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Root Causes of Delay in Court Procedure

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ABSTRACT: India has been diagnosed with hosts of issues which are root cause of major problems such as corruption, immense poverty and widespread illiteracy as well as inadequate educational institutes and poor infrastructure to state a few which act as a daunting challenges faced by India. In addition to the aforesaid issues, India is also bogged down by another major issue which consequently leads to backlog of cases and tremendous amount of unresolved matters and this silent monster is the red tapism within the court proceedings. Such slow procedure not only results in delayed justice rather the result in lieu of red tapism within court's premises also results in injustice.

KEYWORDS: Court Proceedings, Delay, Procedural delay, Red tape culture.

I. INTRODUCTION

As the infamous saying goes, "*Justice delayed is justice denied*" similarly, it is spot-on when it is said "*Delay in process is denial of Justice*".

There are numerous cause and effects that need to be considered as the changes in the time span taken for completion of Court's procedure often results in the difference of jeopardized matter and satisfactorily resolved matter. When the mere purpose of setting up the Court is to resolve issues and implement the latest amended laws to the extent possible to resultantly curb the sprouting of new similar matters involving the same contentions and question of laws. However, the major perils of delay which make it a dangerous silent monster are:

Lack of faith in public for the judiciary: This often creates a very grave situation which often result in protests which have a tendency to result into violent protests[2].

Reluctance of witness: Apart from not being able to appear due to unavoidable factors there are numerous reasons why witnesses do not appear, one of them being that the witnesses do not come to the Court because they realize that the procedure of the Court is complex, slow, lengthy and time-consuming[3].

Wrongdoer gets the chance to avoid litigation and remedies are of no use: When the justice is delayed the culprit gets encouraged to repeat it again and simultaneously the victim loses interest in pursuing the case only to be stretched over to numerous proceedings. Moreover, the memory of the witness as well as judge fades which resultantly tremendously depletes the quality of the justice and the extent of satisfactory level satisfaction provided to the case pursuant[4].

Along with that the judge-citizen ratio and vacancies of judge's seats in various courts, deficient number of courts, frequent adjournments, transfer of judges, etc. add up to the cause effect.

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Hence, it is about time we make light of this grave issue and provide speedy justice to all as every person has a right to speedy trial and refusal of the same defeats the whole idea of justice and results in loss of people's confidence in justice[5].

The fact that the justice delivery system in India is in a bad shape cannot be contested by any party. A work analysis of more than half a century of the Indian Judicial System reveals that this system, which had operated efficiently and satisfactorily for decades, has now failed to produce Justice expeditiously. There is a well-known saying that "Justice delayed is denied justice." With 30 million cases pending in various courts and an average time of 15 years to settle the conflict by co-operatives. An effort is made in this article to illustrate the causes of judicial delays and to recommend remedial steps to strengthen the system[6].

One of the grey areas where our system of justice delivery has not met the standards of the people is that the judiciary has struggled to deliver justice expeditiously. In fact, this delay in the delivery of justice is one of the largest challenges facing the judiciary.

II.DISCUSSION

The question of delays is not a modern one, it is as old as the legislation itself. The issue has reached such an immense proportion that it will absolutely crush the entire edifice of our legal system in the near future unless it is resolved rapidly and effectively.

Delay in the sense of justice refers to the time taken to settle the case, in excess of the time during which a case would reasonably be expected to be resolved by the court[7].

No one expects a case overnight to be resolved. However, when the actual time taken for the disposal of the case much exceeds the anticipated life period, trouble occurs and that is when we conclude that the dispensation of justice is delayed. Not only does delay in the disposal of cases generate disillusionment among litigants, but it also undermines the system's very ability to provide justice in an efficient and effective way. In quite a number of cases, lengthy delays have the effect of defeating justice[8].

What all factors primarily lead to delay in the court procedure? This article settles the same briefly.

Huge number of vacancies poses a major setback for the speedy justice. Even in Supreme Court, sanctioned strength for the judges is 31 while working strength is just 25 that means six posts of judges are still vacant. Perhaps, on this issue both judiciary and executive are at daggers drawn.

