IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO ……OF 2021

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Ashwini Kumar Upadhyay

...Petitioner

Verses

1. Union of India
   Through the Secretary,
   Ministry of Home Affairs, North Block, New Delhi-110001,
2. Union of India
   Through the Secretary, Ministry of Law & Justice (Legislative Dept)
   Shastri Bhawan, New Delhi-110001,

……Respondents

MAKE RETIREMENT AGE OF JUDGES OF CONSTITUTIONAL COURTS UNIFORM

To,

THE HON'BLE CHIEF JUSTICE
AND LORDSHIP'S COMPANION JUSTICES
OF THE HON'BLE SUPREME COURT OF INDIA
HUMBLE PETITION OF ABOVE-NAMED PETITIONER

THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

1. Petitioner is filing this PIL under Article 32 seeking writ, order or direction to the Centre to take steps to make the retirement age of judges of High Courts and Supreme Court uniform, as it's irrational to have different retirement age for judges of constitutional courts. Alternatively, being protector of right to speedy justice guaranteed under Article 21, the Court may use its plenary constitutional power to declare that the Judges of High Courts shall retire at the age of 65 years until Centre takes steps to reduce the pendency of cases

from 15 to 3 years in spirt of the Resolution dated 25.10.2009. (page 30)

2. Petitioner has not filed any other petition either in this Court or in any other Court seeking same or similar directions as prayed.

3. Petitioner's name is Ashwini Kumar Upadhyay.

Petitioner is an Advocate & social-political activist and striving for gender justice, gender equality & dignity of women; unity & national integration and transparency & good governance.

4. The facts constituting cause of action accrued on 25.3.2021 when the Law Minister, in Rajya Sabha, said that there is no proposal to increase the retirement age of the Judges of High Courts. It is necessary to state that the Bill, to increase the retirement age of judges of High Courts, was introduced in 2010 but lapsed in 2014 due to dissolution of Loksabha. It is also necessary to state that on 22.6.2019, the then CJI Justice Sh. Ranjan Gogoi also wrote a letter to increase the retirement age of High Court judges to 65 years.

5. The injury to citizens is very large because due to early retirement, the finest advocates are not willing to become judges. Hence, rule of law guaranteed under Article 14 and right to speedy justice guaranteed under Article 21, is being brazenly offended.

6. Petitioner submits that to maintain the autonomy of High Courts, Centre must take steps to make the retirement age for High Courts - Supreme Court Judges uniform. If there is uniformity in retirement age, the Judges of the High Court will discharge judicial work more independently and without any expectation to move the Supreme Court. Also, to minimize the apprehension of subordination between the Supreme Court and High Courts, it is appropriate to equate the retirement age of High Court Judge's with Supreme Court Judges.

7. The problem of delay in disposal of cases is not a new problem and has been in existence since longtime. But it has now acquired terrific proportions. Huge backlog has not only put judicial system under strain but also has shaken confidence of the people. Finest Lawyers don't want to become Judge of the High Courts because instead of continuously giving valuable services to the nation, High Court Judges are compelled to retire at a very early age i.e., 62

years. Due to inaction of Centre, the bench loses tremendous legal experience when Judges are forced to retire before their septuagenarian year and the Department Related Parliamentary Standing Committee on Personal, Public Grievances, Law and Justice has very correctly referred to the problem caused by early retirement of judges.

8. Uniformity in the retirement age of Judges will create a pool of experienced judges in High Courts, which will be extremely useful for deciding the cases of extreme importance or which require deep and thorough knowledge for interpretation of the Constitution.

9. Increasing the retirement age and making it uniform for the High Courts and Supreme Court will not only strengthen the rule of law, which is integral part of Article 14 but also secure the fundamental right of speedy justice, guaranteed under Article 21. Uniformity in the retirement age of Judges will not only ensure the independence and separation of judiciary in spirit of Article 50 but also bring the Indian Justice System at par with the worldwide norms & standards of Higher Courts of developed countries viz. US, UK, Canada etc.

