

The Legal Management: Court Administration

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Abstract

The constitution of India was enacted in the year 1950 and became a sovereign democratic republic and since then it secures the fundamental rights of all citizens of this country, through the Preamble, which is considered to be the basic structure of the constitution. It is based on the opening words: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all; FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation. Preamble as such is widely accepted as the quintessence or soul and spirit of a constitution, as it embodies the fundamentals and the basic of the constitution. The state has the obligation to establish and maintain the social law and order in which the legal body of the country provides justice to all the citizens of the nation. And the Access to the justice must be provided irrespective of social, economic and Political barriers which usually interrupt the Focusing on the judiciary; it is a fact to state that it has gone through various stages since the adoption of the Constitution in November, 1949. Later the Law Commission was set up to look after the Indian Judicial System. Till date, various Reports on Judicial Reforms have been submitted by the Law Commissions. But most of the important recommendations made by the Law Commissions, from time to time, have not even been properly implemented the governments which were in force till date. This view of lacking of interest in effective enforcement of the recommendations that are made by the law commission gave rise to the initiation of the Court Management, Case Management and improvement in the management of the cases in the courts of law. Efficiency needs to be achieved also from the administrative side as the delay on the administrative side adds to the arrears. Most of us think this pendency is only the responsibility of the judiciary officers and do not take interest in the administration. As you cannot afford a shallow performance in the judicial work, officers cannot avoid administrative responsibility.

Keywords: Court management; Case management; Judicial reforms; Law commissions; Video conferencing

Introduction

Through this article I particularly want to convey that the administration has to be taken care by a management experts viz “court manager” to whom the required descriptive administrative powers must be delegated so as to take quick decisions for the improvement of the court administration and for the initiation of technology enabled recording of files and hearings which shall be used as the ready reckoner for the future reference of any related case hearings. For the accomplishment of all these there should be an eminent power given to the court managers to improve their decisiveness. The following are all the areas where the court managers must be involved to tackle the matters in an efficient way [1-3].

Court Management/Case Management

Court management or Court case management forms a part of the judiciary system. Apart from the Judges and their clerks there are court administrators.

Appointed for the expertise in the formation of new methods and techniques through which the administration of court management can be achieved. They are involved in the research and planning of the future of the court administration. Court administrators explore alternative ways of managing court.

Cases, often by statistical and Empirical research. Research says there are many ways to explored and can be employed to manage the court and its cases, but theres a prerequisite seeking methods that reduce the amount of time a case.

Prevails active in the courts. Consequently, judges are often not posed to the time management as they have less control over their time as it makes the duty of the court administrators to setup the time slots

accordingly the work must be accomplished. Now at days, with the advancement in the technology the court managers work is made easier by reshaping the administration of the courts. With the integration of computers and database software, case information can be recorded and retrieved electronically which would serve as a booster to the system [4,5].

Necessity of Protecting the Judicial System

According to Supreme Court of India, The people of the nation are losing faith in the kind of Judiciary system creating a great threat to the democratic governance of the Country. The great people of this country while dedicating the Constitution to the nation have entrusted the responsibility of protecting the democracy, citizen’s right of freedom and equality and maintaining the rule of law on the judiciary. We have to live upto their expectation and take up the challenging task assigned to us. This makes the duty of every citizen of the nation to put the hands together to safeguard the dignity of the Judiciary system. Before in-depth analysis of how to protect the Judiciary System the primary point of discussion should be the Court Management which is indirectly affecting the System. Primarily, i would want to clarify that the matter is not the problem with which the judicial system of the nation, nor I am discussing all the factors responsible for deteriorating faith of the people in the judicial system of the country. The discussion

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is confined to the problems of judicial system to the extent the courts can resolve it with due diligence of the court manager [6].

The Reasons for the Delay in Disposal of the Cases

The greatest problem the nation facing now is the delay caused in disposal of the cases due to lack of proper time management for which we cannot put the blame on the Judges nor the administrators but it is the system that is prevailing in the court for this inordinate delay in disposal of cases, there are many factors responsible for it, which are beyond control of the courts which shall be explained point wise as below [7].

Execution of the cases with various techniques/methods like fi-fo (First in First Out)

The Court managers should come up with various techniques and methods useful for minimizing the delay caused in the case management in the courts which in turn saves the precious time of the courts. And such time can be utilized in handling the other cases which will reduce the number of pendency in various courts of the country these methods help as the tools to overcome various challenges the courts are facing these days.

