



VARIOUS ASPECTS OF COURT MANAGEMENT

*By Promit Acharya and Tiyasa Banerjee
From KIIT School of Law, KIIT University,
Bhubaneswar*

Abstract

Having almost 4 crore pending cases in India till date, it can be safely said that the Indian judicial system is lagging behind on its way of providing justice. Most of these pendency happens because of the maladministration by the court. Court management is a very important phenomenon which manages the administration of the court as well as everything related with the case to run smoothly. Court management includes everything ranging from relations between judges and the court staffs, the court budget, maintenance, to allocation of cases, to new and more efficient technology like E-courts, ADR, ODR, more competent human resources like appointing management students as court clerk to ease the work of the court. Court management has become necessary to avoid backlog of cases, delay in providing justice and the increasing cost of litigation over the ages. This paper deals with the problems and different developments that have taken place in course of time to deal with these problems.

Introduction

Indian Judicial System going through major issue of overabundance of Cases. A few

proposals, ideas have been made by various committees, gatherings to manage the constant circumstance. It requires proficient and successful Court Management System set up. Thirteenth Finance Commission designated Rs. 300 Cr. for arrangement of Court Managers across Indian Courts in the year 2010 however till date it has not smoothed out yet in view of different managerial issues across states. There is dire need to outfit Indian Courts with expertly qualified Court Managers for better administration of equity. There are numerous divergences with respect to Court Manager's work profile and nature the nation over.¹

“The greatest drawback of the administration of justice in India today is delay... I am not aware of any country in the world where litigation goes on for as long a period as India[...].” Nani Palkhiwala in “Delays in Administration of Justice”²

There is no uncertainty that there have been numerous positive activities from our lawmakers just as the legal executive. Changes like redesigning the Criminal Procedure Code, establishing Tribunals, trying different things with Alternate Dispute Resolution (now onwards ADR) systems, for e.g., establishing Mediation facilities at few District Courts. Another creative acquaintance with the plan of the Judiciary of India, have been the presentation of court chiefs. Combined alone with requirement for viable and effective court the board rehearses, a great deal of significance is likewise given to computerization.³

¹ Court Management in India, Home, Welcome to Court Management in India (10th March, 11:00 P.M.) <http://courtmanagement.in/>.

² Quoted in, Justice R. B. Mehrotra, “Court Management”, J.T.R.I. Journal, First Year, Issue 3,

July – September, 1995.

³ NALSAR University of Law, Study of Management Techniques for Improving the Efficiency of the Subordinate Courts, (10th March, 11:00 P.M)



The truth is that today there is an unavoidable issue blemish on the whole authoritative arrangement of the country. It is hard to consider that legal executive as such will be the sole special case for the overall crumbling, which the general public and the nation is confronting. In any way, one cannot justify evasion of the duty which has been placed upon the country's legal arrangement.⁴ Francis Bacon's essay on 'Judicature', states, "Soloman's throne was supported by lions on both sides: Let them be lions, but lions under the throne, being circumspect, they do not oppose any points of sovereignty"

While interpreting the above quotation, Justice Pandian, in his judgement, stated that: "Soloman's throne" to symbolize the majesty of justice – "fully supported by lions" to symbolize the executive and the legislature.⁵

Prof (Dr) Madhava Menon said, "the two important revolutions that have changed the management of both the public and private sector during the 20th century, are the management revolution and the information communication revolution."⁶

"With the advent of e-courts project beginning in 2007 and the introduction of the post of court managers in 2010, the Indian judiciary witnessed its fair share of the two revolutions.⁷ However, while the e-courts

project has been completely absorbed into the system, becoming an important facet of the Indian judiciary today, the post of court managers has unfortunately not received the same kind of attention".⁸

Reduction of Backlogs

With delineated association of the judicial body as well as the enormous responsibility, the importance of planning cannot be underrated. Key arranging alternative to effective paralegal staff might fundamentally affect both pendency and legal changes since it has four essential employments:⁹

- Suggest choices about planning and designation of assets.
- Educate court directors regarding execution of the individual units or people.
- The judges and staff in feeling of an association and its objectives.
- Help with reacting to singular issues as they emerge

"In India, previous Law Commissions and various Governmental Committees have suggested various directory time frames both as guidelines to Courts for the timely disposal of cases, and as standards by which delay in the system can be measured. However, all these suggestions are based on ad-hoc

https://doj.gov.in/sites/default/files/Final%20DOJ%20Report_Revised%20%281%29.pdf

⁴ Policy and action plan, National Court management systems (NCMS), NCMS committee, Supreme Court of India, 2012, (10th March, 11:00 P.M.) <http://supremecourtfindia.nic.in/ncms27092012.pdf>, accessed on 29-07-15.

