

**The  
Supreme Court  
of India**



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# **The Supreme Court of India**

**ANNUAL REPORT 2007-2008**

**(Published by the Supreme Court of India)**



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**EDITORIAL COMMITTEE:**

Hon'ble Mr. Justice S.B. Sinha

Hon'ble Mr. Justice R.V. Raveendran

Hon'ble Mr. Justice D.K. Jain

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## THE CONSTITUTION OF INDIA PREAMBLE

*WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:*

*JUSTICE, social, economic and political;*

*LIBERTY of thought, expression, belief, faith and worship;*

*EQUALITY of status and of opportunity; and to promote among them all*

*FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;*

*IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.*

सत्यमेवोद्गराम्यहम्









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## **FROM THE DESK OF THE CHIEF JUSTICE OF INDIA**

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It gives me immense pleasure to present the Annual Report of Supreme Court of India for the year 2007-08. The Annual Reports of the previous years have been received very well, not only in India, but, also in other jurisdictions and have earned appreciation and recognition from all quarters.

The Constitution of India declares it to be a sovereign, socialist, secular, democratic republic. It also affirms a determination to secure liberty of thought, expression, belief, faith and worship and equality of status and opportunity. The preamble to the Constitution resolves to provide justice to our people in all its forms: social, economic and political. Our Constitution intends to remove social and economic disparities, so as to make equal opportunities available to all and make the life of the poor, disadvantaged and disabled citizens of the country really meaningful and worthwhile, by removing economic inequalities, protecting the weaker sections of the society, and providing a decent standard of living to our people.

The success of Indian Judiciary on the constitutional front is unparalleled and its contribution in enlarging and enforcing human rights is universally appreciated. Indian courts are held in high esteem not only by developing, but, by developed countries as well. There is wide-spread praise for the quality of the judgments delivered and the work being done by Indian Judiciary. Their handling of Public Interest Litigation has brought Judicial Institutions closer to the oppressed weaker sections of the Society. Using tools of innovating and creative interpretation of Constitutional provisions, our courts have consistently endeavoured to render meaningful justice to the women, children, undertrial prisoners, bonded and casual labourers and other weaker and socially oppressed sections of the society. The concept of right to life has been expanded so as to include the right to live with dignity with bare necessities such as adequate nutrition, health, clothing and shelter.

The enormous work done by Supreme Court of India in developing the concept of rule of law and due process of law, enshrined in Article 21 of our Constitution, and enlarging its scope, has been publicly

appreciated at various international forums and we, the citizens of India, can legitimately feel proud of this recognition. Judicial intervention has made it possible to seek enforcement of rights such as right to food, right to education and right to live in a healthy environment. However, there is also a growing criticism, sometimes from uninformed or ill-informed quarters, about the inability of our Justice Delivery System to provide timely justice and wipe out the huge backlog of cases at all levels. India has been making rapid strides in almost all the fields.

Revolution in the field of communication, coupled with rising of literacy level, is resulting in increased awareness of legal rights, thereby increasing the number of cases coming to the courts for adjudication. Sincere efforts are being made at all levels to increase the output being given by our system and there has been substantial increase in disposal of cases, despite full judge-strength not being available to us. Supreme Court of India disposed of 38842 cases in the year 2001, whereas it disposed of 61957 cases in the year 2007 without there being any increase in the sanctioned strength of judges. As many as 53976 cases were disposed of by Supreme Court of India in the first 9 months of the current calendar year. However, institution of fresh cases increased from 39419 cases in the year 2001 to 69103 cases in the year 2007. 56396 cases were instituted in Supreme Court of India in first 9 months of the calendar year 2008. 1093598 cases were disposed of by High Courts in the year 2001. The disposal was increased to 1505073 cases in the year 2007 without commensurate increase in the number of Judges. But the Institution of cases in the High Courts increased from 1215426 cases in the year 2001 to 1590816 cases in the year 2007. The High Courts disposed of 716853 cases in the first half of this calendar year. This, however, was accompanied by institution of 805350 cases during this period.

Our subordinate courts disposed of 12494911 cases in the year 2001. They were able to increase the disposal to 14797506 cases in the year 2007, despite non-availability of required infrastructure and adequate increase in their strength. But, the institution increased from 13438170 cases in the year 2001 to 15099421 cases in the year 2007. In the first half of this year, our Subordinate Courts disposed of 7356171 cases. The fresh institution during this period was 7934948. The average disposal per judge in the year 2007, was 2538 cases in the High Courts and 1182 cases in Subordinate Courts.

Increase in the number of cases, on account of spread of legal literacy and better awareness of legal rights, is a welcome development and should not be a cause of concern. We, however, owe a duty to find suitable ways and means to cope with the increased load of work on the system. The need of the hour is to act swiftly and decisively, so as to retain the confidence of our people in the credibility and efficacy of our Justice Delivery System.

Litigation through courts and tribunals established by State is only one way of resolving the disputes. Litigation as a method of dispute resolution leads to win-lose situation, resulting in animosity between the parties, which is not congenial for a peaceful society. We, therefore, have to adopt Alternative Dispute Resolution Methods, which can bring about an amicable solution to the dispute, thereby satisfying both the parties and bringing an end to the ill-will that exists between them. I am happy to note that there is growing awareness of and recourse to alternative modes of dispute resolution such as arbitration, negotiation, mediation and conciliation. Mediation Centres have now been set up in all the States and a large number of cases are being settled by them, thereby reducing the load of cases on Justice Delivery System. Lok Adalats (People's Courts) are now being regularly organized to settle the cases pending in courts at all levels, including Supreme Court. We, however, need to train more mediators and conciliators and institutionalize the system of mediation and conciliation.

In a democratic system of governance, information is empowerment, since it promotes transparency, integrity and accountability. Free flow of information not only enlightens our people, it also enables them to form an informed opinion on the functioning and efficacy of our Public Institutions. In an important initiative aimed at keeping the citizens informed on the vital aspect of Judicial System, Supreme Court of India is publishing a quarterly newsletter 'Court News', which provides statistics on institution, pendency and disposal of cases at various levels and vacancies in Supreme Court, High Court and Subordinate Courts, besides giving gist of judgments of public importance delivered by Supreme Court and important developments relating to administration of justice, including systematic improvements made during the quarter. The Newsletter has been widely acclaimed not only by Judges, Advocates and Law Students, but also by the common man, who, for the first time, has authentic information available to him on the activities of the judiciary and its institution and is able to appreciate the handicaps being faced by us. I would welcome more initiatives aimed at providing regular flow of information to the public and bringing transparency in the functioning of judiciary and its institutions.

I take this opportunity to express my sincere gratitude to my brother judges, particularly those who have devoted considerable time in preparing this report at a rather short notice and acknowledge the tremendous work done by them. I also appreciate the efforts made by Supreme Court registry in timely publication of this report. I have no doubt that this Report, like the previous one will receive the unstinting support and encouragement of its readers, and continue to serve the purpose behind its publication.

**K.G. BALAKRISHNAN**  
Chief Justice of India

New Delhi, 3rd November, 2008

# 2

# Supreme Court Bench - A



FROM LEFT TO RIGHT :-

1ST ROW (SITTING) : HON. R.V. RAVEENDRAN, J., HON. TARUN CHATTERJEE, J., HON. S.B. SINHA, J., HON. ALTAMAS KABIR, J., HON. DALVEER BHANDARI, J.

2ND ROW : HON. P. SATHASIVAM, J., HON. V.S. SIRPURKAR, J., HON. MARKANDEY KATJU, J., HON. LOKEESH KUMAR, J., HON. G.S. SINGHVI, J.,

3RD ROW : HON. MUKUNDAKAM SHARMA, J., HON. AFTAB ALAM, J., HON. J.M. PANCHAL, J., HON. CYRIAC JOSEPH, J.







## **JUSTICE K.G.BALAKRISHNAN**

Chief Justice of India

Hon'ble Judge was born on 12-5-1945 in Kottayam District of Kerala State. Early education was in the local school. Graduated from Maharaja's College, Ernakulam, in 1965. Passed Bachelor of Law Degree examination in 1967.

Enrolled as an Advocate of the Kerala Bar Council on 16-3-1968. Meanwhile, also joined the LL.M Course and secured the LL.M. Degree in Contract and Mercantile Law from Kerala University. Practised both on Civil and Criminal sides in the High Court of Kerala at Ernakulam. Joined Kerala Judicial Service on 10-1-1973 and later resigned from the service and resumed practice as an Advocate in the Kerala High Court.

Appointed as Judge of the Kerala High Court on 26-09-1985. On 24-11-1997 transferred to Gujarat High Court and became the Chief Justice of the Gujarat High Court on 16-7-1998. In September, 1999, transferred to the High Court of Judicature at Madras and assumed charge as the Chief Justice of the Madras High Court on 9-9-1999. On 8-6-2000, elevated as Judge, Supreme Court of India.

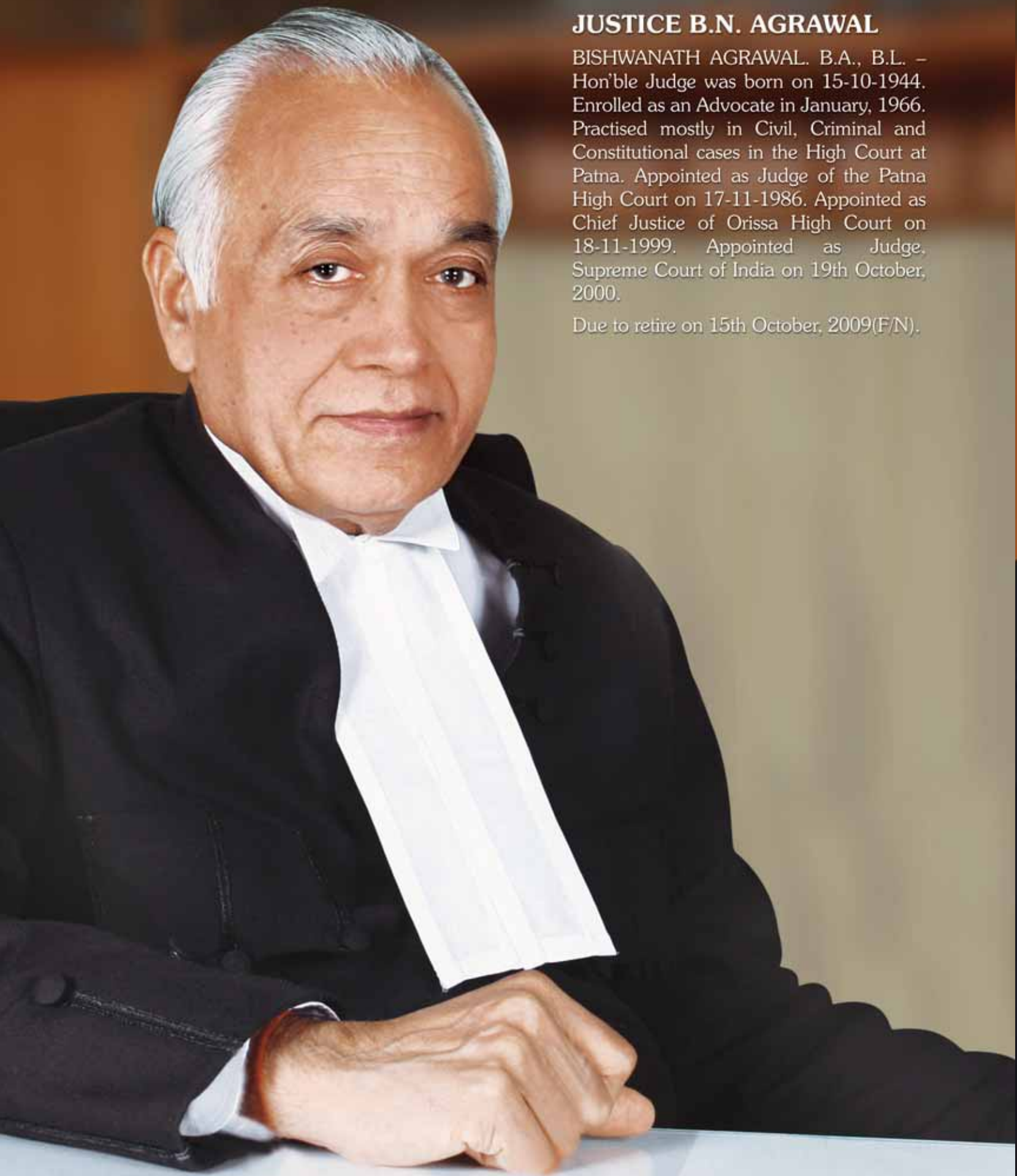
Appointed as Chief Justice of India on 14-1-2007.

Conferred the degree of Doctor of Laws (Honoris Causa) by (i) Kurukshetra University in May, 2007; (ii) Bangalore University in January 2008; and (iii) Kerala University in June 2008.

Has been Honorary Bencher at the Society of Lincoln's Inn, London, since July, 2007.

Due to retire on 12th May, 2010(F/N).



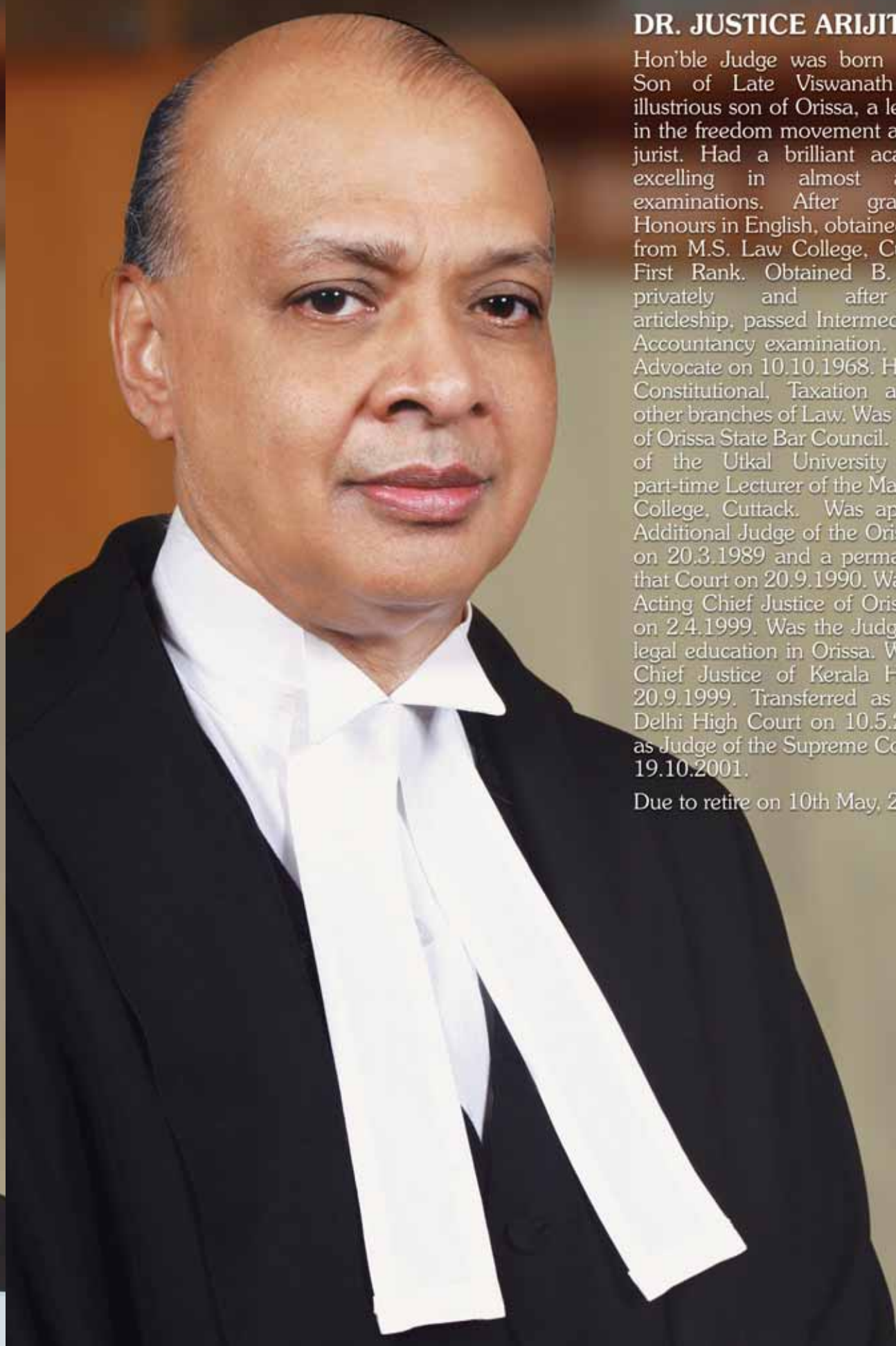


## **JUSTICE B.N. AGRAWAL**

BISHWANATH AGRAWAL. B.A., B.L. – Hon'ble Judge was born on 15-10-1944. Enrolled as an Advocate in January, 1966. Practised mostly in Civil, Criminal and Constitutional cases in the High Court at Patna. Appointed as Judge of the Patna High Court on 17-11-1986. Appointed as Chief Justice of Orissa High Court on 18-11-1999. Appointed as Judge, Supreme Court of India on 19th October, 2000.