10. The last increase in the retirement age of the High Court judges was made in 1963, when it was raised from 60 to 62 years. The latest

proposal to increase the retirement age was mooted in 2008 and Cabinet gave its nod to increase retirement age of High Court and Supreme Court Judges in 2010. However, due to political hostility, it was put on the backburner. It is pertinent to state that in developed countries, retirement age of Higher Court Judges varies from 70-80 years and in some countries, they work for lifetime. For example, Judges retires at the age of 75 years in UK and Canada and at the age of 70 years in Australia, Netherlands, Ireland, Belgium, Norway. Moreover, the Judges works for lifetime in the United States, Russia, New Zealand and Iceland, subject to their physical-mental fitness.

11. Uniformity in the retirement age is not only necessary to reduce pendency of cases but also essential to attract and retain the best legal talent in the bench. To reduce judicial and procedural error, India needs more experienced Judges. But Centre neither increased the retirement age of Judges, nor implemented the Resolution dated 25.10.2009, to reduce the pendency from 15 years to 3 years.

12. Centre has also not implemented the historic Judgments from First to Fifth Judges Case and recommendations of Parliament Standing Committee and Law Commission of India in letter and spirit. Various

reports on judicial Reforms have been submitted by the Law Commission after in depth study, which have dealt with various aspects of Law, substantive & procedural. Law Commission has addressed the issue in several reports since 1955: the 14th 38th 78th 79th 80th 117th 120th 121st 124th 125th 154th 139th 197th 221st 222nd 229th 230th and 245th reports dealt with issues of delay, pendency and arrears. But Centre has not implemented them till date.

13. A number of Committees were constituted to examine the problem of delay and the first Committee was Justice Rankin Committee. Since then, several Committees have put forth recommendations. These include the PRS Legislative Research, Pendency of Cases in Indian Courts, Justice S.R. Das High Court Arrears Committee 1949, The Trevor Harris Committee in West Bengal (1949), the Wanchoo Committee in Uttar Pradesh (1950), Justice J.C. Shah Committee (1972), Satish Chandra Committee (1986) and Malimath Committee (1990) but Centre did nothing to implement the recommendations.

14. On October 24-25, 2009, at the Conference of Chief Justices and Chief Ministers, Members of the Supreme Court and High Courts, Ministry of Law and Justice, Bar Council and faculty of Indian Law

Institute and other academic institutions gathered for a *"National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays"*. The then Prime Minister and Chief Justice of India endorsed the reforms to ensure speedy justice but Centre did nothing to reduce the pendency of cases.

15. Petitioner respectfully submits that Indian Judiciary would take around 100 years to clear the backlog and the reason for the backlog is the inadequate judge strength which is around 20 judges per one million people which is very less in comparison to 58 per million in Australia, 75 per million in Canada, 100 per million in the United Kingdom and 130 per million in the USA. In 2002, the Supreme Court had directed Centre to raise the judge to population ratio to 50 per million in a phased manner, as recommended by the Law Commission in 120th report but the suggestion had no effect.

16. There are other factors also, which are responsible for the arrears of cases. Broadly, there are 2 factors, viz., procedural and substantive. Procedural factors responsible for the delay in disposal of cases are: (i) Pre-trial delays (ii) Delay during trial (iii) delay during appellate proceedings and (iv) delay during the execution proceedings. On the other hand, substantive factors include: (i)

judicial vacancies/delay in appointment of judge, (ii) lack of accountability of judges, (iii) many vacations in the courts, (iv) misuse of public interest litigation, (v) witnesses turning hostile (vi) writ jurisdictions and (vii) delay by the judges. The other causes attributed for delay are: inadequate numbers of courts, judicial officers not being fully equipped to tackle cases involving specialized knowledge, dilatory tactics adopted by litigants and lawyers who seek frequent adjournments and delay filing documents etc.

