FOURTEENTH REPORT

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF LAW & JUSTICE

(DEPARTMENT OF LEGAL AFFAIRS, LEGISLATIVE DEPARTMENT AND DEPARTMENT OF JUSTICE)

(Presented to Lok Sabha on .....)

LOK SABHA SECRETARIAT
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COMPOSITION OF THE COMMITTEE ON PETITIONS

(2015-2016)

Shri Bhagat Singh Koshyari -Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Shri Rajen Gohain*
7. Dr. K. Gopal
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Smt. Krishna Raj**
11. Shri Arjun Charan Sethi
12. Shri Kodikunnil Suresh
13. Shri Dinesh Trivedi
14. Shri Rajan Vichare
15. Shri Dharmendra Yadav

SECRETARIAT

1. Shri K. Vijayakrishnan	-	Additional Secretary
2. Shri Shiv Kumar	-	Joint Secretary
3. Shri Raju Srivastava	-	Additional Director
4. Shri Harish Sethi	-	Sr. Executive Assistant

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*Shri Rajen Gohain ceased to be Member of the Committee *w.e.f.* 5th July, 2016 on his appointment as Minister of State, Government of India.

**Smt. Krishna Raj ceased to be Member of the Committee *w.e.f.* 5th July, 2016 on her appointment as Minister of State, Government of India.

(iii)

FOURTEENTH REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Fourteenth Report (Sixteenth Lok Sabha) of the Committee to the House on the representation received from Shri S.S. Kaushal regarding speedy and affordable justice in the country.

2. The Committee considered and adopted the draft Fourteenth Report at their sitting held on 4 August, 2016.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

BHAGAT SINGH KOSHYARI
Chairperson,
Committee on Petitions

August, 2016
Shravana, 1937 (Saka)

(v)

REPORT

REPRESENTATION RECEIVED FROM SHRI S. S. KAUSHAL REGARDING SPEEDY AND AFFORDABLE JUSTICE IN THE COUNTRY.

Shri S.S. Kaushal, General Secretary, Forum For Fast Justice (Himachal Chapter) submitted a representation regarding speedy and affordable justice in the country (*see* Annexure-I).

2. The representationist, in his representation, *inter alia* stated that there is an urgent need for the Legislature to rise to the need of the day and to work within the framework of constitutional provisions for ensuring speedy and affordable justice in the country. Even after Independence, the people are being exploited by the processes, procedures and expenses of law. They have been suffering and languishing in the Courts for decades. This is primarily due to outdated laws, procedures and non-accountability of various organs in the country. The representationist, therefore, requested for judicial reforms, including speedy and affordable justice in the country.

3. The Committee took up the representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha and the representation was forwarded to the Ministry of Law & Justice for furnishing their comments on the issues raised in the representation.

4. In response thereto, the Ministry of Law & Justice (Department of Justice), *vide* their OM No.N-17/61/2015-NM dated 22 September, 2015, in a written reply, *inter-alia* stated as under:-

> *"Most of the States have passed necessary legislation for time bound delivery of public services. The Department of Legal Affairs has formulated the National Litigation Policy, 2015 to reduce Government Litigation in Courts. The policy is under active consideration of the Government, State Governments have also formulated Litigation Policies in respective States. The Law Commission of India, in their 245th Report, have recommended Rate of Disposal Method for calculating adequate judge strength for District and Subordinate Courts. However, on account of the concerted efforts made by all stakeholders, there has been a gradual increase in the sanctioned strength of the subordinate judiciary over the past few years. It has increased from 17,715 at the end of 2012 to 20,214 in December, 2014. The overall*

judge-population ratio in the country based on the sanctioned strength of judges, now stands at about 17 judges per million of population."

5 The Department of Justice also informed the Committee that Section 309 of Criminal Procedure Code provides that every inquiry of trial shall be held as expeditiously as possible and the recording of examination of witness shall be continued on day-to-day basis unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded. In this section, a new proviso has been inserted whereby it has been provided that when the inquiry of trial relates to an offence under sections 376 to 376 D of the Indian Penal Code, the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses.

6 The Committee, when enquired about the sanctioned and actual strength of Judges at the High Courts and the subordinate judiciary level, the Ministry of Law & Justice (Department of Justice) informed that the approved and working strength of Judges of High Courts in the country as on 31.12.2015 is 1044 and 601, respectively. Sanctioned strength and working strength of Judicial Officers of District and Subordinate Courts as on 30.06.2015 are 20,358 and 15,360, respectively.

