

16.15 hrs.

**HIGH COURT OF KERALA (ESTABLISHMENT OF A PERMANENT BENCH AT THIRUVANANTHAPURAM)
BILL, 2002- Contd.**

Title: Consideration and withdrawal of the High Court of Kerala (Establishment of a Permanent Bench at Thiruvananthapuram) Bill, 2002, moved by Shri Kodikunnil Suresh on 5 December, 2003. (Bill withdrawn).(Continued-- concluded).

SHRI KODIKUNNIL SURESH (ADOOR): Sir, I am extremely thankful to this august House for giving me an opportunity to move this Resolution as a Private Members' Bill for instituting a permanent bench of the Kerala High Court at Thiruvananthapuram. This is a historical movement for the people of Kerala, especially those who are residents of the Southern districts, for they have been demanding the institution of a High Court Bench at Thiruvananthapuram for a long period now. If it happens it would be a long cherished dream come true for the people of Kerala. I once again thank this House for providing me an opportunity to present this Bill for the consideration of the House and to pass it.

Thiruvananthapuram is the capital city of Kerala, the most literate State in our country. Thiruvananthapuram had been the seat of erstwhile princely State of Travancore. Till the integration of two princely States of Travancore and Cochin as an united State of Travancore-Cochin in 1949. Thiruvananthapuram was the seat of the Travancore High Court. In 1954, the Travancore-Cochin High Court Act was amended as it was felt that it is necessary to establish a High Court Bench at Thiruvananthapuram. Thiruvananthapuram had the High Court Bench of the Travancore-Cochin High Court till the year 1956 when the States Reorganisation Act was passed. From then Thiruvananthapuram is the only State capital in the country where there is no High Court or even a Bench of the High Court.

The people in the southern regions and districts of the State of Kerala started an agitation to re-establish the High Court Bench at Thiruvananthapuram. As a result of the then hon. Chief Justice of Kerala High Court approved a Bench at Thiruvananthapuram to sit and hear cases without any filing powers with the approval of the Governor of Kerala under Section 51(3) of the States Reorganisation Act. Such an arrangement continued till the year 1958. The then Chief Justice of Kerala stopped the practice of sending cases for hearing by the Single and Division Bench of the High Court at Thiruvananthapuram.

Sir, the members of the Bar Association of Thiruvananthapuram on behalf of the litigant public made representations to the various authorities to initiate necessary Government level steps to institute a Bench of the High Court of Kerala at Thiruvananthapuram. The Bar Association has submitted representation as early as in 1995 to His Excellency, the President of India, the then Opposition Leader of Rajya Sabha, Shri Sikandar Bhatt, at present His Excellency the Governor of Kerala, the then Law Minister, Shri Ramakant Khalap and various other Governmental authorities. Since then the Thiruvananthapuram Bar Association has been consistently taking up this issue before the various authorities both at the Central and State Governments and the Judiciary.

In 1958 the Kerala Legislative Assembly passed a resolution requesting the Central Government to establish a permanent Bench of the High Court of Kerala at Thiruvananthapuram. Later on in 1972, the then Chief Minister of Kerala had given an assurance on the floor of the Assembly, in response to a non-official resolution demanding establishment of a permanent Bench of the High Court of Kerala at Thiruvananthapuram, that all necessary steps would be taken by the State Government in this regard. In 1995 the Kerala Government openly declared that all possible steps would be taken for the establishment of a permanent Bench of the Kerala High Court at Thiruvananthapuram.

Sir, thereafter in 1999 the Government of India requested the Government of Kerala to obtain the views of the Chief Justice of Kerala regarding establishment of a Bench at Thiruvananthapuram and to clarify whether the proposal to institute a Bench of the Kerala High Court at Thiruvananthapuram satisfied all the requirements made out by the Jaswant Singh Commission Report.

The action to establish a Bench of the High Court of a State to place away from its seat is to be taken by the Government of India on a proper proposal made by the concerned State Government in consultation with the Chief Justice of the State and in conformity with the Jaswant Singh Commission Report. The Central Government can take the decision if it is satisfied and the Bench can be established by an order of the President of India.

Mr. Justice Subramaniam Potti, while acting as a Chief Justice of Kerala had intimated the State Government that the Kerala High Court had no objection in the establishment of a Bench of the High Court at Thiruvananthapuram. Other past Chief Justices including Justice Malimath, Justice Omprakash, Justice Uday Pratap Singh had expressed their assent for a Bench of the High Court at Thiruvananthapuram. Mr. Justice Omprakash even openly declared the need of a Bench of the High Court at the capital on his visit to Thiruvananthapuram on 9.11.1998.

Sir, the Home Department of the Kerala Government has underlined the necessity of starting a High Court Bench at Thiruvananthapuram through a note and agenda circulated among the Members of Parliament of the State at an MP's Conference organised by the Government of Kerala on 24th November, 2003. In pages 24 and 25 of the Agenda Notes the reasons for establishing a Bench of the High Court of Kerala at Thiruvananthapuram has been narrated.