17. Speedy justice is sine qua non of criminal jurisprudence. Speedy justice keeps people's faith engrained and establishes the balance where mutual trust and confidence between government and public is maintained and enriched. Fair trial and speedy justice is deeply rooted in the concept of democracy and regarded as a basic human right. It is in the interest of all concerned that guilt or innocence of accused is determined quickly. Myriad facts and situations, bearing testimony to denial of fundamental right of fair trial and speedy justice and failure on part of prosecuting agencies have persuaded the Supreme Court in devising solutions like bars of limitation.

18. Judiciary plays an important role in life and governance of country. However, anyone who has any experience of the Courts is aware of the serious problems that beset our judicial system. There are many problems plaguing the judiciary but the first and foremost is judicial backlog and accessibility to justice for a common person. More than 4 crore cases are pending, which are just lingering along and not reaching their logical conclusion due to 3 reasons: (i) Lack of judicial infrastructure i.e. lack of subordinates courts, staff etc. (ii) Archaic laws and (iii) Incompetent, inexperienced and unaccountable Public Prosecutors, Standing Councils and Government Advocates.

19. Presently, the rule of law, guaranteed under Article 14 and right to speedy justice, guaranteed under Article 21 of the Constitution is not safeguarded. Judiciary is over-burdened and rendered ineffective with unnecessary litigation, delayed procedures, obsessive concern with the livelihood of Advocates at the cost of justice to litigants and indiscriminate application of writ jurisdiction. Excessive caseload means that most orders emanating from the Courts would be by nature of granting stays, instead of adjudication. Common man has neither the means nor the access to go through complicated, incomprehensible Court procedures

that is why touts are flourishing and justice is suffering. Most citizens avoid Courts except in extreme circumstances, when they have no other recourse available.

20. The failure of our justice system is manifesting in abnormal delays in litigation and huge pendency in Courts. Disposal of cases and conviction rates is very low. There are abnormal delays, even in cases involving grave offences with direct impact on public order and national security. For example, it took more than seven years to convict the murderers of former Prime Minister Sh. Rajiv Gandhi. Similarly, there are harrowing tales of many citizens accused of petty offences languishing in jails as under-trial prisoners for years.

21. Right to justice is not a fact or fiction but a constitutional reality and it has to be given its due respect. If the administration of justice delivery system is to yield good results then the Courts have to act with greater promptitude. A guilty person deserves to be punished promptly and an innocent should be released immediately because the protractions can be most traumatic. The time has come when the judicial system is revamped and restructured so that injustice does not occur and disfigure the fair and otherwise luminous face of our nascent democracy. The inordinate delay has become a

common feature of the Indian judicial system. The dictum 'Justice Delayed' postulates that an unreasonable delay in the administration of justice constitutes an unconscionable denial of justice.

22. Right to a speedy trial was first mentioned in the landmark document of English law- the Magna Carta. The right to speedy trial finds expression in the United States of America's Constitution, State Constitutions, State and Federal Statutory Law and State and Federal Case Law. In US, the right to speedy trial has been derived from a provision of Magna Carta and this right was interpreted and incorporated into Virginia Declaration of Rights of 1776 and from there into the 6th Amendment of the US Constitution.

23. Right to speedy trial is an important safeguard to prevent undue and oppressive incarceration prior to trial and to minimize anxiety and concern accompanying public accusation and to limit the possibility that long delay will impair the ability of an accused to defend himself. The guarantee of a speedy trial is one of the most basic rights preserved by the American Constitution, it is one of those fundamental liberties embodied in the Bill of Rights which

due process Clause of the 14th Amendment make applicable to the State.

24. The delay and lack of accountability and half-baked schemes amount to a daily mockery of the fundamental right to speedy trial. The Supreme Court has time and again made it clear that *"speedy trial is the essence to criminal justice and there can be no doubt that the delay in trial by itself constitutes denial of justice"*. It has further added that *"there can be no doubt that speedy trial - and by speedy trial we mean a reasonable expeditious trial - is an integral and essential part of right to life and liberty enshrined in Article 21".* The Preamble enjoins the State to secure social, economic and political justice to all its citizens. Further, the Directive Principle declare that the state should strive for a social order in which such justice shall inform all the institutions of national life under Article 38(1).