⁵Ibid.

⁶ Anurav Kaul, Court Management in Indian Judiciary, Published on 26th October 2020 at Bar and Bench,

(10th March, 11:00 P.M)

<https://www.barandbench.com/columns/court-managers-in-the-indian-judiciary>

⁷ibid

⁸ ibid

⁹ Theodore J. Fetter, Hand Book of Court Administration and Management, Public Administration and Public Policy/49, CRC press, 1992.



prescriptions rather than grounded in empirical analysis and observation.”¹⁰

An alternate proposed device and furthermore utilized in a portion of the developed nations is the case-explicit schedule for limiting postponements in the process of dismissing cases.¹¹

“Section 309 of Code of Criminal Procedure and Rule 1, Order XVII of Code of Civil Procedure” manages the deferments and force of the court to delay the meeting.

Such deferments are usually conceded, like the courts consider it significant or fitting for recording motivations. It additionally offers carefulness to the court to concede deferment with installment of expenses. These tragically are not carefully followed and simple award of intermissions builds the existence pattern of the cases. The Malimath Committee, truth be told, proposed to revise the procedural laws for controlling suspensions and also recommended for the high courts to set extraordinary conditions when deferments might be allowed.¹²

Throughout some stretch of time a few techniques have been prescribed to decrease overabundances in Indian legal executive. Probably the most as often as possible recommended strategies for build-up decrease are as per the following:

➤ **Hike in the amount of Judges:**

Our country has experienced a significant development within the legal framework over the most recent twenty years. "It is assessed that the quantity of Judges/Courts extended six crease while the quantity of cases extended by twofold that number – twelve overlay. The legal framework is set to keep on extending fundamentally throughout the following thirty years, ascending, by the most traditionalist gauge, to in any event around 15 crores of cases needing probably somewhere in the range of 75,000 Courts/Judges."¹³ The pitiful condition of judge-populace proportion is perceived on the off chance that we do relative report in different purviews. It is basic that a framework is set up that limits the normal life expectancy, all things considered, while simultaneously „maintaining quality and responsiveness of equity.¹⁵

➤ **Specified time-frames**

One of the estimates embraced by numerous nations to lower legal deferrals is to indicate time limits. Endeavor through changes in Civil Procedure Code of 1999 and 2002- which determined time-spans for procedure related matters. Indeed, even the Supreme Court has restrained the impact of this change¹⁶. The Apex court of India itself has permitted a rather liberal interpretation w.r.t.

¹⁰ Arrears and Backlog: Creating Additional Judicial (wo) manpower, Report No. 245, LawCommission of India, Government of India, July 2014, (10th March, 11:00 P.M.)
http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf , p.6.

¹¹Ramrameshwari Devi v. Nirmala Devi (2011) 8 SCC 249.

¹²Report of the Committee on reforms of the criminal justice system, Government of India, Ministry of Home Affairs, Vol. 1, March 2003, (10th March, 11:00 P.M.)

http://www.mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/criminal_justice_system.pdf ,

¹³Policy and action plan, National Court management systems (NCMS), NCMS committee, Supreme Court of India, 2012, (10th March, 11:00 P.M.)
<http://supremecourtindia.nic.in/ncms27092012.pdf>

¹⁴C.J. Bharucha: Speech Delivered in Kerala organized by the Bar Council of India and Bar Council of Kerala Published in India Bar Review Vol XX VIII (4) 200, p. 2

¹⁵ id

¹⁶ Salem Advocate Bar Association-II (2005) (6) SCC 344)



the constraints endorsed in the said code. Another model was found on account of Kailash versus Nanhku¹⁷ where it loosened up the endorsed cutoff time of 90 days for recording composed explanation from the date of administration of request.