(i) FI-FO Method: There must be a specific method like FI-FO which means first in-first out the cases which came to the courts for hearing must be served first but by considering various priorities like:

- (ii) Case turnaround time
- (iii) Old cases
- (iv) New Cases
- (v) Sessions trial
- (vi) Bail applications etc.
- (vii) Miscellaneous cases
- (viii) Execution cases
- (ix) Remand Orders
- (x) Part-Heard Cases

This method is based upon the prioritizing concept. As per this method, the old cases must be given high priority and less priority must be given to the new cases even though they are of any importance and can be from the above types of cases and for effective implementation of this task the court managers must come up with the techniques like:-

Case turnaround time

There shall be a specific time fixed for each case considering the factors like. Seriousness; priority; impact of the case if not dealt in time; etc. within which the case must be closed in that specified time slot and for every case there must be a turnaround time which will be displayed in the court premises as a charter for the reference of the people. And for the cases which are not dealt in the turnaround time mentioned in the charter due to the holidays; bandhs; or any other interruptions such cases can be considered as the remedial cases and can be dealt after a specific period fixed and mentioned in the charter. This method has its pros and cons as everywhere, the pros are the speedy resolution of the cases; time transparency can be achieved; resolute the delay issue.

Delegation of powers

The power of the decision making must be delegated to the

administrative management to take quick decisions for the betterment of the facilities and modernization of the courts in all aspects including the computerization of the records; providing specific services to the visitors of the courts to achieve transparency for this to be enforced the Judges have to delegate their power of decision making and there should be a specific budget allotted on a quarterly basis which shall be monitored in the budget meetings held at the end of every quarter end on all the spends and the required budget for the next quarter [4].

Modernizing the Court Administration

Records

This makes the duty of the respective court manager to ensure that all the records are automated ensuring to take all steps for the availability of the Photostat machine in the respective courts and all the old records must be scanned and kept as soft copies for the reference and should ensure that periodical consignments are to be sent to the Central Record. Chief Judicial Magistrates of the court must ensure that all the Magistrates in the respective Unit are taking steps for destruction of records by publication and thereby taking steps for disposal. The other task shall be the translation of the records which were in Urdu language to English as most of the earlier

Computerization

The court managers should take an initiative for the computerization of the entire information, about laws, precedents and writing should be fed in the computers, the software CDs should be classified on the basis of classification of cases done after their disposal. The print out of the cases with legislative provisions and latest decisions should be made available with the Judge like ready reckoner which is helpful as a reference for the preceding cases.

Better service

There shall be a helpdesk required at each of the respective judges office who will report to the respective clerk. Helpdesk executive shall be responsible to help out the visitors to the court like plaintiffs/defendants etc. in finding out the Status of the case filed; turnaround time; availability of the judge on the day of the trial; etc. these provisions should be made available to the visitors as well as to the persons who will consult the helpline executive by making a call to the Helpline number. This makes the court environment feel like transparent and shall indirectly save the valuable time of the courts and the visitors. With all these aspects the citizens of the nation will lose the hopes for the safe guard their basic fundamental rights which the constitution has promised.

Video Conferencing

Video Conference is a platform which eases the court hearings and other court applications in an efficient way. There are various modes which come under the subject Video Conferencing which has to be improved in the Indian Court Administration [8].

Tele visit

India's judicial system has sometimes been described as being slow and laborious. But information technology is bringing about a change in the country's judicial system. India has undertaken a nationwide project to connect jails and district courts across the country via a tele-justice the accused can now be present in a court through a video link, established on ISDN lines, between the prison and the court. This concept has to be implemented effectively throughout the country

by improving the ways to adopt this mode suitable to our regional environment.

Legal aid

Jails are linked with Video Conferencing facility with the District Courts for conducting judicial remand extension of under trials, imparting legal aid to the poor prisoners with their legal aid lawyers, conduct of important trials. So imparting the Legal Aid through this system is the way how the courts time can be saved. And the expenditure for the transportation of the prisoners can be saved. This brings the confidence in the citizens of the India.

About the Indian Judiciary this removes the descriptive saying that India's judicial system is being slow and laborious.

E-Courts

The effective implementation the process of E-Courts to achieve the case management are usually aimed to establishments the Information and communication technology to the lower courts of the country which in turn improves its functioning in an effective manner. With the deployment of hardware, software and networking to assist District and taluka courts in streamlining their day-to-day functioning. Key functions such as case filing allocation, registration, case work flow, orders and judgments will be IT-enabled. Causeless, Case status orders, judgments shall be made available on the web and made accessible to litigants, advocates, and general public. Each and every call can be recorded which can be used as the record maintained centrally similar to the library instead of the traditional recording system which was a manual burden incurring huge costs. Thus, helping our courts minimize the huge cost of storage [9].

