LAW COMMISSION OF INDIA

ONE HUNDRED TWENTY-SEVENTH REPORT

ON

# RESOURCE ALLOCATION FOR INFRA-STRUCTURAL SERVICES IN JUDICIAL ADMINISTRATION - (A CONTINUUM OF THE REPORT ON MANPOWER PLANNING IN JUDICIARY: A BLUEPRINT)

1988

Tel. No. 384475

विधि आयोग
LAW COMMISSION
भारत सरकार
GOVERNMENT OF INDIA
शास्त्री भवन,
SHASTRI BHAWAN,
नई दिल्ली
NEW DELHI

JESAI
Chairman

D.O. No. 4(3)/86-LC(LS)

June 14, 1988.

Shri Bindeshwari Dubey,
Minister for Law and Justice,
Government of India,
Shastri Bhavan,
NEW DELHI.

Dear Shri Dubey,

It is my pleasure to forward herewith 127th Report of the Law Commission of India dealing with 'Resource Allocation for Infra-structural Services in Judicial Administration'.

This report may be read as part of a package comprised in two earlier reports . The first in this series was the one on 'Manpower Planning in Judiciary: A Blueprint', being 120th Report of the Law Commission, by which it was recommended to revise the Judge population ratio in next five years. This recommendation, when implemented, would require a forum for selecting and recruiting more Judges at every level. I was happy to read that part of the recommendation in that report has been accepted when the Minister of State for Law and Justice recently announced that the Government of India have resolved to raise the Judge strength of the High Courts from 390 as at present to 530 in near future. It is only a part of the recommendation and I hope the other part would as well be implemented soon.

To help the administration, the Law Commission forwarded a comprehensive report on 'A New Forum for Judicial Appointments', being 121st report of the Law Commission. Now that the Judge strength is expanded, the setting up of the new forum, as recommended in that report, may be accorded high priority.

When the aforementioned two reports are implemented, as a necessary corellary, there would be expansion of courts at all levels as also the ministerial staff attached to the courts, more court buildings and allied facilities. The present report deals with finding resources for the additional expenditure and allocation of the same for infra-structural services in judicial administration.

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In this report, the Law Commission has dealt with the problem of more court houses, other expanded facilities and additional ministerial staff for expanded court services. Undoubtedly, therefore, a higher demand will be made on the Exchequer under the heading 'Judicial Administration' both at the Central and State level. Being aware of the resource constraints, this report also deals with areas where more funds can be generated to be specifically earmarked for judicial administration. All these aspects have been comprehensively dealt with in this report.

I would, therefore, request to treat all the three reports herein discussed as a package and they may be implemented almost simultaneously because one without the other is likely to give a distorted picture.

With regards,

Yours sincerely,

(D.A. DESAI)

Encl: A Report

CONTENTS

# CHAPTER I

## INTRODUCTION

1.1. Ever since men have begun to reflect upon the relations with each other and upon vissitudes of the human lot, they have been pre-occupied with the meaning of justice and a popular belief has been that justice can only be obtained through court. That itself gives credence, credibility and respectability to the court system. But like any other institution, the system has to constantly justify its existence by rendering the service expected of it. The moment it fails or falters, the credibility and respectability devalues. For a functioning democracy, court system, where justice is obtained even against the State, is a pre-requisite. Therefore, the court system, whenever it is under an unbearable load, requires thorough re-examination and its re-structuring with a view to making it efficient, people and result-oriented.[1]

1.2. The Universal Declaration on Human Rights provides that:

> "Everyone has the right to an effective remedy by the competent national

tribunals for acts violating the fundamental rights granted by the Constitution or by law".[2]

Expounding the fundamental principles of justice underlying the Delcaration, the Law Commission had observed:

"Equality is the basis of all modern systems of jurisprudence and administration of justice.... In so far as a person is unable to obtain access to a court of law for having his wrongs redressed or for defending himself against a criminal charge, justice becomes unequal and laws which are meant for his protection have no meaning and to that extent fail in their purpose.".[3]

Failure on the front of providing adequate and easily accessible courts of justice is one of the principal causes of popular dissatisfaction with the administration of justice. This was voiced way back in 1906 by Dean Roscoe Pound in his famous speech.[4] The dissatisfaction stems from unmanageable backlog of cases, mounting arrears and inordinate delay in disposal of cases in courts at all levels - lowest to the highest - coupled with exorbitant expenses. This has

attracted the attention not only of the members of the Bar, consumers of justice (litigants), social activists, legal academics, Parliament, but also the managers of the court.

1.3. The Government of India accordingly resolved to set up a Judicial Reforms Commission. Ultimately the task of studying and recommending judicial reforms was entrusted to the present Law Commission. A comprehensive proposal for judicial reforms must aim at making the system resilient, expeditious, informal, free from procedural juggernauts, inexpensive and result-oriented. Article 39A of the Constitution set the goal in this behalf by providing that the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Any one solution cannot attain the desired end. A multi-pronged programme dealing with each cause which made the system static,

stratified and beyond the reach of the common man, had to be devised so that each contributory factor can be effectively and adequately dealt with.

1.4. Viewed from the angle hereinabove indicated, in its phased programme of recommending judicial reforms, Law Commission amongst others also concentrated on manpower planning in judiciary.[5] In that report, it was specifically stated that the problem of judicial manpower planning has been generally ignored in India's planned development. The reason simply, amongst others, is that a developing science of manpower planning has not attracted the attention of policy opinion makers in the field of administration of justice in India.[6] Law Commission accordingly recommended that the State should immediately increase the present ratio from 10.5 Judges per million of Indian population to at least 50 Judges per million of Indian population within the period of next five years. It was further recommended that by the year 2,000 India should command at least 107 Judges per million of Indian population.[7] Law Commission also made it clear that this is an interim report on the issue of

recrganisation of Indian judiciary. Its second report proceeding on this basis will deal with the method of judicial appointments.[8] Its third report will deal with the problem on resource allocation for bureaucratic and infrastructural services to judicial administration, including the use of computer technology for its modernisation. This report accordingly is the promised third report dealing with resource allocation for bureaucratic and infra-structural services to judicial administration. This report is a continuum of the two earlier reports[9] and all the three provide a package. If the recommendations in these reports are not dealt with as a package, the whole picture is likely to be distorted.

## CHAPTER II

## COURTS: THE CHANGING ROLE

2.1. "The concept of justice permeates society. It is a principle that governs the relationship within an individual family, and must equally govern relationships within the family of nations."[1] "Justice is the hallmark of courts. Views of justice differ, however, courts function in a wider justice system which spans the range from police through corrections, and, in the civil sphere may touch all citizens. The courts are the fulcrum of this system. Despite their serious imperfections, it is frightening to contemplate a nation without courts, a complex society without a formal institution to enforce the rules set forth by that society."[2] It is, therefore, necessary to strengthen the system. A reform movement is in process to modernise court structure and administration and to achieve court-related objectives around which some consensus has developed amongst various interest groups directly or indirectly connected with court system, such as Judges, lawyers, legal academes, litigants and even the Government. "There is no better test of the excellence of

a Government than the efficiency of its judicial system, for nothing more nearly touches the welfare and security of the average citizens than the feeling that he can rely on certain and prompt administration of justice."[3] Judicial power is the power of the State. The State has to create institutions on which the judicial power of the State can be conferred and the citizens in search of justice may approach these institutions. In determining a nation's rank in political civilization, no test is more decisive than the degree in which justice, as defined by the law, is actually realised in its judicial administration as between one private citizen and another and as between private citizens and members of the Government."[4]

2.2. The expression "access to justice" has different connotations. The road blocks in the access to justice can be high cost, geographical distance, adverse cost benefit ratio and the inordinate delay in search of illusory justice. The State is responsible to remove all road blocks in the access to justice. Accordingly, the State should ensure that the system is equally accessible

to all and should lead to the results that are individually and socially just.

2.3. The concept of access to justice has undergone an important transformation. Earlier right to access to judicial protection meant the aggrieved individual's formal right to litigate or defend a claim. It did not require State action for their protection. Their preservation required only that the State did not allow them to be injured by others. Relieving 'legal poverty', that is, incapacity of many to make full use of the law and institutions was not the concern of the State.

2.4. Article 39A casts a positive duty on the State to so structure the legal justice system as to ensure that its operation promotes justice, on a basis of equal opportunity. To attain this object, the State had to pass suitable legislation or frame schemes to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Amongst other disabilities, courts situated at a long distance from the habitat of the citizens in search of justice itself would have a dampening effect on one's

search of justice. This disability can be removed by setting up courts within the easy reach of the litigants and, if need be, by providing legal aid so that the highly expensive system may not thwart the urge to seek justice. "What does it profit a poor and ignorant man that he is equal to his strong antagonist before the law if there is no one to inform him what the law is? Or that the courts are open to him on the same terms as to all other persons when he has not the wherewithal to pay the admission fee?"[6]

2.5. Therefore, consider the question where, apart from paying the fees for admission, one has to travel long distance accompanied by the witnesses in search of a place for justice. In our country, the courts are situated in places which are inaccessible in monsoon except walking the whole distance. Which witness would be so justice-oriented that in the vindication of truth he would accompany the litigant walking all the way to the court and in the process leave his own work unattended? For poor people inhabiting the rural landscape, giving up one's work means totally denying oneself even a morsel of food.

2.6. Now it is true that recently the apex court has opened its doors to those improverished sections of the society who complain of violation of fundamental rights. Let it, however, not be forgotton that a large volume of litigation emanating from rural areas arises from the enforcement of statutes for which redress has to be sought from grassroot level courts. While opening its doors to the people in custody, victim of police violence, workers, pavement dwellers, etc., the limitation on the entry in the court has to be kept in view in that one has to complain of violation of fundamental rights inviting the Supreme Court to adjudicate upon the issue. But what happens to those impoverished sections of the society to whom minimum wages are not paid, who suffer because of bureaucratic indifference, who amongst themselves have disputes concerning property, right of way, possession of land or dwelling house, et al? They have to approach the court at the grassroot level and these courts are still not exposed to newly developing culture of ignoring the problem of locus standi and rendering justice without being inhibited by a procedure

devised in colonial times. "Throughout the seventies, the Executive made its wish public that the Judges and courts should be committed to the Constitution and the promise of progress and justice within it. Now, led by the Supreme Court of India, Judges and courts have shown their commitment to the rural poor and to the unfortunate under-privileged. But that can bring in a limited relief. Undoubtedly, the social activists have learnt the uses of law as an aspect of overall struggle on behalf of the dominated and vulnerable just as Judges and courts began to take the Indian suffering seriously."[7] A major percentage of litigation hardly involves infraction of fundamental rights. This litigation emanates from rural areas. To them, no relief can be extended in their petty disputes involving long drawn out litigation in distant courts by either the epistolary jurisdiction or social action litigation. To them, the easy accessibility of the court without wasting a whole day denying daily earning, would be service of immense value. It is here that neighbourhood justice will relieve the agony of a large number of litigants. Social

action litigation undoubtedly has its own place in the scheme of things. There is greater recourse to the courts to solve problems whereas in the past they have not been resolved judicially. Sometimes the Executive or the Legislature find it more convenient to pass on to the courts the difficult or politically embarrassing questions, though covertly, for example, Muslim Women's (Rights on Divorce) Act, 1986. In this approach, the courts undergo a transformation into 'the problem solvers of the society'. But, as pointed out hereinabove, this expanded jurisdiction leaves the underprivileged having petty disputes about their day-to-day problems cold and unimpressed. For them, the easy accessibility means the court providing neighbourhood justice. Some attempt has been made in this direction by the present Law Commission in recommending the setting up of Gram Nyayalaya, a participatory model of justice.[8]

2.7. In constantly interpreting and re-interpreting the Constitution to arrive at the desired socialistic goals, legislations and their subordinate breed are bound to proliferate and, as a result, varying interests would converge or clash. A constant resolution of disputes arising from contrary expectations sought through the same legislations inevitably increases the role of courts.

2.8. Outlay on all sections of activity is increasing. In every such activity, the area of potential conflict related to right-duty syndrome exists. Once such conflict becomes apparent, search for justice is inevitable and the search leads to higher expectations of justice. Naturally in a constitutional democracy, this is indispensable because it is founded on the doctrine of rule of law. All this combined to create need for more courts and more courts means more outlay on justice system.

2.9. There is a happy augury that our courts in India are no longer importing thoughts but indigenising them which obviously demands greater facilities for greater number.

2.10. Indisputably, the courts' functions have multiplied manifold. The phenomenon is not lmited to the Supreme Court only but to courts at all levels. There is an increasing demand for a statutory provision requiring the grassroot level courts also to entertain social action litigation without the necessity of establishing violation of fundamental rights but pointing out injured interest of a group unable to obtain relief because of their social and educational backwardness. This is taken note of when the Law Commission, in re-structuring grassroot courts, has recommended for a liaison officer with a right of locus standi.[9]

2.11. Institutionally, the courts may not occupy a position of dominance but when everything else fails, the judiciary is approached as a last resort to mete out fairness. The public confidence in the courts is evident from the fact that the courts have been asked to pronounce on questions of great public importance, be it the conduct of the examinations of a premier university in one of the highest medical degrees or the misuse of power by men in authority and power,[10] pollution of

environment by big industrial houses,[11] attempt by a political party, who apprehending that success may elude them at the hustings, sought to defeat the election process, despite article 329(b) by raising frivolous and baseless objections in the writ petition,[12] or the dispute between two split groups of the parent political party regarding the use of election symbol[13] or the party office.[14] This proves, if proof be needed, that the courts do inspire the faith that objectivity and impartiality alone can bring. Even when they are doubted, it is their grasp of problem that is questioned, not their fairness. This is one point which is accepted as final and the steam that injustice creates is often effectively absorbed by the courts of justice who thereby act as restraints and pressure outlets which is imperative to maintain social order.

2.12. Expression of society's moral outrage is essential in an ordered society that asks its members to rely on legal processes rather than self-help to vindicate their wrongs. To avoid anarchy, fairness has to be felt to be done and it is the courts which provide the systemic outlet. Obedience to law has

been described as the strongest of all the forces making for any nation's peaceful continuity and progress.[15] An institution which helps to maintain the balance of society and directs its ordered progress to the road of development, alas, is sadly neglected, ignorning the lessons of history that alternative to peaceful transformation of society by rule of law is violence. The courts' contribution in such transformation is immense.

2.13. The administration of justice is not regarded as part of the developmental activity and, therefore, not promoted through the five year or annual plans. Justice is thus a non-plan expenditure. Very nominal amounts are being made available under the plan cover in Seventh Finance Commission and Eighth Finance Commission for construction of court buildings, providing amenities for existing structures, additional subordinate courts, including the cost of staffing them. A time has come to re-allocate expenditure on administration of justice as plan expenditure. Economic planning which ignores legal formulations occasionally meets its Waterloo.[16] Law Commission has accordingly

expressed its opinion that expenditure on administration of justice must be treated as plan expenditure.[17]

2.14. The question which stares into our face and which ought to be answered is whether the courts as at present structured are equipped to deal with increased workload. As is evident from the pending dockets which are exploding at their seams, the justice system is not adequately geared to meet the new challenges and retain the confidence reposed in it.

2.15. Delay in disposal of cases threatens justice. The lapse of time blurs truth, weakens witnesses' memory and makes presentation of evidence difficult. This leads to loss of public confidence in the judicial process which in itself is a threat to rule of law. The rising cost of litigation is attributable to delay which in turn causes the litigants to either abandon meritorious claims or compromise for a lesser unjust settlement out of court.[18]

2.16. There is another inherent danger in not disposing of cases within a reasonable time but which was sought to be ignored as an undesirable spill over. One who has suffered injustice and is unable to procure justice on account of long delay would sometimes resort to self-help by force as means of resolving disputes. This ugly feature of the dilatoriness of the system is now raising head as evident from chain murders taking place in some States. To illustrate, the houses of Ram Bharosey and Pyare Lal had fallen out and periodic fueling of the feud was furnished by the kidnapping of a wife, the stabbing of a brother and the like. The next flare up was a murder by Rajender Prasad, son of Pyare Lal He was sentenced to imprisonment for life. The accused, after having served sentence for some time, was released on Gandhi Jayanti day. On coming out, he stabbed Ram Bharosey and his friend Mansukh and the latter succumbed to his injuries. He was again tried [19]. Numerous cases can be cited for this sort of chain reaction, more especially because when the wounds are fresh, justice is not done.