➤ **Efficiency**

Inefficient cases significant purposes behind legal deferrals. The courts need prepared work force and the current staffs have not been prepared to utilize innovation or to keep up information logically. Utilization of innovation can likewise prompt making framework straightforward along these lines decreasing defilement. Changes like delegating court supervisors, creating entryways, for instance, the National Judicial Data, e-courts and so forth are positive developments. The nature of assistant staff should be constantly improved through time-bound and ordinary preparing. Also for the exploring offices as well. Innovation/computerization must be utilized in lower courts to accomplish working proficiency.¹⁸

Judicial Process and Court Structure

“Judicial process is basically the whole complex phenomenon of court working”.

➤ **Provide Justice:**

“The term access to justice is variable according to the variation of the definition of justice, earlier access to justice meant merely the aggrieved individuals formal right to litigate or defend a claim but now it means an equal right of having recourse to an affordable, quick, satisfactory settlement of disputes from a credible forum.”¹⁹

Admittance to equity is classified among formal and casual modes. The formal mode is to remember customary arbitration of contest for the premise of meaningful as well as the procedural laws. Information admittance to equity then again incorporates ways like Alternative Dispute Resolution, lok-adalats, nyay panchayats and so forth, which will not follow either of the code of criminal or code of civil procedure and are regulated through standards of regular equity.

➤ **“Judicial Process and delays”**

The framework of Indian Justice System is related to exorbitant postponement. The postponement that is discussed in the previous part has been ascribed to different elements, such as the absence of institutional offences, hesitance for utilizing current innovation and even the attitude of lawful local area.

➤ **“Adoption of case management systems”:**

Case executives incorporates the board and booking of the time and occasions that arises in a case as it advances through the judicial system. It causes the court to set up administrative power over the case by setting the time plan for the foreordained occasions, also through directing the advancement of the case according to the schedule.

“Promoting use of ADR mechanisms”:

“Promoting the use of ADR can help ease the burden of courts, reduce pendency and ensure speedy delivery of justice.”

Court Efficiency

“An effective judiciary is predictable, resolves cases in a reasonable time frame, and

¹⁷ AIR 2005 SC 2441

¹⁸ supra at 3

¹⁹ P P Rao, “Access to justice and delay in disposal of cases”, Indian Bar Review, vol. 30, 2003, p.208.



is accessible to the public.”²⁰“It has been decades since the country’s courts and other law enforcement bodies are over-burdened by backlog of cases, resulting in faulty procedures such as unregulated appeals, systematic vacant positions from bench, red tape-ism, bribery, etc.”²¹ According to the LCR i.e., the Law Commission’s report on Strategic Plan for Implementation of ICT in Indian Judiciary, there is a direct effect on the judicial productivity that has led to “disappointment and dissatisfaction among justice-seekers.”²²

The Supreme Court of India has undoubtedly found ways to decrease legal excesses like advancing ADR, making of arrangement of Lok Adalats to advance the fast assuagement and restricting goal of questions, presenting the National Court Management System including arrangement of expert court administrators to supervise the authoritative elements of the court.

Mission for Judicial Accountability and Reforms has recommended changes to improve the proficiency of Indian courts.²³ Some of proposed means are:

- Legal opening filing.

- Appointing specially skilled adjudicators for e.g., ad-hoc courts in order to prevent backlog of cases.
- Decreasing the excursion time and utilization of the extra ideal opportunity for arranging off long forthcoming cases.
- Mandating the recording of the procedures electronically, to ensure judicious use of court’s time.
- Administrative changes like arrangement of court supervisors, pre-preliminary meetings, utilization of ICT for sees, and so forth, should be standardized.