7 The Committee specifically desired to know the year-wise and State/UT-wise sanctioned strength and working strength of Judicial Officers of District and Subordinate Courts in the country; in response, the following details were submitted before the Committee:-

Sl. No.	**State/UT**	**Sanctioned Strength**			**Working Strength**		
		31.12.12	31.12.14	30.6.15	31.12.12	31.12.14	30.6.15
1	Andhra Pradesh & Telangana	840	1034	1034	716	884	812
2	Arunachal Pradesh	5	16	17	2	15	15
3	Assam	389	403	420	239	312	307
4	Bihar	1487	1670	1727	930	1027	997
5	Chandigarh	20	30	30	20	30	30
6	Chhattisgarh	295	354	356	266	302	296
7	Delhi	628	793	793	465	476	469

8	Diu & Daman & Silvassa	7	7	7	7	6	6
9	Goa	49	52	52	42	40	39
10	Gujarat	1028	1963	1914	897	1216	1197
11	Haryana	528	644	644	437	485	478
12	Himachal Pradesh	132	146	146	119	128	137
13	Jammu & Kashmir	206	244	245	184	221	217
14	Jharkhand	503	578	590	398	382	368
15	Karnataka	1090	1085	1112	751	832	824
16	Kerala & Lakshadweep	418	447	459	388	431	422
17	Madhya Pradesh	1317	1460	1461	1158	1243	1234
18	Maharashtra	2026	2072	2088	1755	1784	1618
19	Manipur	32	40	41	27	30	32
20	Meghalaya	36	55	56	20	30	29
21	Mizoram	65	67	63	33	31	31
22	Nagaland	29	27	27	23	25	25
23	Orissa	628	690	694	535	569	613
24	Puducherry	21	21	21	12	10	9
25	Punjab	531	672	672	446	505	498
26	Rajasthan	1082	1145	1191	726	831	822
27	Sikkim	17	18	18	10	15	14
28	Tamil Nadu	899	997	1004	867	876	840
29	Tripura	92	104	104	68	78	72
30	Uttar Pradesh	2108	2097	2097	1782	1761	1845
31	Uttarakhand	265	289	281	185	191	208
32	W.Bengal & Andaman & Nicobar	942	994	994	845	868	856
	Total	**17715**	**20214**	**20358**	**14353**	**15634**	**15360**

8 In reply to a query by the Committee regarding judge-population ratio in other countries, the Department of Justice submitted, in their written reply, that as per the 120th Report of Law Commission of India (1987), the judge-population ratio in some developed countries is as follows :-

S.No.	Country	Judges per million of population
1.	United States	107.00
2.	Canada	75.20
3.	England	50.90
4.	Australia	41.60

9. In response to a question as to whether the Government has proposed to repeal/ amend more enactments which could lead to lessening of litigations in the country, the Legislative Department submitted, in their written reply, that to address the issue of repealing of obsolete Central laws that have outlived their utility, a Two-Member Committee was constituted by the Prime Minister's Office. The Government has examined the said report. Accordingly, 777 Central Acts have been identified for repeal wholly or in part and 83 Central Acts relating to State Subjects to be repealed by State Legislatures. On the issue of repealing of obsolete Acts, the Government has also examined the 248th, 249th, 250th and 251st Reports of the Law Commission on "Obsolete Laws : Warranting Immediate Repeal" where it recommended for repeal of 72, 113, 74 and 30 obsolete Acts, respectively. The Legislative Department has requested the comments/concurrence of the Ministries/ Departments of the Central Government for repeal of the Acts relating to their Ministries/ Departments. On the basis of the comments/views of the administrative Ministries/ Departments concerned, "The Repealing and Amending Bill, 2014" proposing to repeal 35 Acts has been enacted by Parliament as Act No.17 of 2015 and "the Repealing and Amending (Second) Bill, 2014" proposing to repeal 90 obsolete amending Acts has been enacted as Act No.19 of 2015. Further, the Government has also introduced a Bill, namely, "the Appropriate Acts (Repeal) Bill, 2015" proposing to repeal 758 Appropriation Acts which has been passed by Lok Sabha and is pending in Rajya Sabha. Also, "the Repealing and Amending (Third) Bill, 2015" seeking to repeal 295 Acts has been passed by Lok Sabha and is pending in Rajya Sabha. Further, comments are still awaited on 422 Central Acts and 227 Acts to be repealed by State Governments (including Appropriation Acts).