16.21 hrs. (Dr. Laxminarayan Pandeya *in the Chair*)

At present the High Court of Kerala situated at Kochi, a city 220 kilometers away from Thiruvananthapuram, the State capital of Kerala. Establishment of a permanent Bench at Thiruvananthapuram will enhance the efficiency of the High Court of Kerala and also will help the High Court to clear up the arrears of work. Every year tens and thousands of cases relating to revenue recovery, revenue collection, commercial taxes and service matters are being filed before the High Court of Kerala. Most of the Head Offices of various Government departments under the Government of Kerala are situated at Thiruvananthapuram. Much difficulty is faced by the Government and litigant public as the High Court is situated at a far away place from the State capital.

Sir, I would like to give the figures in regard to the amount spent by the Kerala Government for this. In the year 1999-2000, the expenditure incurred was Rs. 58.9 lakh and in 2000-01 it was Rs. 58.32 lakh. The main expenditure incurred was under the heading 'Travelling allowance and daily allowance paid to Government officials'. The position was intimated to the Chief Justice of Kerala and it was requested that the views of the High Court on setting up of a Bench of the High Court at Thiruvananthapuram may be conveyed to the State Government.

Mr. Chairman, Sir, in response, the Chief Justice of Kerala sought for some clarifications such as whether by setting up a Bench of the High Court at Thiruvananthapuram, the expenses incurred by the Government of Kerala every year, for defending cases before the High Court at Kochi would come down or not. The Chief Justice further asked, "Would it not become necessary for the Government to set up a new establishment for the Advocate General's office and High Court at Thiruvananthapuram"? There were other such queries such as, "Would that not involve an avoidable additional expense on establishment and even infrastructure"?

The State Government discussed the matter in the meeting held by the Chief Secretary of the State and attended by the Principal Secretary (Home), Principal Secretary (Finance) and Secretary (Law) on 6.3.2003. The meeting considered all the aspects of the issue and favoured the establishment of a Bench of the Kerala High Court at Thiruvananthapuram.

Sir, the Chief Minister of Kerala, *vide* D.O. letter no. 56633/SSA3/98 Home dated 16.5.2003 informed the Chief Justice of Kerala that to set up a new establishment for the High Court and the Advocate General's Office at Thiruvananthapuram, the city has the necessary building infrastructure to accommodate the needs of the Bench when it is established. The letter further clarified that the establishment of the Bench of High Court at Thiruvananthapuram will not involve any unbearable financial burden on the State Government. The Chief Minister narrated that the benefits that may accrue on the State Government would be more than the expenditure incurred. The Chief Minister has pointed out that the benefits are much more to the State capital. A High Court Bench at Thiruvananthapuram would enable more active attention to cases especially those involving finance of the State, quicker compliance of the order of the High Court and better co-ordination between the Judiciary and the State Government. So, it was requested to the Chief Minister of the State Government to convey the views of the High Court on the matter so as to take up this issue with the Ministry of Law, Government of India.

Sir, Kerala Government has estimated that the State loses hundreds of crores of rupees every year due to the absence of a High Court Bench at Thiruvananthapuram. The decision of the High Court is being awaited. The historical fact is that Thiruvananthapuram is the only State capital among the different State capitals of the country which do not have a Bench of the High Court having territorial jurisdiction over the State. Thiruvananthapuram has all the necessary infrastructure and it satisfies all the conditions stipulated in the Jaswant Singh Committee Report for instituting a High Court Bench in the city. The Report says that it is not necessary that all the norms detailed are satisfied. It is enough if the totality of the conditions and the circumstances obtaining at a particular region warrant the establishment of the Bench. As it is understood, many conditions prevailing now are favouring the establishment of a Bench of the High Court of Kerala in Thiruvananthapuram. I understand that the Union Law Minister and the Minister of State for Law and Justice are in favour of establishing a Bench of the High Court of Kerala in the capital city of Thiruvananthapuram. But action has not been initiated by them.

I sincerely request this House to kindly consider this Bill and to pass it. I request the hon. Minister for Law and Justice to initiate necessary steps to institute a Bench of the High Court immediately so that the long cherished dream of the people of Kerala would come true. This is my request. Hon. Minister of State for Law and Justice, Shri P.C. Thomas is with us today. I hope he will give a favourable and positive reply in this regard. We are awaiting that reply from him.

MR. CHAIRMAN: Motion moved:

"That the Bill to provide for the establishment of a permanent Bench of the High Court of Kerala at Thiruvananthapuram, be taken into consideration.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I rise to support the Motion moved by my Shri K. Suresh. It is a long-standing demand of the people of Kerala for establishing a Bench of the Kerala High Court at Thiruvananthapuram.

