

JOINT CONFERENCE OF THE CHIEF MINISTERS OF STATES  
AND CHIEF JUSTICES OF THE HIGH COURTS  
[ 24<sup>TH</sup> APRIL, 2016 ]

MINUTES

The Union Minister for Law and Justice, Hon'ble Shri D V Sadananda Gowda welcomed participating Chief Ministers, Chief Justices and delegates and laid down in his opening remarks, the broad framework of the Conference.

Deliberations were initiated by Hon'ble Shri Justice T S Thakur, Chief Justice of India in the presence of the two senior-most Judges of the Supreme Court, Hon'ble Shri Justice Anil R Dave and Hon'ble Shri Justice Jagdish Singh Khehar. The Chief Justice of India proposed that subjects of common concern to all the state judiciaries may be deliberated upon so as to facilitate the ground work for a common strategy and approach. The suggestion of the Chief Justice of India was accepted by all the participants.

The Chief Justice of India addressed the House on areas of national concern. The Conference was apprised of the resolutions which have been adopted at the Conference of Chief Justices on 22 and 23 April 2016. Following the deliberations which ensued

with reference to each head of discussion, resolutions were unanimously adopted at the Conference consisting of all Chief Ministers and Chief Justices present on the occasion.

The subjects discussed and the resolutions which ensued are described below.

## 1. INFRASTRUCTURE OF SUBORDINATE COURTS

The Conference was apprised of :

- (I) the deficit between the need for and the availability of infrastructure, particularly in the District Judiciary;
- (ii) delays in the completion of projects;
- (iii) the urgent need for enhancing the availability of judicial infrastructure including courts (with adequate facilities for all stakeholders) and residential accommodation for the Judges of the District Judiciary;
- (iv) the desirability of adopting environment friendly measures in existing and prospective court complexes, such as renewable energy and rain water harvesting;
- (v) the need to provide facilities for promoting access to the differently-abled; and
- (vi) the necessity of ensuring proper and timely utilization of funds so as to obviate the surrendering of funds allocated for judicial infrastructure in various states,

The Conference **resolved** that with a view to:

- (a) identify the infrastructural needs of the State Judiciary by developing suitable five year and annual action plans for the future;
- (b) ensure the completion of under construction projects pending for three or more years on a mission mode basis;
- (c) ensure timely completion of projects for the construction of court complexes and residential accommodation, particularly for Judges in the District Judiciary;

a Committee of three Judges be constituted in each High Court of which the Chief Secretary and the Secretaries of the Departments of Finance, Public Works and Law be co-opted as Members to **ensure that the funds are properly utilised and also to** closely monitor the timely completion of projects and to facilitate a proper coordination between the officials at the district level and the decision-making authorities of the State Government.

## 2. NATIONAL MISSION FOR ACHIEVING A FIVE PLUS ZERO PENDING

The Conference being apprised of:

- (i) the large pendency of cases, both civil and criminal, in the district judiciaries; and
- (ii) nearly twenty three percent of the pending cases being over five years old,

The Conference **resolved** that

- (i) All the State Governments shall, in terms of the demands placed by the concerned High Courts for an increase in the cadre strength of the district judiciary provide for at least a minimum increase of ten percent per year in accordance with the judgment of the Supreme Court in **Brij Mohan Lal Vs Union of India, (2002) 5SCC 1**;
- (ii) An overall cadre review shall be carried out by the High Court in each State in order to assess the required cadre strength of the district judiciary commensurate with the needs of the State. In this exercise, the State Governments through the concerned Departments, particularly of Law, Finance and Public Works shall associate; and
- (iii) The State Governments shall ensure that the infrastructure to be provided for the state judiciaries, both

physical and in terms of human resources, shall be commensurate with the increase in courts.

### 3. PERFORMANCE OF MORNING/EVENING AND HOLIDAY COURTS

The Conference noted that:

(i) after the conclusion of the tenure of the 13<sup>th</sup> Finance Commission and the resolution passed in the previous Conference of Chief Justices in April 2015, morning and evening courts have been discontinued in all but three states (Delhi, Telengana and Andhra Pradesh, Tamil Nadu);

(ii) only 9.5% of the budget allocated for morning and evening courts by the 13<sup>th</sup> Finance Commission was utilised.

**Resolved** that the existing judicial infrastructure of the state judiciaries be utilized for setting up Morning/Evening or Holiday Courts, as the case may be, with retired Judges as well. These courts may be constituted to deal with cases relating to petty offences, such as traffic cases and legal aid cases at the discretion of the High Court. The Chief Ministers and Chief Justices shall, for their respective States, decide upon norms for payment

of salaries and allowances to the retired Judges manning these courts.

#### 4. CONDITIONS OF JAILS WITH PARTICULAR REFERENCE TO UNDERTRIAL PRISONERS

The Conference was apprised that:

- (i) sixty three percent of the inmates of all jails are undertrial prisoners;
- (ii) a decision has been taken in the Conference of Chief Justices to assign top priority to cases pending for over three years and for the disposal of cases pending for over ten years – the latter, on a mission mode basis; and
- (iii) thirty three percent of the positions of jail staff are vacant thereby affecting the conditions of incarceration of persons who remain in jail and contribute to pitiable jail conditions.