10 When the Committee desired to know the further details about the obsolete laws and their deletion, etc., the representative of the Legislative Department, during the oral evidence, submitted that a Two-Member Committee was constituted by the Prime Minister's Office for review of repeal of obsolete laws. Further, there are four reports of the Law Commission wherein it has been recommended to delete the obsolete laws. The comments from all the Departments were sought and by now, work on 1053 laws has been completed and work on the remaining 422 laws is going on. The Government is taking all necessary precautions while recommending the deletion of obsolete laws in the country.

11 In reply to a query by the Committee regarding the National Litigation Policy 2015, the Department of Legal Affairs submitted:-

A draft of the National Litigation Policy was formulated in 2010. However, it could not be placed before the Cabinet. The National Litigation Policy 2010 was reviewed and a draft of the National Litigation Policy 2015 was formulated and the same was initiated to be placed before the Cabinet. However, it was decided to refer the draft policy to the Committee of Secretaries and thereafter to an Informal Team of Ministers for their views and evaluation. On the recommendations of the Committee of Secretaries and Informal Team of Ministers, the National Litigation Policy has been further refurbished as National Litigation Policy 2016. The National Litigation Policy 2016 is yet to be finalised and approved.

12 Thereafter, the Committee desired to know the details of 2.64 crore pending cases in District and Subordinate Courts. On this issue, the representatives of the Ministry of Law & Justice (Department of Justice), during the oral evidence, submitted before the Committee that the Government is the biggest litigant in the Courts and time-bound delivery of service will reduce the number of litigations against the Government.

13 On being specifically asked by the Committee about the proposal of the Government to prescribe time-bound completion of inquiry/trial of offence to liquidate pendency of cases in the Supreme Court, High Courts and District/Subordinate Courts, the Department of Justice submitted in their written reply that the actual time taken for disposal of a case by a court depends on several factors such as category of case (civil and criminal), complexity of the facts involved, nature of evidence, co-operation of stake-holders, viz. bar, investigation agencies, witnesses and litigants besides the availability of physical infrastructure, supporting court staff and applicable rules and procedures. The Supreme Court, in *P. Ramachandra Rao vs. State of Karnataka*, 2002, has observed that it is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The matter regarding enacting a specific law for disposal of court cases in stipulated time period was examined in the light of various constitution and statutory provisions but the same was not found practical. It was, however, felt necessary for the executive and judiciary to work in tandem and remove bottlenecks which are coming in the way of timely delivery of justice.

14 In this connection, it was, however, further submitted that notwithstanding the detailed guidelines relating to adjournments which have been incorporated by the

Government in the Criminal Procedure Code in December, 2009, the pendency of cases appears to have not been drastically reduced.

15 In response to a query by the Committee about the pendency of Court cases in the Supreme Court, High Courts and District/Subordinate Courts, the Department of Justice submitted in their written reply that data on pendency of cases is maintained by the Supreme Court and High Courts. As per the information made available by the Supreme Court of India, pendency in the Supreme Court of India has declined from 66,692 cases at the end of the year 2012 to 58,879 cases as on 30.11.2015. As per the information made available by the High Courts, the pendency of cases in High Courts has declined from 44.34 lakh cases at the end of the year 2012 to 41.53 lakh cases at the end of 2014. Pendency of cases in District and Subordinate Courts has declined from 2.68 crore cases at the end of year 2012 to 2.64 crore cases at the end of 2014.

16 When the Committee asked about the action plan of the Ministry of Law & Justice to reduce the pendency of cases for ensuring speedy justice, the Department of Justice submitted in their written note that disposal of cases pending in Courts is within the domain of judiciary. In order to assist the judiciary, the Government has adopted a co-ordinated approach for phased liquidation of arrears and pendency in judicial administration which, *inter-alia*, involves better infrastructure for courts, including computerization, increase in manpower strength of judiciary, suggesting policy and legislative measures in the areas prone to excessive litigation, recommending re-engineering of court procedure for quick disposal of cases and emphasis on human resource development. The Supreme Court of India, in its judgement in the case of *Brij Mohan Lal and others versus Union of India* given on 19.04.2012, directed the States that they shall either bring the Fast Track Courts Scheme to an end or to continue the same on a permanent basis. The Court also directed for regularisation of Judges of Fast Track Courts and creation of 10% additional posts in the Subordinate Judiciary.

