

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Pendency of Cases Leading to Reliance of Judiciary

DIVYA ASHWANI¹ AND DEVANSHI SHARMA²

ABSTRACT

The pendency of the cases in the Indian courts is not a kind of phenomena, one is not aware about. Mounting of the pendency cases right from Supreme Court to Lower Courts at an alarming rate is now serious matter of concern. The Indian Judiciary has always been applauded for the kind of work and judgments are passed by them for the betterment of society, taking care of the neglected sections of the society and what not. The pendency of around 3.3 crores of cases put up an actual image of our lacking judiciary. This has also lead to a huge failure in delivering the justice. The Judges in India are regarded as the Gods who can be seen and courts are the place where one will get the justice vis-à-vis the trauma and injury caused. The authors have tried to critically examine the reasons behind this huge pendency of cases amid the crisis of Covid-19 which has just worsened the situation. Also the solutions to the given problem have been analyzed by way of concluding the article.

Keywords: Pendency of Cases, Justice, Indian judiciary, Covid-19

I. INTRODUCTION

India is a country with rich variety and assets, as we as a whole realize Indian Democracy has four Pillars i.e., Executive, Judiciary, legislature and media. Legal executive has a critical influence in running of Indian popular government concerning get a tranquil, law-orientated and tumult free country. As the Indian Constitution has been ransacked from various nations however at some place India is deficient in Execution measure. Law of the Land has been composed superbly remarkable yet its execution doesn't combine up with the way toward executing and suggesting it. We generally acclaim about the created country however what exertion we provided for make our country created, In India everyone needs their home to be taken care of and run effectively and that is the way there's an ascent of awful execution and suggestion. In law there's an expression that is justice delayed implies justice denied and in India it's disturbing augmentation in forthcoming of cases in court.

¹ Author is a student at Seedling School of Law and Governance, Jaipur National University, India

² Author is a student at Seedling School of Law and Governance, Jaipur National University, India

II. MAJOR REASONS BEHIND THE PENDENCY

1. VACANT POST: Rising of vacancy of judges in apex court, high court and lower courts prompts bungle pendency and deferral in giving equity to its searchers. As indicated by the National Judicial Data Grid³, there are as of now 3,40,38,113 forthcoming under the steady gaze of different Courts in India, out of which 85,864 are over 30 years of age. Additionally, according to the measurements⁴ of the Supreme Court, there are 60,444 issue forthcomings before it as on 01.07.2020. In the event that the opening is filled, pendency would go down and make the equity conveyance framework proficient. As per a report of 2015, there were near 400 opening for the post of judges in the 24 High Courts of the country. The forthcoming number of cases in the Supreme Court has mounted to around 60,000. There are some 25-30 million cases in different courts. Spending portion for the legal executive is simply 0.2 percent of the GDP. The appointed authority populace proportion is 10.5-11 to 1,000,000, which ought to be at any rate 50-55 to 1,000,000. These stunning numbers show that the legal framework can't convey ideal equity as a result of the enormous accumulation of cases.

2. ADJOURNMENTS: India is still in reverse as because of idleness and recklessness in each framework and consequently in Indian general set of laws legal counselors from broken gathering hold the cases for such a long time and that lead to defer in equity conveyance and Delay strategies are utilized by the gatherings which cause impediments in the opportune removal of cases. As a general rule, suspensions are appealed to God for on reasons like the record is feeling the loss of, the committee didn't show up on schedule or one of the gatherings couldn't make it, and so forth At times, even the legal counselors create unreasonable setback by requesting deferments as they advantage regarding pre-hearing expenses. Consequently, there should be severe guidelines with respect to the way of life of intermissions and it ought to be conceded just when essential.

3. CORRUPTION: In India corruption is rehearsed at each level regardless of whether it's at lower level or pinnacle level and accusing game continues passing, despite the fact that there are laws with respect to corruption however they are of name just as everyone assumes a part in supporting wrong as in India everybody needs their necessities to be satisfied and that is the explanation where corruption chain won't ever end.

4. LACK OF TRANSPARENCY: There's a veil among casualty and judgment providers and that is the reason independency of legal executive lost its way in Indian legitimate structure.

³<https://njdg.ecourts.gov.in/njdgnew/?p=main/index>

⁴<https://main.sci.gov.in/statistics>

In puzzling or strange decisions courts denied the genuine certainty of case and consider the archives that are appeared by the mode of biasness or which are made according to the more powerful party to the case needs.