Accordingly, it is **resolved** that the State Governments shall:

- (i) take steps to fill up vacancies of sanctioned posts in jails on a mission mode basis; and

(ii) co-operate in all respects in the provision of effective legal aid and legal service to prison inmates.

## 5. IMPLEMENTATION OF INFORMATION AND COMMUNICATION TECHNOLOGY

The Conference was apprised that:

(i) connectivity is one of the most serious challenges which the Judiciary is facing in the area of ICT implementation and if it is not resolved soon, efforts on ICT implementation may not bear desired fruit for litigants and public;

(ii) although it has been made part of the 14<sup>th</sup> Finance Commission by recommending Rs 479.68 crores for technical manpower support, most of the State Governments are yet to come forward to start provisioning resources for technical manpower support for the Courts, which is hindering the sustenance of the project activities;

(iii) one of the major challenges being faced in the implementation and sustenance of the project is the lack of support from a number of State Governments which have not acceded to the repeated requests of High Courts to sanction posts of technical manpower, provisioning funds for

Annual Maintenance Contracts (AMCs) or upgradation of the hardware provided in Phase I of the eCourts Project;

(iv) financial resource provisioning required for maintenance of the equipment beyond warranty period and also for the consumables required for D G Sets, Printers etc. is also becoming difficult in certain States leading to issues in continuity of Project activities and services to the litigants, lawyers and public;

Accordingly, it is **resolved** that:

- (i) The State Governments adopt urgent and immediate steps to:
  - (a) resolve issues of connectivity;
  - (b) provide technical manpower support by provisioning resources for courts made available in the 14<sup>th</sup> Finance Commission;
  - (c) immediately resolve issues in regard to provisioning funds for AMCs and upgradation of hardware;
  - (d) make provisions for adequate financial resources for maintenance of equipment and for consumables; and
  - (e) review the emoluments which are being paid to ICT staff engaged in the High Courts on a contractual basis;



(ii) The Union Government shall in terms of the suggestions made by the Chief Ministers, set up a Committee to examine whether the future requirements of the Indian judiciary in relation to ICT can be better handled by a professional agency through a common platform.

## 6. STRENGTHENING THE LEGAL AID PROGRAMMES

The Conference has noted the concerns raised in the letter dated 4<sup>th</sup> April, 2016, of the Union Minister of Law and Justice and the observations of the Parliamentary Consultative Committee. With a view to strengthen the availability of legal services and enhance the efficacy of legal aid,

it is **resolved** that the State Governments shall take necessary steps to ensure

(a) compliance with NALSA Regulations on Legal Aid Clinics, 2011 and the Free and Compulsory Legal Services Regulations, 2010;

(b) sanctioning of posts of whole time Secretaries for all District Legal Services Authorities; and

(c) payments to be made to panel lawyers providing legal aid be enhanced to commensurate with Guidelines framed by NALSA.

## 7. STRENGTHENING THE JUVENILE JUSTICE SYSTEM

The Conference was apprised of the fact that nearly:

- (a)(i) thirty two percent of the districts in the country do not have Children Homes;
  - (ii) seventy percent of the districts in the country do not have Shelter Homes;
  - (iii) twenty seven districts in the country do not have Child Protection Units; and
  - (iv) sixty six districts in the country do not have Special Juvenile Police Units; and
- (b) large vacancies in juvenile justice institutions remain to be filled up.

Accordingly, it is **resolved** that:

- (i) The State Governments shall take steps to ensure that every district is equipped with a Child Protection Unit,

Special Juvenile Police Unit, Observation Homes, Shelter Homes and Children Homes;

(ii) Vacancies of sanctioned posts in juvenile justice institutions are filled up on a mission mode basis; and

(iii) Periodical reviews in regard to the position be conducted in meetings between the Chief Justices and Chief Ministers.

**8. UTILIZATION OF GRANTS SANCTIONED BY THE 14<sup>TH</sup> FINANCE COMMISSION UNDER DIFFERENT HEADS, A STRATEGY**

With a view to facilitate proper and timely utilization of funds made available by the 14<sup>th</sup> Finance Commission to the State judiciaries, it was resolved that:

- (i) Finance Secretaries of each State be associated with the work of the High Court Committees in-charge of monitoring 14<sup>th</sup> Finance Commission funds;
- (ii) Proper coordination be ensured between the Central and State Governments in regard to the submission of utilization certificates in relation to infrastructure projects of the state judiciaries;
- (iii) In respect of the e-Court Scheme and Infrastructure scheme which are being monitored by the Department of Justice, intimations of funds remitted to the State

Governments under these two Schemes shall also be forwarded by the Department of Justice to the High Courts;

- (iv) State Governments shall (i) lend such assistance to the High Courts as is required for proper utilization of 14<sup>th</sup> Finance Commission funds; and (ii) grant a one time exemption for 2016-17 to facilitate proper utilization.