17 On a specific query by the Committee about the pendency reduction drive launched by the Ministry of Law & Justice for clearing long pending cases in the Supreme Court, High Courts and Subordinate Courts and the outcome of such initiatives, the Ministry of Law & Justice (Department of Justice) submitted in their written reply that in July, 2011, High Courts were requested to prioritize disposal of cases that had been pending for a long duration, particularly those relating to senior citizens and marginalised sections of society. In

2012, the focus of the pendency reduction drive was to make the Judicial system free of cases that were over five years old. The pendency reduction campaign in 2013 focused on weeding out ineffective and infructuous cases from the Judicial system. In 2014, emphasis was laid on filling up of vacancies of judicial officers and organisation of Mega Lok Adalat. As a result of concerted efforts made by various stakeholders, the increasing trend of pendency of cases in Subordinate Courts has been checked and the overall pendency in Subordinate Courts has declined from 2.77 crore in 2010 to 2.64 crore in 2014.

18 The Committee, then, sought clarification in regard to the functioning of Fast Track Courts and the difference between normal Court and Fast Track Court; in response, the Department of Justice submitted in a written reply that Fast Track Courts are set up by the State Governments in consultation with the High Courts. Fast Track Courts are expected to follow faster procedures than those adopted in ordinary courts in order to ensure early disposal of cases assigned to them.

19 The 11th Finance Commission had recommended a scheme for creation of 1734 Fast Track Courts in the country for disposal of long pending cases. A total grant of Rs.870 crore was provided to the States for Fast Track Courts during the period of eleven years from 2000-2001 to 2010-2011. In its judgement in *Brij Mohan Lal & others vs Union of India & others* on 19.04.2012, the Supreme Court endorsed the position of the Government of India that continuation of Fast Track Courts is within the domain of the States and directed the States that they need to decide either to bring the Fast Track Courts scheme to an end or to continue the same as a permanent feature in the State. A number of States continued Fast Track Courts beyond 31.03.2011 with their own resources. As per the reports received, as on 31.3.2011, 1192 Fast Track Courts were functional in the country and out of 38.99 lakh cases transferred to Fast Track Courts since their inception, 32.93 lakh cases were disposed of till 31.03.2011.

20 It was further submitted that in order to reduce the pendency of cases in the courts, the Supreme Court further directed for the creation of 10% additional posts in the State Judicial Services, and that funding requirements for implementation of the decisions should be met by the Central and State Governments on matching basis. In compliance of this direction, the Government approved making available up to a maximum of Rs.80 crore per annum from the 13th Finance Commission award funds up to 31.03.2015.

21 Advisories for the setting up of Fast Track Courts for various reasons were issued from time to time. Government has requested the Chief Justices of all the High Courts to constitute Fast Track Courts for speedy trial of pending rape cases in district/subordinate courts having a high pendency and to speed up the disposal of cases pending in appeal in the High Courts. Government, while sharing its concern with the Chief Ministers about the heinous crimes against women, has requested them to provide the requisite financial support to the High Courts for the setting up of Fast Track Courts. The Conference of Chief Ministers of States and Chief Justices of High Courts held on 7th April, 2013 also resolved that the State Governments shall, in consultation with the Chief Justices of the respective High Courts, take necessary steps to establish suitable number of Fast Track Courts for the offences against women, children, differently-abled persons, senior citizens and marginalized sections of society and provide adequate funds for the purpose. Government has requested the State Governments and the Chief Justices of the High Courts to implement this decision.

22 A proposal was made to the 14th Finance Commission *inter alia* for providing an amount of Rs. 4144.11 crore for Fast Track Courts. The Commission, in its report, has endorsed the proposal of the Department and urged State Governments to use the additional fiscal space provided by the Commission in the tax devolution to meet such requirements. The Advisory Council of the National Mission for Justice Delivery and Legal Reforms chaired by the then Minister of Law & Justice passed a Resolution on 15th May, 2012 to the effect that the number of Judges in the Subordinate Judiciary needs to be doubled in the next five years to liquidate the pendency and arrear of cases.