Delayed justice is the biggest cause of prevalent corruption in the world. The chairs of ministers are enjoyed by multiple elected figures while a variety of lawsuits are pending against them. Are our courts not their accomplice? Why are all the innocent stuff excluded in finalizing such a case and the lame reasons taken by such lawmakers to postpone the cases taken into account? It is incomprehensible that, at least because of the delay in disposing of the proceedings, how much harm our country will suffer from a legal and moral point of view. The worst-affected unlucky citizen is the innocent one who needs to seek cover from the courts to get revenge, which he will never quantify while the so-called Justice will soon come. No one can measure his fears and his grievances. These sufferings and struggles lead him to believe that justice is withheld by deferred justice. It is clear to conclude that the end of justice is defeated by inordinate and needless delay. In its numerous seminal judgments, the Supreme Court ruled that "right to speedy trial is a fundamental right which is implicit under Art. 21 of the Constitution."

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The heartening factor is that, amid massive backlogs and delays, people's confidence in our justice system appears to stay firm. It is about time that we examine the reasons behind the accumulation of arrears logically and rationally and formulate concrete plans to get at least under a fair timeline, under an equitable cap. We have, however, to find ways and means to deal with the issue in order to maintain our people's confidence in the system's integrity and capacity. The estimated life cycle of a lawsuit is an intrinsic aspect of the scheme in an adjudicatory framework, whether inquisitorial or adversarial. No one wants a lawsuit overnight to be resolved. However, where the real time required for the disposition of the case much exceeds the anticipated life cycle, trouble occurs and that is when we conclude that the dispensation of justice is overdue.

The lack of professional expertise on the part of judges directly impacts the method of judicial delivery. Many new crimes have arisen with the progress of research and technology, such as cyber pornography, cyber stalking, etc. Many judicial officers are expected to have expert knowledge to deal with certain forms of offences. This is another topic of interest that relates to lawsuits being outstanding. A significant setback for the justice delivery system was demonstrated by an insufficient number of judges. In its Report No. 245, the Law Commission of India deals with the creation of additional courts for the removal of delays and timely clearance of cases.

Therefore, it is the lack on the part of the professionals which leads to the gross procedural delay

III. CONCLUSION

The big backlog in the courts has been the focus of various studies, debates in parliament and state legislatures, in judicial and media conferences. Anand the Chief Justice Observed:

"Justice Consumers want unpolluted, expeditious and inexpensive justice. In its absence, he may be tempted to take law in his own hands instead of recourse to law. This is what the judicial system must guard against so that individuals do not resort to extra judicial methods to settle their own scores and seek redress of their complaints."

Complexity and Rigidity of Procedural laws are the root cause of the complexity and rigidity of the procedural laws. The rights and obligations are defined by the former. However, a mechanism for enforcing these rights and liabilities is provided by procedural laws.

Most of these laws are approximately 100 years old and not well drawn up. The only possibility is to reshape them because they have become the biggest stumbling blocks in the way of speedy disposal of cases, since they cannot be dispensed with. Through its various reports, the Law Commission of India has highlighted these problems. The arguments of jurisdiction, cause of action, adequacy of notice, modifications of the complaint and other procedural matters waste so much time. In addition, the words or terms used in the Bare Acts are highly technical and differentiated. (like the words - notwithstanding, nevertheless, proviso, provided subject to the Provision herein after Provided) and The procedural laws need to be simplified, therefore, beyond the understandings of a common man, because no matter how good the substantive law may be, it can be effective only if procedural rules are simple, efficient and expeditious. In these Acts, there are many provisions, providing ample possibilities for delaying the disposal of cases. Even after the original judgment, the possibility of filing appeals causes further delay, where execution is more than likely to be returned unsatisfied when the final judgment is secured. Aforesaid facts lead to delay.

The alarming situation calls for speedy corrective action. These are expected to be practical and effective. These reforms should be capable of providing the common man with speedy and effective justice that is accessible. In order to enforce judicial responsibility and the independence of the judiciary, equally important steps should be

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taken. Several reports from the law commission have argued for many specific and practical judicial reforms. To address this growing crisis, however, little has been done.

To begin with, the government, the judges, the lawyers and the litigants must all have a positive will and a strong commitment to eliminate these ills from our system.

Lastly, Litigation should not be Encouraged Another method to reduce the backlog is that the quantum of cases coming to the courts must be reduced. The Judges should be very strict at the first stage itself. They should distinguish between frivolous and genuine litigation and should discourage frivolous litigation.

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