2.17. When the position of the courts, as the duly authorised arbitrators of society, is diminished through undue delay, confidence in peace, social order and good Government is threatened. Congestion and delay not only affect public confidence in the court's ability to resolve disputes expeditiously but also adversely affect the quality of justice received in individual cases. If a Judge is acting under unreasonable time pressure, he may concentrate more on disposing of cases than on doing justice in each particular case. Apart from the above-mentioned factors which are beyond the control of machinery of justice, there are court-related factors which contribute to delay and congestion in the courts. The justice system is not adequately prepared to meet the new challenges posed by the case load crisis. Delay in filling in vacancies has been pointed out as one such major factor for mounting arrears,[20] though, strictly speaking, it cannot be said to be a court-related factor since the delay in the appointment was invariably shown to be at the Executive level. Coupled with this, inefficient case flow management, poor and unprofessional court management, inadequate

facilities and insufficient financing have all severely impaired the ability of the courts to meet the challenge of rising crescendo of arrears.

2.18. A limited number of available court rooms also interferes with the orderly running of cases. Court management is not tuned to organisation method improvement. The court officers lack training in management and there is absence of integrated approach to the administration of the system. The courts still are managed according to the antiquated notions and they have no modern means of communication. Subordinate courts as a rule have not been given even telephone connections. Failure to exercise effective case management control by the court is a major factor for delay.

2.19. There are three basic models for reducing court delay and expediting justice. First, making the use of existing court resources more efficient; second, reducing the demand for court services and resources; and third, expanding court resources to meet the increasing demand for court services. The present report seeks to make a convincing

case for expanding court resources to meet the increasing demand for court services.

2.20. Greater efficiency in using court resources can be attained by effective and professional court management and effective case flow management and introducing modern technologies in court management. In the Indian context, with the increasing demand for court services, coupled with the expansion of the jurisdiction of the courts to fields not traditionally within their domain, it is not possible to reduce the demand for court services. Even though Law Commission has suggested the formation of alternative specialised fora for resolution of disputes relating to tax, labour and educational matters to relieve the burden of the generalist courts, yet, keeping in view the increasing inflow of work, there must be proportional expansion of court services. Further, the specialist fora will also require a proper infra-structure to facilitate their smooth functioning. In the final analysis, the efficient use of court resources will always remain the major method of court improvement in the absence of adequate funds to expand court resources.

## CHAPTER III

## COURT FACILITIES: MANPOWER AND MATERIAL

3.1. Varied interests directly connected with court system, though keen to reform the judiciary, are so pre-occupied with changing law and procedure that they overlook one very important area which contributes largely to the delay in judicial proceedings and urgently needs reform, namely, the court facility itself, difficult working condition of the courts, organisational structure of the system, faulty distribution of judicial work, inadequate administrative staff, etc., all indicating insufficient resource allocation. Each aspect may be separately analysed.

### Court Facilities

3.2. If an evaluation were to be made of the importance of the role of different functionaries in the administration of justice, the top position necessarily has to be assigned to the trial court Judge. He is the key stone in the judicial arc. However, he is the one who suffers the most. The facilities provided to the subordinate judiciary are abysmal. These courts function

in old, ill-ventilated, ill-equipped and insanitary buildings. Often there is no furniture worth the name and no room or even a rest room for witnesses who have come from long distance and have to cool their heels in the verandah (if there is one) or either be exposed to the heat of the summer or cold of the winter.[1] To illustrate this point, till the year 1964, the court at Dabhoi in Vododara District in Gujarat held sittings in civil jail and members of the Bar attached to the court met in the lunch hour in the open space and during the winter in the verandah of the civil jail.

3.3. Most of the munsif courts in Rajasthan are functioning in rented buildings under constant threat of eviction or be subjected to rent suits. A rent suit is pending for eviction from the court premises of a court of munsif at Chirawa. The roof of the court has caved in as the landlord will not spend more than Rs.12 per year on repairs, which is the actual rent paid monthly. 15 courts of Civil Judge, Junior Division, in the State of Gujarat, hold their sittings in rented premises wholly unsuitable for functioning of a court. More or less similar is the

situation in other States.[2]

3.4. Apart from court buildings, the existing court buildings have no amenities. Sufficient number of cupboards or almirahs for keeping files and records are not provided. Files and records are lying scattered on the floor. Large number of courts of Judicial Magistrate do not have printed forms for issuing summons or receipt books for acknowledging deposit of fines. Since November 1961, the courts in Ahmedabad rural district headquarters are located in a building meant for leprosy hospital, far away from the nearest habitation. Small court rooms formerly meant for small causes court in the compound of Ahmedabad city civil court are now set apart for the use of the Judges of the city civil court. They are very small in size, having a choking atmosphere. The courts in Alwar are housed in old stables of the erstwhile ruler. The courts at many places are being held in chambers where neither the litigants can stand nor lawyers can argue.[3] In fact, cases have come to light where when an additional court is sanctioned, the existing court room is divided by a cotton curtain partition

dividing one court room as court room for two courts. Both the courts are disturbed by the noise emanating from each. As a crowning glory, on bifurcation of old Bombay State, the High Court for the newly carved out Gujarat State since May 1, 1960, was set up in a building constructed for children's hospital. Twenty-eight years after the formation of Gujarat, the High Court still continues to hold its sittings in the same building. Gujarat High Court started with 5 Judges. Now they have 24 Judges. The congestion defies description. The response to the Law Commission's questionnaire reveals that the percentage of courts functioning in rented buildings range from 17 to 2 in States which have furnished the information.[4]

3.5. The Seventh and the Eighth Finance Commission both had successively recommended for allocation of larger outlay for constructing new court buildings, expanding court facilities and upgrading the facilities in the existing courts. The Eighth Finance Commission, analysing the information received by it from the State Governments that 429 courts were located in rented buildings, was of the opinion, which was reflected in its recommendations, that all

the 429 courts should be provided with pucca Government buildings and specifically allocated Rs.17.40 crores under this sub-head at the rate of Rs.4 lakhs per unit. Simultaneously, it granted about Rs.19 crores for structural alterations and provision of facilities to the public and staff in the existing courts.[5] The situation has hardly improved by the time the Ninth Finance Commission is deliberating on the subject inasmuch as it transpired from the enquiries instituted by Law Commission about the progress of the implementation of the aforementioned award in 12 States. 12 States replied to the queries of the Law Commission, 4 of which confessed that the award has not been implemented and the remainder made a perfunctory statement that the work is at a preliminary stage of progress.[6]

3.6. The Law Commission issued a comprehensive questionnaire for eliciting information relevant to various topics under discussion. The High Court of Uttar Pradesh in its detailed reply clearly indicated that there is an acute shortage of court rooms in the State courts. Of the existing sanctioned

strength of the courts 985 are regular courts while from the remaining, 427 courts are held in improvised court rooms, 65 in collectorates and 39 in rented buildings. Some of the buildings which are meant for regular courts have, by passage of time, become too old and are in dilapidated condition. The improvised court rooms are very small and consequently affect adversely the smooth functioning of the courts, simultaneously inviting complaints from members of the Bar and litigants. Where the courts are held in buildings meant for collectorates, the executive authorities are pressing for release of court rooms. Similarly, some of the owners of rented premises in which courts are held are requesting for release of the building in occupation of Judicial Department. The overall situation is pretty grim and it is estimated that over the next five years, about 500 court rooms are required.[7] The Eighth Finance Commission has calculated that taken the requirements of all States together, 210 additional courts are required. This figure has been arrived at by dividing the pendency in excess of one year's

institution by the State's specific annual disposal per court or two States' average, whichever is higher.[8] The report does not provide for additional courts in the State of Uttar Pradesh but that should not lead to the facile conclusion that no cases in subordinate courts in U.P. over one year are pending. Even though detailed memorandum was submitted to the Law Commission in response to its questionnaire, the High Court did not refer to the recommendations of the Eighth Finance Commission, even though admittedly 39 courts are functioning in rented buildings.

3.7. It is a truism that for an orderly functioning of a court with dignity and efficiency, a standard building having proper court rooms is a sine qua non. There is an undying clamour for setting up additional Benches of Allahabad High Court. A Commission was set up by the Government of India to ascertain whether a Bench of the Allahabad High Court should be set up in Western U.P. Its terms were expanded to consider such requirement in other States. The Commission, while recommending extra Benches of certain High Courts, stressed that the Benches shall not be commissioned unless

a functional building, equipped with all the modern amenities and suited to the dignity and prestige of the court, complete in all respect, is available for immediate occupation. According to the Commission, the Bench should not be inaugurated unless and until adequate funds for properly stocking and equipping the Judges' library essential for efficient and smooth functioning of the Bench are allocated and sanctioned by the State Government. The report of the Commission on the need for a Bench of the Allahabad High Court in Western region of Uttar Pradesh sets out a detailed list of essentials which a High Court building must necessarily be equipped with in order to function efficiently. It suggested that the building should have at least 25 court rooms, 25 chambers for the Judges, 5 fire-proof rooms for the Judges' library, a conference hall of suitable size for the Judges, an administrative block consisting of office rooms for Additional or Joint Registrar, Deputy Registrar, Assistant Registrar, Section Officers, etc. Sufficient number of large fire-proof record rooms must form an integral part of the building. In addition,

the building must have accommodation for 3 Bar rooms, 2 rooms for the Bar library with an attached reading room and an adequate number of chambers for lawyers, 2 waiting halls for the litigants on the model of Delhi High Court, 25 garages for vehicles of Judges and other officers, 2 halls for petition writers, stamp vendors and typists, canteens for Judges, the lawyers and others, a dispensary, a post office, a bank, etc. Apart from all this, there should be 25 bungalows for the residence of Judges and flats for the entire staff. There should be a guest house for the Chief Justice to stay whenever he may be required to go there. Apart from the necessity of having large complex of court building with future scope for expansion, it should be necessary to have enough land for the lawyers to set up their chambers or even residential accommodation because they are likely to shift to the seat of the proposed Bench.[9]

3.8. It is implicit in this suggestion that a similar plan for standard court facilities for the subordinate courts should also be worked out.

3.9. In India, the problem of having sufficient court rooms is of primary concern. However, whenever the construction of the court rooms is undertaken, it is essential to provide for a standard plan in respect of each level of court. It should not only have all the requisites proposed by the Commission hereinabove referred to but care should also be taken about adequate lighting, ventilation, power, accoustics, plumbing facilities, etc. All the court rooms should be built to accommodate the need for future increased volume of litigation. These future expansion needs are being kept in view in most of the States.[10] It appears that while expansion in future is kept in view, the approach is confined to vacant space near existing court building not being allocated for any other purpose. That would disclose an inadequate approach but the whole aspect is based on allocation of adequate resources and in this behalf, one regrets to note that the existing allocated funds are not properly utilised.[11]

## Norms for Sanctioning Additional Courts

3.10. Every State has prescribed norms or guidelines for sanctioning new or additional courts. The power to sanction a new or additional court vests in the State. The proposal for the same emanates from the High Court in view of the constitutional provision contained in article 235 which provides that the control over district courts and the courts subordinate thereto including the posting and promotion of persons belonging to the judicial service of the State vests in the High Court. All the posts up to and inclusive of the post of district judge belong to the judicial service of the State. As setting up of new or additional courts to be manned by members belonging to the judicial service of the State entails financial liability, the power to sanction the same vests in the State Government; but this power is exercised effectively by the High Court who appreciates and understands the needs of the workload and the necessity of additional courts. Accordingly, the recommendation emanates from the High Court and ordinarily the State sanctions the same. To illustrate, the Gujarat High Court has

prescribed workload for each of its subordinate and district courts. An increase beyond 25% or the prescribed workload justifies a claim for a new court. Information, however, is not available as to how diligently these specifications are followed. Apart from the workload which is the primary criterion for setting up additional or new courts, there are other incidental factors which are also kept in view, such as convenience of litigants, availability of buildings for the courts, residential acommodation for staff, facilities for bar and library, distance from the headquarter, transport facility, school for the children of the staff, etc.[12]

3.11. Excessive workload on any given court completely disrupts the functioning of the court. Innumerable cases are fixed every day and the major time of the court is wasted in either granting adjournments or re-arranging the cases with the result that very little effective work is done in trial courts on a given day. Manageable court dockets is a pre-requisite for smooth and efficient functioning of the courts. It appears that the guidelines or norms for setting up or

sanctioning additional courts are not revised at regular intervals. They have become obsolete in some States with the result that sanctioning of the additional court takes too long time and if the additional court is sanctioned after a long delay, it becomes an exercise in futility because, by that time, a further sanctioning of an additional court has become necessary. The analogy can be drawn from the fact that when sanctioned strength of the Judge undergoes upward revision but the newly created posts are not filled in within a reasonable time and when they are filled in after a long delay, the situation has undergone such a change that a further revision of the Judge strength has become overdue. This situation applies mutatis mutandis to the sanctioning of the additional courts. It is, therefore, absolutely indispensable that not the Government but the High Court in each State should prescribe norms and criteria for setting up of new courts and the same are meticulously followed. There should be no resistence in doing it under the usual pretext of constraint on financial resources.

## Residence for the Judicial Officers

3.12. Providing a residential accommodation for judicial officers is of great importance. This has to be accorded high priority because of the speed with which process of urbanisation is taking place, there is an unbearable load on housing acommodation available for urban and metropolitan areas. Consequently, if governmental accommodation for residence of judicial officers is not provided, judicial officer has to rent the premises and the rents being prohibitive, a decent accommodation goes beyond their reach. Usually, a judicial officer is transferred regularly at an interval of three years. When he is posted to a new place, he hardly knows anyone. In order to secure some accommodation, he has to take assistance of local lawyers. He is thus exposed to the double jeopardy of being brought under the insidious obligation of a landlord and a lawyer. This situation, apart from being deplorable, is liable to be abused.[13] The Seventh Finance Commission took note of this fact and observed that it is essential for the independence and fair image of the Judiciary that Judicial Officer should not be

constrained to hire quarter from private persons as far as possible. Accordingly, in its recommendations, it sanctioned funds for constructing residential houses for Judicial Officers.[14] With all this laudable object and the meagre provision for the same. the position as it obtains today pertaining to the question of the residence of subordinate judicial officers is distressing.

3.13. According to the inquiry undertaken by the Eighth Finance Commission, out of a total strength of 7,238 Judicial Officers, 3,819 Judicial Officers, i.e., 52.76%, have been allotted Government accommodation. The Commission expressed its considered opinion that the minimum desirable level of housing accommodation for the Judicial Officers should be 80% and accordingly it granted Rs.14.94 crores at the rate of Rs.70,000 per unit for additional 2,107 residential quarters. A 30% extra has been provided for the hill States.[15]

3.14. Having regard to the phenominal rise in the cost of construction of a flat, a provision of Rs.70,000 per unit irrespective

of the place where the flat is to be constructed does not appear to be adequate. To illustrate, Law Commission has been furnished with information that when some quarters were built in the year 1987 in Himachal Pradesh, the cost of construction per unit was Rs.2.60 lakhs and the accommodation was a modest one. It is, therefore, necessary for the Ninth Finance Commission which is at present functioning, while sanctioning grants for construction of quarters for Judicial Officers, to take into account a very important factor of high rise in cost of construction and grant adequate sums so that the desired objective may be achieved.

3.15. Law Commission, in its search for adequate information, was informed that while many states provide reasonably decent accommodation to most of the High Court Judges, Andhra Pradesh is one State where 65% of the High Court Judges were without Government accommodation. The situation generally as regards the subordinate judicial officers, to say the least, is depressing. In Bihar, 80% of the judicial officers are

not provided residential accommodation; and even after utilising the grant made by the Eighth Finance Commission, 42% of the judicial officers would still be without residential accommodation. The situation is equally bad in Andhra Pradesh where 58% of the judicial officers have not been provided residential accommodation and in Maharashtra 63% of the officers are without governmental accommodation. The information does not clarify the position whether the grant made by the Eighth Finance Commission has been taken into account while furnishing information. Assuming that it is not, then, even after the award, 36% of the officers would still be without governmental accommodation.[16]

3.16. On the advent of the Constitution, ever proliferating activities of the State, a rapid process of urbanisation, a large scale migration of population coupled with awareness of rights, all have contributed to the tremendous increase in the workload of the judicial system. However, the system functions without much of a change, completely devoid of moderen management techniques and technological advances,

neither of which have kept pace with the increase in the workload. In concise terms, most courts need study, structural overhaul and reform.