In this respect, I may point out that there were agitations also for this purpose. Many legal luminaries had taken part in that agitation and courted arrest for the establishment of a High Court Bench at Thiruvananthapuram. I had also participated in that movement long before. The agitation was started nearly three decades back but, so far, no concrete steps have been taken either by the State Government or the Central Government in this respect. Now, as far as I know, it is the policy of the Central Government that justice must be made cheaper to the common man. In this respect, there is a proposal to have a Bench of even the Supreme Court at Bangalore which will suit the convenience of the people in the South. So also, it is only just and proper that we have a Bench at Thiruvananthapuram. If we have it there, that will be beneficial to the four districts in the South of Kerala. It is not only that. Even the Government of Kerala have informed the Central Government as well as the High Court that they would be benefited by the establishment of a Bench because almost all the Public Interest Litigations – the PIL is the law of the land now - will be filed there. In every case, there will be a Public Interest Litigation. The Public Interest Petitions will also be there before the High Court in many respects. Writ Applications will be filed. Article 226 of the Constitution is being used every now and then. In all these cases, the Government will be a party. The Government will have to file counter-affidavits and defend themselves against the encroachment on the citizens' rights.

Naturally, in almost all the Writ Applications, the Government is a necessary party. The Government and its machinery will have to move the High Court from 225 miles away from Thiruvananthapuram with all the materials. It involves a very big amount of expenditure from the Exchequer by way of fees etc. Of course, fees will have to be paid even in Thiruvananthapuram. But the travelling expenses, transport expenses and all these will come up to crores of rupees every year for conducting Government cases at Cochin, the present headquarters. So, it will be beneficial in public interest also, in the interest of the Exchequer also if there is a Bench at Thiruvananthapuram. Almost all the Writ Applications pending before the High Court can be disposed of at Thiruvananthapuram. It will be easy for the Government to put in an appearance; it will be easy for the Government to take notice; it will also be easy for the Government's advocates and the Advocate-General to be present as and when they are called for. So, without involving much expenses to the State Exchequer, this can be established. That is why, even the Government is also wavering with this proposal because it will be reducing the expenditure by way of litigation by the Government. That is one thing.

Secondly, there must be some connection between the Executive and the Judiciary – the two arms of the State - in day to day functioning. In Delhi, we have the Supreme Court and the High Court. We have the Parliament and the Central Executive here. There is constant connection. That will pave the way for easy administration of justice. So also, if a Bench is established at Thiruvananthapuram, that will lead to easy disposal of justice so far as the State is concerned. Moreover, the Government also will be very much benefited by having a Bench very near to their headquarters. That is very essential. Even for the Judiciary also, the nearness to the Executive is very much helpful in the administration of justice. So, considering all these aspects, the Bench must be established. Nobody can deny the cause by any stretch of imagination.

In the instant case, I may point out that the Kerala Government has also taken a very definite step for the establishment of a High Court Bench at Thiruvananthapuram. It is not a new thing. A Bench was established at Thiruvananthapuram. It was functioning for some time. But a Chief Justice, because of his imagination, had withdrawn the filing powers of that Bench so that it came to a stop. Because of the wrong order issued by the Chief Justice telling not to file any more cases before the Thiruvananthapuram Bench, it stopped functioning. The net result was that the Bench did not function without filing powers. So, after all, it is not the establishment of a new Bench. It is only the re-establishment of a Bench at Thiruvananthapuram. It is a matter of fact that we are not asking for a new Bench. We are asking for the re-establishment of a Bench which was functioning in Thiruvananthapuram for some time even after the headquarters of the High Court was shifted to Cochin. Moreover, it may be pointed out that we have the High Court Library at Thiruvananthapuram because the High Court was functioning there for over 150 years. So, the Thiruvananthapuram High Court had a tradition of 150 years.

It was only after the integration of the erstwhile provinces of Cochin and Travancore, the High Court was shifted to Kochi as a compensatory measure for having the capital at Thiruvananthapuram. But it was not a correct decision. Now, all the infrastructural facilities are available in Thiruvananthapuram for the establishment of a full High Court.

Secondly, it may be borne in mind that the Kerala Assembly had taken a unanimous decision for the establishment of a High Court Bench at Thiruvananthapuram. So, the Executive is in favour, the Legislature is in favour and sometimes the Judiciary was also in favour, but it could not be given effect to. The present state of affairs is that I have written several times to the Law Minister of the Central Government and he has given me a reply that the Government would consider it as soon as they receive a reply from the Chief Minister of Kerala with the approval of the Chief Justice of the Kerala High Court. That is not forthcoming. The most important question is: who will bell the cat? Either the Central Government has to take the initiative and establish the Bench or they should prevail upon the State Government to speed up the matter after obtaining the opinion of the Chief Justice of Kerala. They should not delay the matter further. Shri Ram Jethmalani and Shri Arun Jaitley have written to me that they are agreeable for the establishment of a High Court Bench at Thiruvananthapuram, but as per the rules of practice they want a definite reply from the Chief Justice of Kerala. Now, the matter has come to such a position, as far as I know from the written reply given by the Law Minister, that the Central Government is awaiting the reply of the Chief Justice as well as the Chief Minister. If that is available, they can take the decision and if not, they should remind them, get the reply and see that the long-cherished wish of the people of Kerala becomes a reality.