Due to retire on 15th October, 2009(F/N).

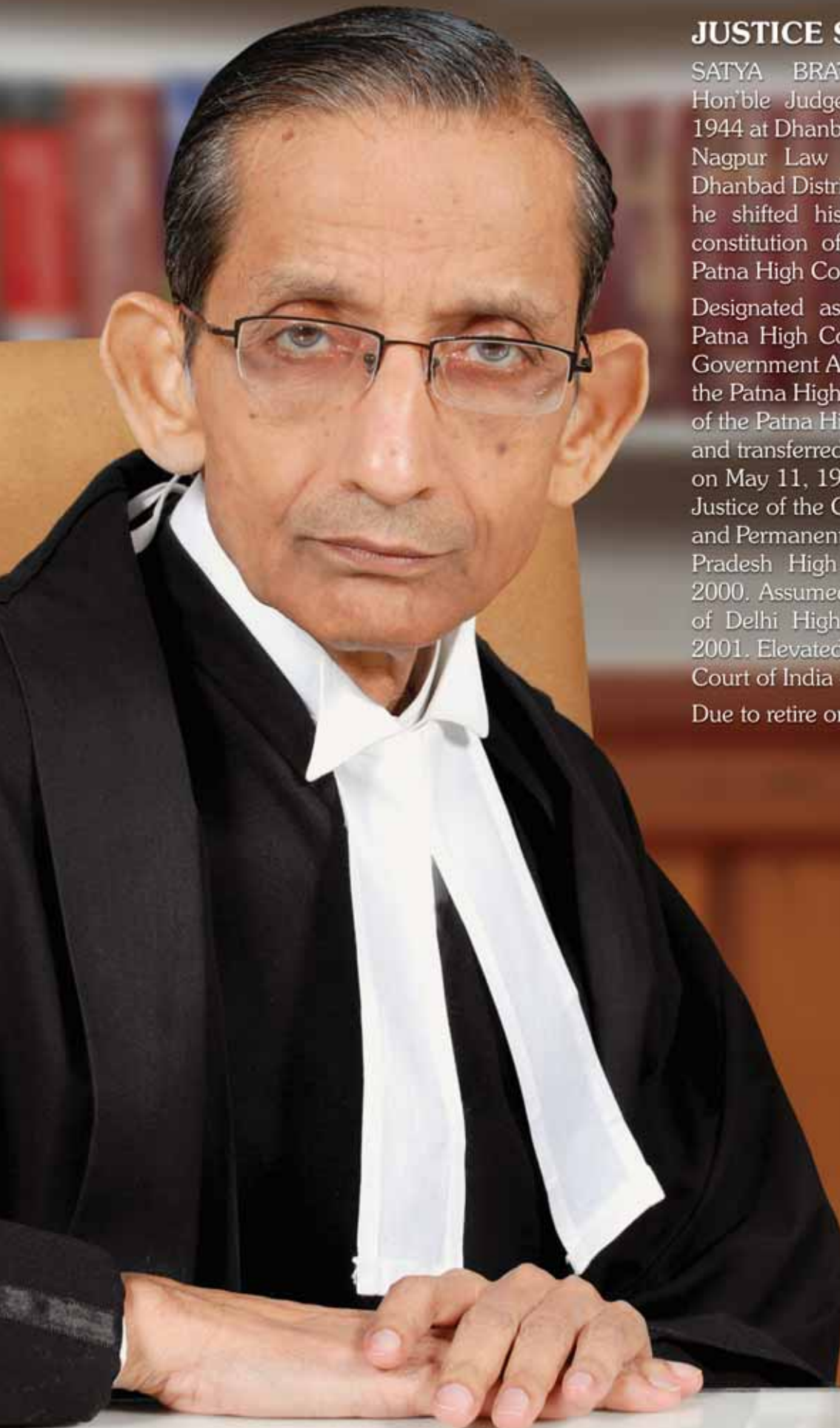




## **DR. JUSTICE ARIJIT PASAYAT**

Hon'ble Judge was born on 10.5.1944. Son of Late Viswanath Pasayat, an illustrious son of Orissa, a legendary figure in the freedom movement and an eminent jurist. Had a brilliant academic career, excelling in almost all academic examinations. After graduation with Honours in English, obtained LL.B. Degree from M.S. Law College, Cuttack securing First Rank. Obtained B. Com degree privately and after completing articleship, passed Intermediate Chartered Accountancy examination. Enrolled as an Advocate on 10.10.1968. Had practiced in Constitutional, Taxation and almost all other branches of Law. Was Vice-Chairman of Orissa State Bar Council. Was a member of the Utkal University Senate. Was part-time Lecturer of the Madhusudan Law College, Cuttack. Was appointed as an Additional Judge of the Orissa High Court on 20.3.1989 and a permanent Judge of that Court on 20.9.1990. Was appointed as Acting Chief Justice of Orissa High Court on 2.4.1999. Was the Judge in Charge of legal education in Orissa. Was elevated as Chief Justice of Kerala High Court on 20.9.1999. Transferred as Chief Justice, Delhi High Court on 10.5.2000. Elevated as Judge of the Supreme Court of India on 19.10.2001.

Due to retire on 10th May, 2009(F/N).



## **JUSTICE S.B. SINHA**

SATYA BRATA SINHA, B.Sc., B.L., - Hon'ble Judge was born on August 8, 1944 at Dhanbad. Did his B.L. from Chota Nagpur Law College in 1967. Joined Dhanbad District Court in 1968 whereafter he shifted his practice to Ranchi after constitution of the Permanent Bench of Patna High Court in 1976.

Designated as Senior Advocate by the Patna High Court. Appointed as the first Government Advocate of Ranchi Bench of the Patna High Court. Elevated as a Judge of the Patna High Court on March 9, 1987 and transferred to the Calcutta High Court on May 11, 1994. Appointed Acting Chief Justice of the Calcutta High Court in 1999 and Permanent Chief Justice of the Andhra Pradesh High Court on December 11, 2000. Assumed the office of Chief Justice of Delhi High Court on November 26, 2001. Elevated as a Judge of the Supreme Court of India on October 3, 2002.

Due to retire on 8th August, 2009(F/N).



## **JUSTICE S.H. KAPADIA**

Hon'ble Judge was born in Bombay on 29.9.1947.

Enrolled as an advocate at Bombay in 1974. Appeared in various Courts in Bombay and the High Court of Bombay in Constitutional matters, Taxation, Civil matters on Original side as well as on Appellate Side.

On 8.10.1991, elevated to the Bench of the Bombay High Court. Was appointed Chief Justice of Uttaranchal High Court at Nainital, on 5.8.2003. As Chief Justice, decided matters under U.P. Trade Tax, matters under Article 311 of the Constitution, PIL matters and matters under the Income Tax Act. On 18.12.2003, was appointed Judge of the Supreme Court of India at the age of 57.

Due to retire on 29th September, 2012(F/N).



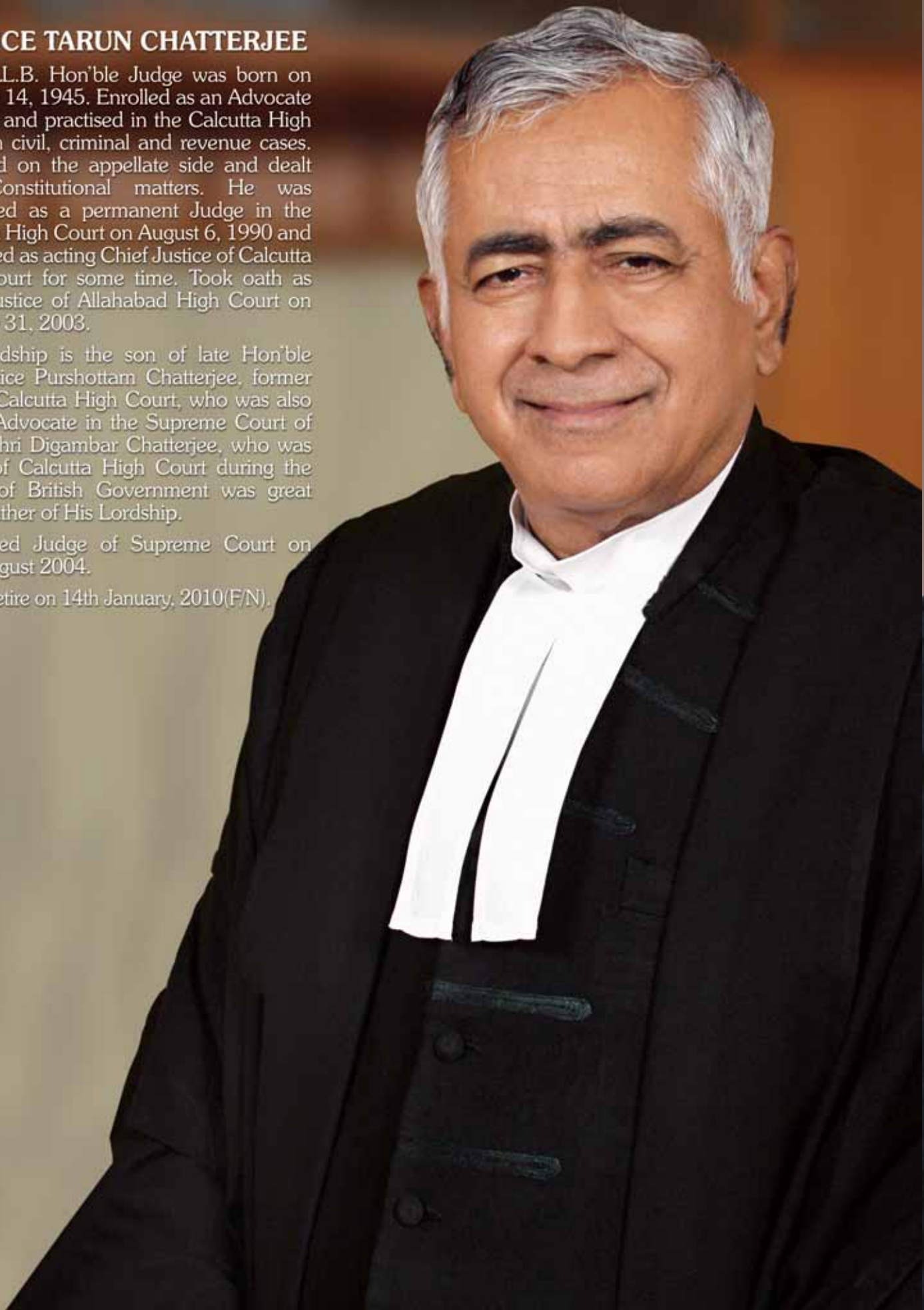
## **JUSTICE TARUN CHATTERJEE**

B.Sc., LL.B. Hon'ble Judge was born on January 14, 1945. Enrolled as an Advocate in 1970 and practised in the Calcutta High Court in civil, criminal and revenue cases. Practised on the appellate side and dealt with Constitutional matters. He was appointed as a permanent Judge in the Calcutta High Court on August 6, 1990 and also acted as acting Chief Justice of Calcutta High Court for some time. Took oath as Chief Justice of Allahabad High Court on January 31, 2003.

His Lordship is the son of late Hon'ble Mr. Justice Purshottam Chatterjee, former Judge, Calcutta High Court, who was also Senior Advocate in the Supreme Court of India. Shri Digambar Chatterjee, who was Judge of Calcutta High Court during the period of British Government was great grand father of His Lordship.

Appointed Judge of Supreme Court on 27th August 2004.

Due to retire on 14th January, 2010(F/N).







## **JUSTICE ALTAMAS KABIR**

Son of Late Jahangir Kabir, Hon'ble Judge was born on July 19, 1948 at Calcutta. Did his schooling from Calcutta Boys' School. Thereafter did B.A. with Honours in History from the Presidency College, Calcutta and completed both M.A. and LL.B from the University of Calcutta thereafter.

Enrolled at the Bar on August 1, 1973 and practised in both the District Courts and High Court in all matters.

Elevated as a permanent Judge of High Court at Calcutta on August 6, 1990. Assumed the office of Acting Chief Justice of High Court at Calcutta on January 11, 2005. Was responsible for the computerization of the High Court at Calcutta and the City Civil Court and other Courts in Calcutta. Elevated as a Chief Justice of the High Court of Jharkhand on 1.3.2005.

Elevated as a Judge of the Supreme Court of India on 9.9.2005.

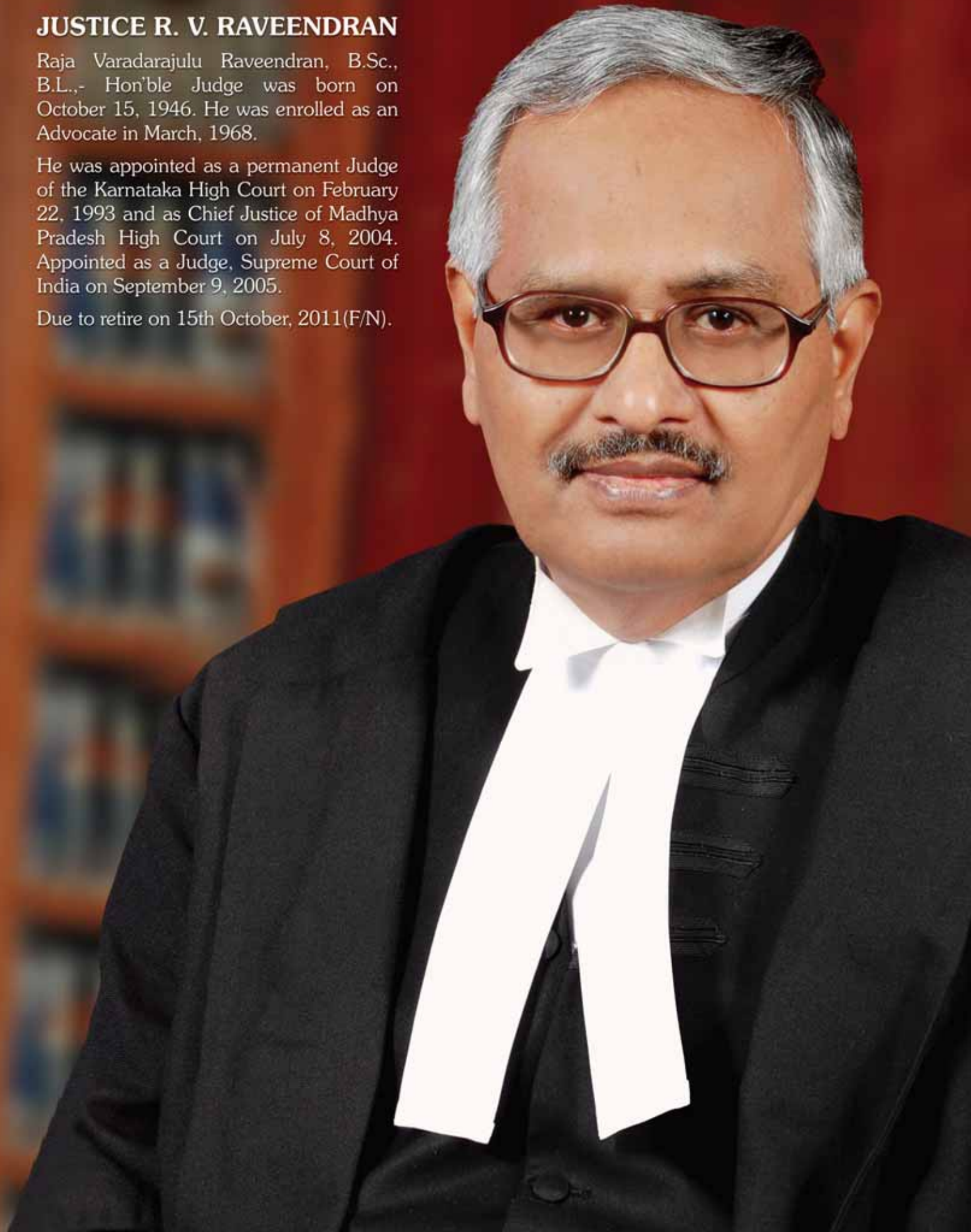
Due to retire on 19th July, 2013(F/N).