25. By virtue of the 15th Amendment to the Constitution in 1963, the age of retirement for the judges of the High Courts is 62 whereas it is 65 for the judges of the Supreme Court. Petitioner respectfully submits that it is arbitrary and irrational. The retirement age for Supreme Court and High Court judges should be the same viz. 65 years. Some judges of High Courts, who are about to retire, seek to

be elevated to the Supreme Court lured by the attraction of 3 more years in office; that they hardly have sufficient time to make a contribution. If the age of retirement is made the same for both - the High Courts and the Supreme Court, only those judges, who really wish to work with devotion, would like to come to Supreme Court. It is also submitted that in U.K., the age of retirement for the judges of the High Court and the Court of Appeal is the same, namely, 75 years. Similarly, in India, the uniform age of superannuation can be 65 years.

26. Keeping in view the above stated facts and circumstances and to reduce the pendency of cases, minimize judicial and procedural error, secure fundamental right of speedy justice, and trust and confidence of common man in the democracy, the Court may direct the Centre to take appropriate steps to make the retirement age of Judges of the High Courts and Supreme Court uniform i.e., 65 years.

27. In order to reduce the pendency of cases from 15 to 3 years in line with the Resolution dated 25.10.2009, the Court also may direct the Centre to take steps to implement the recommendations of Law Commission and Venkatachaliah Commission on Judicial Reform. Also, Centre must allocate sufficient funds from the

Consolidated Fund of India to meet the demands of State Judiciary as proposed by the NCRWC.

28. There is no civil or criminal revenue litigation involving petitioner, which has or could have legal nexus with issue involved.

29. Petitioner has no personal interests, individual gain, private motive or oblique reasons in filing this PIL under Article 32. It is not guided for gain of any other individual person, institution or body.

30. Copy of "Blue Print for Judicial Reforms: Strategic Initiatives 2009-2012" is annexed as **Annexure P-1. (pages 24-55)**

31. Petitioner submitted a Representation to the Prime Minister on 29.6.2018 but Centre did nothing to make retirement age of judges' uniform. Copy of the letter is **Annexure P-2. (pages 56-63)**

32. There is no requirement to move authority for relief sought. There is no other remedy available except approaching this Court.

33. This Hon'ble Court is hearing similar PIL [WP(C)1236/2019]. The Order dated 19.8.2020 is **Annexure P-3. (page 64)**

34. The power conferred by Article 32 is in the widest terms and is not confined to issuing the writs specified therein, but includes within its ambit the power to issue any directions or orders or writs which may be appropriate for enforcement of fundamental rights.

Therefore, even when the conditions for issue of any of these writs are not fulfilled, the Supreme Court would not be constraint to fold its hand in despair and plead inability to help the citizen who has come before it for judicial redress. The Court is not helpless to grant relief in a case of violation of right to life and liberty and it should be prepared to "forge new tools and device new remedies".

35. For purpose of vindicating these precious fundamental rights, in so far as the Supreme Court is concerned, apart from Articles 32 and 142, which empower the Court to issue such directions as may be necessary for doing complete justice in any matter, Article 144 also mandates all authorities civil or judicial in the territory of India, to act in aid of the order passed by the Supreme Court. Being the protector of civil liberties of citizens, the Supreme Court has not only the power and jurisdiction, but also an obligation to protect the fundamental rights, guaranteed by part-III in general and under Article 21 in particular zealously and vigilantly. The Supreme Court and High Courts are the sentinels of justice and have been vested with extra ordinary powers of judicial review to ensure that rights of citizens are duly protected. [ML Sharma (2014) 2 SCC 532]