3.17. The court system has evolved over a period of many years and the methods employed to deal with its problems have been piecemeal Statewise. There has been little systematic planning and development keeping in view the national perspective. Of course, the Law Commission has submitted two reports recommending re-structuring of subordinate courts in all the States on identical lines as prelude to the setting up of Indian Judicial Service as an all-India service.[17]

## Staffing Pattern

3.18. To say that increase in the workload must result in corresponding increase in the staff of the court is to state the obvious. But this obvious is wholly neglected. The court staff require a special set of scales to be able to function because court administration involves duties which are unique in character. But the courts generally do not follow any uniformity or scientific pattern of staff recruitment.

While, as pointed out earlier, norms or guidelines have been prescribed by some States for setting up additional or new courts when the workload rises beyond the prescribed maximum, yet when the additional court is not sanctioned simultaneously, there is disinclination to sanction the increased staff and the courts have no power even to create the post of a peon on the specious plea that it entails financial liability which cannot be incurred without the sanction of the Finance Ministry of the State Government. To illustrate, in Rajasthan, a clerk who was required to handle 350 files is now required to handle 2,000 to 3,000 files.[18] No specific qualifications are prescribed disclosing the special skill needed to work in court administration. There is no realistic estimate of what staff requirement for each section ought to be. As for example, in Supreme Court, there has been considerable increase in junior clerical staff and peons but there is no corresponding increase in other staff. Such increases have to be looked on as part of overall policy.[19]

3.19. To deal with this aspect more effectively, the Law Commission solicited information on the staffing pattern at each level of the judiciary. Most of the States have submitted the figures of total number of staff without providing the level-wise information. Andhra Pradesh and Punjab have provided the prescribed staffing patterns and in these two States, the staffing patterns are almost similar but the strength of the staff is higher than what the Finance Commission allows while sanctioning the funds for additional courts and their staff. As for example, in the district courts under the High Courts of the afore-mentioned two States, staff consists of 35 members apart from process servers and attendants.[20] On the other hand, the Finance Commission allows a staff strength of only nine members per district court.[21] The difference is too glaring to be missed. The only explanation one can offer is that probably the district court workload is far above the prescribed maximum and, therefore, the additional staff is sanctioned.

3.20. There has to be a prescribed minimum staff requirement at each level of the

judiciary and thereafter the needs for staff expansion can be determined scientifically. At present the courts are not following any fixed criteria. Most of the States have replied that the additional staff is employed if the workload is more than the prescribed maxima but no scientific formula is being followed to determine the kind of staff to be recruited and the additional staff to be sanctioned.[22] Such ad hoc mechanisms cannot serve the ends of the courts because there is no fixed criteria for deciding the type of staff which is to be recruited.

3.21. A detailed study has been made with regard to the staffing patterns in the Supeme Court of India and Allahabad High Court. The study reveals that over years, there has been a substantial increase in the strength of Class IV employees. The situation in other High Courts may not be different. Ordinarily in most of the High Courts, after the entry at the grassroot level, the staff vertically moves upward by promotion. An employee who joined as an Assistant and, after acquiring qualification of stenography, reached the highest position of the Registrar in the Supreme Court. Some years back, a senior

District Judge from the State Judicial Service was recruited as Registrar of the Supreme Court of India. That practice was discontinued but very recently, post of Registrar-General has been created and a judicial officer from the State Judicial Service of the rank of a District Judge has been recruited for the post. The method of vertical promotion rising to the highest rank was justified on the assumption that during this upward journey, these members of the staff collect lot of experience and become mature to handle the post at the highest level. However, because of the upward movement, they also acquire rigidity, narrowness of outlook and become status quoist. While the institution grows, the sheer size of the institution demands efficiency, imagination and initiative. This can hardly be expected from the staff moving from the lowest to the highest, being totally devoid of any administrative and managerial skills outside the court structure itself.[23]

3.22. It is notorious that there is no arrangement for any in-service training to be imparted to the staff recruited on general qualifications. In order to raise the

efficiency ratio, the staff manning the courts have to be selected with some special qualifications and trained in a systematic manner. This approach necessitates systematic recruitment with higher prescribed qualifications, in-service training and greater degree of specialism. This specialism has to be linked to the new technology that might be introduced as well as to the functional demands. Therefore, training programme workshop/conferences should be developed for court executives to aid in the development of a comprehensive body of court management theory and of the standards, qualifications and functions of court executives.

3.23. It may be of some use to mention that the post of Registrar, the highest ministerial officer in the Judicial Service of the State is manned by a senior District Judge. The Registrar is also assigned some non-contested judicial functions. This role is admirably carried out by them.

3.24. The complex environmental network, internal and external, places a strain upon the administrative machinery of the courts.

Atypical demands for management competence are created that exposure to ordinary administrative work rarely provides. Courts are as complex as any organisation in contemporary society. An average degree of management success is possible only if competent managerial skills are brought to bear on managerial problems.24

## Management of the System[25]

3.25. As the system functions today, Judges have also to undertake the management of court and justice system. Judges are trained in law and through experience become experts in the process of adjudication and judicial decision-making. When recruited from the Bar, they have little or no knowledge of modern methods ot management of the court and court system. After being recruited as Judges, no training is imparted in modern methods. Therefore, they lack expertise in administrative matters. It is perhaps too much to expect that someone with little, if any administrative training, exprience or expertise would acquire skills without training to successfully manage a system as complex as that of our courts. This would

imply that Judges are not necessarily the best candidates to manage the courts single-handedly.

3.26. If Judges develop a managerial expertise among their own ranks, then they are quite possibly the best qualified individuals to directly manage the courts because they are in a position to comprehend all the ramifications of the system that an administrative decision might bring about. But development of managerial skill and expertise cannot be acquired overnight. And, forget not, the decision-making process and stages of adjudication keep Judges very busy. They hardly have any spare time to acquire the managerial expertise and if they do eventually acquire administrative expertise, they may have hardly time to both administer courts and continue to exercise their adjudicative function.

3.27. Specialisation in court management is the only realistic solution. The question, however, is whether it is practically feasible, given the present strain on judicial manpower and the unlikelihood of a large scale increase in numbers of Judges appointed. So, the possibility of selecting

alternative personnel to manage the courts should be explored.

## Creation of a new professional - The Court Executive

3.28. The Court Executive should be given control of managing the courts. The person, of necessity, must be highly qualified. His areas of exprtise should include, amongst others, broad managerial skills, knowledge of the structure of judicial system, familiarity with legal procedures, comprehension of computer sciences and data processing techniques and skills and personnel recruitment, selection and placement. It might take considerable time to develop such a highly qualified and specialist expert. Nevertheless, in order to properly and efficiently manage an organisation as large and complex as the courts, it is necessary to cultivate and nurture such knowledgeable administrators. In short, a new profession would have to be created. Inter-disciplinary education programmes could be established to train individuals as Court Executives.

3.29. The primary responsibility would remain with the Judiciary to formulate

management policies of the court and it would then be up to the Court Executive to ensure that these policies were implemented (under the supervision and scrutiny of the Judiciary).

3.30. It thus transpires that, in order to improve judicial administration, the utilisation of management consultants and other experts who can bring their knowledge to bear upon this subject is unavoidable. Use of the expertise in meeting problems of judicial administration is indispensable. Apart from the Court Executive, what is needed is a 'National Judicial Centre', which can form part of the National Judicial Service Commission (Commisson will not only be dealing with appointment and training of judicial officers), for the co-ordination and development of -

(a) court staff; their conditions of service;

(b) training procedure for the new staff;

(c) standardised court room facilities; and

(d) recording of cases in computers on a national regular comprehensive basis.

3.31. Entry of mechanisation and modern court management systems into court has been delayed too much. Tape recorders, dictaphones, zeroxing machines, calculators, computers, micrphones and whole arrary of other gadgets, when put to use, will minimise avoidable court time and economise time spent in existing methods of administration. The fossilised court system can be discarded and new technology introduced which will quicken the pace and streamline the assembly line operation of the case flow.

## The Use of Computers and Other Technological Tools

3.32. The most sophisticated of the new management technology is the computer. The computers efficiently speed up the court proceedings.

3.33. Data processing is one of the foremost uses to which computers are put in an attempt to ease case backlogs and increase court efficiency. In planning, for the adoption of data processing programme within a court system, three essential steps must be taken:

(1) It is necessary to design a system of reporting each step of every case.

(2) It must be determined what

electronic equipment is necessary.

(3) It is necessary to have an adequately trained staff capable of dealing with the information provided by the equipment. A properly programmed computer run by skilled operators can produce an infinite number of comparisons and information which would enable the courts to better control the cases and thus reduce the backlog.[26]

3.34. The courts which have a great volume of activity are readily adaptable to data processing because such a progamme reduces the number of personnel needed to keep court records current and would eliminate to a great extent the bulky filing equipment, thereby reducing the space needed for record keeping.[27]

3.35. Data processing has speeded up the process of motor vehicle violation in the traffic courts and, on the civil side, it has provided valuable information and statistics to prevent calendar conflicts for attorneys and insurance companies in the area.[28]

3.36. Computer can also increase efficiency in the area of court calendaring since congested and conflicting court calendars

cause delay in court proceedings.[29] Computers can not only be used to improve the clerical aspect of judicial administration but also to retrieve case law and statutory material, the latter being more necessary in view of frequent amendments of the statute law.[30]

3.37. The computers in courts offer an up-to-now unheard of capacity for analysis and evaluation of court operations. The use of computers allows a systems analysis of courts and judicial process. Systems analysis examines the operating relationship of a system's part to determine how will they operate together, because the system is seen as the sum of its parts. At the same time, systems analysis keeps a global or system wide perspective while working on detail. The parts of the whole system are important in so far as they contribute to the system's goals.

3.38. The ultimate object of the analysis of a system is to determine its effectiveness. Effectiveness is measured by how well it operates, including such factors as the presence or absence of delay between points

in the process. Effectiveness can be measured according to the workload and cost to produce that workload when compared with other court systems without a systems examination; it is often impossible to know whether some parts are duplicating efforts of other parts or are incompatible with one another. Systems concept together with the computers have begun to force long-range thinking outside daily operations, that is, planning and research.[31]

3.39. Many courts abroad have found it worthwhile to computerise their information system. However, it is essential to remember that no computer can be brought into a court to 'solve' that court's delay problems. Unless the court has a plan to reduce delay, the court will not be able to tell computer programmers what information to collect and what reports to produce. Computers have often played an important role when they have accompanied efforts by courts to reduce delay through active case flow management, but computers have failed when they have merely been substituted for planning and hard work needed by the human beings within a court.[32]

## Court Records

3.40. The court records are maintained according to the rules framed by each High Court. Generally, the records are placed in files. The files are given numbers and then stored in steel almirahs or most often racks. There is a provision for maintaining some part of records for a certain duration and some have to be maintained permanently. This method of storage takes a lot of space which itself is scarce. Law Commission has received information from some courts that for want of storage space, the files and bastas containing the court records are lying on the floors. The files are maintained with loose sheets which can be tinkered with very easily. Thus, this method of storage not only exposes the records to mutilation by insects and pests but also to tampering. No court in India has introduced any modern technology for storing court records.[33]

3.41. Courts of the last quarter of the 20th century require modern record systems, efficient procedures for storing and undertaking and retrieving information from these records. It should have built in controls to ensure confidentiality, privacy

and security of the data being maintained. It should have a conscious policy of retention and disposal.[34]

## Microfilm

3.42. The use of microfilm is another method to effectuate an efficient handling of court records to make better use of court facilities and personnel. The advantages of such a system are several: more storage space is available for court records; the handling of court records is facilitated; less danger of loss or tampering of documents; and it allows for more efficient use of court personnel.[35] (To be precise, the microfilm acts as a security measure for preventing loss or alteration of documents by having two rolls of film processed. The negative is immediately provided to State archives and the positive roll is sent to the court to be filed.)[36]

3.43. Microfilming is adopted for many courts abroad but its use must be selective and cautiously judged. Microfilm can also create blurred, hard to read copy, and deteriorate with time. The user, therefore,

must be informed and discriminating in applying this technology. There are other sophisticated technologies to preserve court records, such as introducing filing system and colour coding to facilitate easy storage and retrieval, etc. Each court must decide what is available in the market and what can best suit its needs.

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## CHAPTER IV

## FINANCIAL PALLIATIVE FOR THE COURTS

4.1. It is crystal clear that the available resources for the courts, both manpower and material, are woefully inadequate. A constitutional democracy founded on rule of law must of necessity provide adequate facilities for determination of basic legal rights. Rule of law survives where its transgression or violation is remediable at the hands of courts. If the courts are overloaded and are unable to redress the wrong quickly and efficiently, it would pose a threat to the constitutional democracy itself. Once the respect for rule of law deteriorates or disappears, the foundation of the constitutional democracy gets shattered. For its continued health, efficient care system is a pre-requisite. And the court system, to justify its usefulness, must be able to render quick, efficient and just justice. As already pointed out by the Law Commission in its interim report on Manpower Planning in Judiciary[1], the Judge:population ratio in India is grossly inadequate and requires to be enhanced at least five times in next five years. If this recommendation

is effectively implemented, new courts, additional qualified staff, streamlining of staffing pattern, modern office equipments and, above all, attractive service conditions for the Judges and the staff will be needed as a first priority. Inputs under all these heads would require funds and the Law Commission is conscious that they are in short supply and not readily available.

4.2. Justice system does not stand high in the list of priorities for disbursal of public funds. Expenditure on administration of justice has still the dubious distinction of being styled as non-plan expenditure.

4.3. The salaries of Judges of the Supreme Court of India are a charge on the Consolidated Fund of India.[2] Similarly, the salaries of the Judges of the High Court are a charge on the Consclidated Fund of the State.[3] The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, are also a charge upon the Consolidated Fund of Irdia.[4] There is an analogous provision in respect of the

administrative expenses of the High Court.[5]

4.4. Except the funds charged on the Consolidated Fund of India or of State, some additional funds required by the Supreme Court or High Court for maintenance of its administrative establishment are required to be voted in Lok Sabha or State Assembly, as the case may be. In this respect, the court system is very much at the mercy of the Legislature because funds which are votable can be varied each year. Formally, the budget proposal may emanate from the Supreme Court or the High Court, as the case may be, but the nodal Ministry in each case has hardly made an arrangement for a two way dialogue in respect of financial and management questions.[6] After the budget is received from the Supreme Court of India or the High Court, amounts in respect of votable items are re-set by the nodal Ministry. Some cuts and alterations take place at this end. The revised proposal is sent to the Finance Ministry which has its own constraints and riders and ordinarily what finally emerges and is placed in the hands of the Court is much less than not only what is proposed but what is the minimal requirement. In

processing through the Departments which have no vision as to the essential requirements of the courts, the whole exercise becomes a bargaining event and the representative of the court, if at all consulted, may be able to mould the situation both the ways depending upon his persuasive capacity. The hard fact that remains is that Judiciary has very little say touching the power of purse. And this aspect has consistently thwarted the growth and expansion of judicial services. This is a grey area fairly visible in the matter of relationship between the Executive and the Judiciary.

