards them is increasing too. This has resulted in approaching the Court of Law in case of any violation, more frequently than it was seen in the past. Among the proportion of Pending Cases, major cases are related to the State or the Centre. There are many problems identified with the Administration of police which are frequently handicapped for the need for recent and technical equipment to accumulate evidence. Even with a lot of inspiring examples that are results of the police administration's hard work and devotion, the lack of orderliness made by the old technology used by them and the slow rate of change cannot be overlooked.

G - LEAST WORKING HOURS

Recently the working hours of subordinate courts in India is from 10 am to 5 pm even thereafter it is more common that judges come around 10:30 am. The regular matters are dealt with 10:00 am to 1:00 pm and after the lunch hours, the Fresh matters of daily basis are taken up.

what the common practice of the judges is that if there are no fresh cases or there are less fresh cases on any particular day they never hesitate in leaving the court.

It is also undisputed that the subordinate courts are closed on Saturday as well except the remand magistrate who remains available 24*7.

to

SUGGESTIONS AS RESOLVE

Pendency is a problem that requires different perspectives to be resolved, as it has many factors. All the problems that are major reasons for the increasing pendency rate can be dealt with some advancement in the procedure and perspective.

A. JUDICIAL INTERVENTION:

1. Judicial administration

The clogged legal system of our country can be unclogged by enhancing the existing situation and by providing a better environment to work.

i.) For productivity enhancement: Due to a lack of administrative support the productivity of the Judicial system can be enhanced again by some suggestive changes:

a.) The number of days of work that is done in higher courts should be increased so the judicial officers are able to handle an increased number of cases by their end to overcome the pendency.

ii.) Appointment:

a.) In the thirteenth Finance Commission report, it was mentioned that in view of enhancement in the management of the courts and resultant improvement in the disposition in the pendency can be dealt with the appointment of professionals in the name of court managers to assist the judges. A lack of staff is a

major dent in the management of the courts. As per the supreme court's report, it was evident that the Subordinate courts were understaffed because of which the management of the courtrooms is difficult. This was a major step towards better management.

b.) In accordance with the constitution of India i.e. Article 127 and 128, the Supreme Court and the High Court can act in order to appoint effective and efficient Judges with experience as AD-HOC Judges and presence of retired Judges.

iii.) Definite time frame:

Time is a factor that if used more than required, to complete a task, can create a problem. Similarly, in the judiciary, the consumption of the time by the Court more than required in one case creates the problem of pendency. There are many changes that can be adopted to resolve and reduce the problem of pendency at a higher rate. Those being:

a) There should be a specification regarding the time consumption with regards to an offence and the trial proceedings.

b) There should be an annual target and action plan for subordinate Judiciary and high courts for the disposal of cases every year which can make the pace of a case go a little faster, thus, coping up to the pendency.

c) Stricter rules of conduct to be applicable to officials to ensure adequate performance in the duties and tasks which are a part of creating the problem of pendency.

iv.) Strict regulation with regards to adjournment of the cases: As per the guidelines of the Code of civil procedure order number 17 of rules 1, the Court of law should provide adjournment of a case not more than three times to parties. There is an ignorance of the order in the practical practice that creates an opportunity for people to misuse and wastes the time of the Hon'ble courts by having adjournments more than three times in their respective cases.

B. LEGISLATIVE INTERVENTION:

1.) There should be the establishment of new Non-Judicial bodies for the Subordinate Courts as well so

that they are not indulged in completing the non-Judicial aspects of the trial.

C.) EXECUTIVE INTERVENTION:

1.) Infrastructure resolve:

A quality infrastructure can help a person complete assigned work in the most effective and efficient manner possible. Similarly, in the Judicial System, the infrastructure plays an important role in the enhancement of delivery. Many resolves can be adopted with regards to the infrastructure:

i.) Land for infrastructure is important and it is the duty of the state to provide such land for the formation of the Court Premises which is best suited. And due to lack of abundance of the ground the infrastructure should be undertaken to be vertical. Because of which there will be a more effective usage of space at the allocated land.

ii.) The change in the low budget allocation towards the Judicial infrastructure has to be initiated as a result of which the depleted structure of buildings

which is miserably grim due to which the Judges are unable to deliver quality judgments in the most efficient time can be exterminated.

2.) Appointment:

The issue of pendency cannot be addressed unless the problem of the shortage in the appointment of the Judicial officers is dealt with. It is visible that the Judiciary lacks in the number of the Judicial officers and that is not compensated with the number of new appointments that are being done but a new framework is required to deal with the situation:

The one hundred and twentieth Law Commission of India report also suggested the fixation of the judge strength formula.

D RESOLVE FOR LITIGATION ISSUE:

The resolution of the issue pertaining to the litigation is not the result of the new cases and more awareness of people regarding what can constitute an infringement in their right. It is also a result of the non-dealing of the existent cases in a quality manner. A person cannot be restrained from the filing of the new case when they feel that their

right has been violated. But the Executive, legislature and Judicial administration can play a major role in dealing with existing cases and newly filed cases in a planned manner:

1.) Pre-litigation Mediation can be a method that can be undertaken towards the reduction of the Pendency in the judicial system. In this method, Legal Services Authorities can regulate the inflow of the cases into court by conducting pre-litigation mediation. ADR should be followed in order to discourage litigation.

2.) For the settlement of the Civil and Family related matters, regularly organized Lok Adalats can be planned and enacted upon. This action will reduce the burden on the Judiciary and the System will be able to overcome the Pendency.

3.) There is a huge workload on the Judiciary as they have to deal with every possible claim irrespective of it being a minor claim or a major claim. This problem can be addressed by setting up Gram Nyayalayas, which can be an effective and efficient way to manage these claims from rural areas.

4.) Establishment of the Legal care and Support centres by the High Judicial system at the rural areas or village areas to address the very grass root level issues in order to make the State litigations more effective and friendly to the litigants.

5.) The Courts can improve their ability of management by utilizing the Administrative mechanisms Alternate Dispute Resolution (ADR), Lok Adalats, Gram Nyayalayas to their full potential. And set up more tribunals Fast Track Courts (FTCs) and Special courts for better managing the important cases in a faster and more efficient manner.

PRAYERS

1. This honourable court pleased to direct All respondents to fill the vacant posts of subordinate courts and also to increase the number of subordinates courts judges in the proportion laid down in **All India judges associations &ors versus union of India &ors 2002** sc.

2. Direct the respondents to make formal guidelines and rule of procedures for the appointment of judges within the time-bound duration, as currently it takes

years from the date of the examination till selection and joining of posts.

3. Direct the respondents to take care and maintain the infrastructures of subordinates courts, as currently most of the subordinates courts are in dilapidated conditions which causes obstructions in the proper administration of justice.

4. this honourable court is pleased to issue any writ, directions or any order or anything in the interest of justice as it thinks fit with exercising powers under article 142 of the constitution of India.

THE PETITIONER SHALL AS INDUTY BOUND, EVER PRAY.

FILED BY -SHRIKANT PRASAD

1st

January

2021

Petitioner in Person

1 january 2021