Then, with regard to the judicial process also, the Central Government will have to do some important things. Now, Fast Track Courts are available throughout the country. But, unfortunately, they are not there in the State of Kerala. So, Fast Track Courts will have to be established there without further delay and for this purpose, the Central Government should render all assistance to the Government of Kerala for the speedy establishment of Fast Track Courts.

Sir, the Family Courts are very popular among the people now, but the Family Courts do not have any building. They are functioning in some rented buildings and it is also very difficult for the advocates to go and practise there. Moreover, the Family Courts are very popular in the sense that family counselling will also take place there and that a decision will come without any delay.

There are only a few Family Courts in Kerala. So, the number of Family Courts will have to be increased from the present number and there must be two or three Family Courts in every district so that the human relationship can be maintained properly. So, I request the Central Government to give assistance to the Government of Kerala to establish Fast Track Courts in Kerala and also increase the number of Family Courts. I hope the hon. Minister will take the necessary initiative and see that this is done without delay.

Sir, I would like to raise another matter regarding computerisation of the judicial process. As far as Kerala is concerned, computerisation of the judicial process is at a low ebb and so, computerisation is the immediate need of the hour. The information technology sector is in a very advanced state in Kerala. So, taking all these factors into consideration, I request the Central Government to computerise the judicial process in Kerala by assisting the State Government by providing necessary equipment. The Central Government should consider the request of the State Government for giving aid for three things: (i) fast track courts; (ii) increase in the number of family courts; (iii) computerisation of courts so that speedy disposal of cases could be done. In that way, speedy justice would also be achieved. For that purpose, these modern amenities should be made available to the State of Kerala without delay.

Lastly, I once again repeat that the Bench at Trivandrum should be established without any delay. With these words, I strongly support the Resolution moved by my friend, Shri Kodikunnil Suresh.

SHRI RAMESH CHENNITHALA (MAVELIKARA): Sir, I rise to support the Bill which has been introduced by our hon. colleague, Shri Kodikunnil Suresh. This is a long-standing demand from the people of Kerala. I think, it is more than two decades that we have been arguing for this. The Government of Kerala is also pressing this demand. Time and again, the Government of Kerala has presented this matter before the hon. Minister of Law and Justice. The Chief Justice of Kerala High Court had also given a positive suggestion and consent to the proposal for setting up a new Bench in the State of Kerala.

In reply to unstarred Q.No. 2541 regarding setting up of a new High Court Bench, Shri Arun Jaitley said:

"At present there are 21 High Courts in India. The number of pending cases in the High Courts is given in the Annexure. The setting up of the Bench of the High Court away from the principal city is considered on the receipt of a complete proposal from the concerned State Government with the consent of the Chief Justice of the High Court."

He has suggested two important proposals for setting up of High Court Benches. One is for the Madras High Court. Recently, a Bench has been established in Madurai. Another proposal is for a Bench in Jalpaiguri in West Bengal. They want accommodation and other infrastructure facilities. ...(*Interruptions*) So, from his answer, it is very clear.

The present Government is not averse to the proposal of setting up of new Benches.

The Jaswant Singh Commission had submitted its Report in 1985. If you go through the history of demands for new Benches, you can see for and against suggestions and arguments. A lot of discussions took place.

The Report of the Fourth Law Commission itself has a conservative view. They were against setting up of Benches in different parts of the country. They said that there was no need for having so many Benches in one State. They have given a lot of reasons for that. They said that there should be only one High court and that court should sit in one place and hear the cases properly with a cool mind so that the decisions can be taken effectively. There are more than 14 or 15 reasons given by the Fourth Law Commission in its Report. But the legal luminaries have contradicted this view. They had given certain valuable suggestions in this regard. The Fourth Law Commission has listed at least 14 observations against the setting up of new Benches. But these have been contradicted by leading lawyers like Justice V.R. Krishna Iyer, Justice Venkataramiah, Justice Khanna, Justice Singhal, Justice K.N. Seth and Justice K.N. Dayal. So many luminaries have given their opinion against this argument. This is a conservative thinking in the judiciary. The time has changed. The aspirations of the people are changing. The legal environment is changing.

The number of cases, which are pending in the Kerala High Court, is increasing day by day. It is not the case with Kerala High Court alone, but in so many High Courts lots of cases are pending. In Kerala, 17,107 criminal cases and 3,93,972 civil cases are pending as on 31-3-2002. If you look at this, in every High Court, the number of cases are piling up. Sir, justice delayed is justice denied. A number of cases are pending, people are not getting justice. So, there is a kind of frustration developing in the minds of the people.

Sir, I will give an example. In a country, like Italy, mafia is coming up like anything. People are welcoming mafia because in Italy mafia is doing an excellent work. It is good word because people say that if you go to mafia, they will redress your grievances within a week. This is an example for the decreasing confidence in the judicial system. It leads to anarchy. Speedy disposal of the cases is the order of the day. It is the demand of the day. Unfortunately, in our own High Courts, the cases are pending. People are frustrated and people are facing lot of difficulties.