## **JUSTICE R. V. RAVEENDRAN**

Raja Varadarajulu Raveendran, B.Sc., B.L.,- Hon'ble Judge was born on October 15, 1946. He was enrolled as an Advocate in March, 1968.

He was appointed as a permanent Judge of the Karnataka High Court on February 22, 1993 and as Chief Justice of Madhya Pradesh High Court on July 8, 2004. Appointed as a Judge, Supreme Court of India on September 9, 2005.

Due to retire on 15th October, 2011(F/N).





## **JUSTICE DALVEER BHANDARI**

Born on 1st October, 1947.

After graduating in Humanities and Law, he did Master of Laws from the Northwestern University, Chicago, USA on an international scholarship. He also worked with the Northwestern Legal Assistance Clinic and appeared in Chicago Courts on behalf of the litigants of the said clinic.

On an International Fellowship, he visited Thailand, Malaysia, Indonesia, Singapore and Sri Lanka for observational-cum-lecture tour on Legal Aid and Clinical Legal Educational Programmes associated with the Law Courts and Law Schools.

He was a Key Note Speaker in an International Conference organized by the United Nations on "Intellectual Property" at Auckland (New Zealand).

He was appointed as the Chief Justice of Maharashtra and Goa on 25th July, 2004.

He was elevated as a Judge of the Supreme Court on 28.10.2005.

Due to retire on 1st October, 2012(F/N).

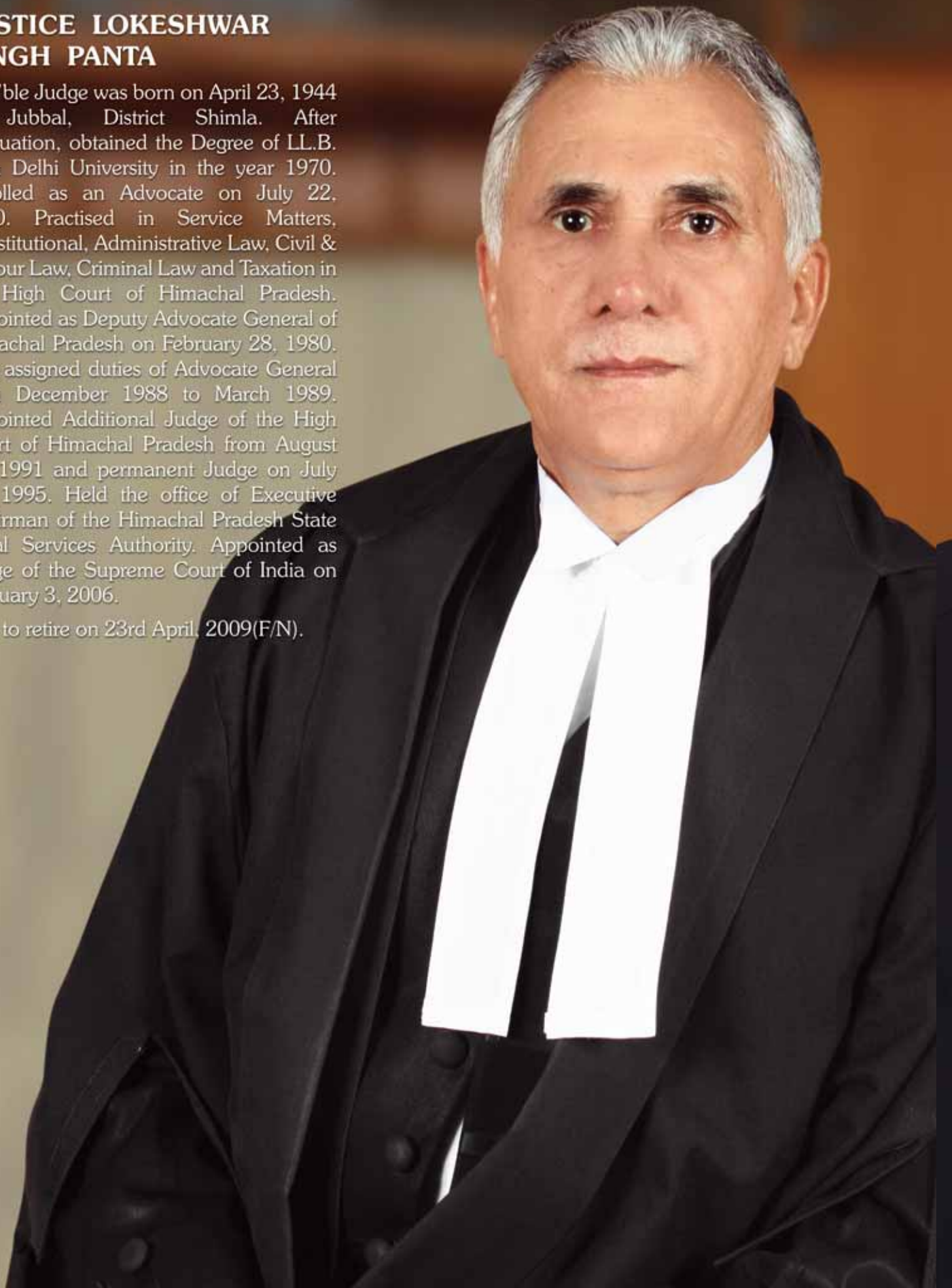


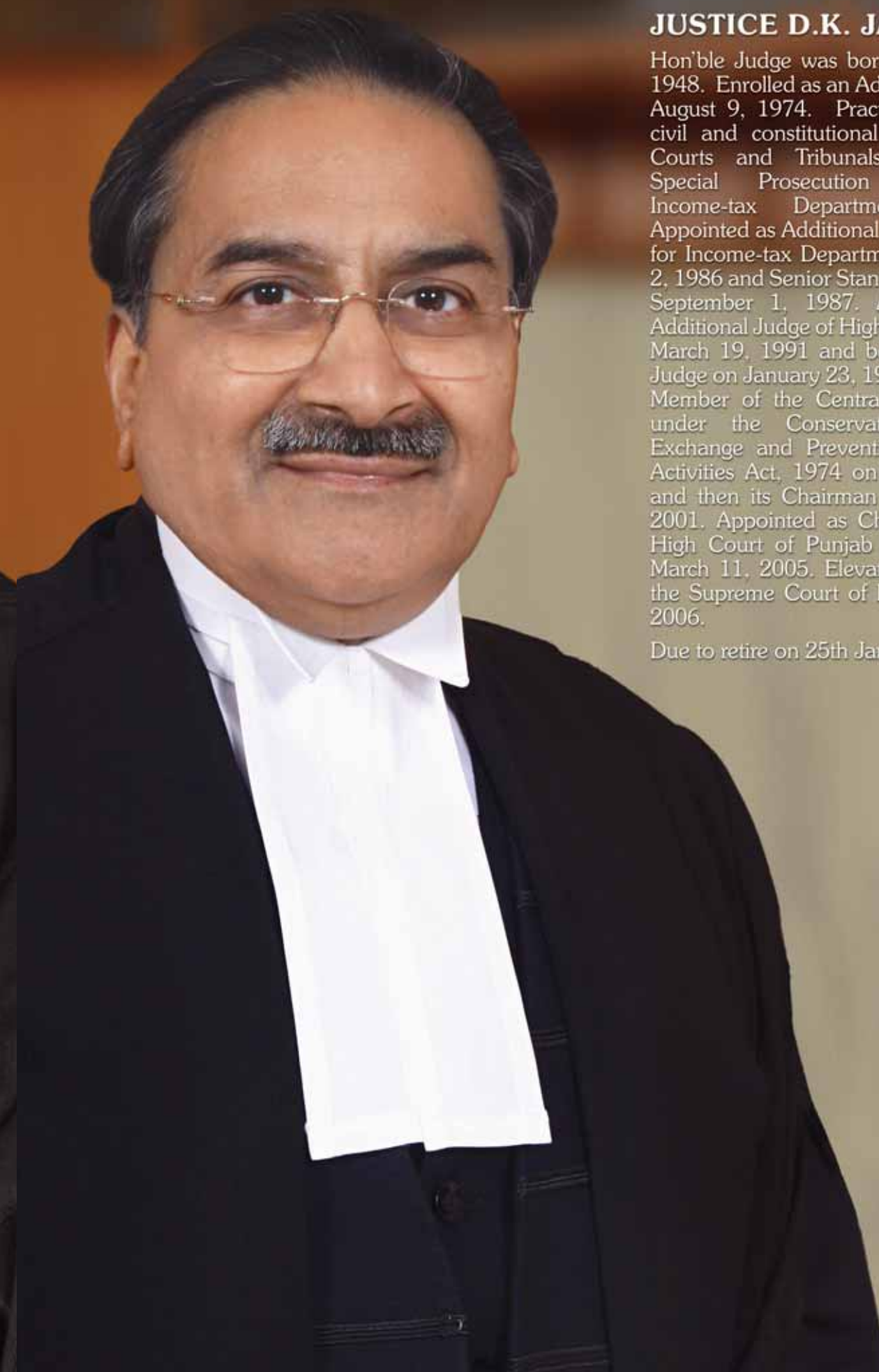


## **JUSTICE LOKESHWAR SINGH PANTA**

Hon'ble Judge was born on April 23, 1944 in Jubbal, District Shimla. After graduation, obtained the Degree of LL.B. from Delhi University in the year 1970. Enrolled as an Advocate on July 22, 1970. Practised in Service Matters, Constitutional, Administrative Law, Civil & Labour Law, Criminal Law and Taxation in the High Court of Himachal Pradesh. Appointed as Deputy Advocate General of Himachal Pradesh on February 28, 1980. Was assigned duties of Advocate General from December 1988 to March 1989. Appointed Additional Judge of the High Court of Himachal Pradesh from August 20, 1991 and permanent Judge on July 28, 1995. Held the office of Executive Chairman of the Himachal Pradesh State Legal Services Authority. Appointed as Judge of the Supreme Court of India on February 3, 2006.

Due to retire on 23rd April, 2009(F/N).





## **JUSTICE D.K. JAIN**

Hon'ble Judge was born on January 25, 1948. Enrolled as an Advocate at Delhi on August 9, 1974. Practiced on revenue, civil and constitutional sides in various Courts and Tribunals. Appointed as Special Prosecution Counsel for Income-tax Department in 1983. Appointed as Additional Standing Counsel for Income-tax Department from January 2, 1986 and Senior Standing Counsel from September 1, 1987. Appointed as an Additional Judge of High Court of Delhi on March 19, 1991 and became permanent Judge on January 23, 1992. Appointed as Member of the Central Advisory Board under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 on October 5, 1995 and then its Chairman on November 8, 2001. Appointed as Chief Justice of the High Court of Punjab and Haryana on March 11, 2005. Elevated as a Judge of the Supreme Court of India on April 10, 2006.

Due to retire on 25th January, 2013(F/N).



## **JUSTICE MARKANDEY KATJU**

Hon'ble Judge was born on 20-9-1946. Son of late Justice S.N. Katju, former Judge of Allahabad High Court, and the grandson of late Dr. K.N. Katju. Stood first in the merit list in LL.B from Allahabad University in 1967. Practiced law in the Allahabad High Court specializing in Labour Law, Taxation and Writ Petitions. Worked as Standing Counsel, Income Tax Department. Also served as a Member, International Association of Refugee Law Judges and attended various law related conferences. Elevated as Judge of Allahabad High Court in the year 1991. Appointed as Acting Chief Justice of Allahabad High Court in August 2004, Chief Justice of Madras High Court in November 2004, and Chief Justice of Delhi High Court in 2005. Elevated to Supreme Court on 10th April, 2006.

Keenly interested in academics, and has wide range of interests in Sanskrit, Urdu, History, Philosophy, Science, Sociology. Has written several books, such as 'Law in the Scientific Era', 'Interpretation of Taxing Statutes' and 'Domestic Enquiry'.

Due to retire on 20th September, 2011(F/N).







## **JUSTICE HARJIT SINGH BEDI**

M.A., LL.B. Hon'ble Judge was born on September 5, 1946. Did Senior Cambridge from Bishop Cotton School, Simla, B.A. and M.A. from Punjab University, Chandigarh and LL.B. from Delhi University in 1972.

Was enrolled as an Advocate with the Bar Council of Punjab & Haryana on July 17, 1972 and practiced in Criminal, Writ and Civil matters. He was elevated as an Additional Judge of the Punjab & Haryana High Court on March 15, 1991 and permanent Judge on July 8, 1992. He was appointed as the Chief Justice of the Bombay High Court on October 3, 2006.

Appointed as a Judge of Supreme Court of India on January 12, 2007.

Due to retire on September 5, 2011(F/N).

## **JUSTICE V.S. SIRPURKAR**

Hon'ble Judge was born on 22.8.1946.

Hailing from a Lawyers' family. Practised at Nagpur in the High Court on Constitutional, Civil and Criminal sides, from 1968.

Elevated as a Judge of Bombay High Court in 1992. Transferred to the Madras High Court in December, 1997. Also held the post of 'Executive Chairman' of the Tamil Nadu State Legal Services Authority. Was Chief Justice, High Court of Uttaranchal from 25th July, 2004 to 19th March, 2005 and Chief Justice of the High Court at Calcutta w.e.f. March 20, 2005.

Was Member, Governing Council of the Indian Law Institute, New Delhi, General Council of the National Law School of India University, Bangalore and National University of Juridical Sciences, Kolkata.

Elevated to Supreme Court of India w.e.f. 12.1.2007.

Due to retire on 22nd August, 2011 (F/N).





## **JUSTICE B. SUDERSHAN REDDY**

B.A., LL.B. Hon'ble Judge was born on July 8, 1946. He was enrolled as Advocate at Hyderabad with the Bar Council of Andhra Pradesh on December 27, 1971. Has practiced in Writ and Civil matters in the High Court of Andhra Pradesh. Worked as Government Pleader in the High Court during 1988-90. He also worked as Additional Standing Counsel for Central Government for a period of 6 months during 1990. Worked as Legal Adviser and Standing Counsel for Osmania University. He was appointed as a permanent Judge of the Andhra Pradesh High Court on May 2, 1995, and as Chief Justice of the Gauhati High Court on 05.12.2005. Appointed as a Judge of Supreme Court of India on 12.01.2007.