4.5. Since 1973, and especially after the judgment in Kesavananda Bharati's case popularly known as Fundamental Rights case, followed by the first supersession, the Judiciary in general and Supreme Court of India in particular acquired high visibility profile. The decisions in Sankari Prasad Signh Dev v. Union of India[8] and Sajjan Singh v. State of Rajasthan[9] confirmed the power of Parliament to amend any Part of the Constitution including Fundamental Rights which gave rise to a debate that the Court accepted the supremacy of the Parliament over

Judiciary. Consequently, the Executive retained its regard for the relative autonomy of the Judiciary In Kesavananda Bharati's case, the Court, by a slender majority, while conceding the power of the Parliament to amend any Part of the Constitution, ruled that the basic structure/feature of the Constitution is beyond the amendatory power of the Parliament which, amongst others, includes the power of judicial review. The Jurists writing on the functioning of the Court and the viewers of the Court's judicial process perceived certain threats emanating from the Executive to the independence of the Judiciary.[10] While examining the views expressed by the Jurists on an earlier occasion, the Law Commission reviewed the power and the procedure for appointment of Judges to High Court and Supreme Court and, for detailed reasons stated therein, recommended a new forum for appointment of Judges to superior Judiciary. The underlying purpose was to make Judiciary self-reliant in matter of appointments, staffing patterns, necessary lay out on administration of justice, et al.[11]

4.6. The Jurists who prize independence of

Judiciary have always lamented that the touchstone of judicial independence is the power of purse which unfortunately it sadly lacks. Every proposal, except the non-votable items, which entails financial liability emanating from the Judiciary can be implemented only if endorsed by the Executive. And in the priority of the Executive in the matter of distribution of its available resources, administration of justice is at a much lower rung of the ladder. The independence of the Judiciary can be seriously undermined if the requisite financial resources for its efficient and independent functioning are not made available. The arrears piled up at all levels in courts can be partly attributed to inadequate infra-structural facilities, which is compounded by lack of adequate and timely funding. Funding of courts is given little public attention and much of the Judiciary's independence is taken away sub silentio.[12] The tragedy is that when the demands for grants are voted upon in relation to the nodal Ministry which includes the budget proposals in respect of courts, that is, administration of justice, the members are not given informaton what requirements were

advanced by the courts in their budget proposals and how the nodal Ministry has tinkered with the same, the reasons for the same, and whether the restoration is possible. Further, the view of the Judiciary is not made available to Parliament. The case generally goes by default in the sense that the nodal Ministry becomes the final arbiter in respect of the requirements of the Judiciary. Apart from being unscientific, the third most important limb of the constitutional democracy, namely, Judiciary, has no say in the matter of disbursal of funds, including for its maintenance, sustenance, growth, expansion, etc.

4.7. Some illustrations in this behalf may prove revealing. The Chief Justice of the Andhra Pradesh High Court desired that the staff of the court be put on par in the matter of pay scales with their counterparts in secretariat service of the Executive Government. Now undoubtedly article 229 empowers the Chief Justice of the High Court to make appointments of officers and servants of the High Court. Clause (2) of article 229 provides that subject to the provisions of

any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the High Court provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State, meaning thereby the State Cabinet - in actual working, the State Finance Ministry. The staff aggrieved by the negative attitude of the State Government filed a writ petition seeking a writ of mandamus against the State Government directing it to implement the recommendations of the Chief Justice as made under article 229. The submission of the Association of the staff was that article 229(1) read with rule 19 of the A.P. High Court Service Rules empowered the Chief Justice not only to make appointment of officers and servants of the courts but also to prescribe their conditions of service and the requirement of approval of the Governor was merely a constitutional formality. The High Court allowed the writ petition and directed a mandamus to be issued. On a certificate granted by the High Court, the matter came to the Supreme

Court.[13] The Supreme Court, while in terms disapproving the approach of the Government in not accepting the recommendation of the Chief Justice, on an interpretation of article 229, held that the approval of the Governor, as contemplated by article 229, is not a mere formality but is a matter of substance. The fall out of the judgment can be best described by observing that there is no real independence if unaccompanied by power of purse. To some extent, these provisions have considerably thwarted the growth and expansion of judicial administration.

4.8. A diametrically opposite view was taken by the Delhi High Court when it ruled that apart from the constitutional provision, as a matter of convention, the Executive must accept the recommendation of the Chief Justice made in exercise of the power conferred by article 229 and should not treat it on par with the recommendation made by some bureaucrat.[14] The occasion for making this observation arose on when the staff of Delhi High Court long clamouring for equality of pay with their counterparts in the Centre and Delhi Administration moved in this

behalf. This was vehemently opposed by the Executive. The High Court issued a mandamus to step up parity. The Court observed that the sovereignty of people is reflected in three limbes of the Constitution - the Legislature, the Executive and the Judiciary. The Chief Justice is the head of the Judiciary. When, therefore, he makes a recommendation, the necessary presumption is that it has been made with a full sense of responsibility and circumspection and after having weighed various public interests as well as financial aspects involved. Barring exceptional circumstances, the recommendations of Chief Justice should be treated as binding and acceptable. If the approval of the Government was withheld or refused on extraneous or irrelevant consideration or in an arbitrary or discriminatory manner, it would amount to violation of the principles of equality laid down by articles 14 and 16 of the Constitution and a mandamus can be issued. 15

4.9. The Supreme Court Employees Welfare Association was long since clamouring for extending to them the benefit of pay scales and allowances which were in vogue for the

officers and members of the staf of the High Court of Delhi, the parity to be established cadre-wise. The Chief Justice of India had appointed a Committee which had recommended that the question of revision of pay scales of the officers and staff belonging to the Registry of the Supreme Court of India may be referred to the Fourth Pay Commission. In a petition filed by the afore-mentioned Association, the Court directed by way of interim relief the parity as prayed for and directed the Union of India to make the necessary reference as recommended by the Committee. The interim relief also entailed financial responsibility. In view of the Court's direction, the same could not be demurred on the plea that the direction had not the approval of the President as provided in proviso to article 146(2) of the Constitution.[16]

4.10. The principle enunciated in the aforementioned judgments may be extended a step further. It is the duty of the State to set up adequate number of courts for expeditious disposal of disputes arising between the residents of the State. It is the fundamental obligation of the State to

create courts which can exercise the judicial power of the State. Failure to perform this duty may permi a mandamus to be issued to the State to perform its constitutional obligation, one such obligation being to set up adequate number of courts and to place funds at their disposal so that they, in their turn, can carry out the obligation to dispense justice independently, expeditiously and efficiently. This logically follows from a view expressed by one of the Judges of the Supreme Court composing the Bench, in judges case. After undertaking a detailed analysis of the continued neglect on the part of the Government in not making a proper review from time to time of the number of permanent Judges necessary for each High Court and not making appointment to that extent, he directed that 'the Union Government, which has the responsibility of appointing sufficient number of Judges in every High Court, should be directed to review the strength of permanent Judges in every High Court, to fix the number of permanent Judges that should be appointed in that High Court on the basis of the workload and to fill up the vacancies by appointing permanent

Judges.... A writ in the above terms shall be issued to the Union Government'.[17]

4.11. Independence of Judiciary is one of the foremost concerns of the Constitution of India.[18] A writer on constitutional law is of the opinion that independence of the Judiciary is one of the cardinal features of our Constitution. Fearless justice which can only emanate from independent Judiciary is a prominent creed of the Constitution and 'the independence of the Judiciary is a fighting faith of our founding fathers'.[19] Reverting to the same subject, it was observed that "the creed of judicial independence is our constitutional 'religion' and if the Executive imperils this basic tenet, the court may do or die".[20] To butteress this independence, it is now necessary to clothe the courts with power to determine its own requirements which, of necessity, must include the power to set up adequate number of courts and to appoint adequate number of Judges. If the power of purse remains with the Executive and the financial constraint is trotted out as an excuse to deny adequate financial resources for setting up additional courts, 'judicial independence becomes a

teasing illusion'21 and a promise of unreality. The Constitution set up an independent Judiciary and it cannot be that while it vested it with powers over the persons and property of every citizen, it will deny to itself the consequential power to determine its own needs as to men and material. Continued efficient working of the Judiciary is simply indispensable and essential for the balance of constitutional power.[22]

4.12. The legislative appropriation and executive control over finances cannot be permitted to castrate or cripple the courts by refusing or reducing requisite grants and re-appropriations. To have the courts under the fiscal thumb of the Executive is in direct violation of the spirit of the Constitution. The courts are frequently called upon to pronounce on the acts of those who control public funds and, therefore, must be kept free in such cases without fear of retaliation, open or concealed. If independence of Judiciary is to be sustained, it must possess power over the purse. To refuse to provide adequate funds to the courts is to prevent them from discharging

their constitutional responsibilities and, therefore, constitutes an encroachment upon the exclusive area of the Judiciary.[23]

4.13. While undoubtedly, as pointed out hereinbefore, at least one of the Judges of the Supreme Court has expressed a view[24] that a mandamus can be issued if the proposal to open or set up additional courts is rejected *or negatived on extraneous or irrelevant* considerations but in practical life it is rather inconceivable that the Judiciary should seek before itself a writ of mandamus against the Executive every time the situation demands it. A spirit of adjustment and compromise must inform the deliberations in this behalf. Some workable solution has to be devised so that the stringent, occasionally counter-productive, financial control of the Executive over the courts even in the face of legitimate pressing needs can be countered.

4.14. The Law Commission would like to suggest a working solution in this behalf. The Law Commission has already recommended setting up of the National Judicial Service Commission[25] for dealing with problems of

appointment of judicial officers at various levels, restructuring Judiciary by setting up Indian Judicial Service[26], training of judicial officers[27], et al. This body can be entrusted with additional task of determining and finalising the financial needs and budgets of the courts. National Judicial Service Commission itself may set up a new body, called the 'Finance Consultative Committee', which must undertake the task of periodically assessing financial needs of the Judiciary at various levels and it must have liaison with the Finance Ministry and ordinarily its recommendations must be accepted. The Committee may consist of -

(1) The Chief Justice of India in respect of the Supreme Court or the Chief Justice of the High Court in respect of the High Court;

(2) Administrative Judge of the High Court;

(3) Administrative Officer of the court in charge of finance;

(4) Secretary, Ministry in charge of Judiciary; and

(5) Secretary, Ministry of Finance, Department of Expenditure.

4.15. Ordinarily the budget should be proposed by the High Court or the Supreme Court, as the case may be. If the budget is to be approved, the matter should be referred to this Committee and it must finalise the same. This Committee will provide a meeting ground for an inter-action and inter-facing between the representatives of the court and the executive branch and by sheer discussion and dialogue, consensus can be arrived at.

4.16. Once the administration of courts is modernised by introducing management experts as Court Executives, trained court staff aided by modern facilities is provided and the financial bottlenecks are removed by setting up of Financial Consultative Committee, large number of problems which have proved irritants between Executive and Judiciary will disappear like the morning dew. Once the irritants are removed, this apparent confrontation between Executive and Judiciary would wholly disappear, ensuring smooth functioning of court and quickening disposal of cases.

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## CHAPTER V

## TAPPING ADDITIONAL RESOURCES

5.1. Under the genus 'Administration of Justice', there are two broad divisions or species. Courts for rendering civil justice is one broad division and the other is criminal justice system. Undoubtedly, administration of tax laws, labour laws, land laws and administrative law are so styled that, broadly speaking, they form part of civil justice system. The distinguishing feature between the civil justice system and criminal justice system lies in the fact that civil justice system provides fora for resolution of disputes between individuals, between individuals and the State, and even between the State and the State where a party complains of wrong being done to it and seeks redres. Administration of criminal justice system partakes the character of a regulatory mechanism of the society whereby the State enforces discipline in the society by providing fora for investigation of crime and punishment. It is the duty of the State to set up courts for administration of criminal justice. A society governed by rule of law envisages numerous laws of regulatory

character for an orderly development of society. A breach, infraction or violation of law is made punishable. To set up courts for trial of offenders who, if found guilty, may be punished is an obligatory function of the State. The State must pay the entire costs of administration of criminal justice.

5.2. In the matter of civil justice, the State provides fora where citizens aggrieved of having suffered wrong at the hands of other citizens or State may seek redressal either in the form of specific performance or compensation or damages. Parties to a dispute can choose its own forum by appointing an arbitrator and conferring on the arbitrator the power to resolve the dispute and to make the decision binding. Parties who can get their disputes resolved by a forum of their choice need not go to the court. But parties are not usually so well behaved as to seek out the services of an arbitrator being the forum of their own choice. The State, therefore, sets up courts conferring on them the power to render justice, being the power of the State. Parties to a dispute can invoke the jurisdiction of such courts. In this sense,

the courts render service. Viewed from this angle, the levy of court fee has been styled as, 'fee' and not as 'tax', because the dictum is fee must be commensurate with the service rendered. Therefore, those who avail of the services of fora must be ready to pay fee for the services obtained. If parties go to an arbitrator, being a forum of their choice, it is implicit therein that they pay for the services of the arbitrator. A Judge presiding over a court set up by the State is none-the-less an adjudicator and renders service by adjudication of the dispute. Therefore, the State providing for such service has been enabled to recover court fees. That is the genesis of court fees.

5.3. Therefore, the levy of court fees, when questioned, 'it must be shown that the levy has reasonable correlation with the services rendered by the Government. In other words, the levy must be proved to be a quid pro quo for the services rendered'.[1] The question again figured before the Supreme Court and the Constitution Bench observed that the State has no power to 'tax litigation and thereby to augment revenues and make litigants pay, say, for road-building or

education or other beneficial schemes that the State may have'.[2] It is thus unquestionably established that as far as administration of civil justice is concerned, the State renders service and for the services so rendered, collects fees and there must be quid pro quo between the quantum of service rendered and the fee collected. To some extent, this view was departed from when, after reviewing the earlier decisions, the Supreme Court held that 'there is no generic difference between a tax and a fee, though broadly a tax is a compulsory exaction as part of a common burden, without promise of any special advantages to classes of tax-payers whereas a fee is a payment for services rendered, benefit provided or privilege conferred. Compulsion is not the hallmark of the distinction between a tax and a fee. That the money collected does not go into a separate fund but goes into the consolidated fund does not also necessarily make a levy a tax. Though a fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere causal relation may be enough. Further, neither the incidence of the fee nor the service rendered need be

uniform. That others besides those paying the fees are also benefited does not detract from the character of the fee. In fact the special benefit or advantage to the payers of the fees may even be secondary as compared with the primary motive of regulation in public interest. Nor is the court to assume the role of a cost accountant'. It is neither necessary nor expeditious to weigh too meticulously the cost of services rendered etc. against the amount of fees collected so as to evenly balance the two. A broad corelationship is all that is necessary. Quid pro quo in the strict sense is not the one and only true index of a fee:nor is it necessarily absent in a tax.[3]

5.4. Even though the demarcating line between fee and tax is getting blurred and is likely to evaporate in near future, keeping in view the traditional approach to the problem of fee and tax, it may be stated with confidence that court fee is levied by the State for the service rendered by the courts set up by the State to the litigants in search of fora for resolution of disputes whose decisions have a binding character and are enforceable by execution.

5.5. A debate was going on whether in a country like India, levy of court fees creates an impediment in access to justice. The Conference of Law Ministers of States and Union territories in June 1982 set up a Committee on the question of rationalisation of court fees. This exercise was undertaken pursuant to a recommendation of the Consultative Committee of the Members of Parliament attached to the Ministry of Law, Justice and Company Affairs for abolition of court fee. The view expressed was that there was general agreement at the Conference that though the objective, namely, abolition of court fee was commendable in principle, keeping in view the financial constraints, the approach should be to go in for rationalisation of court fee rather than its abolition. The consensus emerged on two points:-

(i) the really needy person should be helped and exempted from paying court fee; and

(ii) particular types of cases should be identified for which there should be either no court fee or a very nominal court fee.

5.6. It is in this background that the Law Commission, while making extensive recommendations in this report read with its report on Manpower Planning in Judiciary,[4] will have to indicate available resources for larger lay out on administration of justice.