“Time frames serve as performance benchmarks and provide guidance to Courts as well as other stakeholders on what constitutes the timely disposal of a case, and enable them to determine both whether an individual case is being processed in a timely manner; and whether a Court or system as a whole is providing timely justice.”²⁴

India, dissimilar to nations like USA²⁵ is not limited by time constraint for conclusion of cases. Civil Procedure Code or Criminal Procedure Code just set vacation outlines for finishing certain phases of the case. Obligatory time span was endeavor by the summit court in specific cases.²⁶ Notwithstanding, the apex court itself has

²⁰Maria Dakolias, “Court Performance Around the World: A Comparative Perspective”, Volume 2, Issue 1 Yale Human Rights and Development Journal, 2-18-2014 available at <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1009&context=yhrdlj>

²¹ HIRAM CHODOSH, GLOBAL JUSTICE REFORM: A COMPARATIVE METHODOLOGY (2005) cited in Scott Shackelford, “In the Name of Efficiency”, Stanford University, From the Selected Works of Scott Shackelford, June 7, 2008.

²²Law Commission of India, 77th Report, para 4.1.

²³Inclusive Media For Change, Press release from Campaign for Judicial Accountability and Reforms,

6th May, 2016, (10th March, 11:00 P.M.) <http://www.im4change.org/latest-news-updates/cjar-has-suggested-steps-to-improve-efficiencyof-indian-courts-4679277.html>

²⁴Law Commission of India Report No. 245, Arrears and Backlogs : Creating Additional (Wo)Manpower July, 2014, (10th March, 11:00 P.M.)http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf, p.6.

²⁵US Speedy Trial Act 1974.

²⁶Common Cause v. Union of India (1996) 4 SCC 33; Common Cause (II), (1996) 6 SCC 775; Raj Deo Sharma v. State of Bihar, (1998) 7 SCC 507; Raj Deo Sharma (II), (1999) 7 SCC 604.



restrained its decisions to hold that required time limits were not doable. The utilization of time span rules, in any case has been acknowledged.²⁷ Such rules are recommended by different Commissions and committees that have commonly been utilized in order to assess delays.²⁸

Court Managers as of now

“To facilitate the authoritative responsibility of judges, the post of court administrators was presented in 2010 by the thirteenth Finance Commission. Rs. 300 crore was saved for this post and dispersed among various states. Positions were presented in high courts and region courts, and court administrators with exceptionally qualified MBA degrees were relied upon to work with judges, causing them in their everyday authoritative assignments. Notwithstanding, in 2015, the Center ceased the subsidizing for the post and states were needed to finance the post all alone. This prompted a few issues. Till date, court supervisors work on an impromptu premise in a few states.”²⁹

Court Management and its aspects

This system inside which the Indian courts's work has generally ignored the ideas of the board as well as effective organization. It has been generally acknowledged that the use of administrative abilities in overseeing they can aid decrease the pace of pending cases of both common and criminal nature.

"Court the executives" is comprehensive of whole arrangement of moves that courts

makes to screen and check the advancement of cases, commencing a case to preliminary. This serves as the instrument for seeking settlement of questions fairly and in due time. Following are the various court management aspects:

- Upgradation of court through ICT to the executives framework.
- Shifting towards electronic data framework from the current manual system.
- Provide space for the council for making decisions about assumption of liability and thus leading the court towards deciding upon the chief strategies for compelling the courts to work.
- Undertake fitting cases the board framework to notice caseloads and patterns so as to spot issues causing delays since from the beginning.
- Giving priority to old cases in order to ensure that the forthcoming cases for two years and five years and above are arranged first.
- For authoritative elements of the court, entrusting the experts (court directors) following the directions given by the managing judge.
- Inspection of the courts that are sub-ordinate.
- Making the financial plan.
- Synergizing police and judges for harmony between judiciary and executive by arranging gatherings..

National Court Management System

Commission of India, 230th Report on Reforms in Judiciary Some Suggestions 1.61 (2009); Ministry of Law, Government of India, Committee on Reforms of The Criminal Justice System (Malimath Committee P. 164 ,13.3 (2003).