National Court Management System

To meet all these challenges facing the Judiciary effectively, the Chief Justice of India, after consulting the Minister of Law and Justice in the Government of India established the National Court Management Systems (NCMS) in May this year and recently released a Policy and Action Plan document to implement it. The National Court Management Systems will be under overall control of the Chief Justice of India. It will primarily deal with policy issues. NCMS will include the following six main elements:

(1) A National Framework of Court Excellence (NFCE) that will set measurable performance standards for Indian courts, addressing issues of quality, responsiveness and timeliness;

(2) A system for monitoring and enhancing the performance parameters established in the NFCE on quality, responsiveness and timeliness;

(3) A system of Case Management to enhance user friendliness of the Judicial System;

(4) A National System of Judicial Statistics (NSJS) to provide a common national platform for recording and maintaining judicial statistics from across the country. NSJS should provide real time statistics on cases and courts that will enable systematic analysis of key factors such as quality, timeliness and efficiency of the judicial system across courts, districts/states, types of cases, stages of cases, costs of adjudication, time lines of cases, productivity and efficiency of courts, use of budgets and financial resources. It would enhance transparency and accountability;

(5) A Court Development Planning System that will provide a

framework for systematic five year plans for the future development of the Indian judiciary. The planning system will include individual court development plans for all the courts; and

(6) A Human Resource Development Strategy setting standards on selection and training of judges of subordinate courts.

The administrative and technological "backbone" of these systems will be maintained at the Supreme Court and overseen by a Committee consisting of the representatives.

Specific proposals will be developed in each of these areas for consideration and implementation by and through the High Court's [10].

National Court Management Systems Committee (N.C.M.S.C.)

Specific proposals for the Court Management System as outlined above will be developed by an 18 member National Court Management Systems Committee (N.C.M.S.C.), which, subject to directions of the Chief Justice of India, shall consist of the following:

Chair

A Jurist/Domain Expert nominated by the Chief Justice of India. He will be paid honorarium and given such facilities as may be decided by the Chief Justice of India for Chairing N.C.M.S.C.

Accordingly, Prof. (Dr.) G. Mohan Gopal, former Director, National Judicial Academy, a Jurist, has been nominated by the CJI to be the Chairperson of National Court Management Systems Committee. Prof. Mohan Gopal will also be Member of the Advisory Committee [10].

Members of the National Court Management Systems Committee

1. Four Sitting Judges (one from each zone in India) nominated by the Chief Justice of India.

2. Secretary General of the Supreme Court (ex-officio).

3. Joint Secretary and Mission Director (National Mission for Justice Delivery and Legal Reforms), Department of Justice, Government of India (ex-officio).

4. Registrar Generals of three High Courts nominated by the Chief Justice of India.

5. Director, National Judicial Academy.

6. Two practicing Advocates nominated by the Chief Justice of India.

7. An expert Statistician, nominated by the Chief Statistician of India.

8. An expert in management of decision making systems and process re-engineering, nominated by the Chief Justice of India.

9. An expert in Computer Technology relevant to Court Management, nominated by the Chief Justice of India.

10. A representative of a NGO working for improving access to justice and user friendliness of courts, nominated by the Chief Justice of India.

11. Additional Registrar, Information and Statistics, Supreme Court of India (ex-officio) – Member Secretary [10].

Concluding Points

1. In order to establish an effective Court management, it is necessary to delegate the power of the decision making to the administrative management i.e. Court manager to take quick decisions for the betterment of the facilities and modernization of the courts.

2. The National Court Management Systems (NCMS) which was established to meet all these challenges Judiciary is facing, Must be utilized to meet all the goals for which it was established for. The members of the National Court Management Systems Committee (N.C.M.S.C.) must conduct the advisory meetings with the consultation with the Chief Justice of India for the betterment of the cause for which it was established.

3. There must be a specific method established for the execution of the cases like FIFO or any certain method which eases the procedure to reduce the delay caused in the case management.

4. Video Conference is a platform which eases the court hearings and other court applications in an efficient way. There various modes which come under the subject Video Conferencing which has to be improved in the Indian Court Administration via Tele-visit; Legal Aid; E-Courts.

5. Finally, All that is required is the proper implementation of the above aspects with continuous monitoring by the eminent designated authority.

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