Sir, in the extract from the Fourth Report of Law Commission of India, it is clearly stated, 'there were Benches in different parts of the States. For example, High Court of Punjab, which has a Bench at Delhi, High Court of Rajasthan, which sits at Jodhpur and Jaipur, High Court of Uttar Pradesh, which has a Bench at Lucknow, High Court of Travancore, Kochi sits at Trivandrum and Ernakulam and High Court of Madhya Bharat – at that time it was called Madhya Bharat – sits at Gwalior and Indore. Sir, it is not a new practice, it is not a new demand. Earlier also, when it was in Travancore, Cochin in Kerala, there were Benches sitting at Trivandrum and Ernakulam. At that time, it had been accepted as a genuine demand. Now, the situation has changed and people are facing immovable problems.

Sir, after giving thoughtful and anxious consideration to different and divergent views, the Jaswant Singh Commission has clearly said, 'the experience, allaying the apprehensions raised by the Law Commission and High Courts' Arrears Committee.' They have said this. They have gone into all these details. They have weighed the pros and cons of this and they said that "setting up of new Benches in different parts of the State is a welcome step."

As Shri Suresh rightly pointed out that the Kerala Government has already written to the Union Government that by considering all these aspects a lot of expenses can be curtailed. Lakhs and lakhs or rupees are spent by the Government on Government employees for their travelling expenses. A huge amount is spent on this aspect. Most of the Government cases are also getting delayed because they have to go to Cochin, they have to travel 250 kms. and they have to attend the court at Cochin.

The hon. Minister himself is a learned lawyer. He was practising in Thodupuzha. He is one of the good lawyers that we have. So, he is aware of all these aspects. The Government of Kerala is ready to provide all kinds of infrastructural facilities and other requirements. In the last MPs' Conference also, the Chief Minister clarified the position of the Government. He evidently said that the Government of Kerala is for setting up a Bench at Trivandrum and he will provide all assistance and all facilities. All infrastructure needs will be provided by the Government.

Sir, it is Jaswant Singh Commission which went into all these views and examined all the opinions expressed by various quarters. "So, in view of the aforesaid weighty observations of the High Courts we are of the firm view that the constitution of separate Benches of High Court in the moffussil places of the State, to cater to the genuine needs of the people of certain regions, would not be repugnant to the Constitution. Therefore the objection raised by the antagonists as to the invalidity of the creation of Benches of High Court in the moffussil, which may, by and large, satisfy the criteria suggested by us, is without any substance." So, they are rejecting the views expressed by certain quarters against setting up of Benches in various parts of the State. Here, Sir, this is to be considered as the genuine aspiration and genuine demand of the people of Kerala. It is not a political matter. Every political party

in our State is also hearing this opinion and they are struggling for this genuine demand.

We are fortunate that the Minister of Law and Justice is from our State. He is one among us. Even though he was elected from our side, now he is with the other side. I think, he will give justice to the State of Kerala. He will do justice to the aspirations of the people of Kerala. We are definitely expecting a positive reply from his side so that the long-standing demand of the people of Kerala will be fulfilled. With these words, I conclude.

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Thank you Chairman Sir. I support this Bill because it has got a very valid reason to have a permanent High Court in Thiruvananthapuram, the State Capital.

Sir, I would like to supplement, more or less, the arguments made by the other friends from the State of Kerala. The importance of the High Court is much more larger now because in 1980, the Administrative Tribunals were constituted for service matters, taxation, excise, customs and even for consumer protection. A lot of Administrative Tribunals were created and quasi-judicial Tribunals were constituted. But, within a decade we find that it cannot suit the requirements of the people, as High Courts were taking care of them. Therefore, now, even the Government of India is coming forward with a Bill to say that if a State Government does not like to have the Administrative Tribunal, they can abolish it any time. Such is the position. It is because the retired High Court Judges or the retired District Judges, coupled with retired bureaucrats, cannot redress the grievances of the common man, or the service people, or of anybody else who needs their help, just like a court of law.

No doubt, the procedures made in the courts of law may be very lethargic one, or long-drawn one, but they can be shortened by proper procedural curtailment. But, at the same time, the power of an order issued by the High Court is much more than that of a Tribunal. At this juncture, I would like to suggest that the entire system of Judiciary is to be revamped and more dynamism should be given to the Judiciary.

When there is violation of fundamental rights, we can very easily get relief from the High court. We can get protection. Plenty of cases are pending in writ jurisdiction before the High Court. Everyday, the rights of the citizens are violated knowingly and unknowingly by certain authorities. Redressal can be given to such things by the cheap remedy of going to the High Courts.

But, now distance is also one of the criteria. We are in the age of e-commerce and electronic administration. When a man wants his grievance to be redressed, he has to be nearer to the point where he should have access to the grievance redressal institution. Therefore, I request that the Government should have a new thinking.

Now, they are creating a number of new tribunals in the 21st century. They are coming forward with lot of legislative pieces for creating Telephone Regulatory Authority and Petroleum Regulatory Authority. They are bringing in a number of other regulatory authorities also. More or less, they are doing both the executive and the judiciary works. This will also end up one day that it is not useful. But one thing is useful, that is, the judicial system, especially the High Court at the State level is useful for the common man to redress as quickly as possible with all the legal formalities.