Due to retire on 8th July, 2011 (F/N)

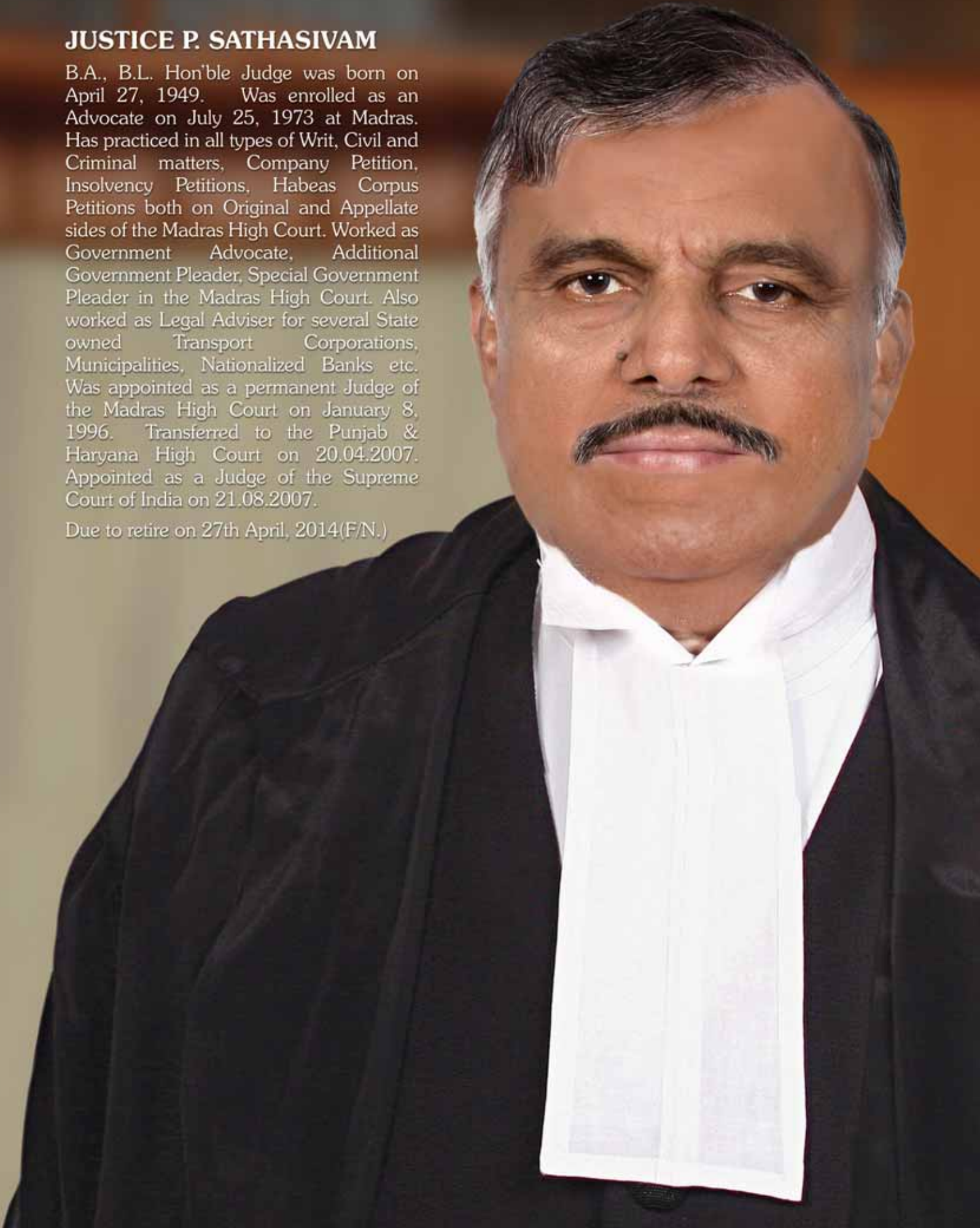




## **JUSTICE P. SATHASIVAM**

B.A., B.L. Hon'ble Judge was born on April 27, 1949. Was enrolled as an Advocate on July 25, 1973 at Madras. Has practiced in all types of Writ, Civil and Criminal matters, Company Petition, Insolvency Petitions, Habeas Corpus Petitions both on Original and Appellate sides of the Madras High Court. Worked as Government Advocate, Additional Government Pleader, Special Government Pleader in the Madras High Court. Also worked as Legal Adviser for several State owned Transport Corporations, Municipalities, Nationalized Banks etc. Was appointed as a permanent Judge of the Madras High Court on January 8, 1996. Transferred to the Punjab & Haryana High Court on 20.04.2007. Appointed as a Judge of the Supreme Court of India on 21.08.2007.

Due to retire on 27th April, 2014(F/N.)





## **JUSTICE G.S. SINGHVI**

Hon'ble Judge was born at Jodhpur on 12-12-1948 as son of Mr. M.M. Singhvi. Graduated in Science in the year 1968 from Jodhpur University. Passed LL.B. Examination in the year 1971 with Gold Medal from Rajasthan University.

Joined the legal profession on 28-07-1971. Practiced in Rajasthan High Court at Jodhpur till June, 1977. Shifted to Jaipur on creation of High Court Bench at Jaipur. Mainly practiced in Constitutional Law. Represented the State Government in special cases and almost all the Universities of Rajasthan, various public Corporations, educational institutions and local authorities before the High Court. Elevated to the Bench of Rajasthan High Court on 20-07-1990. Transferred to Punjab and Haryana High Court on 28-04-1994, and thereafter to the Gujarat High Court on 28-02-2005.

Sworn in as the Chief Justice, High Court of Andhra Pradesh on 27-11-2005.

Elevated to the Supreme Court and assumed Office on 12.11.2007.

Due to retire on 12th December, 2013 (F/N.)



## **JUSTICE AFTAB ALAM**

Hon'ble Judge was born in Patna on April 19th, 1948 where he completed his school and college education. Enrolled as an Advocate on 27.03.1973.

He practised in the Patna High Court mainly in labour, service and Constitutional law cases. Worked as Additional Central Government Standing Counsel in Patna High Court from September 7, 1981 to September 6, 1985. He was designated as Senior Advocate by the Patna High Court at a relatively young age, on February 1, 1984.

He was appointed as Judge of the Patna High Court on July 27, 1990. Was transferred to the Jammu & Kashmir High Court, where he was appointed as the Acting Chief Justice on 06.06.2007.

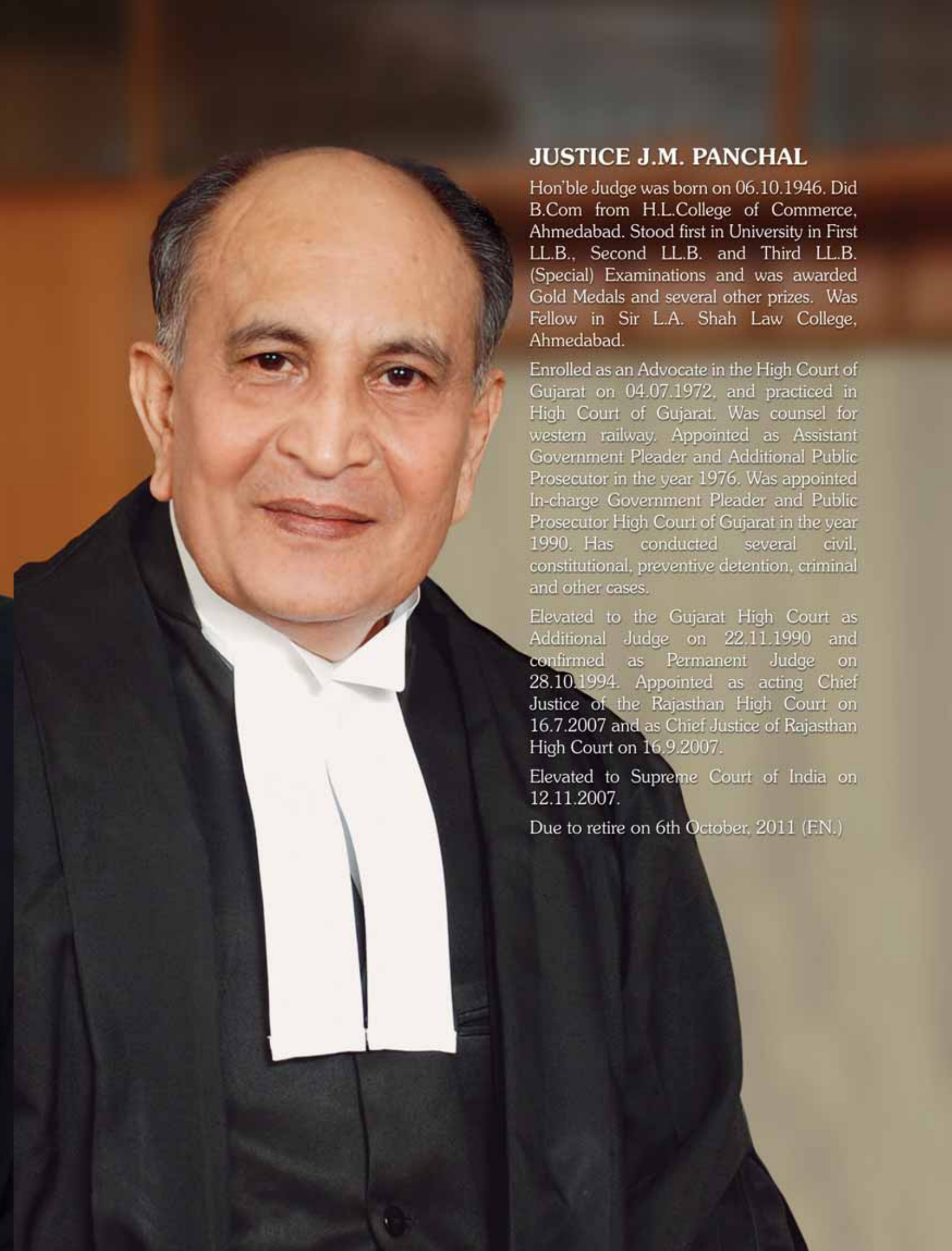
He was elevated to the Supreme Court and assumed Office on 12.11.2007.

Besides law, Justice Alam is deeply interested in classical Urdu and Persian poetry and studies in Sufism.

Due to retire on 19th April, 2013 (F/N.)







## **JUSTICE J.M. PANCHAL**

Hon'ble Judge was born on 06.10.1946. Did B.Com from H.L.College of Commerce, Ahmedabad. Stood first in University in First LL.B., Second LL.B. and Third LL.B. (Special) Examinations and was awarded Gold Medals and several other prizes. Was Fellow in Sir L.A. Shah Law College, Ahmedabad.

Enrolled as an Advocate in the High Court of Gujarat on 04.07.1972, and practiced in High Court of Gujarat. Was counsel for western railway. Appointed as Assistant Government Pleader and Additional Public Prosecutor in the year 1976. Was appointed In-charge Government Pleader and Public Prosecutor High Court of Gujarat in the year 1990. Has conducted several civil, constitutional, preventive detention, criminal and other cases.

Elevated to the Gujarat High Court as Additional Judge on 22.11.1990 and confirmed as Permanent Judge on 28.10.1994. Appointed as acting Chief Justice of the Rajasthan High Court on 16.7.2007 and as Chief Justice of Rajasthan High Court on 16.9.2007.

Elevated to Supreme Court of India on 12.11.2007.

Due to retire on 6th October, 2011 (FN.)



**DR. JUSTICE  
MUKUNDAKAM SHARMA**

Hon'ble Judge was born at Kolkata on 18.09.1946. Did his Pre University from Cotton College, Guwahati; B.A. from Ramjas College, Delhi; and M.A., LL.B. and Ph.D from Guwahati University. Enrolled as an Advocate on 16.6.1970 and practiced in Guwahati High Court in Constitutional, Service, Civil and Taxation matters.

Was designated as senior counsel on 01.01.1988. Was appointed as Advocate General for the State of Mizoram and thereafter for the State of Nagaland.

Appointed as permanent Judge of the Guwahati High Court with effect from 10.01.1994. Transferred to Patna High Court where joined on 14.02.1994. Transferred to Delhi High Court on 12.12.1994. Appointed as Acting Chief Justice of Delhi High Court with effect from 28.11.2006 and as Chief Justice with effect from 04.12.2006. Elevated as the Judge of the Supreme Court of India with effect from 09.04.2008.

Due to retire on 18th September, 2011(F/N).



A portrait of Justice Cyriac Joseph, a middle-aged man with a mustache, wearing a black judicial robe with a white collar. He is seated in a red chair, looking directly at the camera with a neutral expression. The background is a plain, light-colored wall.

## JUSTICE CYRIAC JOSEPH

B.Sc., B.L. Hon'ble Judge was born at Kaipuzha in Kottayam District of Kerala State on January 28, 1947.

Enrolled as an Advocate on October 12, 1968. Practised in the District Court at Kottayam and the High Court at Ernakulam. Worked as High Court Government Pleader from 1976 to 1979, Senior Government Pleader from 1979 to 1987 and Additional Advocate General, State of Kerala, from 1991 to 1994.

Appointed as a permanent Judge of the Kerala High Court w.e.f. July 6, 1994. Transferred to the Delhi High Court w.e.f. August 5, 1994. Transferred back to the Kerala High Court w.e.f. September 24, 2001. Appointed as Chief Justice of the High Court of Uttaranchal w.e.f. March 20, 2005, and Chief Justice of Karnataka High Court w.e.f. January 7, 2006. Appointed as Judge, Supreme Court w.e.f. July 7, 2008.

Due to retire on January 28, 2012(F/N).



# Hon'ble Judges who retired during the year 2007-2008\*

## ASHOK BHAN



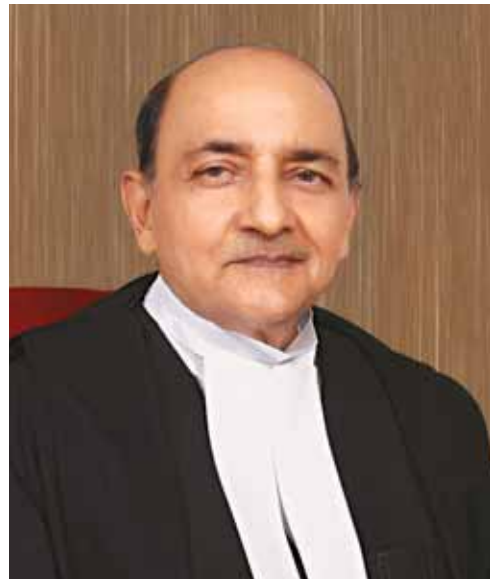
Date of Appointment – 17.08. 01  
Held office till-02.10.08

## H.K.SEMA



Date of Appointment - 09.04.02  
Held office till - 01.06.08

## G.P.MATHUR



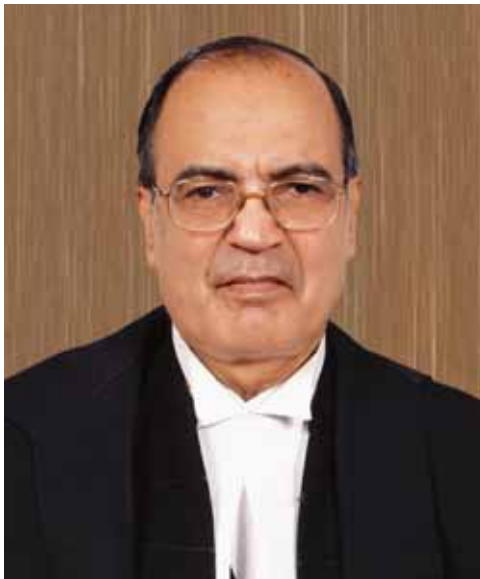
Date of appointment - 20.12.02  
Held office till - 19.01.08

## **A.K. MATHUR**



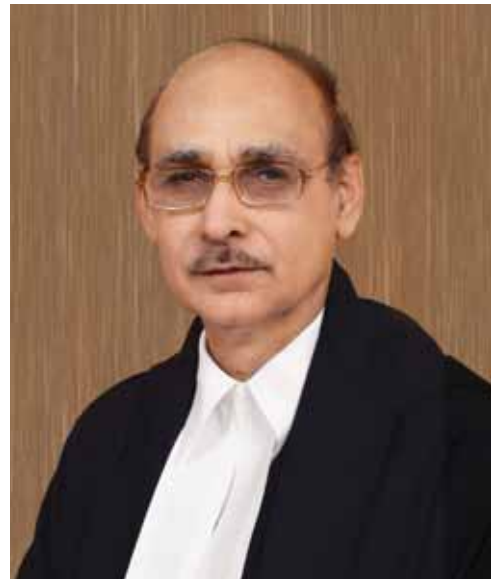
**Date of Appointment – 07.06.04  
Held office till-07.08.08**

## **C.K. THAKKER**



**Date of Appointment - 07.06.04  
Held office till - 10.11.08**

## **P.P. NAOLEKAR**



**Date of appointment - 27.08.04  
Held office till - 29.06.08**

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\* (Period of Report is from 26-11-2007 till 25-11-2008)



**Supreme Court Building - From two angles**





## 2.

# AN OVERVIEW

### The History

1. The present judicial system in India traces its beginnings to 1726 when King George-I issued Charter introducing important changes in the judicial administration of the Presidency Towns of Bombay, Calcutta and Madras along with system of appeals from India to Privy Council in England. The Regulating Act of 1773 promulgated by the King of England subjected East India Company to the control of British government paving the way for issuance of Letters Patent on March 26, 1774 to establish the Supreme Court of Judicature at Calcutta, as a Court of record, with full power & authority to hear and determine all complaints for any crimes and also to entertain, hear and determine, any suits or actions against any of 'His Majesty's subjects' in Bengal, Bihar and Orissa. Two more Supreme Courts, on the same lines, were later established at Madras and Bombay by King George-III through Charters issued on 26th December 1800 and on 8th December 1823 respectively. British Parliament, through an Act of 1833, made the Judicial Committee of Privy Council a Statutory Permanent Committee of legal experts to hear appeals from the British Colonies, transforming it into a great Imperial Court of unimpeachable authority.
2. Indian High Courts Act, 1861 was an event of unique importance and precursor of the modern era of law & justice in India. The Act re-organized the then prevalent judicial system by abolishing the Supreme Courts at Calcutta, Madras and Bombay and also the then existing Sadar Adalats in the Presidency Towns. The High Courts established thereunder (in 1862) were vested with Civil, Criminal, admiralty, Testamentary, Matrimonial besides Original & Appellate Jurisdiction. These High Courts had the distinction of being the highest Courts for all cases till the creation of Federal Court of India under the Government of India Act, 1935.
3. Reforms of great import came with the Government of India Act, 1935, which introduced responsibility at the provincial level and aimed at union of British Indian Provinces with the rulers of States into a federation. With a view to ensure a just and competent administration of law between governments themselves, the Act provided for the establishment of the Federal Court. Appeals from the High Courts and the Federal Court lay in Privy Council in England. The Federal Court was the second highest Court in the judicial hierarchy in India for matters involving the interpretation of any provision of the Act. This position continued till the abolition of jurisdiction of Privy Council in 1949.
4. In Indian context, Federal Court was the first Constitutional Court and also the first Court of extensive



*The Hon'ble Judges of the Federal Court who sat on its inaugural sitting on December 6, 1937*

jurisdiction with Original jurisdiction in matters involving dispute between provinces or federal States. It would function as the Appellate Court against the judgments, decrees or final orders of the High Courts. The doctrine of precedent in India was strengthened as, just like Privy Council, the law declared by Federal Court was also given binding effect on all the Courts in British India. The Federal Court functioned from the "Chamber of Princes" in Parliament building in New Delhi.