5. LACK OF INTERACTION: The parties to the case are completely subject to the proclaiming of their legal advisors, a few legal counselors made them power to say insignificant realities that lead to uniqueness of case and at times, attorneys said their clients to keep mum while admission measure and that prompts undesirable confusion and postponement in legal cycle.

6. FILING OF FALSE CASES: The documenting of cases is expanding step by step in each matter where it's of governmental issues, marital, charges and of society issues. The irresponsible residents ruin the critical time of courts by filing fake cases only for the sake of revenge from the party against whom they have documented the case. In India mostly fake cases are being filed on the matter of sexual harassment as this matter is more disturbing than the others and to grab the eye of public everywhere and all around 53.7% of cases are filed fake every year and that cause a real problem to legal system to find the truth and the wrongdoer. Although there's a punishment under section 182 of Indian Penal Code but its execution is not proper and the provision is also lenient as it's a step towards pendency of cases and of making undesirable disarray in overall set of laws, so that should be looked with severity.

III. RAPID RISE IN PENDENCY OF CASES AMID THE PANDEMIC

This worldwide pandemic of COVID-19 has severely affected not only the lives of the people but also the regular functioning of the courts and litigation and the advocated representing themselves as it was one those professions where work from home was rarely possible until now where an increasing number of hearings could be conducted wholly or partly through telephone and video links and made it possible to conduct the substantive hearings through Video-Conferencing technology without anyone being actually present in the courtrooms. In March 2020, when the lockdown was announced by the Hon'ble PM of the country, Supreme Court issued mandatory guidelines under Article 142⁵ regarding virtual courts. The courts continued to do their primary work of hearing matters while taking up the task of digitalizing the Judicial system and organized itself very quickly to hear matters on the basis of urgency and expanded thereafter. But whilst this technological development is taking shape, the fact of huge pendency of hearings cannot be ignored as the level of work judiciary was doing in a single day before the pandemic has now become lagged and steady, which ends up in the

⁵ Article 142 of the Constitution of India

delaying of justice to the people as crime is increasing with a rapid rate. The data of National Judicial Data Grid (NJDG), being the government platform for monitoring the judicial data, has revealed that the impact of the pendency of case was highest in the High Courts, following by the Lower courts and then finally the Apex Court. As per the reports, in the lower courts the pendency went up sharply by 18.2% within the year December 2019 to December 2020 which in the earlier years was around 7.79%, whereas in the cases of High Courts it went from 5.29% to 20.4%. The impact on Supreme Court was least as the pendency rose by 10.35% only as on March, 2021, but still this was the highest backlog the court ever had. The report also mentioned that despite Articles 128 and 224A of the Constitution of India provides for the appointment of ad-hoc judges in the High Court and Supreme Court, the posts were persisted. Upon this issue of pendency, a Supreme Court bench headed by the former Chief Justice S.A. Bobde said that the pendency of cases has gone out of control and that the guidelines are to be issued regarding the appointment of temporary judges to address the issue.

IV. CONCLUSION

An old saying, “Justice delayed is Justice Denied” depends upon the country’s progress on the strong judicial system which is capable of providing quick justice to the citizens. To guarantee order and stability in the society it is mandatory to address the backlog to maintain the constitutional democracy and to adhere to the Rule of Law. Indian Judiciary being one of the most efficacious judiciaries in the world is barred by certain challenges; people are losing hope because of the time taken in resolving the disputes and hesitate to approach a court. According to a Law Ministry data, judiciary faces over a shortage of 7000 judges out of which 6000 in the lower courts itself. The data also stated that India has 19 judges per 10 lakhs of people on an average which is quite far from meeting the ends of justice for the citizens.

The initiatives like the recent amendment of the Supreme Court (Number of Judges) Amendment Bill, 2019 which increased the number of Judges in the Apex Court from 31 to 34 is beneficial step and proved to be benevolent; setting up of tribunals, fast track courts, and special courts are supposed to be more beneficent. Mechanisms of Alternative Dispute Resolution, Lok Adalats and Gram Nyayalayas would prove to be more fruitful if properly utilized. Steps to achieve the long-term goal of working of the courts 365 days a year is a thoughtful initiative and will help in reducing the pendency of the cases.