The only thing that we find is that the largest litigant is the Government. It is because the Government machinery is not looking into the problems quickly to redress them. Therefore, they are going to the judiciary. Even when we are passing any enactment in Parliament, immediately it is touching the doors of the High Courts and the Supreme Court and we are obeying the orders of the Supreme Court because they think in a different way which is accepted by the people. Therefore, we need at least the minimum a High Court at the State level immediately.

I have got another grievance in my State of Tamil Nadu. Already there is a well-established building. More than Rs.50 crore was invested for starting a High Court Bench in Madurai, and the construction of the building is over. The High Court of Madras has already given its consent. The only thing is that the Government of India and the Executive have to enable a Resolution to be passed in Parliament telling that there should be a High Court Bench in Madurai. That has been pending for the past one year. Even the Chief Justice of Tamil Nadu has already written to the Government of India and also to the Supreme Court regarding this aspect. The State administration is also ready for it. If a Bench of the High Court had started in that building, which was already constructed a year before and opened, the grievances of lakhs and lakhs of people would have been redressed and many of their problems would have been solved. That is one of the social duties. That is the obligation of the State and that has to be done.

With these words, I just sum up to submit that a Bench of the Supreme Court should also be constituted in South India, especially in Chennai which is a very famous place for judicial aspects because it was one of the places for chartered High Courts when the British people had ruled Mumbai, Chennai and Kolkata. Therefore, a Bench of the Supreme Court should also be constituted.

SHRI RAMESH CHENNITHALA : You have already got a Bench at Madurai. There has already been a Bench there.

SHRI E.M. SUDARSANA NATCHIAPPAN : I am asking for it. Therefore, I request that the Southern States need to have a Bench of the Supreme Court. A Supreme Court Bench will be very helpful in the changed economic scenario. A lot of grievances can be redressed by not coming over to Delhi, by not spending a lot of money and by not waiting for so many days.

A new Minister has come. He is also a practising lawyer before he became a Member of Parliament. Also, the senior Cabinet Minister is also a practising lawyer. They know the problems of the people, especially in this aspect. The pain of getting justice should be removed monetarily, physically, mentally and time-wise. A proper grievance redressal machinery should be created. That is one of the things that a High Court Bench each at Thiruvananthapuram and at Madurai will be the starting places for further Benches to be created throughout India, and we can have a Supreme Court Bench also for the Southern States, especially in Chennai.

17.00 hrs.

SHRI V.S. SIVAKUMAR (THIRUVANANTHAPURAM): Thank you, Sir, for giving me this opportunity to speak on this subject.

I wish to extend my support for the Bill moved by Shri Kodikunnil Suresh seeking the establishment of the Kerala High Court Bench in the capital city of Thiruvananthapuram. Thiruvananthapuram is the only capital city in India where no High Court Bench is functioning. The erstwhile Travancore High Court was functioning at Thiruvananthapuram till 31.10.1956. It was shifted to Ernakulam by a notification.

The first Kerala Assembly, in 1958, unanimously adopted a Resolution for setting up of the High Court Bench at Thiruvananthapuram. In 1971, the then Chief Minister had assured in the Kerala Assembly that the Bench would be established at Thiruvananthapuram. In 1996, the then Chief Minister of Kerala had sent the same proposal to the Government of India. It was sent back for re-submission with certain clarifications whether Thiruvananthapuram satisfies the norms recommended by the Jaswant Singh Commission, after consultation with the Chief Justice of Kerala. It may be noted that Thiruvananthapuram fully conforms to the norms recommended by the Jaswant Singh Commission.

The same issue has been raised by hon. Members of Parliament from southern parts of Kerala, including myself, several times on the floor of the Lok Sabha. The hon. Minister of Law, in his written reply has categorically assured that if the proposal for setting up of the High Court Bench at Thiruvananthapuram would be submitted in consultation with the Chief Justice of Kerala, the same would be considered. The hon. Chief Minister of Kerala had intimated the favourable position to the hon. Chief Justice of Kerala and had requested to convey the views on setting up of a High Court Bench at Thiruvananthapuram so as to take up the matter with the Ministry of Law, Government of India.

In this connection, the hon. Chief Justice sought for certain clarifications about the financial commitment on establishment of Advocate-General's Office and High Court Bench at Thiruvananthapuram for considering the proposal. The hon. Chief Minister of Kerala, in his D.O. Letter dated 16.5.2003, intimated the hon. Chief Justice of Kerala that the Government of Kerala would not involve any unbearable financial burden on the State for setting up of infrastructural facilities for a High Court Bench and the benefits accruing to the State Government would more than compensate the expenditure, benefits being closer and more attention to cases, quick compliance of the orders of the hon. High Court, better co-ordination between the Judiciary and the Government, etc. The hon. Chief Minister of Kerala also requested him to convey the views of the High Court on the matter so as to take it up with the Government of India.