36. It is not merely right of individual to move the Supreme Court, but also responsibility of the Court to enforce fundamental rights. Therefore, if the petitioner satisfies the Supreme Court that his fundamental right has been violated, it is not only the 'right' and 'power', but the 'duty' and 'obligation' of the Court to ensure that the petitioners fundamental right is protected and safeguarded. [V.G. Ramchandran, Law of Writs, 6th Edition, 2006, Pg. 131, Vol-1]

37. The power of Supreme Court is not confined to issuing prerogative writs only. By using expression "in the nature of", the jurisdiction has been enlarged. The expression "in the nature of" is not the same thing as the other phrase "of the nature of". The former emphasis the essential nature and latter is content with mere similarity. [M. Nagraj v UOI, (2006) 8 SCC 2012] Therefore Supreme Court cannot refuse an application under Article 32 of the Constitution, merely on the grounds: **(i)** that such application has been made to Supreme Court in the first instance without resort to the High Court under Article 226 **(ii)** that there is some adequate alternative remedy available to petitioner **(iii)** that the application involves an inquiry into disputed questions of fact / taking of evidence. **(iv)** that declaratory relief i.e. declaration as to

unconstitutionality of impugned statute together with consequential relief, has been prayed for **(v)** that the proper writ or direction has not been paid for in the application **(vi)** that the common writ law has to be modified in order to give proper relief to the applicant. [AIR 1959 SC 725 (729)] **(vii)** that the article in part three of the constitution which is alleged to have been infringed has not been specifically mentioned in petition, if the facts stated therein, entitle the petitioner to invoke a particular article. [PTI, AIR 1974, SC 1044]

38. Article 32 provides important safeguard for the protection of the fundamental rights. It provides guaranteed quick and summary remedy for enforcing the fundamental right because a person complaining of breach of any of his fundamental rights by an administrative action can go straight to the Court for vindication of his right without having to undergo directory process of proceeding from lower to the higher court as he has to do in other ordinary litigation. The Supreme Court has thus been constituted as protector defender and guarantor of the fundamental rights of the people. It was very categorically held that: *"the fundamental rights are intended not only to protect individual rights but they are based*

on high public. Liberty of the individual and protection of fundamental rights are very essence of democratic way of life adopted by the Constitution and it is the privilege and duty of this Court to uphold those rights. This Court would naturally refuse to circumscribe them or to curtail them except as provided by Constitution itself." [AIR 1961 SC 1457]. In another case, the Supreme Court has held that: *"the fundamental right to move this Court can therefore be described as the corner stone of the democratic edifice raised by Constitution. That is why it is natural that the Court should regard itself as the protector and guarantor of fundamental rights and should declare that it cannot consistently with the responsibility led upon it, refuse to entertain application seeking protection against infringement of such right. In discharging the duties assigned to it, the Court has to play the role of a "sentinel on the qui vive" and it must always regard it as its solemn duty to protect the said fundamental right zealously and vigilantly."* [Prem Chand Garg, AIR 1963 SC 996].

39. Language used in Articles 32 is very wide and the powers of the Supreme Court extends to issuing orders, writs or directions including writs in the nature of habeas corpus, mandamus, quo

warranto, prohibition and certiorari as may be considered necessary for enforcement of the fundamental rights and in the case of the High Courts, for other purposes as well. In view of the express provision of the Constitution, there is no need to look back to procedural technicalities of the writs in English Law. The Court can make and order in the nature of these prerogative writs in appropriate cases in appropriate manner so long as the fundamental principles that regulate the exercise of jurisdiction in matter of granting such writ in law are observed. [AIR 1954 SC 440]

