

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

STARRED QUESTION NO:224
ANSWERED ON:12.03.2015
AMENDMENT IN CODE OF CIVIL PROCEDURE
Charitra Shri Ram

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

- (a) whether the Code of Civil Procedure withstood the test of time and is able to assist in the justice delivery mechanism and if so, the details thereof ;
- (b) whether the Law Commission has recommended certain amendments in the Code of Civil Procedure and if so, salient points thereof; and
- (c) the reaction of the Government thereto?

Answer

MINISTER OF LAW AND JUSTICE (SHRI D. V. SADANANDA GOWDA)

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

Statement referred to in reply to parts (a), (b) and (c) of the Lok Sabha Starred Question No 224 for answer on 12.03.2015.

As regards part (a) of the question, it may be stated that the Code of Civil Procedure aimed at consolidating and amending the laws relating to the procedure of the Courts of Civil judicature in India. The Code of Civil Procedure governs resolution of civil disputes in the hierarchy of courts up to the highest court of appeal. The Code aims at attaining an efficient justice system through, fair trial, arbitration, provisions for free legal aid and speedy justice.

2. Since enactment, it has been amended from time to time. The objects behind such amendments were to ensure more expeditious disposal of civil suits and proceedings consistent with the accepted principles of natural justice and to simplify the procedure. By and large, the Code of Civil Procedure, 1908 withstood the test of time, worked well and served the system of civil justice. On the basis of the Reports of the Law Commission, the Code of Civil Procedure was amended in the year 1976, 1999 and 2002 to meet with the changing needs of the society.

3. In so far as parts (b) to (c) of the question are concerned, the Law Commission of India, in its various reports had recommended for amendments in the Code of Civil Procedure, 1908, as follows:-

The 16th Law Commission of India in its 178th Report (2001) on "Recommendations for amending various enactments both civil and criminal" has inter alia recommended for amendments in section 34, Order 20 Rule 12 and 18, Order 34, Order 38 Rules 5 and Rule 6 of the Code of Civil Procedure, 1908.

The 17th Law Commission of India in its 192nd Report (2005) on "Prevention of Vexatious Litigation" has recommended for enactment of legislation to prevent filing of frivolous and vexatious litigations, both civil and criminal, in courts and to ensure speedy disposal of other pending cases.

The 18th Law Commission of India in its 221st Report (2009) on "Need for Speedy Justice – Some Suggestions" has inter alia recommended to amend section 80 and Order V of the Code of Civil Procedure, 1908, for providing speedy justice and to control frivolous, vexatious and luxurious litigations.

The 19th Law Commission of India in its 238th Report (2011) on "Amendment of section 89 of the Code of Civil Procedure, 1908 and Allied Provisions" has inter alia proposed to amend section 89, Order X, Rules 1-A to 1-C of the Code of Civil Procedure, 1908 for facilitating dispute resolution in civil matters and to make it more simple and straight forward.

The 19th Law Commission of India in its 240th Report (2012) on "Costs in Civil Litigation" has pointed out the need to revisit and update the rules framed by the High Courts in so far as they relate to costs and advocate's fee and to develop best practices in the matter of award of adjournment, costs, etc. and recommended for amendments in sections 35A and 95 and Orders XX, XXV and LXI and Rule 6A of the Code of Civil Procedure, 1908.

4. The aforesaid Reports of the Law Commission are available on the website of Law Commission of India <http://lawcommissionofindia.nic.in>. Since the subject matter of the reports are relatable to concurrent field subjects, namely, Entry 5 of the Concurrent List of the Seventh Schedule to the Constitution, comments/views of the State Governments and Union territory

Administrations are being obtained and the status of the reply furnished by the State Governments and Union territory Administrations with respect to reports of the Law Commission are given in Annexures I-V. On receipt of the comments/views of the State Governments/Union territory administrations, the proposal will be examined by the Government with a view to making further amendments in the Code of Civil Procedure.