It is learnt that the Bench of the Madras High Court is established at Madurai in Tamil Nadu and also a Bench of the Madhya Pradesh High Court is established at Bhopal, the capital city of Madhya Pradesh. These are two recent developments in favour of strengthening the demand for a Bench of the Kerala High Court at Thiruvananthapuram.

It is pertinent to note that the State exchequer suffers an approximate loss of Rs. 100 crore annually for defending cases at the High Court at Ernakulam. In the background of the recent decision of the Government of India to sanction additional posts of eleven High Court Judges to Kerala, it becomes more relevant to have a High Court Bench at Thiruvananthapuram.

It may be worthwhile to mention in this context that the hon. Minister may initiate urgent steps for setting up of a Bench of the High Court at Thiruvananthapuram, the capital city of Kerala, in view of the administrative necessity of the Government of Kerala and fulfil the long-cherished desire of the people of the southern districts of Kerala.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI P.C. THOMAS): Sir, the hon. Member Shri Kodikunnil Suresh who has brought the Bill, and also the other hon. Members have submitted the need for setting up of a High Court Bench at Thiruvananthapuram, the main aspects being the expenditure incurred and the proximity of the Government Secretariat to Thiruvananthapuram. The other aspects include distance to the High Court of Kerala where it is situated at present and the difficulty for the litigants to go over to that place.

These aspects, as they have already been mentioned, are very important aspects, even to be considered as per the Jaswant Singh Commission for which several mentions have come up.

Article 242 of the Constitution is the relevant article, which gives the power to have High Courts in each State and it says that there should be a High Court in every State. Article 215 also specifically says that the High Court shall be a court of record. It means that High Court will have its own procedure with regard to several aspects and also with regard to where the cases are to be heard and where the Benches are to be established. All these things can come under that article. The States Reorganisation Act of 1956 which was one relevant Act wherein Section 51(a) clause (ii) was a relevant section with regard to setting up of Benches or High Courts in various parts of a State. Now, there was also a Supreme Court decision and that was on 24.7.2000 when the Karnataka Bar moved the hon. Supreme Court. The Supreme Court has clearly mentioned there that the High Court is the best-suited machinery to decide whether it is necessary and feasible to have a Bench outside the principle seat of that High Court. Now, this is a matter which has been dealt with by various speakers here also. It is true that the Government of Kerala through, the letters in 1995 as well as in 1999, through their Chief Minister, expressed the view of the Government that a Bench of the High Court should be set up at Trivandrum. Now, the Government of India had, at that time, also written back stating that the proposal should come with the consent of the hon. the Chief Justice of the High Court. As has been stated –some queries were also there in between -- but it is a fact that till now a complete proposal in that respect is yet to come. In fact, the Government of India is not averse to setting up of Benches. It is also a fact that some Benches have been set up in some of the States, which have been mentioned. Even after the original High Court Benches, the seat of the High Court was in a particular place. The present Government will not stand in the way if a proposal comes in this respect.

Being from Kerala, I know the aspirations of several persons and several people in those districts in the Southern part of Kerala. It is an aspiration which has been there for quite long. But, unfortunately, the complete proposal could not be made. Now, there is no way in which we can pass a legislation to that effect when the constitutional provisions are there and when the other judicial pronouncements are also there to that effect. So, it will be in the best interest of the State as well as the Government concerned and the people concerned to have the proper procedure adopted in this case also. We hope that a proper proposal will come from the Government of Kerala with the due consultation which is required. *(Interruptions)*

SHRI KODIKUNNIL SURESH : The proposal has already come. *(Interruptions)*

SHRI P.C. THOMAS: The proposal from the Government is there, but it is not enough. The proposal should have the backing of the Chief Justice. That is the problem. It has been mentioned by all the speakers here. *(Interruptions)*

SHRI RAMESH CHENNITHALA : I would like to know whether the Ministry of Law responded to the letter which has already been sent by the hon. Chief Minister of Kerala stating all these facts. *(Interruptions)*

SHRI P.C. THOMAS: That has been responded to. *(Interruptions)*

SHRI KODIKUNNIL SURESH : Your statement is contrary. *(Interruptions)*

SHRI P.C. THOMAS: On 10th December, a letter has been sent by the Justice Department to the hon. Chief Justice of Kerala stating these facts.

That proposal is being awaited. That is what the hon. Members have also said. I would submit and I would assure that the Government of India will not stand in the way and the Government of India will take all steps if the proposal comes with the consent of the Chief Justice and I think the Government can consider it at the earliest. I have consulted the others in the Ministry also. It is a fact that this can be considered. I think there is a positive assurance that can be given to that extent but the assurance will not be to the extent that a Bench of the High Court can be formed in the State of Kerala at Trivandrum at this stage because of the situation which I have already mentioned.

As far as some other aspects which have already been stated are concerned, I would like to mention about them. Hon. Member Shri Varkala Radhakrishnan has also said about them.

SHRI VARKALA RADHAKRISHNAN : What about family courts?

