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AD-HOC COURTS: TO MINIMISE BACKLOK OF PENDING CASES AND ITS CONSTITUTIONAL VALIDITY

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INTRODUCTION

The Constitution of India established a democratic welfare State that would allow equal opportunity to one & all, without discrimination of any kind, for personal growth and for contributing to the cause of nation; a system of governance that was wedded to the principle not only "for the people" but more importantly "for the welfare of the people".India is said to possess one of the fairest legal systems in the world. This is not an unreasonable assertion in light of the judgments handed over. Yet, promptness and efficiency in access to justice are a sine qua non of the constitutional rights of the accused and the validity of the entire judicial system. Justice should be accelerated and affordable. That alone should be the theme of all conferences and commissions held. Accelerated justice, is a legitimate expectation of every consumer of the system. There is an intimate link between speed and expense. More time consumed in court necessarily results in more expenses to the litigant.

Statistics reveal that the backlogs in all the courts are running into several crores of cases and the established courts and judiciary would take several decades to dispose them off totally, without any additional institution of cases.The courts in India are thought to be the most crowded of any in the world. At the level of High Courts & Subordinate Courts, the pendency is almost touching the figure of 3 Crores (2.91 Crores, to be precise) (as per figures up to December 2005). Cases take decades, and sometimes generations, to resolve. A New York Times story from a few years ago tracked one property law case that remained open for forty years - long after both original litigants were dead. In spite of all its successes, India's democracy is at risk of becoming de-legitimized because of the increasing lack of faith many Indians have in the judicial process.

Article 247 of the Constitution of India empowers the Parliament to establish additional courts for the administration of justice.Art.247 expressly empowers Parliament to establish any additional courts for the better administration of laws made by Parliament or any of the existing law with respect to a matter enumerated in the Union List. It should not, however, be inferred from this article that Parliament is not competent to use the State Courts for enforcing Union Laws. This power of Parliament to establish courts has acquired additional impetus with the introduction of Entry-11A in List III by the Constitution 42nd (Amendment) Act, 1976 which authorizes Parliament to make laws with respect to "Administration of justice; constitution and organization of all courts, except the Supreme Court and High Courts." Thus, Parliament may now constitute courts even for the administration of State laws.

The Parliament is also empowered to establish administrative tribunals under Article 323-A and tribunals relating to other matters such as tax, foreign exchange, industrial and labour disputes etc under Article 323-B.

Art.323A provides that the Parliament may by law establish tribunals for adjudication of disputes concerning recruitment and conditions of service of persons appointed to public service under Central, State or local or other authority, or a corporation owned and controlled by the Government. The law made by Parliament for the purpose may specify the jurisdiction and procedure of these tribunals.

Art 323B empowers legislature to establish tribunals in respect of matters such as taxation, foreign exchange, industrial and labor disputes, land reforms, ceiling on urban property, elections to Parliament or State Legislature etc.The idea underlying these provisions is to lighten the work load on the Courts. For example, at present, a large number of service cases come before the High Courts through writ petitions. Also establishment of these tribunals will make for an effective enforcement of some of the laws for the tribunals can decide cases much more quickly than the courts. However these tribunals do not bar the jurisdiction of the High Courts under Art 226/227 and of Supreme Court under Art.32.Much of the success of the tribunal system would depend upon the legislation which may be passed, the type of people who are appointed to sit in these tribunals and the procedure prescribed for them.Although these tribunals can be freed from the control of the High Courts, it is suggested that the legislatures should not do so in every case, especially in case of tribunals imposing penal sanctions, for it will not be possible for many persons to go to the Supreme Court in appeal against the tribunal decisions, and that amount to denial of justice to them.

The justification for introducing the tribunal system in India was stated as follows in the Statement of Objects and Reasons appended to the Bill:

"To reduce the mounting arrears in High Courts and to secure the speedy disposal of service matters, revenue matters and certain other matters of special importance in the context of the socio-economic development and progress, it is considered expedient to provide for administrative and other tribunals for dealing with such matters while preserving the jurisdiction of Supreme Court in regard to such matters under Art.136 of the Constitution."