40. An application under Article 32 cannot be thrown out simply because the proper direction or writ has not been prayed for. Thus, where an order in the nature of mandamus is sought in a particular form, nothing debars the Court from granting it in a different form. Article 32 gives a very wide discretion in the matter of framing the writ to suit the exigencies of particular cases. [AIR 1951 SC 41] Even if petitioner has asked for wider relief which cannot be granted by Court, it can grant such relief to which the petitioner is entitled to [Rambhadriah, AIR 1981 SC 1653]. The Court has power to grant consequential relief or grant any relief to do full - complete justice even in favour of those persons who may not be before Court or

have not moved the Court. [Probodh Verma, AIR 1985 SC 167] For the protection of fundamental right and rule of law, the Supreme Court under this article can confer jurisdiction on a body or authority to act beyond the purview of statutory jurisdiction or function, irrespective of the question of limitation prescribed by the statute. Exercising such power, Supreme Court entrusted the NHRC to deal with certain matters with a direction that the Commission would function pursuant to its direction and all the authorities are bound by the same. NHRC was declared not circumscribed by any condition and given free hand and thus act *sui generis* conferring jurisdiction of a special nature. [Paramjit Kaur, AIR 1999 SC 340]

41. Simply because a remedy exists in the form of Article 226 for filing a writ in the High Court, it does not prevent any bar on aggrieved person to directly approach the Supreme Court under Article 32. It is true that the Court has imposed a self-restraint in its own wisdom on the exercise of jurisdiction where the aggrieved person has an effective alternative remedy in the form of Article 226. However, this rule which requires the exhaustion of alternative remedy is rule of convenience and a matter of discretion rather than rule of law. It does not oust of the jurisdiction of the Supreme Court to exercise

its writ jurisdiction under Article 32. [Mohd. Ishaq (2009) 12 SCC 748]

42. The Supreme Court is entitled to evolve new principle of liability to make the guaranteed remedy to enforce fundamental rights real and effective, to do complete justice to aggrieved person. It was held in that case that the court was not helpless and the wide powers given to the Supreme Court by Article 32, which itself is a fundamental right imposes a constitutional obligation on the Court to forge such new tools, which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which enables reward of monetary compensation in appropriate cases, where that is the only redress available. The remedy in public law has to be more readily available when invoked by have-nots who are not possessed of the where withal for enforcement of their right in private law, even though its exercise is to be tempted by judicial restraint to avoid circumvention of private law remedies, which more appropriate. Under Article 32, the Supreme Court can pass appropriate orders or facts to do complete justice between parties even if it is found

that writ petition filed is not maintainable in law. [Saihba Ali, (2003) 7 SCC 250]

PRAYERS

Keeping in view the above stated facts and circumstances, the Court may be pleased to issue appropriate writ, order or direction to:

a) direct the Centre to take steps to make the retirement age of judges of High Courts and Supreme Court uniform, as it's irrational to have different retirement age for the judges of constitutional courts;

b) alternatively, being protector of right to speedy justice guaranteed under Article 21, the Court may use its plenary constitutional power to declare that the Judges of High Courts shall retire at the age of 65 years until Centre takes steps to reduce the pendency of cases from 15 to 3 years in spirt of the Resolution dated 25.10.2009; (page

c) alternatively, being Custodian of the Constitution and protector of fundamental rights, the Court may be pleased to declare that the words *'sixty-two years'* used in Article 27(1) are arbitrary, irrational and offend Article 14. Hence, void and unconstitutional;

d) pass such other order(s) and/or direction(s) as this Hon'ble Court deems fit and proper in facts and circumstances of the case; and,

e) allow the cost of petition to petitioner.

New Delhi Advocate for petitioner

5.4.2021 (Ashwani Kumar Dubey)

SYNOPSIS & LIST OF DATES

Petitioner is seeking writ, order or direction to make the retirement age of High Court-Supreme Court judge's uniform, as it's irrational to have different retirement age for judges of constitutional courts. Alternatively, being protector of right to speedy justice, the Court may declare that the Judges of High Courts shall retire at the age of 65 years until Centre takes steps to reduce pendency of cases from 15 to 3 years in spirt of the Resolution dated 25.10.2009. (page

Cause of action accrued on 25.3.2021 when the Law Minister said that there is no proposal to increase the retirement age of High Court judges. It is necessary to state that Bill, to increase retirement age of judges of High Courts, was introduced in 2010 but lapsed in 2014 due to dissolution of Loksabha. It is also necessary to state that on 22.6.2019, the then CJI Sh. Ranjan Gogoi also wrote a letter to increase the retirement age of High Court judges to 65 years.