5.7. At the outset it must be stated without fear of contradiction that the administration of justice in a constitutional democracy operating under written Constitution and founded on rule of law in a developing country is a social overhead and must be provided for irrespective of any resources the service itself may generate. However, in a country like India cursed with extensive poverty, allocation of resources on priority basis may itself compel necessity for additional resources where larger lay out is recommended on administration of justice which may not find high placement in the national priorities. Accordingly, even though administration of justice is a service which the State is bound to render to its citizens and that court fees is looked upon with disfavour, one should not lose sight of a situation that stares into face that ours

is a poor developing country with scarce resources and its equitable distribution must answer some priorities. To assert that it is the duty of the State to provide for resources for administration of justice even at the cost of other competing claims on account of our attaching very high value to justice and it being a necessary component of development, though laudatory and may be an ideal to be pursued but when one comes down to earth it sounds as a mere rhetoric because there are not just enough funds and the State, even if willing, may not be able to provide for all the funds essential for efficient and quick administration of justice. Therefore, this report seeks to tap additional resources within the system itself. To do this, four steps will have to be taken:-

(a) A review of the existing resource position and whether anything necessary to be tapped has escaped;

(b) A policy decision whether all users of the system should be charged at a uniform rate;

(c) Whether any one is taking an unfair advantage of the system and, though in a position to pay more, is not contributing

anything; and

(d) Any other source.

5.8. Before an exhaustive inquiry is made with regard to all the four steps, it is necessary to point out convincingly that the State spends next to nothing on administration of justice.

5.9. Before we assume the responsibility for indicating areas where additional resources may be generated from the service itself, namely, administration of justice, it is imperative to point out that the State today spends precious little or, to say the least, practically nothing on the administration of justice. While more often a very tall claim is made that administration of justice has become a white elephant and that in return for service rendered by it, the cost of maintaining service is exceedingly high and the cost benefit ratio works in reverse gear, there is nothing more misleading than this statement, and this would become self-evident from the information discussed here. While recommending for upward revision of the Judge:population ratio in the Report on Manpower Planning in Judiciary,[5] the Law Commission utilised the information collected

by the Ministry of Law and Justice on the question of court fees, rationalisation and relationships.[6] That statement is being reproduced here with a view to indicate percentage-wise co-relation between the expenditure on Judiciary to the total State tax receipts for the year 1981-82. Barring Manipur and Tripura, most of the States spend between 0.15%-A.P. to 3.53%-H.P. and the rest of the States are hovering around between 1% to 2.25%. Convincingly, this will show that administration of justice has received negligible funds for its upkeep as well as its growth.[7] In this report as the Law Commission is concerned with more specific enquiry about expenditure on proposed expansion of Judiciary, the information supplied by the Planning Commission when taken into consideration reveals almost the same state of affairs.[8] In our effort to be more precise and accurate, the Law Commission made its own enquiry and collected information from the States directly. Whatever has been made available has been tabulated in appendix 5 (iii) and one can confidently say that the situation has not improved at all.

Therefore, the emerging scenario is that small States like Manipur and Tripura spend much more than the bigger States and more especially like the Maharashtra State where the receipts are very high and the expenses marginally the lowest. One can confidently say that the Judiciary has received a niggardly treatment at the hands of the States. Let it be recalled that the finding of the First Law Commission was that the receipt under the head 'court fee' was far in excess of the cost needed for administration of civil as well as criminal justice. The finding was that the surplus was ploughed in the general revenues of the State.[9] On gleaning the informations collected by the Law Commission, it appears that the receipt from the administration of justice, made up of court fees and fines, only partially covers the expenses on the courts. There has been a progressive

decrease in the percentage of expenses covered by the receipts of the courts. For example, the figures supplied by the Bombay High Court show that in the year 1978, the receipts of the Court covered about 94% of the expenses but in the year 1985, they covered only about 48% of the expenses. Similarly, in Andhra Pradesh, the receipts covered about 78% of the expenses but in 1986-87, they covered only 54% of the expenses. In Punjab, the figure has come down from 35% to 20%.[10] At this rate of progressive decline, it is apprehended that after a few years, the situation will so materially alter that the court fees as at present structured, coupled with the exemptions granted, will cover only a very small percentage of the expenses.

5.10. Since the 14th Report of the Law Commission and for years thereafter, it was generally believed that the court fees and fines recovered are enough to meet the cost of administration of justice. To further clarify the position, the Law Commission requested the Planning Commission [11] to supply the same information which the Planning Commission readily agreed. However, that made the task of the Law Commission all the more difficult because there was a wide gap between the information supplied by some of the States and the information supplied by the Planning Commission. The figures supplied by the Planning Commission show a much larger percentage of expenses which are made from the income from the courts. The explanation for this lies in the fact that perhaps the States project lower figures to Planning Commission in order to wrangle more funds. Be that as it may, from the information sent by the States and the Planning Commission, the Law Commission may not be in a position to come to any definitive conclusion. The purpose for which this information was called for cannot be served by the information supplied by some of

the States, though the Planning Commission supplied full information from its records. One inference is, however, inescapable from both the sources of information that it is not possible to cover the expenses for administration of justice exclusively from the income generated by the administration of justice generally made up of court fees and fines.

5.11. The Law Commission was taken by surprise on receipt of the information that the funds generated by the administration of justice are not sufficient to meet its expenses even though there has been a very large increase in the institution of cases. Consequently, the receipts of the courts must have also increased but still they have not kept pace with the rising expenses of the courts.

5.12. There can be several reasons for this state of affairs. One reason may be that there has been no pro-rata increase in the court fee and fines according to the cost of living index while the administration expenses, including salaries of Judges and staff, dearness allowance and other incidentals, including expenses on

additional courts have increased manifold. On the income side, ordinarily there is reluctance to pay the fines and in an increasing area, exemption from court fees is granted. Further, the increase in judicial work is under the heading 'writ petition' where the court fees have remained static. With the index rising at regular interval with corresponding increases in the shape of salaries of the staff and the Judges, the income under the known two heads gradually dwindles. Some years back, the Minister of Law and Justice, Government of India, expressed an opinion that court fees should be totally abolished. But as 'court fees' is in the State List, the States did not agree with this suggestion. If the court fee is totally abolished, the gap between the income and expenditure on service is likely to further widen.[12]

5.13. On the other hand, the receipt under the head 'fines' has its own story to tell. With the modern notions on the theory of punishment, more often depending upon the age, maturity and other aspects of the case of the accused, he is given the benefit of the Probation which relives him from the

obligation of paying fine. This is one reason why the income under the head 'Fine' is depleting. Moreover, the main penal statute is the Indian Penal Code of 1860 vintage. The value of rupee in 1860 and 1988 if compared, the outcome may be a shocking one. Yet the fines as prescribed in the Penal Code are over 125 years old have remained static as they are. It is not for a moment suggested that the fines must be levied keeping in view the establishment expenditure of the courts. Fine is a kind of punishment and must be commensurate with the gravity of the offence. Having said all that, a fine of Rs.100 or Rs.500 or Rs.1,000 today has really no significance. The punitive purpose is lost when the fines are still imposed at those stagnant rates which now come to very nominal amount. Therefore, there should be a realistic revaluation and the fines to be imposed should be increased in relation to reduction of the value of the rupee over all these years. Once this is done, there should be periodic revaluation to eliminate the effect of inflation. Similar exercise may have to be taken in respect of rates of court fees with certain exceptions.

5.14. As pointed out earlier, there is a very nominal court fees in respect of writ petitions and the maximum increase in the litigation is under this head. This is one of the additional reasons for receipts of the court not keeping pace with expenses.[14]

5.15. While conferring writ jurisdiction on the High Courts and Supreme Court of India, the expectation was that the disputes by these higher Courts would be solved quickly. However, writs have piled up so much with the result that cases coming under other jurisdictions of the High Court, such as second appeal, first appeal, revision, criminal revisions, criminal appeals and original side matters, are pushed back and have to wait in queue for a long time for their turn to come. The writ jurisdiction is largely availed by tax-payers commercial magnates industrialists, zamindars and princes - in short, the haves of the society. And they enjoy the benefit of this jurisdiction by either paying nominal or practically no court fees at all. And they appropriate entirely the court's time, leaving the havenots - the agricultural tenants, the industrial workers, the urban property tenants, seekers of maintenance and others - without any time for the redressal of their grievance.

5.16. Is it proper to treat litigants in one class only for the purpose of availing courts' services? Why should a tax-payer complaining of levy of tax be able to invoke court's jurisdiction by paying nominal court fee? Why should an industrial magnate utilise court's time for redressal of his supposed injustice without adequately paying for the court's services? Why should an industrial magnate and an industrial worker, a tenant and a landlord, a zamindar and his tiller, a maharaja and his subject, a commercial magnate and the user of his product be put on par in the matter of availing the service of courts? They do not form a class. They may be litigants. But amongst litigants, they are haves and if they want to utilise the service of the court, they must be made to pay for the entire service. The question which stares into the face is whether the court's service (what is meant is civil justice system) should be provided to everyone at the same rate irrespective of the nature of the case and the time spent by the court.

5.17. In Escort's case,[15] Justice Chinnappa Reddy decried the fact that corporate battles

were being fought in the courts. He said:

> "Problems of high finance and broad fiscal policy which truly are not and cannot be the province of the court for the very simple reason that we lack the necessary expertise and, which, in any case, are none of our business are sought to be transformed into questions involving broad legal principles in order to make them the concern of the court. Similarly what may be called the 'political' processes of 'corporate democracy' are sought to be subjected to investigation by us by invoking the principle of the Rule of Law, with emphasis on the rule against arbitrary State action. An expose of the facts of the present case will reveal how much legal ingenuity may achieve by way of persuading courts, ingenuously, to treat the variegated problems of the world of finance, as litigable public right questions. Courts of Justice are well-tuned to distress signals against arbitrary action. So corporate giants do not hesitate to rush to us with cries for justice. The court room becomes their battle ground and corporate

> battles are fought under the attractive banners of justice, fair play and the public interest. We do not deny the right of corporate giants to seek our aid as well as any Lilliputian farm labourer or pavement dweller though we certainly would prefer to devote more of our time and attention to the latter. We recognise that out of the dust of the battles of giants occasionally emerge some new principles, worth the while. That is how the law has been progressing until recently. But not so now. Public interest litigation and public assisted litigation are today taking over many unexplored fields and the dumb are finding their voice.".[16]

He was constrained to observe that such cases block the "more worthy cases of lesser men who have been long waiting in the queue and the queue has consequently lengthened".

5.18. In this case, oral arguments were heard in the Supreme Court for 28 working days by a Bench of 5 Judges.[17] In effect, this implies that this case occupied over 2 months of the Court's working time which

itself is very short inasmuch as the Supreme Court Judges work 5 days a week and only 182 days a year. Ordinarily only 3 days are available for final hearing matter because the rest of the days are utilised for tackling admission and miscellaneous matters. Having regard to the time available for final hearing, 5 Judges heard this case for over 2 months, at the end of which the Court awarded cost to the Union of India, the Reserve Bank of India and the Life Insurance Corporation of India and, departing from the old rule, directed not the company in the name of which the litigation was brought but the persons in charge of the company were made liable to pay a portion of the costs. Accordingly, the Court directed as under:

> "3/5ths of the taxed costs in each case will be payable by Har Prasad Nanda, 1/5th by Swaraj Paul and 1/5th by the Punjab National Bank".[18]

To them this was a flea bite because Swaraj Paul was fighting for salvaging his investment of roughly Rs. 6 crores and Nanda was trying to retain control of the company. And both of them used the Court for an unduly long time. It is, therefore, time now to realise that fairness demands that such

people who use the Court for vindicating some of their supposed rights relevant only to both of them alone and not to society should pay fully for the entire service of the Court. They cannot just use the Court by paying a nominal court fees in the name of vindicating their supposed fundamental rights. And it is these people who use the Court the maximum. To illustrate this point, one may look at the length of time spent by the Supreme Court of India in hearing cases hereinbefore referred to.[19] Bank Nationalisation case was heard for 37 days, that is, more than 3 months, before a Bench of 11 Judges, which was then almost the whole court as the sanctioned Judge strength including Chief Justice was 12. Fundamental Rights case (Kesavananda Bharati) was heard for 68 working days, that is, almost half the year or one term of the Supreme Court, by a Bench of 13 Judges. The case involving challenge to National Security Act was heard by a Bench of 5 Judges from 9th December, 1980 to 30th April, 1981. And Judges case (S.P. Gupta) was heard by a Bench of 7 Judges from 4th August, 1981 to November 16, 1981. Given the limited number of working days in

the Court, it is very clear that a major chunk of the Court's time was taken up by cases herein mentioned. And amongst those litigants who were prominent? And what claims they were trying to vindicate through the use of the Court? A bank magnate, a zamindar, a mathadhipati and a maharaja, all of whom used the Court seeking to perpetuate status quo and protecting private property to the detriment of the common men of India. It is in this context that a perceptive viewer of the Indian court scene has observed that haves come out better in court proceedings.[20] And in all this litigation, the complaint was violation of supposed fundamental right to property for which a writ petition was filed on nominal court fees. It is a travesty of truth to put on par a litigant coming from the economically depressed class complaining of violation of fundamental rights in the matter of use of the service of the court with those who complain of an erroneous tax demand, who complain of deprivation of property without compensation and who complain of deprivation of privileges and concessions, in the matter of payment for services of the court. They do not form a single class. To group them together is to

bring unequals on a footing of equality which is violative of the established doctrine of classification. In the matter of payment for services of the court, those who can afford and have cushion and who complain of supposed violation of some fundamental right and seek redressal of grievance must pay for the entire court service. By entire court service it is meant that not only what expenses the State incurs on a Judge per day but also on court establishment which of necessity must include expenses on staff even depreciation of building and such other inputs. In every court, it would be easy to work out what the State spends on a Judge for his one full day working in court which must take account of his pay, perquisites, establishment costs of court, court furniture, library expenses on court staff and every little thing on which State spends for maintaining that court. The fees to be levied must be the multiplier of the number of Judges by mandays spent in hearing the case plus a 10% surcharge for giving total relief to the havenots whose access to court must be without incurring any liability of paying court fees. This can generate sources to an extent where the concept of court fee

is fully vindicated because the fee must be commensurate with the service rendered. Principle of quid pro quo which must inform fee will thus be fully vindicated.

5.19. It would be appropriate to recall the view already expressed in this context on an earlier occasion. Law Commission recommended re-structuring of courts at grassroot level. The court was to be a participatory model, bearing the name Gram Nyayalaya. Its jurisdiction covered most of the disputes arising in rural areas. The question of adequate fees on petitions coming before such nyayalayas engaged the attention of the Law Commission. While recommending a higher rate of court fees for the corporate and elite sector who aggrandiz the court time on non-issues, the Commission felt that in respect of proceedings before the Gram Nyayalaya, no court fee should be levied as the court service would be catering to the needs of the rural poor.[21] In reaching this conclusion, the Commission has observed as under:-

> "In fact, the elite and the corporate sector, who use courts for a shadow boxing in respect of issues which are unreal, heavy court fees should be

levied and it must be so high as to make them pay the entire cost of the court establishment. There is nothing new or startling in this suggestion. Beginning has already been made in California (U.S.A.) in this behalf.".[22]

5.20. The higher judiciary is also increasingly being used against the Government with decisive effect in the form of interim relief. Litigation is initiated only for snatching interim relief. The effect of interim relief is to freeze an issue until it is finally disposed of and that may happen years later. This is especially done in tax cases. A large number of writs are filed or references are got made questioning the correctness of the orders of tax authorities. If the matter is entertained, a stay of further proceedings is allowed as a matter of course and the hearing is held up for decades.[23] There have been several cases where collection of public revenue has been seriously jeopardised and budgets of Government and local authorities affirmatively prejudiced to the point of precariousness consequent upon interim orders made by the courts.[24] The Supreme Court,

while deprecating this practice[25], has not helped in retrieving the situation. There are numerous cases in which at the final hearing years after the stay is granted, the contention has been found to be either frivolous or utterly unsustainable and, in the process, for years the tax recovery is held up without any further liability to make good the loss.[26] By the interim stay, the litigant not only avoids paying court fees by invoking the writ jurisdiction conferred on the courts but wins an undeserved respite from revenue laws.[27] To avoid such misuse of court service in all such cases also, a method should be devised to collect higher rate of court fees which must include of necessity establishment costs of the court. The Law Commission is happy to recall here that no originality is claimed for this view inasmuch as it has the advantage of adopting the view expressed by the Supreme Court, namely, that the levy of court fees should have a broad relationship with the cost of administration of justice, that is, there should be a relationship between the services rendered and the court fees levied.[28] This was decided in a case

where the court fee was found to be excessive but this very position would no doubt hold good conversely also that is, when the court fee levied is not proportionate to the services obtained.