However, the Supreme Court held that the power of the High Court under Art.226/227 and of the Supreme Court under Art.32 being "essential features" of the Constitution even an amendment of the Constitution cannot abrogate the same.[1]Several tribunals, Boards and additional courts have been set up through special laws enacted by the Parliament under its power in Arts.247, 323-A, 323-B for better administration of justice and speedy disposal of cases. Fast track courts, Debt Recovery tribunals, National tax tribunal, Consumer Courts, Family Courts, Labor Courts, Industrial Disputes Courts, Motor Accident Claims tribunals, Central and State Appellate tribunals are some such additional courts established by the Parliament. They have done commendable work through the years in the administration of justice speedy disposal of cases and reducing the burden on the Courts. The project highlights the commendable work done by a few of such additional courts.

The Government of India should respect, protect and fulfill the rights of its citizens, and therefore is obliged to undertake all positive measures, both in conduct and result, to remedy any institutional anomalies that hinder the process of administration of justice.This power given to the Parliament by the Constitution under Art.247, 323-A, 323-B is of great importance and should be used in the right spirit to provide justice to all.The project is divided into two parts. Part I of the project focuses on the need for the establishment of additional courts by the Parliament under its powers given by the Constitution for '*administration of justice'*.Part-II of the project is limited to the establishment, functioning and disposal of cases by 3 tribunals namely The Debt Recovery Tribunal, The Consumer Courts and The Labour and Industrial Tribunals.

PART-I
ESTABLISHMENT OF ADDITIONAL COURTS BY LAWS ENACTED BY PARLIAMENT

India has come a long way. The increased economic activity, globalization, , legal obligations under various international treaties, all have given impetus to activity in the field of law which translate into new & more complex issues & disputes. More and more people are getting awareness of their rights leading to more institution of cases than previously.

The duty of the State does not end with enactment of laws. The statutory provisions designed to bring about social justice have to be supported by a system that enforces the rights and obligations thereby created.

Experience has also shown that new legislation creating new set of rights & obligations are put in position without an advance study as to the quantum of new litigation they would generate in the future and without a corresponding increase in the numerical strength of the courts so as to gear them up to take on such additional burden. Classic example that one can give in this context is the litigation arising out of Section 138 of Negotiable Instruments Act. As on 31st December 2005, the number of cases under this statute alone stood at 16.67 lakhs which virtually choke the magistrate courts.Several statutes like Indian Penal Code, Code of Civil Procedure, Code of CriminalProcedure, Transfer of Property Act, Contract Act, Sale of Goods Act, Negotiable Instruments Act etc., which contribute to more than 50% to 60% of the litigation in the trial Courts are Central enactments, referable to List I or List III and these laws are administered by the Courts established by the State Governments. The number of Central laws which create rights and offences to be adjudicated in the subordinate Courts are about 340. It is obvious that the Central Government must establish Courts at the trial level and appellate level and make budgetary allocation to the States to establish these courts to cut down backlog of cases arising out of these central statutes.

MOUNTING OF ARREARS IN COURTS- DELAY IN DISPENSATION OF JUSTICE

The numbers of cases which are filed in the Supreme Court are staggering. No other Apex court in the world takes up so many cases as are taken up by the Supreme Court of India. The same is the position of number of cases filed in High Courts and subordinate courts. Our strength is number of cases filed because it shows people's faith. Our weakness is also numbers because of huge pendency. It is of paramount importance to tackle the problem of long delays at the earliest and provide justice to citizens of this country in a reasonable time. If a criminal case or civil suit or a writ petition takes ten or fifteen years to decide, this may itself amount to denial of real justice.

CAUSES AND REMEDIES TO DEAL WITH ARREARS AND THE PROBLEMS IN THE ESTABLISHMENT OF ADDITIONAL COURTS

The population-court ratio. In its 120th Report (1987), the Law Commission had noted that the number of courts per million population in India was 10.5 whereas per million of population Australia had 41.6 judges, Canada 75.2, England 50.9 and the United States 107. In 2002, in the ***All Indian Judges Association vs Union of India case***, the Supreme Court had directed that the number of courts per million population in India should be raised from 10.5 to 50, in a phased manner within five years. If the percentage has to be raised to 50 per million we should have 50,000 judges in the subordinate courts alone.But without enough courtrooms, the current backlog of cases simply cannot be accommodated. Whenever there are indications that the number of cases goes beyond the capabilities of existing courts, additional courts should be created. The multiplication of fast track courts is a positive beginning, but needs to be further stepped up considerably.