5. With the transfer of power on 15th August 1947 from the British Parliament to the people of India, the need to establish a judicial system free from British control was addressed gradually. Federal Court (Enlargement of Jurisdiction Act), 1947 enhanced the sweep of powers & jurisdiction of Federal Court and then the Abolition of Privy Council Jurisdiction Act, 1949, elevated it as the highest judicial organ in India, supreme in its authority and jurisdiction.
6. "We, the people" of independent India, through Constituent Assembly, enforced on 26th January 1950 own Constitution providing, inter alia, for replacing the Federal Court by establishing Supreme Court of India as the court at the apex of judicial hierarchy in the land. When the Federal Court ceased to exist, its judges became judges of the Supreme Court of India, carrying with them a tradition of jurisdiction,

independence and courage. The Federal Court thus has the pride of place in Indian legal history as the fore-runner of the Supreme Court of India. Supreme Court also had its sitting in the Chamber of Princes in Parliament Building upto 1958, when it was shifted to the present building of the Court.

### **The Supreme Court of India - At present**

7. The Supreme Court, conceived as the "guardian of social revolution" (so described in the proceedings of the Constituent Assembly), with its seat at Delhi, is the repository of all judicial powers at the national level, it being at the summit of the pyramid of administration of justice and as the upholder & final interpreter of the Constitution of India as indeed in its role of defender of the fundamentals of the 'rule of law'.
8. Chapter IV of the Constitution of India makes provision for "Union Judiciary". Article 124 deals with establishment and constitution of the Supreme Court, inter alia, prescribing its composition, qualifications for and making of appointment as a Judge thereof, and removal of a Judge from Office etc. Article 125 deals with salaries etc. of Hon'ble Judges. There is provision for appointment of ad hoc Judges, and attendance of retired Judges at sittings, under Article 128. It is a Court of Record (per Article 129) and has all the powers of such Court including the power to punish for contempt.
9. Since its inception, it has been conferred with a jurisdiction far greater than that of any comparable court anywhere in the world. With its extensive powers under Articles 33 & 129 to 145 of the Constitution, the Supreme Court stands out as the forum for redressal of grievances and as the guardian of liberties, rights and as the final arbiter in most of disputes



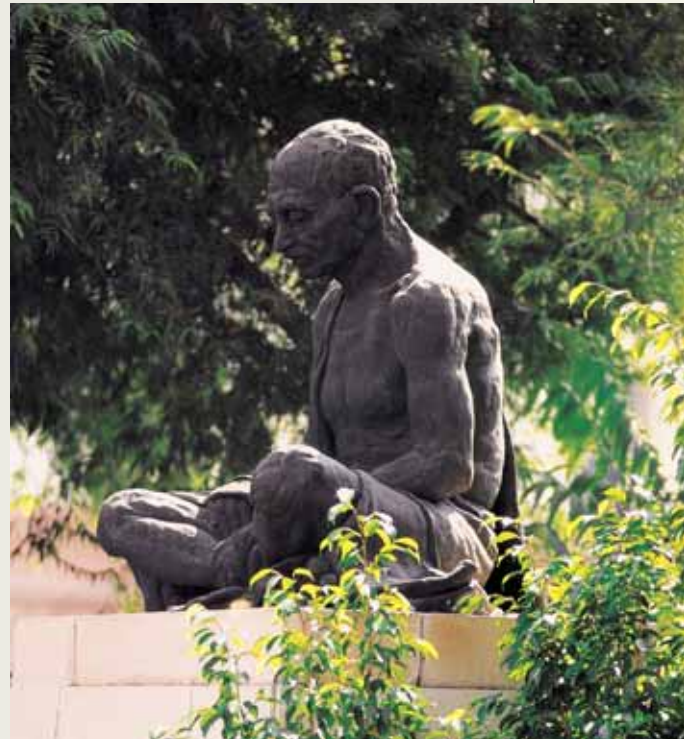
not only between individuals, but also between States or between the Union and State or between individual and State. As an appellate court, it can hear appeals from the High Courts on civil, criminal and constitutional matters. It possesses a special appellate power to permit appeal from any Tribunal, Court or High Court. In the years that have followed after its establishment, this special jurisdiction has dwarfed all others. The Court can review its own judgments. In its advisory capacity, it answers references by the President of India on any questions of law or fact of public importance, which may have arisen or be likely to arise.

10. The Supreme Court is designated as the custodian of fundamental rights and “rule of law”. Article 144 commands all authorities, civil and judicial, to act in aid of the Supreme Court. Interwoven into these powers is the power of judicial review, the power to strike down such legislation or executive action as may be violative of the provisions or scheme of the Constitution (e.g. the distribution of power between Union and States), or inimical to the fundamental rights guaranteed by the Constitution. The Court has the authority to pass any decree and order as is necessary for doing “complete justice”. The law declared by the Supreme Court is binding (per Article 141) on all Courts within the territory of India.

### Court Building

11. The Supreme Court of India which was functioning since 26th January, 1950 from the Chamber of Princes, in Parliament House, shifted to the present building on 4th August, 1958. The building is shaped to project the image of scales of justice. The central wing of the building appears like the central beam of the scales and consists of five Court Rooms with the Chief Justice’s Court at the

centre. The Chief Justice’s Court is the largest of the Courts with a floor area of 3,000 sq.ft. The Bar Room, the offices of Law Officers and the Library of the Court are housed in the left wing of the building, while the right wing accommodates the offices of the Court.



*The statue of Mahatma Gandhi which graces the front lawn of the Supreme Court building*

12. In the year 1979, two new wings, the east and the west wing, were added to the complex. Both consist of two Court Rooms each. The Court Rooms are centrally air-conditioned, are carpeted and the sidewalls are panelled in timber. The ceilings of Court Rooms are treated acoustically, to avoid resonance. The exterior of the building is dressed in red sand stone, in keeping with the architecture of important buildings in the capital city of Delhi. Along the main corridors of the building, stand imposing columns in Grecian architecture. There is a happy blending of the Indian and the Grecian architectures in the construction of the building.
13. In the year 1994, second extension of the building was made connecting the east wing and the west wing of the first extension. The ground floor

has office rooms. There are ten Court Rooms and Judges' Assembly Hall/Common Room on the first floor. The Second floor of the block has four chambers for the Hon'ble Judges and one Conference Hall for Officers. The third floor of the block has office rooms, Judges' library and Advocates' Library (R.K. Garg Memorial).

14. A mural of coloured porcelain tiles adorns the passage between the Chief Justice's Court and the Chief Justice's Chamber. In the centre of the mural is the "Dharma Chakra" with an inscription in Sanskrit, which in English means "Truth alone, I uphold". On one side of the "Dharma Chakra" is the Goddess of Justice with scales of Justice in her hand while on the other side is the life size figure of Mahatma Gandhi, the apostle of truth and non-violence.



*Statue of Mother India sheltering Republic of India as a child upholding laws of the land*

15. On the main lawns in the front of the complex is a sculpture, which represents Mother India in the form of a lady. The lady is sheltering the young Republic of India represented symbolically by figure of a child, who is upholding the laws of land symbolically shown in the form of an open book. On the Book the balance is shown which represents dispensation of equal justice to all. The sculpture was made by renowned artist, Shri Chintamani Kar.

### **Lawyers' Chambers**

16. Originally, 43 Lawyers' Chambers were constructed in the year 1959.

35 more chambers were constructed in the second block of Lawyers' Chambers in the year 1963. To meet the needs of the members of the Bar, a third block was constructed in the year 1972, and a fourth block in the year 1978. In addition to the above, four Lawyers Chamber Blocks in the Supreme Court premises and one Lawyers Chambers Building renamed as "M.C. Setalvad Lawyers' Chambers" at Bhagwan Das Road were constructed in the year 1998 which comprises 149 chambers. In 2005 a four-storied Lawyers Chambers' Building renamed as "C.K. Daphtary Lawyers' Chambers" was constructed at Tilak Lane which has 72 chambers.

### **Supreme Court Museum**

17. It is located within the Supreme Court Compound and is of round shape with one pillar in the centre, like an umbrella. It has a covered area of approximately 5000 sq.ft. on the ground floor and basement floor. The Museum is divided into two sections. The first section deals with the evolution and development of Judiciary in India and the second portrays the Federal Court and the Supreme Court.
18. The Museum exhibits all the objects relating to Judicial system in various historical period of time which includes Manuscripts, Copper Plates, Maces, Photographs of Hon'ble the Chief Justices and Hon'ble Judges of Federal Court and the Supreme Court and landmark Judgments. Besides, the diorama of Chief Justice's Court is also depicted. Documentary films "Supreme Court of India" and "Evolution of Judicial system in India" are screened in the Museum for the general visitors.
19. The Hon'ble Judges of the Supreme Court, who are members of the Museum Committee, have decided to hold a series of exhibitions on pre-independence trial in the





Hon'ble the Chief Justice of India, releasing a booklet on Bhagat Singh at the inauguration of Exhibition on "Trial of Bhagat Singh"

Supreme Court Museum. It was felt that such exhibitions would create awareness about famous trials of pre-independence era particularly those associated with India's struggle for independence. "Alipore Bomb Conspiracy Case" was the first in the series, followed by another exhibition on the "Trial of Bhagat Singh" inaugurated 27th September, 2008. The exhibition traces the history of the incident of protest movement against Simon Commission in Lahore in 1928 during which British Police Officer, J.P. Saunders was killed, throwing bombs in the Central Legislative Assembly, Delhi and arrest of various freedom fighters in

connection with Lahore Conspiracy Case and other related cases. The Bhagat Singh's trial is an important event in the Indian history.

20. Bomb shells, a pair of shoes, shirt and watch of Bhagat Singh, crown of Ajit Singh, horoscope of Bhagat Singh, pen used by the Judge to write judgement in the Saunders murder case, documents connected with Bhagat Singh and Lala Lajpat Rai, files of Assembly Bomb Case and Lahore Conspiracy Case, jail diary of Bhagat Singh, judgment files of Assembly Bomb Case and Lahore Conspiracy Case, jail register of Assembly Bomb Case, FIR of Assembly Bomb and Saunders Murder incidents, contemporary reporting of Tribune newspaper from Lahore are some of the objects exhibited. They are collected from the various sources like Shaheed-e-Azam Bhagat Singh Museum, Punjab Police Academy Museum, Punjab and Haryana High Court Museum, National Portrait Gallery, National Archives of India and Delhi State Archives.



Some of the Newspaper reports relating to the trial of Bhagat Singh



**RETIRED HON'BLE CHIEF JUSTICES (ARRANGED ACCORDING TO SENIORITY) AT THE TIME OF PUBLICATION**

S. NO.	NAME	DATE OF APPOINTMENT	DATE OF APPOINTMENT AS C.J.I.	HELD OFFICE TILL
1.	Hon'ble Mr. Justice Harilal Jekisundas Kania	26/01/1950	26/01/1950	06/11/1951*
2.	Hon'ble Mr. Justice M. Patanjali Sastri	26/01/1950	07/11/1951	03/01/1954
3.	Hon'ble Mr. Justice Mehr Chand Mahajan	26/01/1950	04/01/1954	22/12/1954
4.	Hon'ble Mr. Justice Bijan Kumar Mukherjea	26/01/1950	23/12/1954	31/01/1956**
5.	Hon'ble Mr. Justice Sudhi Ranjan Das	26/01/1950	01/02/1956	30/09/1959
6.	Hon'ble Mr. Justice Bhuvneshwar Prasad Sinha	03/12/1954	01/10/1959	31/01/1964
7.	Hon'ble Mr. Justice P.B. Gajendragadkar	17/01/1957	01/02/1964	15/03/1966
8.	Hon'ble Mr. Justice A.K. Sarkar	04/03/1957	16/03/1966	29/06/1966
9.	Hon'ble Mr. Justice K. Subba Rao	31/01/1958	30/06/1966	11/04/1967**
10.	Hon'ble Mr. Justice K.N. Wanchoo	11/08/1958	12/04/1967	24/02/1968
11.	Hon'ble Mr. Justice M. Hidayatullah	01/12/1958	25/02/1968	16/12/1970
12.	Hon'ble Mr. Justice J.C. Shah	12/10/1959	17/12/1970	21/01/1971
13.	Hon'ble Mr. Justice S.M. Sikri	03/02/1964	22/01/1971	25/04/1973
14.	Hon'ble Mr. Justice A.N. Ray	01/08/1969	26/04/1973	28/01/1977
15.	Hon'ble Mr. Justice M. Hameedullah Beg	10/12/1971	29/01/1977	21/02/1978
16.	Hon'ble Mr. Justice Y.V. Chandrachud	28/08/1972	22/02/1978	11/07/1985
17.	Hon'ble Mr. Justice P.N. Bhagwati	17/07/1973	12/07/1985	20/12/1986
18.	Hon'ble Mr. Justice R.S. Pathak	20/02/1978	21/12/1986	18/06/1989**
19.	Hon'ble Mr. Justice E.S. Venkatarameiah	08/03/1979	19/06/1989	17/12/1989
20.	Hon'ble Mr. Justice Sabyasachi Mukherjee	15/03/1983	18/12/1989	25/09/1990*
21.	Hon'ble Mr. Justice Ranganath Misra	15/03/1983	25/09/1990	24/11/1991
22.	Hon'ble Mr. Justice K.N. Singh	10/03/1986	25/11/1991	12/12/1991
23.	Hon'ble Mr. Justice M.H. Kania	01/05/1987	13/12/1991	17/11/1992
24.	Hon'ble Mr. Justice L.M. Sharma	05/10/1987	18/11/1992	11/02/1993
25.	Hon'ble Mr. Justice M.N. Venkatachaliah	05/10/1987	12/02/1993	24/10/1994
26.	Hon'ble Mr. Justice A.M. Ahmadi	14/12/1988	25/10/1994	24/03/1997
27.	Hon'ble Mr. Justice J.S. Verma	03/06/1989	25/03/1997	17/01/1998
28.	Hon'ble Mr. Justice M.M. Punchhi	06/10/1989	18/01/1998	09/10/1998
29.	Hon'ble Dr. Justice A.S. Anand	18/11/1991	10/10/1998	31/10/2001
30.	Hon'ble Mr. Justice S.P. Bharucha	01/07/1992	01/11/2001	05/05/2002
31.	Hon'ble Mr. Justice B.N. Kirpal	11/09/1995	06/05/2002	07/11/2002
32.	Hon'ble Mr. Justice G.B. Pattanaik	11/09/1995	08/11/2002	18/12/2002
33.	Hon'ble Mr. Justice V.N. Khare	21/03/1997	19/12/2002	01/05/2004
34.	Hon'ble Mr. Justice S. Rajendra Babu	25/09/1997	02/05/2004	31/05/2004
35.	Hon'ble Mr. Justice R.C. Lahoti	09/12/1998	01/06/2004	31/10/2005
36.	Hon'ble Mr. Justice Y.K. Sabharwal	28/01/2000	01/11/2005	13/01/2007