23 On being asked by the Committee to furnish the details of action plan adopted by the Ministry of Law & Justice to double the number of judges in the Subordinate Judiciary since 2012, the Department of Justice in a written note submitted that the primary responsibility for providing manpower and infrastructure for Subordinate Judiciary rests on the State Governments. The matter is being regularly pursued with the High Courts and the State Governments to improve the availability of judicial manpower with the Subordinate Judiciary. The Supreme Court, in its order dated 1st February, 2012, in the case of *Imtiyaz Ahmad v/s State of Uttar Pradesh & others*, *inter-alia* asked the Law Commission of India to evolve a method for scientific assessment of the number of additional courts to clear the backlog of cases. The Law Commission, in its 245th Report titled "Arrears and Backlog Creating Additional Judicial Manpower", *inter-alia* recommended 'Rate of Disposal Method'

for calculating adequate judge strength for District and Subordinate Courts. The other recommendations of the Law Commission in the Report include increasing the retirement age of Judges of Subordinate Courts, creation of special morning and evening courts for traffic/police challan cases, provision of adequate staff and infrastructure for the working of additional courts and enabling uniform data collection and data management method by High Courts in order to ensure transparency and to facilitate data based policy prescriptions for the Judicial System. The Supreme Court has directed the State Governments and High Courts to file their response in the matter in the above case.

24 The Committee were further informed that a Joint Conference of Chief Ministers of States and Chief Justices of High Courts was convened on 5th April, 2015 to discuss the broad agenda of Judicial reforms. With the enhanced devolution of funds to the States on the recommendations of the 14th Finance Commission, it now falls on the State Governments to increase investment in the Justice sector. It was accordingly resolved that Chief Justices and Chief Ministers shall institute a mechanism for regular communication among themselves to resolve issues, particularly those relating to infrastructure and manpower needs and facilities for the Judiciary.

25. On the aspect of providing affordable legal assistance, the Committee were informed that Article 39A of the Constitution of India provides for free legal aid to the poor and weaker sections of society and ensures justice for all. Articles 14 and 22(1) of the Constitution make it obligatory for the State to ensure equality before law and the legal system which promotes justice on the basis of equal opportunity to all. In the year 1987, the Legal Services Authorities Act was enacted by the Parliament which came into force on 9th November, 1995 to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of society on the basis of equal opportunity. The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal aid programmes and to lay down policies and principles for making legal services available under the Act.

26. It has also been informed that in every State, a State Legal Services Authority and in every High Court, a High Court Legal Services Committee has been constituted. District Legal Services Authorities and Taluk Legal Services Committees have been constituted in the Districts and most of the Taluks to give effect to the policies and directions of the

NALSA and to provide free legal services to the people and conduct Lok Adalats in the States.

27. The Free Legal Services include:-

(i) Payment of court fee, process fee and all other charges payable or incurred in connection with any legal proceedings.

(ii) Providing service of lawyers in legal proceedings.

(iii) Obtaining and supply of certified copies of orders and other documents in legal proceedings.

(iv) Preparation of appeal and paper book, including printing and translation of documents in legal proceedings.

28. Till 31.12.2014, a total number of 1,77,85,875 eligible persons including women, children, persons in custody, persons belonging to SC/ST and backward categories have benefited through various free legal services authorities, viz., SLSAs/ DLSAs/ TLSc/ Legal Aid Clinics/ Village Legal Care and Support Centres. Some of the States have, by notification, increased the annual income limit up to Rs. 1.5 lakh for the purpose of eligibility for free legal services. The amendment to the Central Act itself has been proposed by NALSA to increase the limit of Rs. 2 lakh all over the country.