SHRI P.C. THOMAS : Yes, you have said it and others have also said about some of the aspects relating to the judiciary. The fast track courts have been established in Kerala. But yet, some more can be established. About eleven more courts can be established in Kerala and the Centre is ready to give funds for the same for Kerala. My friend Shri Radhakrishnan has mentioned about the family courts. It is true that only nine districts in Kerala have now family courts. Regarding the family courts in the other five districts, I myself have taken some interest to see that some proposal comes from there and we are awaiting the proposal for that also. We can have them in these five districts positively.

SHRI VARKALA RADHAKRISHNAN: You give them for all districts.

SHRI P.C. THOMAS : Regarding having a few others also, if the proposal comes from the State Government with the consent of the High Court, we can consider giving some more family courts and the Government of India will give Rs. 10 lakh to each such court for establishment and Rs. five lakh for recurring expense.

A point was also mentioned about general assistance to the State. I can also announce at this stage that during the current financial year an amount of Rs. 284.88 lakh has been earmarked for Kerala for development of infrastructure facilities for the judiciary, which includes for the Kerala High Court also. The first instalment of Rs. 149.44 lakh has already been released to the State Government. There is also a proposal to computerise – this was also a point that was mentioned the court in Ernakulam at an estimated cost of Rs. 8.65 crore during the current financial year. This proposal is under examination.

I would think that as has been discussed and as has been said by hon. Members also, the setting up of the High Court Bench can be done with the consent of the High Court if the proposal comes at the earliest. We would also see to it.

SHRI KODIKUNNIL SURESH : You gave the same reply earlier also.

(Interruptions)

SHRI P.C. THOMAS : Nothing has happened also. That is the problem, as you have also mentioned. Some other aspects were also mentioned. Even these things have to be re-checked where we have to await the proposal to come from the High Court.

SHRI VARKALA RADHAKRISHNAN : The Union Government can commit themselves that on receipt of the report of judiciary, you would do it. You can tell that. *(Interruptions)*

SHRI P.C. THOMAS : That is what I have said. I have also said that the Government will definitely consider, and that can be considered at the earliest if the proposal comes as needed. I hope that a proposal will come at the earliest.

SHRI E.M. SUDARSANA NATCHIAPPAN : What about the Bench of Madras High Court at Madurai?

SHRI P.C. THOMAS : Regarding the Bench at Madurai, the High Court building is being constructed and I am told it is almost completed. We are awaiting for the letter from the Chief Justice of Madras High Court regarding the infrastructure. He has to give a letter that it has been done to his satisfaction. If that is done, then I think the proposal will get through.

I think, with these words, I would request that the hon. Member may not press for the Bill at this stage on the basis of the assurance given, which is the maximum assurance which can be given at this stage.

SHRI KODIKUNNIL SURESH : Mr. Chairman, Sir, first of all I would like to congratulate all the hon. Members who have participated in the discussion on this Bill. Shri Varkala Radhakrishnan is one of the leading advocates in the Thiruvananthapuram Bar. He had expressed his views during the discussions. Actually, he was one of the leaders who led us several times during the agitation in the past.

SHRI RAMESH CHENNITHALA : A good lawyer, but with no case!

SHRI KODIKUNNIL SURESH : A good lawyer, but with no case -- Sir, this is the view of Shri Ramesh Chennithala, and not mine. So, I convey my thanks to Shri Varkala Radhakrishnan.

I would also like to convey my sincere thanks to Shri Ramesh Chennithala, who has also participated in this debate.

He has also made very good points and argued the necessity of a High Court Bench at Thiruvananthapuram.

I would also like to congratulate Shri E. M. S. Natchiappan. He has also expressed his views during the debate. Shri V. S. Sivakumar, is a Member of Parliament from Thiruvananthapuram Parliamentary Constituency, and he has expressed the sentiments of the people of Thiruvananthapuram and the adjacent districts.

Shri P. C. Thomas, the hon. Minister is very much aware of the problems being faced in Kerala. He is also aware of the judiciary because as he was a leading advocate -- as Shri Ramesh Chennithala has mentioned -- in the Thodupuzha Bar. So, he can understand the sentiments of the people of Travancore area. We hope that the hon. Minister will pursue this matter at the earliest and establish a permanent High Court Bench at Thiruvananthapuram. I hope that he will take the initiative in this matter, as he knows the sentiments of the people of Travancore and Thiruvananthapuram areas.

I will again request Shri P. C. Thomas -- the Minister of State in the Ministry of Law and Justice -- to take urgent steps to establish a permanent High Court Bench at Thiruvananthapuram.

With these words, with the hon. Minister's assurance in this august House, I would like to withdraw my Bill.

I beg to move for leave to withdraw the Bill to provide for the establishment of a permanent Bench of the High Court of Kerala at Thiruvananthapuram.

MR. CHAIRMAN : The question is :

"That leave be granted to withdraw the Bill to provide for the establishment of a permanent Bench of the High Court of Kerala at Thiruvananthapuram."

The motion was adopted.

SHRI KODIKUNNIL SURESH : Sir, I withdraw the Bill.