S. NO.	NAME OF THE HON'BLE JUDGE	DATE OF APPOINTMENT	HELD OFFICE TILL
1.	Hon'ble Mr. Justice Sir Saiyid Fazl Ali	26/01/1950	18/09/1951
2.	Hon'ble Mr. Justice N. Chandrasekhara Aiyar	23/09/1950	24/01/1953
3.	Hon'ble Mr. Justice Vivian Bose	05/03/1951	08/06/1956
4.	Hon'ble Mr. Justice Ghulam Hasan	08/09/1952	05/11/1954*
5.	Hon'ble Mr. Justice Natwarlal Harilal Bhagwati	08/09/1952	06/06/1959
6.	Hon'ble Mr. Justice B. Jagannadhadas	09/03/1953	26/07/1958
7.	Hon'ble Mr. Justice T.L. Venkatarama Aiyar	04/01/1954	24/11/1958
8.	Hon'ble Mr. Justice Syed Jaffer Imam	10/01/1955	31/01/1964**
9.	Hon'ble Mr. Justice S.K. Das	30/04/1956	02/09/1963
10.	Hon'ble Mr. Justice P. Govinda Menon	01/09/1956	16/10/1957*
11.	Hon'ble Mr. Justice J.L. Kapur	14/01/1957	12/12/1962
12.	Hon'ble Mr. Justice K.C. Das Gupta	24/08/1959	02/01/1965
13.	Hon'ble Mr. Justice Raghubar Dayal	27/07/1960	25/10/1965
14.	Hon'ble Mr. Justice N. Rajagopala Ayyangar	27/07/1960	14/12/1964
15.	Hon'ble Mr. Justice J.R. Madholkar	03/10/1960	03/07/1966**
16.	Hon'ble Mr. Justice R.S. Bachawat	07/09/1964	31/07/1969
17.	Hon'ble Mr. Justice V. Ramaswami	04/01/1965	29/10/1969
18.	Hon'ble Mr. Justice P. Satyanarayana Raju	20/10/1965	20/04/1966*
19.	Hon'ble Mr. Justice J.M. Shelat	24/02/1966	30/04/1973**
20.	Hon'ble Mr. Justice Vishishtha Bhargava	08/08/1966	04/02/1971
21.	Hon'ble Mr. Justice G.K. Mitter	29/08/1966	23/09/1971
22.	Hon'ble Mr. Justice C.A. Vaidyalingam	10/10/1966	29/06/1972
23.	Hon'ble Mr. Justice K.S. Hegde	17/07/1967	30/04/1973**
24.	Hon'ble Mr. Justice A.N. Grover	11/02/1968	31/05/1973**
25.	Hon'ble Mr. Justice P. Jaganmohan Reddy	01/08/1969	22/01/1975
26.	Hon'ble Mr. Justice I.D. Dua	01/08/1969	03/10/1972
27.	Hon'ble Mr. Justice Subimal Chandra Roy	19/07/1971	12/11/1971*
28.	Hon'ble Mr. Justice D.G. Palekar	19/07/1971	03/09/1974
29.	Hon'ble Mr. Justice Hans Raj Khanna	22/09/1971	11/03/1977**
30.	Hon'ble Mr. Justice Kuttibil Kurien Mathew	04/10/1971	02/01/1976
31.	Hon'ble Mr. Justice S.N. Dwivedi	14/08/1972	08/12/1974*
32.	Hon'ble Mr. Justice A.K. Mukherjea	14/08/1972	23/10/1973*
33.	Hon'ble Mr. Justice A. Alagiriswami	17/10/1972	16/10/1975
34.	Hon'ble Mr. Justice V.R. Krishna Iyer	17/07/1973	14/11/1980

35.	Hon'ble Mr. Justice P.K. Goswami	10/09/1973	31/12/1977
36.	Hon'ble Mr. Justice R.S. Sarkaria	17/09/1973	15/01/1981
37.	Hon'ble Mr. Justice A.C. Gupta	02/09/1974	31/12/1981
38.	Hon'ble Mr. Justice N.L. Untwalia	03/10/1974	31/07/1980
39.	Hon'ble Mr. Justice S. Murtaza Fazal Ali	02/04/1975	20/08/1985*
40.	Hon'ble Mr. Justice P.N. Shingal	06/11/1975	14/10/1980
41.	Hon'ble Mr. Justice Jaswant Singh	23/01/1976	24/01/1979
42.	Hon'ble Mr. Justice P.S. Kailasam	03/01/1977	11/09/1980
43.	Hon'ble Mr. Justice V.D. Tulzapurkar	30/09/1977	08/03/1986
44.	Hon'ble Mr. Justice D.A. Desai	30/09/1977	08/05/1985
45.	Hon'ble Mr. Justice A.D. Koshal	17/07/1978	06/03/1982
46.	Hon'ble Mr. Justice O. Chinnappa Reddy	17/07/1978	24/09/1987
47.	Hon'ble Mr. Justice A.P. Sen	17/07/1978	19/09/1988
48.	Hon'ble Mr. Justice Baharul Islam	04/12/1980	12/01/1983**
49.	Hon'ble Mr. Justice A. Varadarajan	10/12/1980	16/08/1985
50.	Hon'ble Mr. Justice Amarendra Nath Sen	28/01/1981	30/09/1985
51.	Hon'ble Mr. Justice V. Balakrishna Eradi	30/01/1981	18/06/1987
52.	Hon'ble Mr. Justice R.B. Misra	30/01/1981	14/06/1986
53.	Hon'ble Mr. Justice D.P. Madon	15/03/1983	06/04/1986
54.	Hon'ble Mr. Justice M.P. Thakkar	15/03/1983	03/11/1988
55.	Hon'ble Mr. Justice V. Khalid	25/06/1984	30/06/1987
56.	Hon'ble Mr. Justice G.L. Oza	29/10/1985	11/12/1989
57.	Hon'ble Mr. Justice B.C. Ray	29/10/1985	31/10/1991
58.	Hon'ble Mr. Justice M.M. Dutt	10/03/1986	29/10/1989
59.	Hon'ble Mr. Justice S. Natarajan	10/03/1986	28/10/1989
60.	Hon'ble Mr. Justice K. Jagannatha Shetty	01/05/1987	14/12/1991
61.	Hon'ble Mr. Justice S. Ranganathan	05/10/1987	30/10/1992
62.	Hon'ble Mr. Justice D.N. Ojha	18/01/1988	18/01/1991
63.	Hon'ble Mr. Justice S. Ratnavel Pandian	14/12/1988	12/03/1994
64.	Hon'ble Dr. Justice T.K. Thommen	14/12/1988	25/09/1993
65.	Hon'ble Mr. Justice K.N. Saikia	14/12/1988	28/02/1991
66.	Hon'ble Mr. Justice Kuldip Singh	14/12/1988	31/12/1996
67.	Hon'ble Mr. Justice V. Ramaswami	06/10/1989	14/02/1994
68.	Hon'ble Mr. Justice P.B. Sawant	06/10/1989	29/06/1995
69.	Hon'ble Mr. Justice N.M. Kasliwal	06/10/1989	03/04/1993



70.	Hon'ble Mr. Justice K. Ramaswamy	06/10/1989	12/07/1997
71.	Hon'ble Mr. Justice M. Fathima Beevi	06/10/1989	29/04/1992
72.	Hon'ble Mr. Justice K. Jayachandra Reddy	11/01/1990	14/07/1994
73.	Hon'ble Mr. Justice S.C. Agrawal	11/01/1990	04/09/1998
74.	Hon'ble Mr. Justice R.M. Sahai	11/01/1990	24/06/1995
75.	Hon'ble Mr. Justice Yogeshwar Dayal	22/03/1991	02/08/1994*
76.	Hon'ble Mr. Justice S. Mohan	07/10/1991	10/02/1995
77.	Hon'ble Mr. Justice B.P. Jeevan Reddy	07/10/1991	13/03/1997
78.	Hon'ble Mr. Justice G.N. Ray	07/10/1991	30/04/1998
79.	Hon'ble Mr. Justice R.C. Patnaik	03/12/1991	30/05/1992*
80.	Hon'ble Mr. Justice N.P. Singh	15/06/1992	24/12/1996
81.	Hon'ble Mr. Justice N. Venkatachala	01/07/1992	02/07/1995
82.	Hon'ble Mr. Justice M.K. Mukherjee	14/12/1993	30/11/1998
83.	Hon'ble Mr. Justice Faizan Uddin	14/12/1993	04/02/1997
84.	Hon'ble Mr. Justice B.L. Hansaria	14/12/1993	24/12/1996
85.	Hon'ble Mr. Justice S.C. Sen	11/06/1994	20/12/1997
86.	Hon'ble Mr. Justice K.S. Paripoornan	11/06/1994	11/06/1997
87.	Hon'ble Mr. Justice S.B. Majmudar	19/09/1994	19/08/2000
88.	Hon'ble Ms. Justice Sujata V. Manohar	08/11/1994	27/08/1999
89.	Hon'ble Mr. Justice G.T. Nanavati	06/03/1995	16/02/2000
90.	Hon'ble Mr. Justice S. Saghir Ahmad	06/03/1995	30/06/2000
91.	Hon'ble Mr. Justice K. Venkataswami	06/03/1995	18/09/1999
92.	Hon'ble Mr. Justice S.P. Kurdukar	29/03/1996	15/01/2000
93.	Hon'ble Mr. Justice K.T. Thomas	29/03/1996	29/01/2002
94.	Hon'ble Mr. Justice M. Jagannadha Rao	21/03/1997	01/12/2000
95.	Hon'ble Mr. Justice D.P. Wadhwa	21/03/1997	04/05/2000
96.	Hon'ble Mr. Justice M. Srinivasan	25/09/1997	25/02/2000*
97.	Hon'ble Mr. Justice Ajay Prakash Misra	04/12/1997	31/08/2001
98.	Hon'ble Mr. Justice S.S.M. Quadri	04/12/1997	04/04/2003
99.	Hon'ble Mr. Justice M.B. Shah	09/12/1998	24/09/2003
100.	Hon'ble Mr. Justice D.P. Mohapatra	09/12/1998	02/08/2002
101.	Hon'ble Mr. Justice U.C. Banerjee	09/12/1998	17/11/2002
102.	Hon'ble Mr. Justice N. Santosh Hegde	08/01/1999	15/06/2005
103.	Hon'ble Mr. Justice R.P. Sethi	08/01/1999	06/07/2002
104.	Hon'ble Mr. Justice S.N. Phukan	28/01/1999	31/3/2002

105.	Hon'ble Mr. Justice Doraiswamy Raju	28/01/2000	01/07/2004
106.	Hon'ble Mrs. Justice Ruma Pal	28/01/2000	02/06/2006
107.	Hon'ble Mr. Justice S.N. Variava	15/03/2000	07/11/2005
108.	Hon'ble Mr. Justice Shivaraj V. Patil	15/03/2000	11/01/2005
109.	Hon'ble Mr. Justice Brijesh Kumar	19/10/2000	09/06/2004
110.	Hon'ble Mr. Justice P. Venkatarama Reddi	17/08/2001	09/08/2005
111.	Hon'ble Mr. Justice Ashok Bhan	17/08/2001	02/10/2008
112.	Hon'ble Mr. Justice B.P. Singh	14/12/2001	08/07/2007
113.	Hon'ble Mr. Justice D.M. Dharmadhikari	05/03/2002	13/08/2005
114.	Hon'ble Mr. Justice H.K. Sema	09/04/2002	01/06/2008
115.	Hon'ble Mr. Justice Arun Kumar	03/10/2002	11/04/2006
116.	Hon'ble Mr. Justice B.N. Srikrishna	03/10/2002	20/05/2006
117.	Hon'ble Dr. Justice AR. Lakshmanan	20/12/2002	21/03/2007
118.	Hon'ble Mr. Justice G.P. Mathur	20/12/2002	19/01/2008
119.	Hon'ble Mr. Justice A.K. Mathur	07/06/2004	07/08/2008
120.	Hon'ble Mr. Justice C.K. Thakker	07/06/2004	10/11/2008
121.	Hon'ble Mr. Justice P.K. Balasubramanyan	27/08/2004	27/08/2007
122.	Hon'ble Mr. Justice P.P. Naolekar	27/08/2004	29/06/2008

\* Date of Death

\*\* Date of Resignation

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# 3.

## JURISDICTION

### I. Original Jurisdiction

#### (a) Writ Jurisdiction:-

1. Under Article 32, the Supreme Court has powers to issue directions or orders including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari, whichever may be appropriate, for the enforcement of any of the Fundamental Rights guaranteed under the Constitution.

#### (b) Election Disputes Relating to President/Vice-President of India:-

2. In view of Article 71, disputes relating to the election of the President or Vice-President of the Union of India may be enquired into, and decided by the Supreme Court whose decision shall be final.

#### (c) Original Suits:-

3. In the case of contingencies enumerated under Article 131, the Supreme Court can exercise original jurisdiction to the exclusion of any other Court. Disputes between the Government of India and one or more States; or between the Government of India and any State or States on one side and one or more States on the other; or between two or more States, fall in this category.

#### (d) Transfer of Cases

4. The Supreme Court also has powers to transfer matters from one High Court to another High Court or from one Court subordinate to one High Court to another Court subordinate to another High Court under Section 25 of the Code of Civil Procedure, 1908 and Section 406 of the Code of Criminal Procedure, 1973. The Supreme Court can also transfer to itself any case involving same or substantially same questions of law pending before it and one or more High Courts in certain contingencies as per the provisions under Article 139A.

#### (e) Arbitration Matters:-

5. "The Appointment of Arbitrators by the Chief Justice of India Scheme, 1996" framed under Section 11(10) of the Arbitration and Conciliation Act, 1996 regulates the appointment of arbitrators under Section 11(6) of the Act.

#### (f) Contempt Proceedings:-

6. The Supreme Court of India has all the powers of such a court, including the power to punish for contempt of itself. For this purpose, "Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975" have been framed in exercise of the power under Section 23 of the



Contempt of Courts Act, 1971, read with Article 145 of the Constitution of India.

## II. Appellate Jurisdiction

### (a) General:-

7. Appellate Jurisdiction is exercised under Articles 132 to 134 of the Constitution. According to Article 132, an appeal shall lie to the Supreme Court from any Judgment, Decree or Final Order of a High Court in the territory of India, whether in a civil, criminal or other proceedings, if the High Court certifies under Article 134A that the case involves a substantial question of law as to the interpretation of the Constitution. An appeal shall also lie to Supreme Court from any Judgment, Decree or Final Order in civil proceedings of a High Court, if the High Court certifies under Article 134-A(a) that the case involves substantial question of law of general importance; and (b) that in the opinion of the High Court, the said question needs to be decided by the Supreme Court. In criminal matters, Article 134 provides for appeal to Supreme Court upon the High Court issuing a certificate about fitness of the cases for such appeal where sentence of death is awarded by the High Court reversing an order of acquittal by trial court or in a case tried by the High Court.

### (b) Statutory Appeals

8. A number of special statutes provide for appeal to Supreme Court. Such provisions for statutory appeals include the following:-

- (i) Section 35(L) of the Central Excise Act, 1944 (1 of 1944);
- (ii) Section 116A of the

Representation of the People Act, 1951 (43 of 1951);

- (iii) Section 38 of the Advocates Act, 1961 (25 of 1961);
- (iv) Section 261 of the Income Tax Act, 1961 (43 of 1961) before the establishment of National Tax Tribunal from 28.6.2005;
- (v) Section 130E of the Customs Act, 1962 (52 of 1962);
- (vi) Section 19(1)(b) of the Contempt of Courts Act, 1971 (70 of 1971);
- (vii) Section 379 of the Code of Criminal Procedure, 1973 (2 of 1974) read with Section 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, as amended by the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972;
- (viii) Section 23 of the Consumer Protection Act, 1986 (68 of 1986);
- (ix) Section 19 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987);
- (x) Section 10 of the Special Court (Trial of Offences relating to Transactions in Securities) Act, 1992 (27 of 1992);
- (xi) Section 15-Z of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (xii) Section 18 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
- (xiii) Section 125 of the Indian Electricity Act, 2003 (36 of 2003);
- (xiv) Section 24 of National Tax Tribunal Act, 2005 (49 of 2005);

(xv) Section 30 of the Armed Forces Tribunal Act, 2007 (55 of 2007).