The inadequate 'Judge-population ratio'. Several Commissions & Committees, and even judicial orders, have highlighted this aspect. There is an immediate need to increase the strength of judiciary at all levels. India has only 10 to 15 judges per million people, who are often burdened with a daily workload that exceeds their capacity by up to 500 percent. This imbalance can be attributed directly to government complacency. Beyond the unwillingness to fund the necessary expansion of judges, the delay in the appointment of judges when vacancies arise is also commonplace, and can only be

attributed to governmental disorganization, as the exact date of judges' retirement is known well in advance. There are over 140 vacancies of judge in the high courts and over 2,000 in subordinate courts. The Parliament should not only establish additional courts but also provide the necessary mechanism for the functioning of the courts. Therefore the vacancies have to be filled by well-trained judges.

The issue of financial autonomy is pending resolution for long. Though judiciary has been held responsible for mounting arrears of court cases, it has neither any control on resources of funds nor any powers to create additional courts, appoint court staff or augment the infrastructure required by the courts. Ideally, judiciary should have autonomy with regard to these matters. In the Ninth Plan, the judiciary received a mere 0.071 percent of total Plan expenditure, while in the Tenth Plan; the allocation was 0.078 percent, justice Lahoti pointed out. The gaps in funding undoubtedly have an impact on the increasing backlog of cases and on the quality of judgments dispensed.Art 247 empowers the Parliament to establish additional courts for the better administration of justice. To establish additional courts, the Government needs to sanction the requisite amount for their establishment, the infrastructure, appointment of necessary staff. Although, a considerable number of such additional courts have been established so far, doing a commendable job, the financial sanction being entirely in the hands of the Government, it hinders the speedy establishment of the courts sometimes. It is therefore, feasible if the Judiciary is given some financial autonomy. It would speed up the system which is the need of the hour.Every State Government is pleading inability to meet the increasing financial burden of the judicial administration. Even the additional courts sought by the High Court are not sanctioned. If the fixed investment for setting up a new courtroom in High Court is around Rs 1 crore and the annual running expenditure is around Rs 50,000, it would require Rs 300 crore of fixed investment and Rs 175 crore of annual expenditure for five years, for the appointment of 300 High Court Judges to clear the backlogs. In the subordinate courts, the total requirement of funds for additional courts for clearing the backlog would require a one-time investment of Rs 1,800 crore and an annual expenditure of Rs 700 crore. In all, for the High Courts and subordinate courts, the total investment for clearing the backlog would be around Rs 2,100 crore and the running annual expenditure will be about Rs 875 crore per annum for five years. In the first All India Judges Case 1992(1) SCC 109,:*"The efficient functioning of the Rule of Law, under the aegis of which our democratic society can thrive, requires an efficient, strong and enlightened judiciary. And to have it that way, the nation has to pay a price"*. The Administration of justice, constitution and organisation of all courts, except the Supreme Court and High Courts, was originally included in the State List under the Seventh Schedule to the Constitution. But, by the Constitution (Forty Second Amendment) Act, 1976, it has been brought to the Concurrent List(Entry 11A).The Central Government recently has included the infrastructure of Courts as "planned item" to enable them to provide half of the expenditure required for the purpose and the States sharing the other half of the expenditure. A lot of new Courts are required to be established by increasing the Judge strength in all cadres to clear the arrears and to meet the ever-increasing inflow of cases. There is no point in whipping the States alone. There are quite a large number of Central enactments, which we have set out in the list appended hereto as Annexure. It runs into a long list of about 340. This being the position, we fail to see why the State Governments alone be burdened with the financial liability of the Subordinate Courts. Administration of Justice should be a Joint responsibility of Centre and State. Centre should also share the financial liability and the expenditure involved in establishing additional courts.The Judiciary is not a heavy burden either on the State or the Centre. Unlike in other Departments, more than half of the amount which is spent on Indian Judiciary is raised from the Judiciary itself by means of Court Fees, Stamp duty and miscellaneous matters. The expenditure on judiciary in our country in terms of GNP is relatively low. It is not more than 0.2 per cent. In Korea, it is more than 0.2 per cent; in Singapore, it is 1.2 per cent; in U.K. it is 4.3 per cent; and in U.S.A. it is 1.4 per cent

It must, therefore, be the joint responsibility of the Central and the State Governments to ensure that the judicial administration does not suffer from any handicaps.