5.21. Some lessen can be learnt or advantage drawn from a parallel. The parties to a dispute instead of approaching a court may choose to refer the dispute to an arbitrator chosen by them. Arbitrator acquires jurisdiction by consent of the parties. Arbitrator is thus a substitute for a court and would discharge functions of a court namely resolution of disputes. Costs of arbitration is borne by the parties to the dispute or a party whom the arbitrator holds responsible for costs.

## Lawyers

5.22. It has been succinctly established hereinbefore that administration of justice is a service for the benefit of the consumers of justice. Litigants are the consumers of justice who, in form of payment of court fees, pay for the service obtained from the court system. It is, however, a riddle

wrapped in enigma that the lawyers who make a living through courts do not contribute anything for the upkeep and maintenance of courts without which their profession would lack justification. An analogy may be sought from the case of some visiting doctors who are not employees of the hospital but they give a certain fee to the hospital for using hospital facility. Lawyers pay to the Bar Council for their enrolment and nothing to the court. Therefore, it is time to devise a method by which the lawyer should also contribute a proportion of their income for upkeep of administration of justice apart from the income-tax that they may or may not be paying.

## Unjust Enrichment

5.23. Situations not infrequently arise where the State collects some levy which is subsequently declared by the court to be ultra vires. Levy of sales tax on certain items frequently comes for such treatment at the hands of the court. The State has already collected the levy to which subsequently it is shown to be not entitled. Fairness and justice demands that it must

refund the same. Original payer is not traceable. The State is not entitled to retain the amount collected under invalid levy. This problem has confronted the courts and the courts have solved this problem in different ways.

5.24. Section 23 of Punjab Agricultural Produce Markets Act enables the Market Committee to levy on ad valorem basis fee on agricultural produce bought or sold by a licensee in a notified market area. The fee was raised from Rs.2 per transaction of Rs.100 to Rs.3. This enhancement was challenged on the ground that the raise is not commensurate with the service rendered. A Constitution Bench of the Supreme Court held that increase beyond Rs.2 per Rs.100 lacked justification. The question which then arose was: Were the Market Committees to be permitted to retain excess amounts which they had already recovered? Or had it to be refunded to the traders notwithstanding the fact that they had already passed on the burden to next purchasers? In other words, were the traders to be allowed to get a refund from the Market Committees and unjustly enrich themselves as it was not

possible to trace individual consumers who bore the burden? Section 23A was introduced in the Act permitting the feealready received to be retained by Market Committees and prevented refund of the same to the dealers who had already passed on this burden to the consumers then not traceable, on the ground that the Market Committees, who were representing the interests of consumers and public, may retain the amount and use it for benefit of public from whom this was collected. The constitutional validity of section 23A was challenged. The Court held that section 23A prevents unjust enrichment by means of refund to which the person claiming it has no moral or equitable entitlement. It gives to the public through the Market Committee what it has taken from the public and is due to it. It does not validate an illegal levy.[29] In another case[30], unpaid accumulations, that is, refunds due to the employees but not claimed by them from the company were directed to be transferred to Labour Welfare Fund for utilising the same for the welfare of Labour in general.

5.25. In all such cases, the effort has been

that even if some recovery is shown to be invalid, refund should not be ordered in favour of persons who have no moral or equitable entitlement to the same and who would enjoy unjust enrichment in the event refund is ordered. In such a situation, the Legislature devised and the court affirmed that such funds instead of being refunded giving unjust enrichment be used for the benefit of people closely connected with the activity concerned. But, in a complex society, other cases may come to surface where it is difficult to trace the original payer and also not possible to use the same for the benefit of the general public at large involved in allied activity. In such cases, instead of appropriating the money to the State, it can be transferred to a fund, called 'Judicial Development Fund'. The money transferred to this Fund could be used for providing better public services in the court and for streamlining the administration of courts. In approaching the matter from this angle, the Commission is guided by the consideration that most cases of the unjust enrichment arise out of court proceedings. Therefore, what has been made available by

the court process must be utilised for improving administration of justice.

5.26. To conclude, the haphazard manner in which administration of courts is conducted has contributed its own mite to the problem. The recommendation regarding streamlining of staffing patterns, introduction of management experts and new technology will ensure that courts will be able to carry out their functions more efficiently. Its needs at a particular time will be much more defined and specific. This would reduce the present long winding process of presenting inflated estimates and subsequent bargaining and wrangle. The introduction of 'Finance Consultative Committee' would reduce bureaucratic bottlenecks. The computation of court fees and fines by realistic assessment according to cost of living index and the utilisation of alternatives mentioned for additional resources would help to ease the financial constraints.

5.27. On an overall view, this report, read with report on Manpower Planning in Judiciary,[25] would constitute a blueprint for totally modernising the court system with its

own self-financing arrangements.

5.28. We recommend accordingly.

(D.A. DESAI)
CHAIRMAN

(V.S. RAMA DEVI)
MEMBER SECRETARY

NEW DELHI,
JUNE ____, 1988.

## NOTES AND REFERENCES

### CHAPTER I

1. Allen, quoted in Report of the Labour Laws Review Committee, 4 (Government of Gujarat, 1974).

2. Art. 18, Universal Declaration of Human Rights Approved by the General Assembly of the United Nations.

3. LCI, 14th Report on Reform of Judicial Administration, p. 587.

4. Quoted in H.T. Rubin, The Courts, Fulcrum of the Justice System, 208.

5. LCI, 120th Report on Manpower Planning in Judiciary: A Blueprint.

6. Id., p. 1.

7. Id., p. 3.

8. LCI, 121st Report on A New Forum for Judicial Appointments.

9. LCI, 120th Report on Manpower Planning in Judiciary: A Blueprint; and
121st Report on A New Forum for Judicial Appointments.

CHAPTER II

1. H. Ted Rubin, The Courts: Fulcrum of the Justice System, xiii.

2. Ibid.

3. Quoted in O.P. Motiwal, Changing Aspects of Law and Justice, 9.

4. Id., p. 10.

5. M. Capelletti, Access to Justice, 6-7 (Book 1).

6. Prof. Vance of Yale, as quoted in M.H. Hoskot v. State of Maharashtra, (1978) 3 SCC 544 at 553.

7. U. Baxi, Justice and Judicial Intervention (Mimeo).

8. LCI, 114th Report on Gram Nyayalaya.

9. Id., Chapter VI, p. 39, para 6.20.

10. Shivaji Rao Nilangekar v. Dr. Mahesh Madhav Gosavi, (1987) 1 SCC 227.

11. M.C. Mehta v. Union of India, (1987) 1 SCC 395.

12. A.K. Hassan Uzzman v. Union of India, (1982) 2 SCC 218;
L.C. Son v. A.K. Hassan Uzzman, etc., (1985) 4 SCC 689.

13. Sadiq Ali v. The Election Commission of India, AIR 1972 SC 187.

14. The dispute between the AIADMK Jayalalitha and Janaki Group, The Indian Express, May 11, 1988, p.4.

15. S. Shetreet, "The Limits of Expeditious Justice", Expeditious Justice, 1 at 15.

16. R.C.Cooper v. Union of India, AIR 1970 SC 564; Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225; I.C. Golak Nath v. State of Punjab, (1967) 2 SCR 762; Madhav Rao Scindia v. Union of India, AIR 1971 SC 530.

17. LCI, 125th Report on the Supreme Court - A Fresh Look, para 4.10, p. 67.

18. Supra note 15.

19. Rajendra Prasad v. State of U.P., (1979) 3 SCC 646.

20. LCI, 121st Report on A New Forum for Judicial Appointments.

21. Supra note 15 at p. 36.

CHAPTER III

1. K.E. Gopinath, "Court Rooms", KLT, 61 (1978).

2. G.M. Lodha, former Chief Justice of Rajasthan, Judiciary: Fumes, Flames and Fire, 105.

3. Id. at 322.

4. See Appendix IV, Q. 8.

5. Report of the Eighth Finance Commission 1984, 81.

6. Supra note 4, Q. 7.

7. Memorandum submitted by the High Court of Uttar Pradesh.

8. Supra note 5.

9. Jaswant Singh Commission, Report on the Need for a Bench of Allahabad High Court in Western Region of Uttar Pradesh.

10. Supra note 4, Q. 6(ii).

11. Supra note 6.

12. Supra note 4, Q. 6(iv).

13. Supra note 2, p. 106.

14. Report of the Seventh Finance Commission, 1978, p. 74.

15. Supra note 5.

16. Supra note 4, Q. 9.

17. LCI, 118th Report on Method of Appointment to Subordinate Courts/Subordinate Judiciary; and 116th Report on Formation of All India Judicial Service.

18. Supra note 4, Q. 6(i).

19. R. Dhavan, The Supreme Court Under Strain : The Challenge of Arrears, p. 81.

20. Information received in response to the Law Commission's Questionnaire.

21. Supra note 5.

22. Supra note 4, Q. 6(i).

23. R. Dhavan, Litigation Explosion in India, p. 112.

24. Quoted by G. Gallas, "Judicial Leadership Excellence : A Research Prospectus", 12 The Justice System Journal, 39, 43 (1987).

25. G.L. Gall, "Efficient Court Management", Expeditious Justice, 107, 111-113.

26. E. Tennessey, "Architectural and Electronic Innovations for Improving Court House Administrative Efficiency," 6 Suffolk University Law Review, 989, 997 (1972).

27. Ibid.

28. Id. at 998.

29. Ibid.

30. Id. at 999.

31. See generally P. Miller, C. Baar, Judicial Administration in Canada, Chapter 10.

32. C. Baar, "The Use of Active Case Flow Management to Reduce Delay", 5 (Mimec).

33. Supra note 4, Q. 6(iii).

34. Supra note 31 at 236.

35. Supra note 26 at 1001.

36. Id., footnote 81.

CHAPTER IV

1. LCI, 120th Report on Manpower Planning in Judiciary : A Blueprint.
2. The Constitution of India, article 112(3)(d).
3. Id., article 202(3)(d).
4. Id., article 146(3).
5. Id., article 229(3).
6. R. Dhavan, Litigation Explosion in India, 112.
7. AIR 1973 SC 1461.
8. AIR 1951 SC 458.
9. AIR 1965 SC 845.
10. U. Baxi, Justice and Judicial Intervention (Mimeo).
11. LCI, 121st Report on A New Forum for Judicial Appointments.
12. Supra note 6.
13. State of Andhra Pradesh v. T. Gopalakrishnan Murthy, (1976) 2 SCC 883.
14. H.L. Vijh v. Union of India, ILR (1983) 2 Delhi 380.
15. Id. at 394-395.
16. Supreme Court Employees Welfare Association v. Union of India and Another, (1986) 2 Scale 124.
17. S.P. Gupta v. Union of India, (1981) Supp. SCC 87 at 915-916 per Venkataramiah, J.
18. Union of India v. Sankalchand Himatlal Sheth, (1977) 4 SCC 193.

Chapter IV (contd.)

19. Shamsher Singh v. State of Punjab, (1974) 2 SCC 831 per Krishna Iyer, J.

20. Supra note 18 per Krishna Iyer, J., at p. 255.

21. Supra note 19 per Krishna Iyer, J., at p. 886.

22. M.L. Jain, "Solutions regarding Court Disposals and Functions", 71 AIR Journal 89 at 90 (1984).

23. Id. at 91.

24. Supra note 17.

25. LCI, 121st Report on a New Forum for Judicial Appointments.

26. LCI, 116th Report on Formation of an All India Judicial Service.

27. LCI, 117th Report on Training of Judicial Officers.

CHAPTER V

1. The Indian Mica and Mercantile Industries Ltd. v. The State of Bihar and Others, AIR 1971 SC 1182.

2. Government of Madras v. Zenith Lamp and Electrical Ltd., AIR 1973 SC 724.

3. Municipal Corporation of Delhi v. Mohd. Yasin, (1983) 3 SCC 229 at 235.

4. LCI, 120th Report on Manpower Planning in Judiciary : A Blueprint.

5. Ibid.

6. Id, Appendix I(3).

7. See Appendix V (i)

8. See Appendix V (ii).

CHAPTER V (cont.)

9. LCI, 14th Report on Reform of Judicial Administration, 494-503.

10. See Appendix II.

11. See Appendix III.

12. Report of the Committee of Law Ministers on Rationalisation of Court Fees, October 1984.

13. S.360, The Code of Criminal Procedure, 1973.

14. LCI, 124th Report on The High Court Arrears - A Fresh Look, 41.

15. LIC v. Escorts Ltd., (1986) 1 SCC 264

16. Id. at 274.

17. Ibid.

18. Id at 349.

19. Supra note 16 of Chapter II.

20. Mark Gallanter, Why the 'Haves' Come Out Ahead?: Speculation on the Limits of Legal Change: Law and Society., 95, (1974).

21. LCI, 114th Report on Gram Nyayalaya.

22. Id., para 6.15, p. 36.

23. LCI, 115th Report on Tax Courts, p. 6.

24. Assistant Collector of Excise, Chander Nagar, West Bengal v. Dunlop India Ltd., AIR 1985 SC 330 at 333.

25. Siliguri Municipality v. Amalendu Das, (1984) 2 SCC 436;
Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433;
Union of India v. Oswal Woollen Mills Ltd., (1984) 2 SCC 646;
Amarnath v. State of Punjab, AIR 1985 SC 218.

26. Lohia Machines Ltd. v. Union of India, (1985) 2 SCC 197.

27. Supra note 23, p. 66.

28. Government of Madras v. Zenith Lamp and Electrical Ltd., AIR 1973 SC 1924; Various High Courts have also expressed the same view (See Lady Tanumati v. Special Land Acquisition Officer, Ahmedabad, 14 GLR 537). Recently Bombay High Court has held that prescription of an upper limit of court fees for civil cases but none for probate and letters of administration cases, where the service rendered is minimal and there is far less strain upon the resources of the State in terms of the time spent or persons engaged in the performance of the task, is violative of article 14 of the Constitution. The Court fixed the same upper limit for probate cases till the rules were revised accordingly. Jyoti v. State, AIR 1988 Bom. 123.

29. Amar Nath v. State of Punjab, AIR 1985 SC 218.

30. State of Gujarat v. Shri Ambica Mills, AIR 1974 SC 1300.

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Appendix I

QUESTIONNAIRE

1. The annual reports of Judicial administration for the last five years.

2. What are the total annual receipts of the court during the last ten years on account of :

   (a) Court fee;

   (b) Fines.

3. What is the break up of the annual budget of the High Courts and Courts subordinate to it in terms of the salary of the judges, salary of the administrative staff, office expenses, etc. during the last ten years and the actual expenditure under various heads during the said period?

4. Do the presiding officers have any financial powers?

   (i) If yes, to what extent?

   (ii) If no, through how many levels/channels the requisition has to pass to obtain the requisite sanction?

5. What is the prescribed present staff strength in the High Courts and courts subordinate to it (Information may be supplied separately in respect of courts at each level).

6. To keep abreast with the increasing workload of the courts:

   (i) On what basis is the need for staff expansion considered? Is there any scientific formula for determining the staff requirement at each level of the judiciary (officers, establishment and ministerial).

   (ii) Is any thought given to the need for the additional accommodation for the courts. Are the future needs and expansions kept in mind while submitting the proposals?

   (iii) How are the court record maintained? Has any modern technology been introduced to aid and assist the staff?

   (iv) What are the norms, if any, being adopted for the creation of a new court at a particular station?

Contd...

7. The Eighth Finance Commission had recommended for providing additional court buildings, additional amenities for the present court buildings and additional quarters for presiding officers for upgradation of Judicial administration in various States. How far have these recommendations been implemented?

8. What is the total number of subordinate courts in the State and how many such courts are functioning in rented buildings?

9. How many High Court Judges and subordinate Judicial officers have not been provided with residential accommodation? What is the percentage of such Judges/ subordinate Judicial Officers vis-a-vis the total strength?