**(c) Special Leave Petitions:-**

9. The provision most resorted to is Article 136 providing for Special Leave to Appeal. In cases other than those in which leave has been granted by the High Court, leave may be granted by the Supreme Court in its discretion. The proceedings are popularly referred to as “SLP”.

**(d) Reference:-**

10. Income Tax Appellate Tribunal, through its President, can refer to Supreme Court under Section 257 of the Income Tax Act, 1961 any question of law regarding which there is conflict in the decisions of High Courts and it is expedient that a reference should be made to the Supreme Court.

**III. Advisory Jurisdiction**

11. If at any time it appears to the President of India that a question of law or fact of such public importance has arisen (or is likely to arise) that it is expedient to “consult”, he may refer the question to the Supreme Court for consideration. The Court on receiving such a reference may, after hearing, as it thinks fit, report to the President its opinion thereon.

12. The reference to the Supreme Court can also be made in:-

- (i) Article 317, as regards removal of Chairman or any other Member of a Public Services Commission;
- (ii) Section 11 of the Competition Act, 2002 as regards removal of a Member of the Commission;

(iii) Removal of Chief Information Commissioner or Information Commissioner; State Chief Information Commissioner or State Information Commissioner as per Section 14 and 17 of the Right to Information Act, 2005.

**IV. Power of Review**

13. The Supreme Court, under Article 137, has the power to review any of its judgments or orders made by it. Review petitions are disposed of by circulation as per listing procedures.

**V. Curative Petitions**

14. The Supreme Court can reconsider the final judgment/order on limited grounds on a curative petition, under its inherent powers, even after the dismissal of the review petition [in view of the decision in “Rupa Ashok Hurra v. Ashok Hurra & Anr. (2002) 2 SCR 1006].

**VI. Public Interest Litigation**

15. The general rule of locus standi for moving a Court is relaxed in matters of Public Interest where the poor, ignorant or socially or economically disadvantaged people seek legal remedy. The Supreme Court thus exercises its powers to do justice in certain matters popularly known as public interest litigation (PIL). PIL petitions received by post are also entertained by the Court, and on many occasions even Suo Motu. A PIL section has been set up for dealing with the PIL petitions.

16. The details of PIL received during the past are as follows:

**Letters/Petitions and Writ Petitions (Civil & Criminal)  
Received/Filed under PIL in the Supreme Court of India**

Year	Letter/ Petitions received in Hindi	Letters/Petitions received in English & other regional languages	Writ Petition (Civil)	Writ Petition (Criminal)
1985	24716	-	105	2
1986	25419	-	286	10
1987	4892	13519	119	19
1988	5620	10651	71	25
1989	5964	11805	76	22
1990	5757	12214	92	26
1991	5280	12194	61	28
1992	5286	11675	62	16
1993	4989	10760	96	38
1994	5862	10604	83	20
1995	5658	9436	109	44
1996	8175	11005	185	36
1997	6747	8756	180	35
1998	5689	7398	160	17
1999	6472	8867	137	21
2000	7271	10493	161	22
2001	7421	9777	159	23
2002	6555	8963	186	13
2003	6205	8088	156	21
2004	7154	8499	171	22
2005	8111	6150	215	12
2006	8768	11072	226	17
2007	7229	10971	232	26(3)*
#2008	9063	12205	137(1)*	21(1)*

# Upto 30th September, 2008

\* Figure in brackets shows the number of Writ Petitions registered suo-motu.

17. Other statutes and rules relating to the Supreme Court of India are as under:-

- a. Judges (Inquiry) Act, 1968 (51 of 1968);
- b. Judges (Protection) Act, 1985 (59 of 1985);
- c. Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 (28 of 1970) [amended by Act No. 37 of 1972];
- d. Supreme Court (Number of Judges) Act, 1965 (55 of 1956) [amended by Act Nos. 17 of 1960, 48 of 1977 and 22 of 1986];
- e. Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (41 to 1958) [amended

by Act Nos. 77 of 1971, 36 of 1976, 57 of 1980, 36 of 1985, 38 of 1986, 20 of 1988, 32 of 1989, 72 of 1993, 2 of 1994, 20 of 1996, 18 of 1998, 7 of 1999, 8 of 2003 and 46 of 2005];

- f. Judges (Inquiry) Rules, 1969;
- g. Supreme Court Rules, 1966;
- h. Supreme Court (Decrees and Orders) Enforcement Order, 1954;
- i. Supreme Court Judges Rules, 1959;
- j. Supreme Court Judges (Travelling Allowance) Rules, 1959;
- k. Rules to Regulate proceedings for contempt of the Supreme Court, 1975

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## 4.

## THE BAR

1. There are three categories of Advocates who are entitled to practice law before the Supreme Court.

### **Senior Advocates**

2. Order IV Rule 2 of the Supreme Court Rules, 1966, deals with the designation as Senior Advocates. Rule 2(a) provides that the Chief Justice and the Judges may, with the consent of the advocate, designate an advocate as Senior Advocate, if in their opinion, by virtue of his ability, standing at the Bar or special knowledge or experience in law the said advocate is deserving of such distinction.
3. Apart from the designation of Advocates as Senior Advocates, retired Hon'ble Chief Justices/ Judges of the High Courts are also considered for designation as Senior Advocates in the Supreme Court.

### **Advocates-on-record**

4. Order IV Rule 5 of the Supreme Court Rules, 1966, deals with the

registration as an Advocate-on-Record. No Advocate other than an Advocate-on-Record shall be entitled to file an appearance or act for a party in the Court.

5. The Registry of the Supreme Court conducts Advocates-on-Record Examination periodically with the approval of the Examination Committee and under the supervision of Secretary, Board of Examiners, appointed by the Hon'ble the Chief Justice of India. The examination maintains high standards to ensure that best of the talents come in as Advocates-on Record.

### **Advocates**

6. These are Advocates whose names are entered on the roll of any State Bar Council maintained under the Advocates Act, 1961. They cannot appear and plead in any matter on behalf of a party in the Supreme Court unless instructed by an Advocate on Record (Order IV Rule 10 of Supreme Court Rules, 1966).

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T H E   S U P R E M E   C O U R T   O F   I N D I A



*Supreme Court Building - rear view*

5.

## COURT ADMINISTRATION

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1. The administrative wing of the Court is known as the REGISTRY.
2. Earlier, a Registrar used to be the senior-most Officer in the Registry, which office was upgraded to the level of Registrar-General (also called Court Administrator-cum-Registrar General). This functionary is now known as the Secretary General. The Secretary General is thus the highest Administrative Officer of the Supreme Court. The post of the Secretary General is exclusively meant for a judicial officer of the rank & status of District and Sessions Judge. 32 officers have held the office of Registrar of the Supreme Court. Since 1987, seven Officers (excluding the present Secretary General) belonging to Higher Judicial Service of different States have adorned the post of Registrar-General.
3. The work of the Registry has been divided into various categories and work assigned to a particular category is handled by various branches, units whereof are called 'Section'. Transaction of all administrative works, including work relating to the conditions of service and conduct of Court servants, is made under direct and overall supervision of the Secretary General who works under the directions & immediate control of Hon'ble the Chief Justice of India. The Secretary General is assisted by 6 Registrars and 21 Additional Registrars who are assigned work of specific branches in which they, in turn, are assisted by Deputy Registrars, officers of other lower ranks and subordinate staff. There are 1809 posts in the Supreme Court Registry, which include 1229 permanent posts. The break-up is 230 Gazetted Officers, 835 Non-Gazetted and 744 Class IV employees.



**SECRETARY GENERAL**



V.K. JAIN

**REGISTRARS**



S.G. SHAH  
Registrar (CC)



T. SIVADASAN  
Registrar (Judl.I)



SUNIL THOMAS  
Registrar (Admn.)



SUBHASH MALIK  
Registrar (Judl.II)



M.P BHADRAN  
Registrar (Courts)



ASHOK KUMAR  
Registrar (Admn.J)

**CONSULTANT (PROTOCOL)**



R.C. GANDHI

**FORMER REGISTRARS GENERALS – SUPREME COURT OF INDIA**

S.No.	Name of the Officer	Period	
		From	To
1.	Shri Sankatha Rai	01.06.1987	03.11.1992
2.	Shri MSA Siddiqui	09.11.1992	26.09.1994
3.	Shri Chandresh Bhushan	27.09.1994	27.04.1998
4.	Shri Bhanwar Singh	27.04.1998	26.03.1999
5.	Shri Lal Chand Bhadoo	27.03.1999	19.01.2003
6.	Shri J.C.S. Rawat	20.01.2003	28.06.2004
7.	Shri B.M. Gupta	29.06.2004	24.11.2005

**FORMER REGISTRARS – SUPREME COURT OF INDIA**

S.No.	Name of the Officer	Period	
		From	To
1.	Shri P.N. Murthy	26.01.1950	04.01.1956
2.	Shri K.Krishnaswami Aiyar	05.01.1956	01.04.1956
3.	Shri Arindam Dutt	02.04.1956	14.06.1962
4.	Shri S.N. Sharma	01.07.1962	15.03.1964
5.	Shri Y.D. Desai	13.08.1963	19.04.1969
6.	Shri C.V. Rane	09.06.1969	19.10.1971
7.	Shri M.P. Saxena	20.10.1971	30.04.1979
8.	Shri S.K. Gupta	16.07.1973	01.01.1978
9.	Shri R.Narasimhan	16.01.1978	31.03.1984
10.	Shri R.Subba Rao	01.05.1979	31.03.1986
11.	Shri A.N. Oberai	01.04.1986	29.02.1988
12.	Shri H.S. Munjral	02.04.1987	31.08.1988
13.	Shri R.R. Kumar	01.09.1988	30.04.1993
14.	Ms. S.V. Kashyap	01.09.1988	30.11.1988
15.	Shri R.N. Joshi	01.12.1988	28.02.1989
16.	Shri Yoginder Lal	01.03.1989	30.06.1989
17.	Shri S. Vardarajan	01.07.1989	31.08.1989
18.	Shri Ved Prakash Sharma	16.12.1989	14.02.1995
19.	Shri Susanta Ghosh	01.02.1990	25.10.1996
20.	Shri P.N. Likhyan	15.02.1991	28.02.1994
21.	Shri L.C. Bhadoo	01.03.1993	26.02.1999
22.	Ms. Manju Goel	30.09.1994	31.03.1997
23.	Shri H.S. Kapoor	12.02.1997	30.11.2002
24.	Shri R.C. Gandhi	04.04.1997	31.07.2007
25.	Shri B.M. Gupta	05.04.1999	23.06.2004
26.	Shri Ashok I. Cheema	26.11.1999	01.04.2007
27.	Shri Suresh Chandra	18.12.2002	31.01.2004
28.	Shri J.K. Sharma	03.02.2004	31.07.2006
29.	Shri Hemant Sampat	08.12.2005	07.02.2007
30.	Shri B. Sudheendra Kumar	20.03.2006	01.09.2007
31.	Shri R.K. Gauba	11.05.2006	12.01.2007
32.	Shri T.N. Sansi	01.08.2006	30.06.2008

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## 6.

## ACTIVITIES ON JUDICIAL SIDE

1. The backlog of cases had increased manifold by 1990. In this view, focus in recent times has been on taking of steps to bring down the pendency. The procedure has been streamlined and simplified, shedding the pedantic approach. Infructuous cases and also cases covered by the Judgments/Orders already passed by the Court were identified and listed before the Court for disposal. Apart therefrom, cases with cognate issues were listed together. Resultantly, the rate of disposal increased; logjam of cases decreased. The Court Management was evolved keeping in view the goal setting, statistical analysis, causes of delay and case-flow management. A variety of general techniques for the improvement of Court efficiency, including Court's supervision and control of the movement of cases from institution till final disposition were also adopted. This exercise was relentlessly pursued and had impact in reducing arrears.
  2. There has been enormous increase in the institution of fresh cases (surpassing the figure of disposal) during the period under report. Total number of matters instituted in the year 2007 was 69,103 as against 39,419 in 2001. 56,396 cases have already been instituted till 30th September, 2008. This has resulted in the marginal increase in the pendency of cases each year since 2001. The pendency of both Admission and Regular matters as on 30.09.2008 is 49,346.
  3. Various measures are being taken to check the increase in the pendency of cases and to reduce the arrears.
- I. Filing, Registration & Listing**
4. For processing the cases, the Registry of the Supreme Court is divided into Sections which are fully computerised. Institution of cases takes place at the Filing Counter. Upon a case being found in order (as per rules) or removal of defects (if any found), registration is done through computer. The listing is through computer application strictly in chronological order within a fortnight of the registration, before the bench of Hon'ble Judges dealing with the particular subject category.
  5. The List of Business is categorised in two parts; Part I containing "admission" matters and Part II "regular hearing" matters. The computer classifies the cases, allocates them to appropriate Benches and generates the lists, such as Terminal List, Weekly List, Advance List, Daily Cause List (Final Cause List) and Supplementary List. For admission matters, Advance Lists for Mondays and Fridays are generated and issued two weeks before the actual dates of hearing while Supplementary Lists are issued on preceding Saturdays and Thursdays respectively. On Mondays, approximately 60-65 admission matters and 5 final disposal matters are listed for hearing before each Division Bench while, on Fridays, approximately

50 admission matters, excluding final disposal matters (subject to the ceiling of 10 matters) are listed.

6. The work relating to grouping of matters and classification of cases (to come up for hearing before the Court) is done by Section I-B ensuring that the cases/matters involving common/identical question(s) of law are posted before the appropriate Bench.
7. Three days of each week (Tuesday, Wednesday & Thursday) are earmarked for hearing regular matters. For this, Terminal List for the year is generated through computer before the reopening of the Court after the summer vacation. Weekly List of regular hearing matters is generated from the Terminal List, followed by the Daily List for Tuesday (issued on preceding Friday/Saturday) and Supplementary List (issued on preceding Monday). Daily Lists are issued on Tuesday and Wednesday for the cases listed for the following days.

## II. Old and Urgent Matters

8. With a view to expedite disposal, particularly of old cases, Hon'ble Chief Justice of India constituted Benches of Supreme Court for hearing urgent matters as well as old regular matters during summer vacation from 19th May, 2008 to 4th July, 2008. 339 urgent matters were heard by the Vacation Benches. Out of them, 285 matters were disposed of. 254 old regular matters were also listed and 102 matters were heard.

## III. Recent Steps for Expediting Hearing & Disposal

9. A number of initiatives have been taken in recent past to expedite decision making process and thereby reduce arrears. The steps taken include those mentioned hereafter.
10. Earlier, 10 and more matters involving identical issue were treated

as group matter. With a view to identify more group matters and to list them for early hearing & disposal, under directions of Hon'ble the Chief Justice of India vide order dated 13.12.2007, five and more matters on identical issue are now treated as a group matter. This has helped in achieving significant increase in the number of disposals.

11. In compliance with the direction of the Full Court dated 06.02.2008, in addition to the matters being listed on Mondays, five more Final Disposal matters are being listed before each bench with effect from 25.02.2008.
12. In order to streamline and to make effective the listing of cases before various courts, various directions have been issued. These include the following:-
  - (i) With a view to easily identify and locate the Office Report on limitation (where the filing is beyond prescribed period), the Office Report on limitation shall be produced along with the paper books;
  - (ii) The cases in which parties are appearing 'in person', they shall be listed as the last item of the matters shown under the respective sections of the cause list;
  - (iii) Considering the acute shortage of space in the paper book godown, whenever a petition for direction, order or writ is filed, only three sets of paper books of such petition and affidavit need be filed instead of seven sets as provided in rule 7 of Order XXXV of the Supreme Court Rules, 1966. Additional copies of paper books (in required number) have to be got prepared by the concerned Section with the assistance of the counsel concerned whenever any such matter is referred to a Constitution Bench;

- (iv) Requests received by hand, post or E-mail seeking early listing of the case or for deletion of the matter from the list or for postponement of date etc., are not to be entertained and the applicant is required to move prayer as per the rules, practice and procedure of the Court;
- (v) A miscellaneous matter, released from part-heard (but not possible to be listed before a senior Hon'ble Judge due to reasons such as retirement etc.) is to be listed before the second or third Hon'ble Judge holding the coram (in that order, depending on availability). If no Hon'ble Judge bearing the coram in the matter is available the same is to be listed as per subject category;
- (vi) Similarly, part-heard 'regular hearing' matters (which could not be heard or taken up by the presiding Judge prior to retirement) shall be listed before the next senior-most Hon'ble Judge who was the member of the Bench which had heard the matter in part, if such Hon'ble Judge is presiding the Bench. The same procedure will be followed on retirement of the two senior-most Hon'ble Judges in a regular matter partly heard by a three-Judges Bench. If no such Hon'ble Judge is available then the matter will be listed as per subject-category.
- (vii) Group matters, both on miscellaneous side and regular side, will be given top priority and listed below part-heard matters, so that maximum cases are heard and decided by a common order. In the matter of listing, the larger group precedes smaller group;
- (viii) Old regular hearing cases up to year 2000 are to be listed before

the specified Courts below the part-heard matters, group matters and three-Judges Bench matters.