In 1999, total number of cases disposed of by the High Courts was 9.80 lakhs, whereas in the year 2005, the number of cases disposed of increased to 13.38 lakhs. In subordinate courts, the

disposal in 2005 was 1.63 Crore, as compared to the figure of 1.24 Crore cases disposed of in 1999. Besides these figures up to December 2005, as many as 4,98,132*Lok Adalats* were held, settling 1.86 Crore cases with payment of compensation of 5,583 Crores of rupees. Despite all these achievements, pendency in the High Courts has increased from 27.57 lakh cases in 1999 to 35.21 lakh cases in 2005 and in the Subordinate Courts it has increased during that very period from 2 Crores to 2.56 Crores.The main reason is huge increase in new cases instituted. The positive side is more awareness & more rights created by numerous new legislations. If huge arrears of about 3 Crores in High Courts and subordinate courts is not tackled now, there would be no magic wand available to tackle the menace when, in years to come, with this trend, figures go up to three and a half Crores or 4 Crores and so on.

STATISTICS SHOWING THE DISPOSAL OF CASES AND MEASURES TAKEN

Action Plan was adopted to wipe out arrears of over 20 million cases in district and subordinate courts by the year 2005.

In the meeting, it was decided that with the addition of 1734 fast-track courts and the filling up of 1500 vacant posts, the number of courts actually in operation would go up by 3234. With this, the effective strength of courts in the country would, go up by about 15 per cent in the current financial year, 2001-2002 and another 10 per cent in the following year 2002-2003. The district and subordinate courts would thus start disposing of more cases than their current annual institution by 15 million cases. These 3234 additional courts would dispose four million cases annually through a reverse process of de-accumulation of tendencies in courts. At present, the 12000 odd district and subordinate courts would dispose of about 15 million cases per year which is also approximately the order of current annual institution of cases. There are 5.4 million cases pending in district and subordinate courts for three years or more. These include 3.3 million criminal cases and 2.1 million civil cases. These statistics therefore show how many backlogs of cases can be cleared through additional courts which would without them have taken a few decades to clear.

In the Chief Justices' Conference, 2005, emphasis was laid on areas, directly connected with delay and issue of tackling problem of arrears. They elaborated on the need to establish additional courts for the speedy disposal of cases and further extension of Fast Track Courts to the level of Magistrates in as much as the main workload of the criminal justice system is shouldered by such courts. Fast Track Courts that were set up some years ago have made significant contribution.

Of the proposed 1950 fast track courts, 750-odd are functional and the rest are in the pipeline. In one year, 60,000 cases were decided by these courts. About protecting an individual's freedom, he disclosed that countrywide 2 lakh undertrials were behind bars. Their maintenance alone cost the exchequer Rs 450 crore annually. Likewise, the number of pending cases right from the apex court to the high courts and subordinate judicial courts delayed justice on several accounts. In 80% of the civil suit cases, no law point was involved. Such suits can be speedily disposed through additional courts.

Every organ is doing its bit. More than a bit is required. Supreme Court also had similar problem. But, by adopting various measures, it brought down its pendency. In 1999, pendency in the Supreme Court was about 22,000 cases. By now, it has jumped to about 35,000 cases. While the Judiciary is committed to the task assigned, it craves for full support from the Government. The Government under its powers to further the administration of justice should not only establish the additional but also render its full support in their functioning.

PART-II
DEBT RECOVERY TRIBUNAL

The civil courts are burdened with diverse types of cases. Recovery of dues due to banks and financial institutions is not given any priority by the civil courts. The banks and financial institutions like any other litigants have to go through a process of pursuing the cases for recovery through civil courts for unduly long periods. Civil courts had come to the conclusion after decades of reviewing case law, that in almost all cases the suit instituted by banks and financial institutions, there is hardly any

defence and that the delay in disposal of the cases in the court is not due to the fault of the banks or financial institutions.