10. What are the financial powers of the Chief Justice?

APPENDIX II

ANDHRA PRADESH

| Year | Ct. fees + fines | expenses | % of expenses covered by ct. fees + fine |
|---|---|---|---|
| 1977-78 | 4,29,47,200 | 5,49,12,600 | 78.27 |
| 1978-79 | 4,65,24,700 | 60,33,69,00 | 77.10 |
| 1979-80 | 5,32,64,600 | 701,40,700 | 75.93 |
| 1980-81 | 5,99,77,700 | 8,26,81,600 | 72.54 |
| 1981-82 | 6,56,03,800 | 9,84,31,700 | 66.64 |
| 1982-83 | 7,14,35,600 | 11,63,53,900 | 61.39 |
| 1983-84 | 7,64,77,300 | 13,45,32,100 | 56.84 |
| 1984-85 | 6,59,92,500 | 16,27,62,100 | 40.54 |
| 1985-86 | 9,60,26,600 | 18,09,30,900 | 53.07 |
| 1986-87 | 10,34,81,500 | 19,18,28,100 | 53.94 |
| | | Average | 63.6% |

BOMBAY

| | | | |
|---|---|---|---|
| 1978 | 7,15,87,995 | 7,60,94,956 | 94.07 |
| 1979 | 7.50,62.289 | 11,94,53,686 | 62.83 |
| 1980 | 8,99,64,029 | 12,23,36,944 | 73.50 |
| 1981 | 8,62,10,979 | 11,61,85,580 | 74.20 |
| 1982 | 8,94,15,385 | 1,36,69,11701 | 65.40 |
| 1983 | 7,96,83,221 | 14,22,84,846 | 56.00 |
| 1984 | 11,30,90,790 | 17,79,16,232 | 63.56 |
| 1985 | 10,31,90,879 | 21,32,67,255 | 48.38 |
| | | Average | 67.24% |

GOWAHATI

| Year | Ct.fees+fines | Expenses | % of expenses covered by ct. fees |
|---|---|---|---|
| 1976-77 | - | - | - |
| 1977-78 | 26,02,100 | 30,51.085 | 85.2 |
| 1978-79 | 33,04,800 | 27,33,037 | 120.9 |
| 1979-80 | 20,55,300 | 29,08,752 | 70.6 |
| 1980-81 | 31,00,000 | 33,27,473 | 93.16 |
| 1981-82 | 2,65,17,400 | 37,43,000 | 708.45 |
| 1982-83 | 3,43,54,500 | 43,60,550 | 787.00 |
| 1983-84 | - | - | - |
| 1984-85 | 2,36,05,600 | 72,54,597 | 325.3 |
| 1985-86 | 3,04,26,800 | 71,71,383 | 424.2 |
| | | Average | 326.85% |

KERALA

| | | | |
|---|---|---|---|
| 1979-80 | 2,09,52,914 | 4,54,49,609 | 46.10 |
| 1980-81 | 2,33,82,296 | 5,13,37,727 | 45.54 |
| 1981-82 | 2,66,89,890 | 5,78,92,095 | 46.10 |
| 1982-83 | 3,39,93,717 | 6,59,23,949 | 51.56 |
| 1983-84 | 4,58,05,513 | 7,59,55,528 | 60.30 |
| 1984-85 | 4,68,09,520 | 8,49.55,617 | 55.09 |
| | | [illegible] | [illegible].78% |
| | | Average | 50.78% |

MADHYA PRADESH

| Year | Court Fees & Fines | Expenses | % of expenses covered by Ct. fees. |
|---|---|---|---|
| 1981-82 | 1,95,73,408 | 7,76,13,000 | 23.9 |
| 1982-83 | 2,16,89,714 | 8,03,14,000 | 27 |
| 1983-84 | 2,50,23,374 | 8,63,22,000 | 30 |
| 1984-85 | 2,66,745,75 | 10,31,05,000 | 25.8 |
| 1985-86 | 3,09,24,013 | 10,24,78,000 | 33.1 |
| 1986-87 | 3,67,65,001 | 13,01,42,000 | 28.2 |
| | | Average | 28% |

PUNJAB AND HARYANA

| | | | |
|---|---|---|---|
| 1977-78 | 1,04,86,256 | 2,99,36,667 | 35.02 |
| 1978-79 | 1,27,48,098 | 3,43,36,077 | 37.12 |
| 1979-80 | 1,46,35,808 | 3,85,99,228 | 37.9 |
| 1980-81 | 2,11,88,631 | 4,89,03,106 | 43.32 |
| 1981-82 | 1,98,65,612 | 5,37,04,325 | 36.99 |
| 1982-83 | – | – | – |
| 1983-84 | 2,06,76,308 | 7,25,72,071 | 28.4 |
| 1984-85 | – | – | – |
| 1985-86 | 1,97,04,749 | 9,29,66,765 | 21.1 |
| 1986-87 | | 10,17,984,410 | 19.3 |
| | | Average | 32.11% |

## APPENDIX - III

1. All the figures are in Crores.
2. Figures for 1987-88 are "Latest Estimates."
3. Figures for 1988-89 are " Estimates".

Source - Planning Commission.

ANDHRA PRADESH

| Year | Income | Expenses | % of expenses covered by income. |
|---|---|---|---|
| 1980-81 | 1.56 | 8.62 | 18.09 |
| 1981-82 | 1.57 | 10.25 | 15.3 |
| 1982-83 | 1.77 | 12.05 | 14.6 |
| 1983-84 | 1.64 | 14.04 | 11.6 |
| 1984-85 | 2.09 | 16.72 | 12.5 |
| 1985-86 | 2.54 | 18.67 | 13.6 |
| 1986-87 | 1.90 | 19.83 | 9.58 |
| 1987-88 LE | 2.34 | 27.37 | 8. 5 |
| 1988-89 E | 2.46 | 28.60 | 8.6 |

L. E. Latest Estimates.

E - Estimates.

Bihar

| | Income | Expenses | % of expenses covered by the income |
|---|---|---|---|
| 1980-81 | 0.40 | 8.04 | 4.9 |
| 1981-82 | 0.10 | 10.05 | 0.9 |
| 1982-83 | 0.60 | 11.46 | 5.23 |
| 1983-84 | 0.56 | 12.42 | 4.50 |
| 1984-85 | 0.55 | 14.67 | 3.7 |
| 1985-86 | 0.50 | 17.69 | 2.8 |
| 1986-87 | 0.49 | 20.26 | 2.4 |
| 1987-88 | 0.49 | 20.92 | 2.3 |
| 1988-89 | 0.50 | 21.97 | 2.2 |

## GUJARAT

| | Income | Expenses | %age of expenses covered by the income. |
|---|---|---|---|
| 1980-81 | 1.41 | 6.06 | 23.26 |
| 1981-82 | 1.74 | 6.76 | 25.73 |
| 1982-83 | 1.94 | 8.09 | 23.98 |
| 1983-84 | 1.86 | 10.16 | 18..3 |
| 1984-85 | 2.25 | 11.80 | 18.98 |
| 1985-86 | 2.69 | 13.46 | 15.52 |
| 1986-87 | 1 or 4./4 | 14.19 | 8.03 |
| 1987-88 | 1.44 | 15.38 | 9.36 |
| 1988-89 | 1.51 | 16.38 | 9.2 |

## Haryana

| | | | |
|---|---|---|---|
| 1980-81 | 2.47 | 2.09 | +18.18 |
| 1981-82 | 3.05 | 2.50 | +22 |
| 1982-83 | 2.92 | 2.89 | + 1.03 |
| 1983-84 | 3.33 | 3.27 | + 1.83 |
| 1984-85 | 3.65 | 3.86 | 94.5 |
| 1985-86 | 0.68 | 4.61 | 14.7 |
| 1986-87 | 0.75 | 4.87 | 15.4 |
| 1987-88 | 0.75 | 5.18 | 14.4 |
| 1988-89 | 0.80 | 5.33 | 15.0 |

## Karnataka

| | Income | Expenses | %age of expenses covered by the income. |
|---|---|---|---|
| 1980-81 | 0.93 | 7.80 | 12.8 |
| 1981-82 | 1.13 | 8.92 | 12.6 |
| 1982-83 | 0.54 | 11.00 | 4.90 |
| 1983-84 | 0.50 | 11.96 | 4.18 |
| 1984-85 | 0.59 | 14.85 | 3.9 |
| 1985-86 | 1.51 | 16.31 | 9.25 |
| 1986-87 | 3.97 | 18.97 | 20.92 |
| 1987-88 | 4.00 | 23.39 | 17.10 |
| 1988-89 | 4.20 | 25.73 | 16.32 |

## Kerala

| | | | |
|---|---|---|---|
| 1980-81 | 1.78 | 5.86 | 30.37 |
| 1981-82 | 1.40 | 6.41 | 21.84 |
| 1982-83 | 1.54 | 7.29 | 21.12 |
| 1983-84 | 2.29 | 8.37 | 27.42 |
| 1984-85 | 3.56 | 9.59 | 37.12 |
| 1985-86 | 1.67 | 12 .05 | 13.85 |
| 1986-87 | 2.02 | 13.84 | 14.59 |
| 1987-88 | 0.99 | 14.41 | 6.87 |
| 1988-89 | 1.03 | 15.27 | 6.74 |

Madhya Pradesh

| | Income | Expenses | %age of expenses covered by income |
|---|---|---|---|
| 1980-81 | 1.60 | 6.18 | 25.88 |
| 1981-82 | 2.23 | 7.32 | 30.46 |
| 1982-83 | 2.08 | 8.55 | 24.32 |
| 1983-84 | 2.34 | 10.15 | 23.05 |
| 1984-85 | 2.26 | 10.90 | 20.73 |
| 1985-86 | 3.42 | 12.13 | 28.19 |
| 1986-87 | 3.55 | 13.94 | 25.46 |
| 1987-88 | 4.01 | 14.53 | 27.59 |
| 1988-89 | 4.21 | 16.31 | 25.81 |

Maharashtra

| | | | |
|---|---|---|---|
| 1980-81 | 7.74 | 11.75 | 65.87 |
| 1981-82 | 11.03 | 13.70 | 80.51 |
| 1982-83 | 13.42 | 15.59 | 86.08 |
| 1983-84 | 10.50 | 18.63 | 56.36 |
| 1984-85 | 6.89 | 21.58 | 31.92 |
| 1985-86 | 13.30 | 25.50 | 52.15 |
| 1986-87 | 14.90 | 28.76 | 51.80 |
| 1987-88 | 14.50 | 32.18 | 45.05 |
| 1988-89 | 18.25 | 37.58 | 48.56 |

## ORISSA

| Year | Income | Expenses | % of expenses covered by Income. |
|---|---|---|---|
| 1980-81 | 0.18 | 2.98 | 6.04 |
| 1981-82 | 0.18 | 3.35 | 5.37 |
| 1982-83 | 0.37 | 4.03 | 9.18 |
| 1983-84 | 0.67 | 4.89 | 13.70 |
| 1984-85 | 0.66 | 5.24 | 12.59 |
| 1985-86 | 1.03 | 6.36 | 16.19 |
| 1986-87 | 0.39 | 8.20 | 4.79 |
| 1987-88 | 0.59 | 9.35 | 6.31 |
| 1988-89 | 0.62 | 9.76 | 6.35 |

## PUNJAB

| | | | |
|---|---|---|---|
| 1980-81 | 0.91 | 3.80 | 23.94 |
| 1981-82 | 1.51 | 4.12 | 36.65 |
| 1982-83 | 1.28 | 4.82 | 26.55 |
| 1983-84 | 1.39 | 5.49 | 25.31 |
| 1984-85 | 1.50 | 6.33 | 23.69 |
| 1985-86 | 3.21 | 6.92 | 46.38 |
| 1986-87 | 3.16 | 7.49 | 42.18 |
| 1987-88 | 3.30 | 7.86 | 41.98 |
| 1988-89 | 3.50 | 8.25 | 42.42 |

## RAJASTHAN

| Year | Income | Expenses | % of expenses covered by Income |
|---|---|---|---|
| 1980-81 | 0.59 | 4.76 | 12.39 |
| 1981-82 | 0.74 | 5.64 | 13.12 |
| 1982-83 | 1.16 | 6.90 | 16.81 |
| 1983-84 | 0.93 | 7.85 | 11.84 |
| 1984-85 | 1.20 | 8.98 | 13.36 |
| 1985-86 | 1.39 | 9.97 | 13.94 |
| 1986-87 | 1.44 | 12.48 | 11.53 |
| 1987-88 | 1.54 | 14.04 | 10.96 |
| 1988-89 | 1.62 | 14.74 | 20.99 |

## TAMILNADU

| | | | |
|---|---|---|---|
| 1980-81 | 1.98 | 7.59 | 26.08 |
| 1981-82 | 2.27 | 9.53 | 23.81 |
| 1982-83 | 2.53 | 11.04 | 22.91 |
| 1983-84 | 2.27 | 12.66 | 21.87 |
| 1984-35 | 3.04 | 14.58 | 20.85 |
| 1985-86 | 3.57 | 17.16 | 20.80 |
| 1986-87 | 3.76 | 19.40 | 19.38 |
| 1987-88 | 3.92 | 18.70 | 20.96 |
| 1988-89 | 4.31 | 19.82 | 21.74 |

## U T T A R  P R A D E S H

| Year | Income | Expenses | % of expenses covered by income |
|---|---|---|---|
| 1980-81 | 3:00 | 13:83 | 21:69 |
| 1981-82 | 3:10 | 15:30 | 20:26 |
| 1982-83 | 3:27 | 19:39 | 16.86 |
| 1983-84 | 2:63 | 22:26 | 11.81 |
| 1984-85 | 2:23 | 25:55 | 8.72 |
| 1985-86 | 8:76 | 28:91 | 30:30 |
| 1986-87 | 9:49 | 33:57 | 28:26 |
| 1987-88 | 5:94 | 43:66 | 13:60 |
| 1988-89 | 6:78 | 45.84 | 14.79 |

## W E S T  B E N G A L

| | | | |
|---|---|---|---|
| 1980-81 | 1.02 | 7.73 | 13.19 |
| 1981-82 | 1.11 | 8.90 | 12.47 |
| 1982-83 | 0.90 | 10.19 | 8.90 |
| 1983 84 | 0.92 | 10.96 | 8.39 |
| 1984-85 | 0.87 | 11.79 | 7.37 |
| 1985-86 | 1.04 | 13.42 | 7.74 |
| 1986-87 | 1.26 | 15.91 | 7.91 |
| 1987-88 | 1.28 | 17.51 | 7.31 |
| 1988-89 | 1.34 | 18.56 | 7.21 |