## 9. REVIEW OF QUALITY LEGAL EDUCATION PROGRAMMES IN THE STATES

In order to promote the expansion of quality legal education in all the States, the Conference **resolved** that:

- (i) an endeavour be made in States where there is no National Law University for the setting up of such law schools with the aid and assistance of the State Governments;
- (ii) State Governments will endeavour to support National Law Schools in their territories within their economic means.
- (iii) **As the National Law Schools which are already functional are equipped with latest technological equipments and in order to ensure optimum and proper utilisation of the already existing facilities**

and the huge investment made it was agreed upon that the same shall be utilised for training all the stakeholders involved in the dispensation of justice.

## 10. POST-RETIREMENT BENEFITS TO JUDGES

The Conference was apprised that:

(i) in **P Ramkrishnam Raju Vs Union of India, (2014) 12 SCC 1**, the Supreme Court, while considering post-retiral conditions of the Judges of the High Court, noted that in the Conference of Chief Ministers and Chief Justices held on 18<sup>th</sup> September, 2004, a resolution was passed that the Scheme sanctioned by the State of Andhra Pradesh be adopted and followed in all States, except where better benefits are already available;

(ii) in its decision in **P Ramkrishnam Raju (supra)**, the Supreme Court observed that:

“while appreciating the steps taken by the Government of Andhra Pradesh and other States who have already formulated such Scheme, by this order, we hope and trust that the States who have not so far framed such Scheme will formulate the same,

depending on the local conditions, for the benefit of the retired Chief Justices and retired Judges of the respective High Courts as early as possible preferably within a period of six months”;

(iii) a Committee of three Chief Justices was constituted by the then Hon'ble Chief Justice of India in terms of a resolution adopted at the Chief Justices' Conference held on 3<sup>rd</sup> and 4<sup>th</sup> April 2015, for recommending the grant of at least minimum post-retiral benefits to retired Chief Justices and retired Judges of the High Courts;

(iv) the Committee of Chief Justices submitted its report to the Chief Justice of India which was considered at the Conference of Chief Justices held on 22<sup>nd</sup> and 23<sup>rd</sup> April, 2016 and the following recommendation made in the report was accepted:

“Monthly payment for one Domestic Help should be made equivalent to the salary payable to a Class-IV employee of the High Court at the minimum of the scale (Basic Pay and Dearness Allowance). This shall continue during the lifetime of the Judge and a surviving spouse. The same payment must be made to a surviving spouse”.

Following the submission of the report, draft rules, namely "Domestic Help to former Chief Justices and former Judges of the High Court Rules, 2016" were submitted and were approved at the Conference of Chief Justices on 22<sup>nd</sup> and 23<sup>rd</sup> April, 2016 (with modification).

Accordingly, it is **resolved** that the State Governments shall implement the resolution adopted in the above terms by the Conference of Chief Justices and the Rules as approved.

#### **11. MODEL COURTS AND THE ESTABLISHMENT OF COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION OF HIGH COURTS**

The Conference was apprised that:

- (i) the need for setting up Commercial Courts was appreciated and discussed at the Conference of Chief Justices on 22<sup>nd</sup> and 23<sup>rd</sup> April, 2016;
- (ii) the vision and initiative of the Union Government in bringing legislation, namely the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 can be fulfilled if court complexes with all appropriate infrastructure – physical, technological and human resources – are provided; and

(iii) mere re-designation of existing courts as Commercial Courts may not fulfill the achievement of the laudable object of a speedy and efficacious resolution of commercial disputes.

Accordingly, it was **resolved** that the State Governments shall endeavour to:

- (i) provide separate complexes for model commercial courts together with the requisite infrastructure; and
- (ii) sanction additional judicial officers together with attendant staff for the purpose of these courts.

Resolved **further** that the Union Government shall, in consultation with the Chief Justice of India, constitute a High Powered Committee for formulating national parameters for the design, construction, setting up and operationalising of model commercial courts.

## **12. FILLING UP VACANCIES IN THE HIGH COURTS**

The Conference was apprised of:

- (i) the adoption of a national policy norm by the Conference of Chief Justices to achieve a 'five plus zero' pendency;



- (ii) the extraordinary situation which has arisen following the large vacancies in the High Courts;
- (iii) the critical situation in the state High Courts of the pendency of old cases, both civil and criminal, especially those involving persons who are languishing in jail; and
- (iv) the constitutional provisions contained in Article 224A which can be utilized to achieve the object as stated in
  - (i) above and to meet the critical position obtaining at present.

Accordingly, it is **resolved** that subject to integrity, suitability and performance, of a person who has held office as a Judge of the High Court, the provisions of Article 224A can be invoked to deal with the extraordinary situation involving the large pendency of civil and criminal cases in the High Courts and for achieving the goal of a 'five plus zero' pendency.