Observations/ Recommendations

Strength of Judges

29. The Committee note that a large number of vacancies in High Courts, District Courts and Subordinate Courts remain unfilled. As on 31.12.2015, against the sanctioned strength of 1044 Judges in different High Courts of the country, there are 443 vacancies which comes to around 42%. Similarly, as on 30.06.2015, against a total sanctioned strength of 20358 Judicial Officers in the lower judiciary (District and Subordinate Courts), there are 4998 vacancies which comes to around 25%. As a matter of fact, Puducherry has the highest percentage of vacancies, i.e., 57%, followed by Mizoram, Meghalaya, Bihar and Delhi. In terms of Judge-population ratio in the country, it comes to around 17 Judges per 10 lakh people whereas, in some of the developed countries like the United States, Canada, UK and Australia, the ratio is 107, 75.20, 50.90 and 41.60 Judges for 10 lakh people, respectively. The Committee are also aware that the Law Commission of India, in their 120th Report submitted in July, 1987, had recommended that by the year, 2000, India should have at least the Judge-population ratio that the United States had in 1981, i.e., 107 Judges per 10 lakh of population. Similarly, in the year 2002, the Supreme Court of India, in the All India Judges' Association case, had directed that there should be 50 Judges per 10 lakh people in the country within a period of five years. The Committee are constrained to observe that on the one hand, no sincere efforts have been made by the Government to fill up the existing vacancies in the High Courts, District Courts and Subordinate Courts and on the other, no long term policy has been formulated and/or implemented to increase the Judge-population ratio in the country to bring it on par with other developed countries. The Committee, therefore, urge the Ministry to draw lessons from the past experience, reorient their approach and initiate time-bound measures to not only fill up the existing vacancies of Judges and other Judicial Officers but also appropriately increase the number of Judges in various Courts of the country. With such a long term perspective in mind, the Committee expect that the Ministry will try its level best to achieve optimal results, in quantitative terms. The Committee would like to be apprised of the measures taken by the Ministry for realistic planning in the aforesaid context.

Pendency of Cases

30. The Committee have been informed that as on 30.11.2015, 58879 cases were pending in the Supreme Court, whereas at the end of 2014, 41.53 lakh cases were pending in various High Courts and a staggering 2.64 crore cases were pending in the District and Subordinate Courts. The Committee have also been informed that the Government has adopted a co-ordinated approach for phased liquidation of arrears and pendency in judicial administration which *inter alia* includes better infrastructure for Courts, including computerization, suggesting policy and legislative measures in the areas prone to excessive litigation, recommending re-engineering of Court procedure for quick disposal of cases and emphasis on human resource development. The Committee find that in the recent years, though the pendency of cases in the Supreme Court, High Courts and in the District and Subordinate Courts have shown a declining trend, yet the pace of liquidation of arrears/pending cases is far encouraging. The Committee are of the opinion that concerted efforts amongst the three stakeholders/organs, viz., the Government, the Judges and the Lawyers need to be properly calibrated for quick disposal of cases. The Committee, considering the alarming situation of pendency of cases and the constitutional rights of the litigants for a speedy trial, strongly recommend prescribing time-limits for the disposal of various cases before the Courts. To deal with this, the Committee suggest that there should not be one prescribed time-limit, but various kinds of cases need to be identified/ prioritized and on this basis, the time standards could vary for different cases, and also for different Courts, depending on their disposal capacity. The Committee also urge the Government to adopt a focused approach on pendency reduction, including regular monitoring of the progress made in co-ordination with all stakeholders so that the huge pendency of cases is wiped out in right earnest.

Fast Track Courts

31. The Committee find that for ensuring early disposal of cases, Fast Track Courts are set up by the State Governments in consultation with the High Courts. As a matter of fact, Fast Track Courts are expected to follow faster procedures than those adopted in the ordinary Courts. The Committee have also been informed that the Eleventh Finance Commission had recommended a scheme for creation of 1734

Fast Track Courts in the country for the disposal of long pending cases. A total grant of Rs. 870 crore was provided to the States for Fast Track Courts during 2000-2011 and as on 31.3.2011, out of 38.99 lakh cases transferred to Fast Track Courts, 32.93 lakh cases have been disposed of. The Committee, while acknowledging that speedy trial is guaranteed under Article 21 of the Constitution of India and any delay in expeditious disposal of trial infringes the right to life and personal liberty guaranteed under the Article *ibid*, are constrained to mention that the setting up of Fast Track Courts alone would not only be able to deliver the desired results until and unless these Courts are made permanent and additional posts in the Subordinate Judiciary are created to exclusively man these Courts. Besides, the Committee are of the firm opinion that the administration of justice should be visible in the true sense by ensuring that requests for frequent adjournments on frivolous grounds need not be entertained and a time bound disposal of cases should be adhered to at all costs, demonstrating that these are the Fast Track Courts, in the real sense. The Committee, therefore, recommend in co-ordination with State Governments and respective High Courts, a study should be expeditiously initiated by the Government to pragmatically analyse the State-wise requirement of Fast Track Courts. While analysing this, care should also be taken by the Government to make a future projection of the overall requirement of Fast Track Courts commensurate with the anticipated increase in the cases and the number of Judges who would be retiring on attaining the age of superannuation. The Government should also ensure that the constitution of Fast Track Courts may not affect the functioning of normal courts in terms of re-deployment of Judges and Court staff from normal Courts to the Fast Track Courts. The Committee would like to be kept informed about the progress made in this regard.