BACKGROUND AND THE DRT ACT

With a view to suggesting measures for reducing the mounting NPAs of the Banks and Financial Institutions in the public and private sector, the Government of India in 1981 had appointed the Tiwari Committee, the Committee on Financial Systems headed by Shri M. Narasimham, former Governor of Reserve Bank of India and a High Level Committee headed by V.S.Hegde.The Committee examined the legal difficulties faced by banks and financial institutions, and recommended the establishment of special tribunals for the recovery of debts. On the basis of the recommendations of these Committees, the Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993 was promulgated on 24.6.1993 to provide for establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions.

Later, the Ordinance was replaced by The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (DRT Act). An important highlight of this DRT Act is that it provides for establishment of single judicial forum for adjudication of cases as well as execution of the decrees passed for recovery of debts due to banks and financial institutions.

Therefore the Parliament of India under its power to create additional courts has taken the welcome step of enacting 'The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (the Act)' and created the Debt Recovery Tribunals for ensuring speedy recovery of bank dues. In its Statement of Objects and Reasons it was noted that as of September 30, 1990 there were pending in various courts above 1.5 million cases filed by public sector banks involving more than Rupees 56.22 billion and 304 cases filed by financial institutions involving Rupees 3.91 billion.

CONSTITUTIONAL VALIDITY OF THE ACT

The Constitutional validity of the Act was challenged that it is beyond the legislative competence of the Parliament. The validity of the Act was firstly challenged before the *Delhi High Court in Delhi Bar Ass. & Others v. UOI &Another AIR 1995 Del 323.* It was contended that a Tribunal could not be constituted for any matter not specified in Art 323A & 323B of the Constitution.

The Delhi High Court however held that the DRT could be constituted by the Parliament even though it was not within the purview of Articles 323A and 323B of the Constitution of India and that the expression 'administration of justice ' as appearing in List IIA of the Seventh Schedule to the Constitution includes Tribunals as well as 'administration of justice';Findings of the SCIt was held by the SC that "While Articles 323A and 323B specifically enable the legislature to enact laws for the establishment of tribunals, in relation to the matters specified therein, the powers of the Parliament to enact a law constituting a tribunal like a banking tribunal is not taken away"

It was further specified that the recovery of dues is an essential function of any banking institution. In exercise of its legislative powers relating to banking, parliament can provide the mechanism by which monies due to banks and financial institutions can be recovered

The preamble to the Act states"... for expeditious adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental thereto' this would squarely fall within the ambit of entry 45 of List I of the Constitution.

The view taken by the Delhi High Court was that the Act eroded the independence of the judiciary since the jurisdiction of the civil courts had been truncated and vested in the Tribunal. The SC held that the decision of the Delhi High Court proceeds on the assumption that it is an absolute right of anyone to demand that a civil court adjudicate his dispute. Where Arts 323A &323B contemplate establishment of Tribunals and this does not erode the independence of the judiciary, there is no reason to presume that the banking tribunals and the appellate tribunals so constituted would deny justice to the defendants or that the independence of the judiciary would stand eroded.

MAIN FEATURE OF THE ACT LEADING TO SPEEDY DISPOSAL OF CASES:

The processing of debt recovery cases was to be expedited by simplifying the legal procedure to be followed in court. Thus these cases were no longer subject to the Code of Civil Procedure, but instead a "summary procedure" was to be used. This involved a fixed 30 days within whichthe DRT was to issue summons to a defendant once an application against him or her was received, a guideline to dispose of cases within 6 months of the application, and a deadline of 45 days within which to make an appeal to a DRAT against a DRT's decision. The DRT was given the authority to execute the judgment. The presiding officer of the DRT would issue a recovery certificate to the recovery officer, who could sell or attach the assets of the judgment-debtor inorder to recover the money.

