

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:950

ANSWERED ON:29.11.2012

MEASURES TO DEAL WITH EXORBITANT COST OF LITIGATION TO LITIGANTS IN SUPREME COURT .

Siddeswara Shri Gowdar Mallikarjunappa

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) Whether the Government is aware that common man is unable to access the Supreme Court due to exorbitant costs of litigation including legal fees and other charges:

(b) if so, the details thereof including;

(c) the steps taken/proposed to be taken by the Government to modify the present system to reduce the financial burdens of litigants;

(d) whether the Government is considering to establish benches of Supreme Court in various regions in the country to reduce the cost of litigation to ordinary litigants; and

(e) if so, the details thereof and if not, the reasons therefor?

Answer

MINISTER OF LAW AND JUSTICE (DR. ASHWANI KUMAR)

(a)to (e) A statement is laid on the Table of the House.

Statement referred to in reply to parts (a) to (e) of the Unstarred Question no. 950 for answer in the Lok Sabha on 29.11.2012.

1. As regards cost of litigation (including fees payable to counsel, expenditure incurred on journey from far flung area of the country to the Supreme Court and lodging and fooding charges etc) is concerned, the successive Law Commissions i.e. 10th , 11th and 18th considered the above matters. The 11th Law Commission in its 125th Report entitled 'The Supreme Court - A Fresh Look', (May 1988) while considering the question of splitting the Supreme court into two, endorsed the view taken by the 10th Law Commission in its 95th Report entitled 'Constitutional Division within the Supreme Court-A proposal for', and made the following observation -

'The Supreme Court sits at Delhi alone. Government of India, on couple of occasions, sought the opinion of the Supreme Court of India for setting up a Bench in the South. This proposal did not find favour with the Supreme Court. The result is that those coming from distant places like Tamil Nadu in the South, Gujarat in the West and Assam and other States in the East have to spend huge amount on travel to reach the Supreme Court. There is a practice of bringing one's own lawyer who has handled the matter in the High Court to the Supreme Court. That adds to the cost. And an adjournment becomes prohibitive. Adjournment is a recurrent phenomenon in the Court. Costs get multiplied. Now if the Supreme Court is split into Constitutional Court and Court of Appeal or a Federal Court of Appeal, no serious exception could be taken to the Federal Court of Appeal sitting in Benches in places North, South, East, West and Central India. That would not only considerably reduce costs but also the litigant will have the advantage of his case being argued by the same advocate who has helped him in the High Court and who may not be required to travel to long distances. ... This cost benefit ratio is an additional but important reason for reiterating support to the recommendations made in that report.'

2. Again, the 18th Law Commission in its 229th Report entitled 'Need for division of the Supreme Court into a Constitutional Bench at Delhi and Cassation Benches in four regions at Delhi, Chennai/Hyderabad, Kolkata and Mumbai' after taking into account the 95th and 125th Reports of the 10th and 11th Law Commissions and 2nd , 6th 15th,20th ,26th and 28th Reports of the Parliamentary Standing Committee on Law and Justice made the following recommendations - '[1] A Constitution Bench be set up at Delhi to deal with constitutional and other allied issues as aforesaid. [2] Four Cassation Benches be set up in the Northern region/zone at Delhi, the Southern region/zone at Chennai/Hyderabad, the Eastern region/zone at Kolkata and the Western region/zone at Mumbai to deal with all appellate work arising out of the orders/judgments of the High Courts of the particular region.

3. As regards parts (d) and (e) of the question is concerned, at present there is no such proposal under consideration of the Government. On receipt of 229th Report of the Law Commission, Secretary, Depart of Legal Affairs, Ministry of Law and Justice forwarded the same to the Secretary, Department of Justice for decision of the Government on the implementation of the same. Department of Justice informed this Department that the recommendations contained in 229th Report of the Law Commission of India has been considered in consultation with the Chief Justice of India and the Attorney- General for India and it has been decided not to accept the same.