²⁹ Supra at 6

²⁷P. Ramchandra Rao V. State of Karnataka, (2002) 4 Sc 578

²⁸Law Commission of India, 14th Report: Reform of Judicial Administration, Vol. 1, P. 130 (1958); Law Commission of India, 77th Report on Delay and Arrears in Trial Courts (1979); Law Commission of India, 79th Report on Delay and Arrears in High Courts and Other Appellate Courts 9-10 (1979); Law



Understanding the inadequacies with respect to the current equity conveyance framework, to diminish the overabundance of suits as well as additionally modernizing the legal framework, NCMS (National Court Management System) proposition were glided which meant to upgradation of quality, responses and practicality of Court. The NCMS was set up in the year 2012 when the Honorable Chief Justice of India, while counseling the Ministry of Law and Justice and is hugely controlled by the Chief Justice of India himself. NCMS later incorporated 6 major components³⁰ :

1. To gauge execution norms for Indian courts, tending to issues of quality, responsiveness and practicality.
2. To screen and improve the presentation boundaries set up in the NFCE on quality, responsiveness and practicality would be set up.
3. To improve ease of use of the Judicial System, by means of innovation would be joined.
4. To give a typical public stage to recording and keeping up legal measurements from the nation over through a National System of Judicial Statistics (NSJS) would be named It would upgrade straightforwardness and responsibility.
5. To give a structure to precise long term plans for the future advancement of the Indian legal executive box a Court Development Planning System.
6. To decide the principles on determination and preparing of judges of subordinate courts through a Human Resource Development system.

³⁰Supreme Court of India, National Court Management System, Policy and Action Plan, , published on 27-09- 2012, (10th March, 11:00 P.M.) <http://www.sci.nic.in/ncmspap.pdf>

E-courts

The e-Court project Integrated Mission Mode Project Phase-I, executed in High Courts and locale/subordinate Courts was conceptualized based on the "Public Policy and Action Plan for Implementation of data and correspondence innovation (ICT) in the Indian Judiciary – 2005" put together by e-Committee formed by the Supreme Court of India, with a dream to change the Indian Judiciary by ICT enabled Courts. It was shaped in 2004 to formulate an activity plan for the ICT enabled Judiciary with the Patron in Chief-cum-Ad hoc Chairman as the Chief Justice of India.

The Phase-II of the same project was endorsed by e-Committee of Supreme Court of India in January 2014 for additional improvement of ICT enablement of Courts with wide target of:

- Enhancement of PC framework in courts when contrasted with Phase I
- Computerization of in excess of 8000 new courts, legitimate assistance authority workplaces and state legal institutes with reinforced equipment.
- Centralized filling focuses and contact screen based stands be based at each Court complex.
- Create a vigorous Court the executives framework through digitization, archive the board, Judicial information the board and learning the board.
- Enhance ICT enablement through e-filing, e-Payment and utilization of portable application.
- Strengthen the arrangement of serving notification and request



- Supply equipment to District Legal Service Authorities and Taluka Legal Service Committees
- Development of Central Filing Centers
- Computerized Court libraries
- Provision of Video conferencing directly from jail to all courts.

Conclusion

Court supervisors contribute least in setting up the exhibition norms material to the nature of court execution and most noteworthy in building up the principles appropriate to court foundation. The presentation of the post of Court Managers was required to upset administration in the legal executive. Their job was made to get a positive change the framework. In any case, the previous decade has end up being hard for Court Managers as they confronted and keep on confronting a few issues in their working. They have been working in a circle which has neglected to perceive their significance and has been not able to completely assimilate them into the framework. Because of these issues, Court Managers have not been utilized to their ideal level.

The exhibition of administrators of court upon checking the execution of the endorsed CDP of answering to the High Court and the District Judge with the advancement is the lowest when contrasted with alternate parts of data of the board. Essentially, it is likewise discovered that they perform better when contrasted with other marker of data the board, while guaranteeing that investigates insights are properly finished and given as required. In a 2018 judgment by the Supreme

Court of India, had expressed that the Managers of the Court can improve the effectiveness of the framework and their position should be regularized, it, nonetheless, didn't investigate the chance of making this post in Supreme Court itself.³¹

While India moves into another decade, one can just wish that Court Managers get their due place inside the framework. Except if the specialists find up the important ways to make Court Managers a basic piece of the legal executive, the issues they face will keep on persevering. These progressions are long past due and should be achieved at the most punctual.

³¹ Role of Court Management in Indian Judiciary, Past, Present and the Way Ahead, (10th March, 11:00 P.M.)<https://dakshindia.org/wp->