SETTING UP OF TRIBUNALS:

The first debt recovery tribunal was established in Calcutta (Kolkata) on the 27th of April 1994. It had jurisdiction over the state of West Bengal and the union territory of Andaman & Nicobar Islands. The complete list of dates of DRT establishment is in Appendix 2. So far, 29 DRTs and 5 DRATs have been set up in the country simplifying the task of the civil courts and doing a commendable job in the speedy disposal of cases.The pecuniary jurisdiction of these Tribunals in each case is Rs.10 lakhs and above. The number of recovery cases filed before these Tribunals for the period between 1994 to 21.10.2002 is 56,988; amount involved is Rs.1,08,665 crores; number of cases disposed of 23,393; amount involved Rs.18,556 crores and amount recovered is Rs.4,737 crores. Institution in the Civil Courts would have taken an even longer time for disposal. The 28thStanding Committee of Finance recommended on the opening up of new DRTs for the disposal of the rapid mounting of cases in the DRTs. They also recommended the Government on the speedy filling of vacancies in the DRTs which now are leading to some backlogs. Although the DRTs have been established to reduce the workload of the Civil Courts and facilitate in the administration of justice, the inconsistencies on the part of the Government is creating problems in their functioning, like the vacancies in the DRTs leading to creation of backlogs even in these additional tribunals. Hence a proposal for the opening of new DRTs is of consideration by the Government.Apart from deciding cases filed under RDDBFI Act and SARFAESI Act, this Tribunal is also organizing Lok Adalats from time to time.

As on 30 November,2005 the total number of cases handled by this Tribunal was 10,458 involving a suit claim of Rs 13,500 crore. Out of the total number of cases, 7,906 have been directly filed in this Tribunal and 2,552 cases transferred from High Court and various civil courts. Out of these, 4,908 cases involving a suit claim of Rs 4,732 crore have been transferred to other DRTs. This Tribunal has so far disposed of about 4,575 cases involving a suit claim of Rs 3,875 crore. It is difficult to show the judicial performance prior to DRT set-up, since prior to DRT establishment, all debt recovery cases were filed in the civil courts, and statistics only report aggregate civil cases, cannot tell isolate incidence of debt recovery cases

CONSUMER COURTS

The Consumer movement is a socio-economic movement that seeks to protect the rights of the consumers in relation to the goods purchased and services availed. The Government of India has accorded high priority to the programme of consumer protection and established consumer forums by enacting the Consumer Protection Act, 1986.

In order to protect the interests of the consumers, Consumer Protection Act 1986 was enacted. The Act postulates establishment of Central Consumer Protection Council and the State Consumer Protection Councils for the purpose of spreading consumer awareness. Central Council is headed by Minster, incharge of the Consumer Affairs in the Central Government and in the State it is the Minister incharge of the Consumer Affairs in the State Government who heads State Council. The Consumer Protection Act, 1986 is a unique piece of legislation as it provides a separate three-tier quasi-judicial consumer dispute redressal machinery at the national, state and district level. At present, there are 588 District Forums, 34 State Commissions with apex body as a National Consumer Disputes Redressal Commission (NCDRC)

The Act is intended to provide simple, speedy and inexpensive redressal of the consumers' grievances. In terms of the Act, the Central Government first constituted the Central Consumer Protection Council (CCPC) on 1.6.1987 and it has been reconstituted from time to time.

The District Forums are headed by the person who is or has been or is eligible to be appointed as a District Judge and the State Commissions are headed by a person who is or has been a Judge of High Court.

The Department of Consumer Affairs, the nodal department in the field of consumer protection, looks at the monitoring and functioning of the consumer forums. The Parliament is empowered to establish additional courts for the administration of justice under Art.247. The growth and development of trade and globalization of consumer goods and services proposes the need for the establishment of such special additional courts for the administration of justice.

DISPOSAL OF CONSUMER CASES

The main purpose of establishment of the consumer courts was to provide speedy justice to the consumers. The recent amendment in the Consumer Protection Act has simplified the process of filing and hearing of the cases so that they are disposed off within 90 and 150 days and the District forums should not adjourn the cases, and if they need to be adjourned, the appropriate reasons need to be recorded.In Bihar the State Commission has disposed off more than 6700 cases and the District Forums has disposed off more than 50640 cases till now.Till date in these consumer forums 20.22 lakh cases have been filed out of which 16.77 lakh cases have been disposed of, which works out to 82.91 per cent. Though consumer cases at the district level usually take 6-8 months, those at the state level and the national commission takes much longer. Since their inception in the late 1980s, district forums have disposed most of the cases brought to it (87 per cent), comparable with a lesser share disposed of by state commissions (65 per cent), or the national commission (76 per cent). Among the state commissions, those in Rajasthan, Kerala and Andhra Pradesh have the highest rates of disposal of cases.

