



No Government Wants Strong Judiciary

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Pendency of court cases in India from just 22 Lakhs in the year 1956 has gained a huge height with 3.30 crore cases that were pending in the year 2012. The cry for speedy justice is going to be shriller in the next three decades as a conservative judicial estimate predicts that case pendency is going to register a five-fold increase to touch 15 crore but the judge strength will go up only four times to settle at 75,000. (Times of India, Jan 17, 2013).

There are a number of factors that are responsible for increasing pendency of cases, one and major one is inadequate budgetary financial allocation to the judiciary. An internal study conducted by court management system reveals that as many as 18 states in India are not even spending 1 per cent of the budget allocated to them for judiciary. The Hon'ble Supreme Court also held that the meager budgetary provisions by the Centre and states impeded setting up of additional courts and infrastructure needed to speed up the justice delivery system.

In this connection the Supreme Court observed, I quote ***“No government wants strong judiciary”***. *It is only on the paper. Look at the budgetary allocation, the bench remarked while pointing out that the judiciary is overloaded and a large number of courts need to be set up across the country for speedy justice delivery.*

Justice Sathasivam former Chief Justice of India had in his farewell speech said *“Budget allocation for judiciary is a serious concern. In so far as the Supreme Court is concerned, the government is not providing sufficient budget and, time and again, the Chief Justice has to intervene to seek sufficient allocation of Budget.”*

The then Chief Justice of India R.M. Lodha has said, *“the negligible budgetary allocation being witnessed since the past few decades is grossly inadequate to meet the requirements of the judiciary such as setting up of new courts and to improve infrastructure to bring down the pendency from a staggering 3.3 crore cases.”*

“Budget allocation is not even one per cent. It is 0.4 per cent. How do we construct more courts and improve infrastructure for speedy dispensation of justice? We are already overburdened,” he said, referring to the budgetary allocation in the 2013-14.

The annual budget of the Government of India for the year 2014-15 allocated only Rs. 2047 Crore to the judiciary which counts to just 0.4% of the total budget for the year.

As per the Supreme Court of India, National Court Management Systems, Policy & Action Plan-27-09-2012 report (for short report) which states “Experience shows that States have been making negligible provision in the Budgets to the third pillar of democracy, i.e. Judiciary.” This is revealed from the following figures.

As per the report, Average of five years period from 2006-2007 of few states figure of which are available are as under. This data reveals Assam, Andhra Pradesh, Chattisgarh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Odisha, Tamilandu, Tripura are spending less than 1 per cent of the total budget allocated to them.

Sr. No.	State	Average of five years in % of total allocation
1	Andhra Pradesh	0.42
2	Arunachal Pradesh	0.10
3	Assam	0.04
4	Chhattisgarh	0.13
5	Delhi	1.15
6	Gujarat	0.60
7	Harayana	0.33
8	Himachal Pradesh	0.67
9	Jharkhand	1.26
10	Karnataka	0.65
11	Kerala	0.41
12	Madhya Pradesh	0.69
13	Maharashtra	2.80
14	Manipur	0.35
15	Mizoram	0.30
16	Odisha	0.45
18	Tamilnadu	0.60
19	Tripura	0.64

Relevant portions of the report are reproduced here under:

Legislature enacts new legislations and increases the workload of Judiciary and, on the other hand, Executive holds back the funds and facilities as required for administration of Justice which tantamount to interference in the administration of justice. One Branch of the Constitution should not ideally decline the needs of another parallel Branch thereby creating difficulty in discharge of its constitutional responsibilities. (Para 4.10 of the report)

The Government may not enact new Laws without assessing the judicial impact and without assessing the number of new cases the new Legislation would generate. Enactment of new Laws results in floodgates of new cases generated by new Legislations and refusal of resources towards litigation generated by such new Legislations may not be in the interest of the country. In case the state does not provide necessary support of sufficient and fully furnished infrastructure and trained and sufficient personnel by way of Judges/ Judicial Officers and Staff, the blame on the judiciary would be misplaced on account of pending number of cases in courts. (Para 4.11 of the report)

It is bounden duty of the Central Government and State Governments to make adequate provisions for sufficient and furnished infrastructure for High Courts as well as Subordinate Courts. (Para 4.10 of the report)

Pointing out the infrastructural problem and growing vacancies in the judiciary, the court said ***“it is a very difficult situation. If by chance the government does it (setting up more courts), then we have difficulty in getting competent people.”***

The governments are under an obligation to provide an adequate machinery for justice, to appoint more judges and to give them better emoluments and facilities, to build more court houses, to enact better laws, to devise better dispute resolution procedures, and to administer more effectively and equitably, rather than to blame lawyers and judges for the increase and proliferation of litigation.”

-Former Chief Justice of India, R C Lahoti