APPENDIX-IV

(TABULATION OF REPLIES SENT BY THE HIGH COURTS)

| S.No. | High Court | Question No.4 | Question No.6 |
|---|---|---|---|
| 1. | Allahabad | No. only the D.J.<br>DJ - HC - Govt.<br>Govt. generally makes funds available to H.C. which makes the funds available to D.J. | (i) On the basis of workload. No scientific formula. Following staff for each new H.C. Judge. P.S., P.A. Bench Secretary, 2 L.D. Asstt. 2 routine grade Asstt., Jamadar, 2 Peons 2 daily labour.<br>(ii) Acute shortage of court rooms, residences etc. Cts functioning in improvised courts. Progress held up because of lack of funds.<br>(iii) Due to shortage of space Bastas and loose files lying on floor. No modern technology.<br>(iv) Vol. of work and availability of facilities like court building and residence of presiding officer for district headquarters, for creation of it at Tehsil H.Q. - Vol. of work, building for court and residence. Availability of lack up, Malkhana etc. and Educational and other facilities for the children of officers and staff, facility for Bar, library etc. Problem of Transportation etc. |
| 2. | Andhra Pradesh | D.J. - P.A.<br>(i) Wooden & Steel furniture - 750<br>(ii) Maintenance & Repair - 5000<br>(iii) Vehicle<br>(iv) Stationery - 4000<br>(v) Books & Periodicals - Full Power.<br>Other Officers<br>Furni-ture- 100 under each kind<br>Stationery - 5000. | (i) No Scientific formula. Subject to proposal from D.J. if institution is heavy in any court. Govt. grants if funds available.<br>(ii) Adequate thought given - Yes. 7th Plan - 2 crores for subordinate courts. Proposal of 27.42 crores submitted to State Government.<br>(iii) No modern Technology.<br>Workload Expected.<br>(iv) Munsif - 500 main cases.<br>S.J. - 300 main cases<br>D.C. - 200 " "<br>+ Convenience of Litigants, Transport, Boarding, Lodging<br>+ housing for court & staff. |

| | | Question No.4 | Question No.6 |
|---|---|---|---|
| 3. | Bombay | | (i) No Scientific formula used, considered on the basis of workload.<br>(ii) Yes - for the next 20-25 years.<br>(iii) Records stored in steel almirahs - treated pe-riodically for pests. No modern technology. |
| 4. | Gauhati | D. & S.J. AND C.J.M. exercise powers as per Delegation of Financial Power Rules, 1960. | (i) A/C to workload.<br>(ii) Yes.<br>(iii) No modern Technology.<br>(iv) On examination of number of cases, demand from litigants and advocates a new Court is created. |
| 5. | Gujarat | | (i) A/c to workload<br>(ii) Yes.<br>(iii) As per rules in High Court. Appellate side Rules, 1960.<br>(iv) If the Sub-division gives rise to sufficient number of cases to fulfill the norms of its presiding officer, distance from the HQ, transport facility - backwardness of the area, suitable bar and availability of accommodation for court and staff. |

| S.No. | State | Question No.4 | Question No.6 |
|---|---|---|---|
| 6. | Himachal Pradesh. | Presiding Officers of subordinate courts. Rs. 10 - 2000 on any one item of non-recurring expense.<br><br>DJ - Powers of controlling Officers in respect of TA/DA, Medical expenses qua the J.O. under them.<br><br>Matters requiring sanction of the head of the dept. are referred to H.C. for CJ's sanction. | (i) On the basis of workload<br>No. scientific formula.<br><br>Follow norms set by Punjab for staff strength. Though in most of sub. Courts the staff strength not a/c to norms.<br><br>(ii) Yes.<br><br>(iii) No modern Technology. Only photostat machines for giving copies of records to litigants.<br><br>(iv) No. specific norm - but distance to be travelled by litigant, no. of cases etc. are kept in mind. |
| 7. | Jammu & Kashmir | DJ - upto the limit of Rs. 500<br>SJ - " " " of Rs. 250<br>Munsif " " of Rs. 100 | (i) No uniform pattern & no scientific formula.<br><br>(ii) Generally, but not always.<br><br>(iii) Ct records maintained in part I, Part II though not strictly followed. No modern Technology.<br><br>(iv) a. Increase in litigation and pendency.<br><br>b. Creation is recommended at Tehsil H.Q. where courts have not been established so far. |

| S.No. | State | Question No. 4 | Question No. 6 |
|---|---|---|---|
| 8. | Karnataka | | (i) a/c to workload and staff pattern of Secretariat, request for additional posts only partly met by the Govt. No scientific formula. |
| | | | (ii) |
| | | | (iii) Records split in three parts and kept in steel almirahs. No modern technology. |
| | | | (iv) Average institution of cases, in a Taluka. If more than a certain number than a new court is recommended. Munsif + JFMC court - 150 suits + 150 IPC cases in a Taluka. Civil Judge Court - 40 original suits and 100 Regular Appeals. |
| 9. | Kerala | | (i) a/c to workload after assessment by Organisation and Method Department of the Government. |
| | | | (ii) Yes. |
| | | | (iii) As per rules of High Court of Kerala, 1971. No modern Technology. |
| | | | (iv) a. sufficient fillings<br>b. accomodation.<br>c. convenience of Public. |

| S.No. | State | Question No.4 | Question No.6 |
|---|---|---|---|
| 10. | Madhya Pradesh | As per the Financial Code. | (i) No Scientific formula, Pendency of cases, population, local needs staff pattern fixed by Govt.<br>(ii) Yes. No long term needs not taken in consideration.<br>(iii) As per High Court Rules. No modern Technology.<br>(iv) As per Tara Chand Commission Report. New Courts established on satisfaction of basic facilities and appointment of Judicial Officers. |
| 11. | Patna | - | (i) On the prescribed yardstick of method and organisation State Government, decided on the strength of staff for each level of court.<br>(ii) Yes. But State Govt. delays the proposals . A No. of courts being held in makeshift arrangements funds are not given for creating additional cts offices, chambers etc.<br>(iii) No modern technology.<br>(iv) Pendency and yardsticks for disposal. Govt. meets the requirement only partially. |

(31)

| S.No. | State | Question No.4 | Question No.6. |
|---|---|---|---|
| 12. | Punjab | Non-recurring<br>DJ - P.A.<br>Punjab - upto Rs. 2000/- on any one item.<br>Haryana - upto Rs. 6000/-<br>Senior Sub Judge<br>Punjab - upto Rs. 1000/-<br>Haryana - upto Rs. 2000/- | (i) a/c to workload, certain rules also. Each Sub. Judge Court to have a copyist. If files 7500 than an Asstt. Ahlmad to be given, Leave reserve Stenotypists in a Sessions Division at 20% of total Judicial Officers.<br>(ii) Yes. The courts and its amenities are built, a/c to norm fixed by the Judges of the court.<br>(iii) No modern Technology. |
| 13. | Rajasthan. | No powers with subordinate officers who feel handicapped. Only DJ as heads of Dept. have powers under Financial Rules & Service Rules. | (i) No scientific formula. a/c to workload only. But State Govt. not sanctioning the requisite staff to keep pace with workload. Situation given. Clerks who is req. to handle 260 files is handling 2000-3000 files.<br>(ii) Very Ltd. space. At some places the staff of the Court sits in the court-room for lack of space. Govt. grants very limited amount as per PWD. Only additional space is kept vacant for future need. Govt. very slow in giving funds for expansion.<br>(iii) As per the rules. The files maintained with loose sheets which can be removed added easily. No modern Technology.<br>(iv) New Court if cases at a particular court more than 700. But this norm not followed and 2000-3000 cases are pending at some courts. No thought given to it. |

| S.No. | State | Question No. 7 | Question No.8 | Question No.9 |
|---|---|---|---|---|
| 1. | Allahabad. | 325 lacs granted till 1987-1988. Works sanctioned in 85-86 are in progress., 86-87 partially in progress and 87-88 not been started. | Total - 1406<br>Regular Courts -985<br>Imprevised " - 427<br>Collectorate Building - - 85<br>Rented " - 39. | H.C. -<br>S.J.O. - 53% |
| 2. | Andhra Pradesh | 590-10 lakhs granted till 1988-89. To be used for 45 courts buildings<br>85 - amenities in courts.<br>164 - residential qrts.<br>1 - court building complete and 17 are in progress.<br>11 Residential quarter completed and 51 in progress.<br>Amenities provided in 24 placed & in progress in 30 places. | (i) 577.<br>(ii) 101 courts in 91 rented buildings - 17.5% | (i) HC- About 65% not provided accommodation.<br>(ii) SJO - 58%<br>Excluding 164 taken up 8th I.F.C. award another 330 required. |
| 3. | Bombay | - | - | (i) H.C. 10.87%<br>(ii) SJO - 63%. |
| 4. | Gauhati | - | (i) 187<br>(ii) 5% in rented buildings. | (i) H.C. - 20%<br>(ii) SJO - 50% |
| 5. | Gujarat | Award of about 189 lacs - not been implemented so far. | (i) 426<br>(ii) 2.8% | (i) H.C. 35%<br>(ii) SJO - 50% |
| 6. | Himachal Pradesh. | Work in progress. | Total -66<br>Rented building -1 | H.C. -<br>S.J.O. - 11% |

| S.No. | State | Question No. 7 | Question No.8 | Question No.9 |
|---|---|---|---|---|
| 7. | Jammu and Kashmi-r. | Not been implemented so far. At a very preliminary stage of processing. | (i) 109<br>(ii) 3 | 26 JO without accommodation does not give the total number of the SJOs. |
| 8. | Karnataka | Some work has been approved but not known whether in accordance with the recommendations. | (i) 329<br>(ii) 49 | H.C. 9.1%<br>SJO - 45.1% |
| 9. | Kerala . | Award for 22 units of court building. Work on 14 in progress. Under amenities most taken up for execution. | (i) 310<br>(ii) 48 courts in rented building 15% . | SJO 39% |
| 10. | Madhya Pradesh | Work in progress. | Total - 759<br>Revenue Dept. 30<br>Rented Courts -9. | H.C. -<br>SJO - 25% |
| 11. | Patna | work in progress | - | H.C. - None<br>SJO - 80%<br>After implementation of award of 8th Finance Commission 42% Officers would not get accommodation. |

2511

| S.No. | State | Question No.7 | Question No. 8 | Question No.9 |
|---|---|---|---|---|
| 12. | Punjab | (i) Punjab grant in aid not made available so recommendation not implemented.<br>(ii) Haryana - grant part of 6.83 crores proposed by Haryana Govt. for residentiab ,works of all Deptts to be carried out in 7th Five year Plan. | Punjab<br>(i) 213 (22 on deputation) 191 courts<br>(ii) 6 courts in rented building (information from 10 out of 12 divisions.<br>Haryana<br>(i) 173 (12 on deputation)<br>(ii) 12 courts in rented buildings (info from 11 out of 12 divisions.) | H.C. - None<br>Punjab<br>SJO - 17%.<br>Haryana<br>SJO - 32%<br>Chandigarh<br>SJO - 10%. |
| 13. | Rajasthan | - | Total - 438<br>functioning in very badly maintained buildings and in Panchayat buildings.<br>Rented -10. | H.C.<br>S.J.O. 41% |

Appendix V(1)

Source: 120th Report

STATEMENT OF RECEIPTS AND EXPENDITURE

| S.No | State | State tax receipts 1981-82 (Rs in lakhs) | Expenditure on judiciary 1981-82 Rs in lakhs) | Percentage of State tax Receipts spent on Judiciary |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |
| 1. | Andhra Pradesh | 63280 | 101 | 0.15 |
| 2. | Assam | 8966 | 213 | 2.37 |
| 3. | Bihar | 30286 | 843 | 2.78 |
| 4. | Gujarat | 58777 | 669 | 1.13 |
| 5. | Haryana | 27091 | 214 | 0.78 |
| 6. | Himachal Pradesh | 3567 | 126 | 3.53 |
| 7. | Jammu & Kashmir | 4995 | 125 | 2.50 |
| 8. | Karnataka | 50787 | 914 | 1.79 |
| 9. | Kerala | 36634 | 606 | 1.65 |
| 10. | Madhya Pradesh | 38772 | 644 | 1.66 |
| 11. | Maharashtra | 125708 | 1339 | 1.06 |
| 12. | Manipur | 15 | 26 | 173.33 |
| 13. | Meghalaya | 486 | 24 | 4.93 |
| 14. | Nagaland | 436 | 36 | 8.25 |
| 15. | Orissa | 14771 | 326 | 2.20 |
| 16. | Punjab | 37691 | 346 | 0.91 |
| 17. | Rajasthan | 27095 | 531 | 1.95 |
| 18. | Sikkim | 285 | 14 | 4.91 |
| 19. | Tamil Nadu | 62843 | 876 | 1.39 |
| 20. | Tripura | 362 | 70 | 19.30 |
| 21. | Uttar Pradesh | 62686 | 1413 | 2.25 |
| 22. | West Bengal | 51274 | 869 | 1.69 |
| 23. | Andaman & Nicobar Islands | 43 | 6 | 13.95 |
| 24. | Arunachal Pradesh | 32 | - | - |
| 25. | Chandigarh | 2145 | 144 | 6.71 |

Contd...

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| 26. | Dadra & Nagar Haveli | 12 | 1 | 8.33 |
| 27. | Delhi | 28390 | 251 | 0.88 |
| 28. | Goa, Daman & Diu | 1980 | 33 | 1.66 |
| 29. | Lakshadweep | 2 | 3 | 1.50 |
| 30. | Mizoram | N.A. | N.A. | - |
| 31. | Pondicherry | 1740 | 26 | 1.99 |

Appendix V(11)

Source: Planning Commission
Figures-1981-82

STATEMENT OF RECEIPTS AND EXPENDITURE

| S.No | State | State tax receipts 1981-82 (Rs in lakhs) | Expenditure on judiciary 1981-82 in lakhs | Percentage of State receipts spent on judiciary |
|---|---|---|---|---|
| 1. | Andhra Pradesh | 63280 | 1025 | 1.61 |
| 2. | Assam | 8966 | 222 | 0.01 |
| 3. | Bihar | 30286 | 1005 | 3.31 |
| 4. | Gujrat | 58777 | 676 | 1.15 |
| 5. | Haryana | 27091 | 250 | 0.92 |
| 6. | Himachal Pradesh | 3567 | 121 | 3.39 |
| 7. | Jammu & Kashmir | 4995 | 128 | 2.56 |
| 8. | Karnataka | 50787 | 892 | 1.75 |
| 9. | Kerala | 36634 | 651 | 1.77 |
| 10. | Madhya Pradesh | 38772 | 732 | 1.88 |
| 11. | Maharashtra | 125708 | 1370 | 1.08 |
| 12. | Manipur | 15 | 29 | 193.33 |
| 13. | Meghalaya | 486 | 17 | 3.49 |
| 14. | Nagaland | 436 | 25 | 5.73 |
| 15. | Orissa | 14771 | 355 | 2.40 |
| 16. | Punjab | 37691 | 412 | 1.09 |
| 17. | Rajasthan | 27095 | 564 | 2.08 |
| 18. | Sikkim | 285 | 17 | 5.96 |
| 19. | Tamil Nadu | 62033 | 943 | 1.50 |
| 20. | Tripura | 362 | 72 | 19.88 |
| 21. | Uttar Pradesh | 62686 | 1530 | 2.44 |
| 22. | West Bengal | 51274 | 890 | 1.73 |
| 23. | Andaman & Nicobar Islands | 43 | - | - |
| 24. | Arunachal Pradesh | 32 | - | - |
| 25. | Chandigarh | 2145 | - | - |
| 26. | Dadra & Nagar Haveli | 12 | - | - |
| 27. | Delhi | 28390 | - | - |
| 28. | Goa, Daman & Diu | 1990 | - | - |
| 29. | Lakshadweep | 2 | - | - |
| 30. | Mizoram | N.A. | - | - |
| 31. | Pondicherry | 1740 | - | - |

Appendix V(iii)

Source: Information supplied by States.

STATEMENT OF RECEIPTS AND EXPENDITURE

| S.No | State | State tax receipts 1981-82 (Rs in lakhs) | Expenditure on judiciary (1981-82) in lakhs | Percentage of tax receipts spent on judiciary |
|---|---|---|---|---|
| 1. | Andhra Pradesh | 63280 | 984 | 1.55 |
| 2. | Assam | 8966 | 37.43 | 0.41 |
| 3. | Bihar | 30286 | | |
| 4. | Gujrat | 58777 | | |
| 5. | Haryana | 27091 | | |
| 6. | Himachal Pradesh | 3567 | | |
| 7. | Jammu & Kashmir | 4995 | | |
| 8. | Karnataka | 50787 | | |
| 9. | Kerala | 36634 | 579 | 1.58 |
| 10. | Madhya Pradesh | 38772 | 776 | 2.00 |
| 11. | Maharashtra | 125708 | 1162 | 0.92 |
| 12. | Manipur | 15 | | |
| 13. | Meghalaya | 486 | | |
| 14. | Nagaland | 436 | | |
| 15. | Orissa | 14771 | | |
| 16. | Punjab+Haryana 27091 + | 37691 | 537 | 0.82 (+Haryana) |
| 17. | Rajasthan | 27095 | | |
| 18. | Sikkim | 285 | | |
| 19. | Tamil Nadu | 62483 | | |
| 20. | Tripura | 362 | | |
| 21. | Uttar Pradesh | 62686 | | |
| 22. | West Bengal | 51274 | | |
| 23. | Andaman & Nicobar Islands | 43 | | |
| 24. | Arunachal Pradesh | 32 | | |
| 25. | Chandigarh | 2145 | | |
| 26. | Dadra & Nagar Haveli | 12 | | |
| 27. | Delhi | 28390 | | |
| 28. | Goa, Daman&Diu | 1900 | | |
| 29. | Lakshadweep | 2 | | |
| 30. | Mizoram | N.A. | | |
| 31. | Pondicherry | 1740 | | |