Parliamentary Standing Committee on Food, Civil Supplies and Public Distribution in its 22nd Report reviewed the functioning of consumer forums and expressed concern over the disposal of cases. This is because of the lack of the sufficient funds in running the courts. Therefore, again as in DRTs although the Parliament is creating additional courts under its powers, it also needs to take steps in providing the adequate financial support for their functioning. That would indeed truly help in the 'administration of justice' besides setting up of additional courts for the speedy disposal of cases

IMPORTANT FEATURES OF THE ACT

The provisions of this Act cover 'Products' as well as 'Services'. The products are those which are manufactured or produced and sold to consumers through wholesalers and retailers. The services are of the nature of transport, telephones, electricity, constructions, banking, insurance, medical treatment etc. etc. The services are, by and large; include those provided by professionals such as Doctors, Engineers, Architects, and Lawyers etc.

A written complaint, as amended by Consumer Protection (Amendment) Act, 2002, can be filed before the District Consumer Forum (Upto Rupees twenty lakhs), State Commission (Upto Rupees One crore), National Commission (above Rupees One crore) in relation to a product or in respect of a service.

Proceedings are summary in nature and endeavor is made to grant relief to the parties in the quickest possible time keeping in mind the spirit of the Act which provides for disposal of the cases within possible time schedule prescribed under the Act.

If a consumer is not satisfied by the decision of the District Forum, he can challenge the same before the State Commission and against the order of the State Commission a consumer can come to the National Commission.

LABOUR COURTS, INDUSTRIAL TRIBUNALS AND NATIONAL TRIBUNALS

The Industrial Disputes Act, 1947 provides for setting up of Labour Courts, Industrial Tribunals and National Tribunals.Labour Courts and Industrial Tribunals are set up by the Central Government and the State Government or the Administrations of Union Territories for dealing with matters which fall in the Central and the State sphere respectively.Labour Courts deal with matters pertaining to discharge and dismissal of workmen, application and interpretation of Standing Orders, propriety of orders passed under Standing Orders, legality of strikes of lock outs etc.Industrial Tribunals deal with collective disputes such as wages, hours of work, leave, retrenchment, closures as well as all matters which come under the jurisdiction of Labour Courts.

The Central Government may set up a National Tribunal for adjudication of industrial disputes which in its opinion involve questions of national importance or are of such nature that industrial establishments in more than one State are likely to be interested in such disputes.The Presiding Officer of a Labour Court should at least have held a judicial office for not less than 7 years or been a Presiding Officer of a labour Court under a State Act for not less than 5 years.

The Presiding Officer of an Industrial Tribunal should have been at least a District Judge or an Additional District Judge for three years. Alternatively, he should have held the post of a judge in a High Court. No person can be appointed as the presiding Officer of a National Tribunal unless he has held the post of a Judge in a High Court.

The Industrial Disputes Act, 1947 was amended in 1982 so as to provide that cases relating to individual workmen should be disposed of within a period not exceeding 3 months. (Vide Section 33(5).Similarly by another amendment to the Act, the period within which a Labour Court must decide a claim application (i.e. computation of monetary benefits to a workman) has been fixed at 3 months (vide Section 33C(2).

These tribunals have been established under the power of the Parliament to create administrative tribunals under Part XIV, Art.323A of the Constitution of India. They facilitate in speedy disposal of justice

CONCLUSION

The power given to the Parliament by the Constitution under Art.247, 323-A, 323-B is of great importance and should be used in the right spirit to provide justice to all.The Government of India should respect, protect and fulfill the rights of its citizens, and therefore is obliged to undertake all positive measures, both in conduct and result; to remedy any institutional anomalies that hinder the process of administration of justice. The duty of the State does not end with enactment of laws. The statutory provisions designed to bring about social justice have to be supported by a system that enforces the rights and obligations thereby created.

The additional courts that have been established by the Parliament have greatly facilitated in the administration of justice which is the primary objective empowering the Parliament in the establishment of additional courts.The statistics show that the additional courts have helped greatly in the speedy disposal of cases which the civil or criminal courts alone have taken a few decades to clear. There is again the question of financial burden on the Government for the establishment of such additional courts, but in the interests of the public and in the dispensation of justice which is the end of the Government, the Government should take all possible measures for their establishment.

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