The injury caused to citizens is extremely large because due to early retirement, finest and competent advocates are not willing to become the judge of the High Courts. Therefore, the rule of law guaranteed under Article 14 and right to speedy justice, guaranteed under Article 21 of the constitution is being brazenly offended.

Petitioner submits that to maintain the autonomy of High Courts, Centre must take steps to make the retirement age for High Courts - Supreme Court Judges uniform. If there is uniformity in retirement age, Judges of the High Court will discharge judicial work more independently and without any expectation to move the Supreme Court. Also, to minimize the apprehension of subordination between the Supreme Court and High Courts, it is appropriate to equate the retirement age of High Court Judge's with Supreme Court judges.

The problem of delay in disposal of cases is not new problem and has been in existence since longtime. But it has now acquired terrific proportions. Huge backlog has not only put judicial system under strain but also has shaken confidence of the people. Finest Lawyers don't want to become judge of High Courts because instead of continuously giving valuable services to the nation, High Court Judges are compelled to retire at a very early age i.e., 62 years. Due to inaction of Centre, the bench loses tremendous legal experience when Judges are forced to retire before their septuagenarian year and the Department Related Parliamentary Standing Committee on Personal, Public Grievances, Law and

Justice has very correctly referred to the problem caused by early retirement of judges.

Uniformity in retirement age of Judges will create a pool of good judges in High Courts, which will be extremely useful for deciding the cases of extreme importance or which require deep & thorough knowledge for interpretation of the Constitution. Increasing the retirement age and making it uniform for the High Courts and Supreme Courts will not only strengthen the rule of law, which is integral part of Article 14 but also secure the fundamental right to speedy justice, guaranteed under Article 21. Uniformity in the retirement age of Judges will not only ensure the independence and separation of judiciary in spirit of Article 50 but also bring the Indian Justice System at par with the worldwide norms & standards of Higher Courts of developed countries viz. US, UK, Canada etc.

The last increase in the retirement age of the High Court judges was made in 1963, when it was raised from 60 to 62 years. The latest proposal to increase the retirement age was mooted in 2008 and Cabinet gave its nod to raise the retirement age of High Court and Supreme Court Judges in 2010. However, due to political fighting, it was put on the backburner. It is pertinent to state that

in developed countries, retirement age of Higher Court Judges varies from 70-80 years and in some countries, they work for lifetime. For example, Judges retires at the age of 75 years in UK and Canada and at the age of 70 years in Australia, Netherlands, Ireland, Belgium, Norway. Moreover, the Judges works for lifetime in US, Russia, New Zealand and Iceland, subject to their physical-mental fitness.

Uniformity in retirement age is not only necessary to reduce pendency of cases but also essential to attract and retain the best legal talent in the bench. To reduce judicial and procedural error, India needs more experienced Judges. But Centre neither increased the retirement age of the Judges, nor implemented the Resolution dated 25.10.2009, to reduce the pendency from 15 years to 3 years.

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the 14th 38th 78th 79th 80th 117th 120th 121st 124th 125th 154th 139th 197th 221st 222nd 229th 230th and 245th reports dealt with issues of delay, pendency and arrears. But Centre has not implemented them yet.

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25.10.2009: At the Conference of Chief Justices and Chief Ministers, Members of the Supreme Court, High Courts, Ministry of Law, BCI and faculty of Law Institutes gathered for *"National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays"*. The then PM and CJI agreed to reduce pendency from 15 to 3 years.

29.6.2018: Petitioner submitted representation to the PM.

22.6.2019: The then CJI Justice Sh. Ranjan Gogoi wrote to the PM to increase the retirement age of High Court Judges.

5.4.2021: Centre has neither taken steps to reduce pendency nor to increase retirement age of Judges. Hence, this PIL.