National Litigation Policy

32. The Committee note that as per the Government of India (Allocation of Business) Rules, 1961, the Ministry of Law and Justice (Department of Legal Affairs) is mandated to represent cases in the Supreme Court, High Courts and other Courts on behalf of the Central Government, which happens to be the biggest litigant in the Courts. The Committee have been informed that with a view to avoiding litigation, a National Litigation Policy was formulated in the year 2010. However, it could not be placed before the Union Cabinet. Subsequently, the National Litigation Policy was

reviewed and a new National Litigation Policy, 2015 was formulated and referred to the Committee of Secretaries as well as to the Informal Team of Ministers for offering their views and evaluation. On the recommendations of the Committee of Secretaries/ Informal Team of Ministers, the Policy was refurbished as the National Litigation Policy, 2016. The Committee have also been informed that the National Litigation Policy, 2016 is yet to be finalised and approved by the Government. The Committee, during the examination of the Representation, have noticed that in the year 1978, the Supreme Court of India, in the case of *State Bank of Punjab v/s. Geeta Iron & Brass Works Ltd*., had observed that a litigation policy for the State involves settlement of the governmental disputes with citizens in a sense of conciliation rather than in a fighting mood. Indeed, it should be a directive on the part of the State to empower its Law Officer to take steps to conciliate disputes rather than continue them in Court. Similarly, in the year 2003, the Supreme Court of India, in the case of *Chief Conservator of Forests v/s. Collector*, had observed that the State/ Union of India must evolve a mechanism to set at rest all inter-departmental controversies at the level of the Government and such matters should not be carried to a Court of Law for resolution. The Committee are perturbed to note that in spite of reasoned observations made by the Supreme Court of India in the year(s) 1978 and 2003, no sincere efforts have been made by the Government to frame and implement a National Litigation Policy with a view to ensuring responsible litigation by the Union Government and also urging every State Government to evolve similar apparatus. The Committee, therefore, recommend that the National Litigation Policy, 2016 should be finalised and implemented without any further loss of time. The Committee also urge the Government to work out modalities for Alternative Dispute Resolution (ADR) methods for reducing litigation. The Committee would like to be apprised of the final outcome in this regard.

<u>Affordable legal services</u>

33. The Committee observe that Article 39-A of the Constitution of India provides for free legal aid to the poor and weaker sections of society. The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal aid programmes to lay down policies and principles for making legal services available under the Act. The Committee further observe that till 31.12.2014, around 1.77 crore

eligible persons, including women, children, persons in custody, persons belonging to SC/ST and backward categories have been benefited through various free legal services authorities. For the purpose of eligibility for free legal services, some of the States had increased the annual income limit upto Rs. 1.5 lakh. As a matter of fact, NALSA had proposed amendment to the Central Act with a view to increasing the limit to Rs. 2 lakh all over the country. The Committee appreciate the initiatives taken by the Government for providing free and affordable legal services to the weaker sections of society. However, taking a cue from the existing legal delivery system, the Committee feel that there is an urgent need for making affordable legal services accessible to all the sections of society. The Committee, therefore, recommend that the annual income criterion for providing free legal services to the weaker sections of the society may be increased from the present Rs. 1.5 lakh to Rs. 3 lakh. The Committee are also aware that since video conferencing is a convenient and less expensive option for recording evidence of witnesses, with a view to ensuring affordable legal services to the people, the facility of video conferencing needs to be extended to all the Courts of the country. Even though video conferencing requires modernization and computerisation of Courts, the Committee desire that the Government should take all measures to achieve this objective at the earliest. The Committee would like to be apprised of a definite roadmap in this regard.

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