13. For "oral mentioning", the learned advocates are now required to fill-up and sign the Listing Proforma and the Appearance Slip showing therein the name of the Advocate who wants to mention the matter. This is to be handed over to the Court Master latest by 10:15 a.m. The Court Masters are required to be present in the Court Room at 10:00 a.m. and seek directions in cases of doubt as to correctness of the information furnished in the Listing Proforma or the genuineness of the signature in the Proforma or the Appearance Slip. The time limit for moving application for mentioning in a pending/disposed of matter is now extended up to 2 p.m. from the earlier time limit of 1 p.m.

#### IV. Other Steps

14. The other steps designed to impact the huge arrears and improve functioning of the court process include the following:-
  - (i) A large number of matters have been taken up for final disposal instead of the usual course of granting leave and hearing in due course.
  - (ii) Constitution Bench & larger Bench sit regularly to decide important question of law, particularly in a large number of matters involving common issues.
  - (iii) Number of matters listed before each Bench on Miscellaneous Days has been increased (upto 72).
  - (iv) All the fresh matters are listed within 10 to 14 days of registration and many disposed of at the preliminary hearing.



- (v) In order to ensure quick disposal of Tax matters which normally involve huge revenue implication, two Benches have been constituted to deal exclusively with such subjects.
  - (vi) Cases under certain categories such as Matrimonial Matters, Corruption cases, Matters of Senior Citizens, Undertrial Prisoners, Workmen who are out of Job and Old Cases, including the cases in which litigation in the lowest forum started long ago but the matter reached this Court only recently are being heard on priority basis.
  - (vii) In addition to Regular Court hearings, two Judges hear Miscellaneous applications including Bail Applications in Chambers twice a week.
  - (viii) As many as eight Division Benches now deal with criminal cases.
15. The steps taken have paid dividends (See Table below). In spite of the fact that the Judge-strength has remained the same, there has been considerable increase in the disposal

of cases. The total disposal of cases in the year 2001 was 38,842 cases, whereas the disposal of cases in the year 2007 was 61,957, cumulative increase being as much as 59.5% (approximately) in a period of 6 years. In 2008, 53,976 cases have been disposed of till 30th September, 2008.

#### **V. Registrars' Courts**

16. Two Courts of Registrars have been functional, one since 3rd April, 2006 and the other from 1st September, 2006. These courts deal with matters referred to in Rule 1 Order VI of the Supreme Court Rules, 1966 as amended vide Notification No. G.S.R. 127(E) dated 22.2.2006. Presently, each such Court takes up 125 incomplete (after notice) matters daily.
17. These Courts also deal with procedural aspects in respect of matters in which after the issuance of the notice, steps have to be taken for service or the pleadings are incomplete. In addition, they also deal with the mentioning of urgent matters with regard to the cancellation of the date noted for listing.

**STATEMENT OF INSTITUTION DISPOSAL & PENDENCY OF CASES IN  
THE SUPREME COURT OF INDIA FROM THE YEAR  
1950 TO 30.09.2008**

YEAR	INSTITUTION		TOTAL	DISPOSAL		TOTAL	PENDENCY		TOTAL
	ADMISSION	REGULAR		ADMISSION	REGULAR		ADMISSION	REGULAR	
1950	1,037	178	1,215	491	34	525	546	144	690
1951	1,324	600	1,924	1,560	227	1,787	310	517	827
1952	1,127	330	1,457	1,145	527	1,672	292	320	612
1953	1,354	360	1,714	1,163	252	1,415	483	428	911
1954	1,743	410	2,153	1,522	427	1,949	704	411	1,115
1955	1,580	512	2,092	1,669	200	1,869	615	723	1,338
1956	1,732	630	2,362	1,720	258	1,978	627	1,095	1,722
1957	1,490	999	2,489	1,517	411	1,928	600	1,683	2,283
1958	1,698	784	2,482	1,694	623	2,317	604	1,844	2,448
1959	1,870	783	2,653	1,829	682	2,511	645	1,945	2,590
1960	1,971	1,276	3,247	1,910	1,271	3,181	706	1,950	2,656
1961	2,000	1,214	3,214	1,899	1,654	3,553	807	1,510	2,317
1962	2,214	1,345	3,559	2,291	1,542	3,833	730	1,313	2,043
1963	2,189	1,561	3,750	2,152	1,131	3,283	767	1,743	2,510
1964	2,544	1,520	4,064	2,463	1,605	4,068	848	1,658	2,506
1965	2,366	1,535	3,901	2,444	1,341	3,785	770	1,852	2,622
1966	2,639	3,012	5,651	2,429	1,412	3,841	980	3,452	4,432
1967	2,826	2,493	5,319	2,515	1,566	4,081	1,291	4,379	5,670
1968	3,489	3,317	6,806	3,138	3,032	6,170	1,642	4,664	6,306
1969	4,185	3,512	7,697	3,731	2,737	6,468	2,096	5,439	7,535
1970	4,273	3,203	7,476	3,779	2,569	6,348	2,590	6,073	8,663
1971	5,338	2,641	7,979	4,588	1,903	6,491	3,340	6,811	10,151
1972	4,853	4,223	9,076	5,053	1,769	6,822	3,140	9,265	12,405
1973	6,298	3,876	10,174	6,112	2,063	8,175	3,326	11,078	14,404
1974	5,423	2,780	8,203	5,103	3,158	8,261	3,646	10,700	14,346
1975	6,192	3,336	9,528	5,749	2,978	8,727	4,089	11,058	15,147
1976	5,549	2,705	8,254	4,904	2,830	7,734	4,734	10,933	15,667
1977	9,251	5,250	14,501	8,714	1,681	10,395	5,271	14,502	19,773
1978	13,723	7,117	20,840	10,624	6,471	17,095	8,370	15,148	23,518
1979	16,088	4,666	20,754	11,988	3,845	15,833	12,470	15,969	28,439
1980	21,749	4,616	26,365	14,520	2,433	16,953	19,699	18,152	37,851
1981	24,474	6,566	31,040	16,528	2,162	18,690	27,645	22,556	50,201
1982	29,706	13,804	43,510	26,593	2,519	29,112	30,758	33,841	64,599
1983	37,602	18,300	55,902	35,745	10,079	45,824	32,615	42,062	74,677
1984	37,799	11,275	49,074	28,813	6,734	35,547	41,601	46,603	88,204
1985	36,243	15,349	51,592	36,004	15,074	51,078	41,840	46,878	88,718
1986	22,334	5,547	27,881	17,881	12,819	30,700	46,293	39,606	85,899
1987	22,234	5,806	28,040	15,476	6,331	21,807	53,051	39,081	92,132
1988	21,950	5,771	27,721	15,714	4,181	19,895	59,287	40,671	99,958
1989	21,213	6,256	27,469	17,389	4,011	21,400	63,111	42,916	1,06,027
1990	22,265	6,223	28,488	20,890	4,348	25,238	64,486	44,791	1,09,027
1991	26,283	6,218	32,501	28,679	6,662	35,341	62,090	44,347	1,06,437
1992	20,435	6,251	26,686	20,234	15,613	35,847	62,291	34,985	97,476*

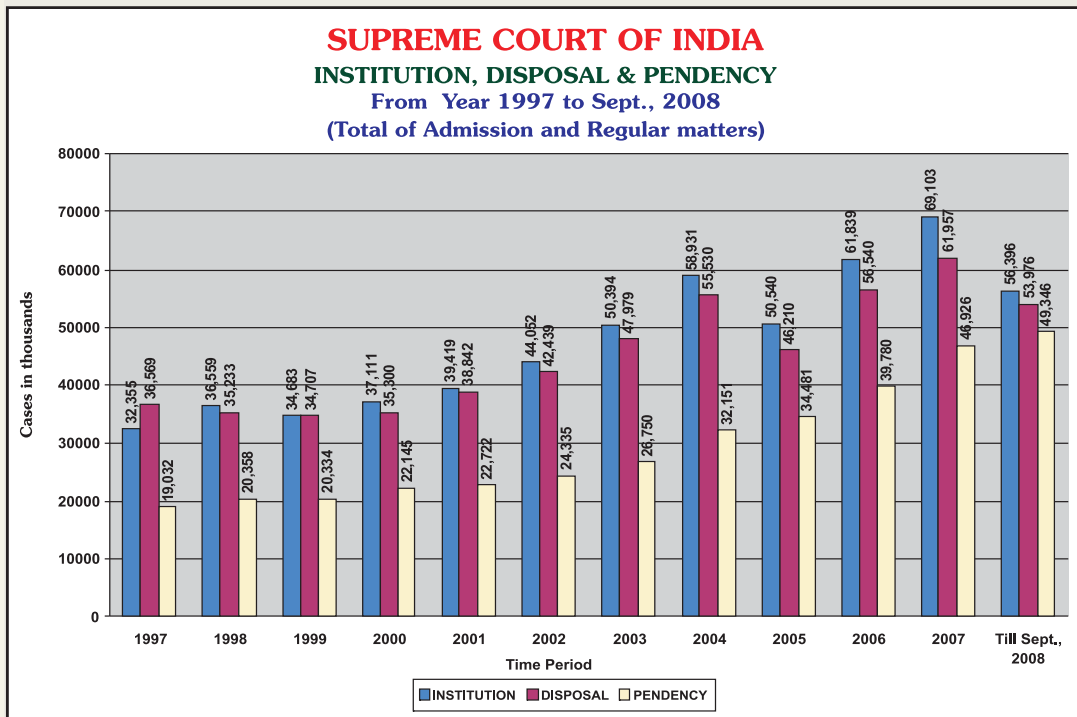
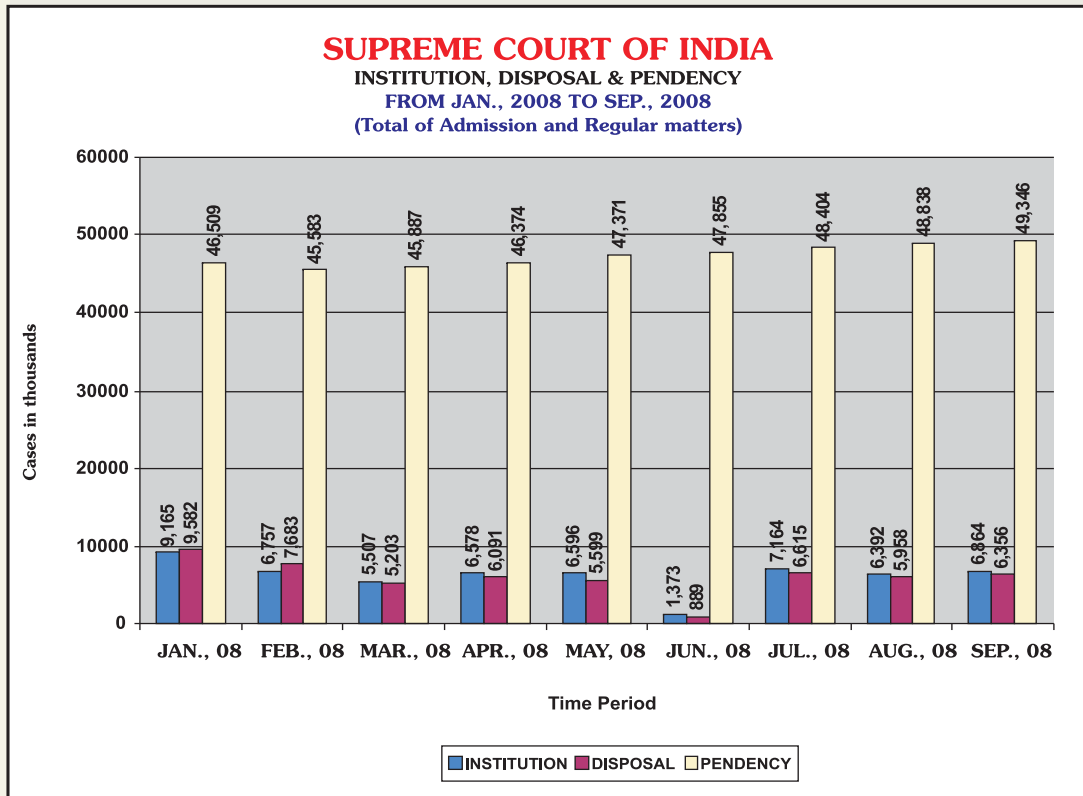
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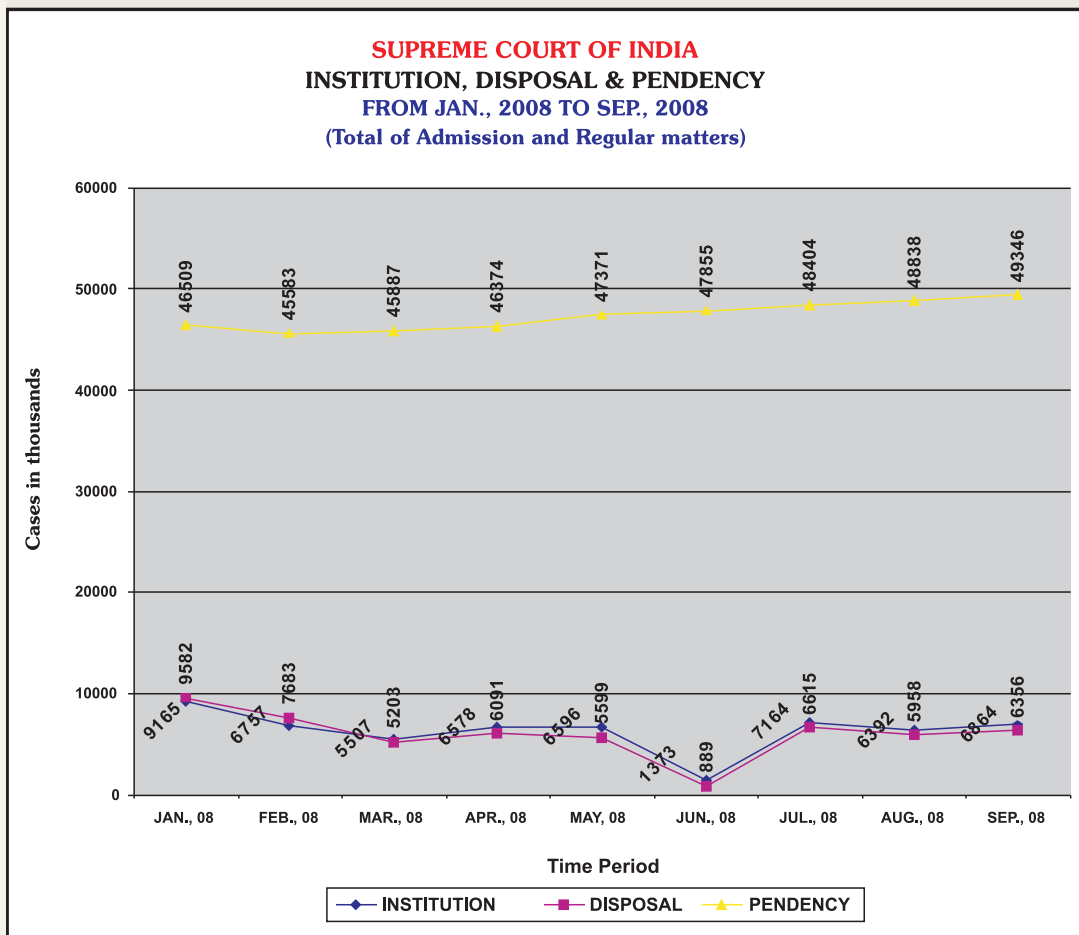
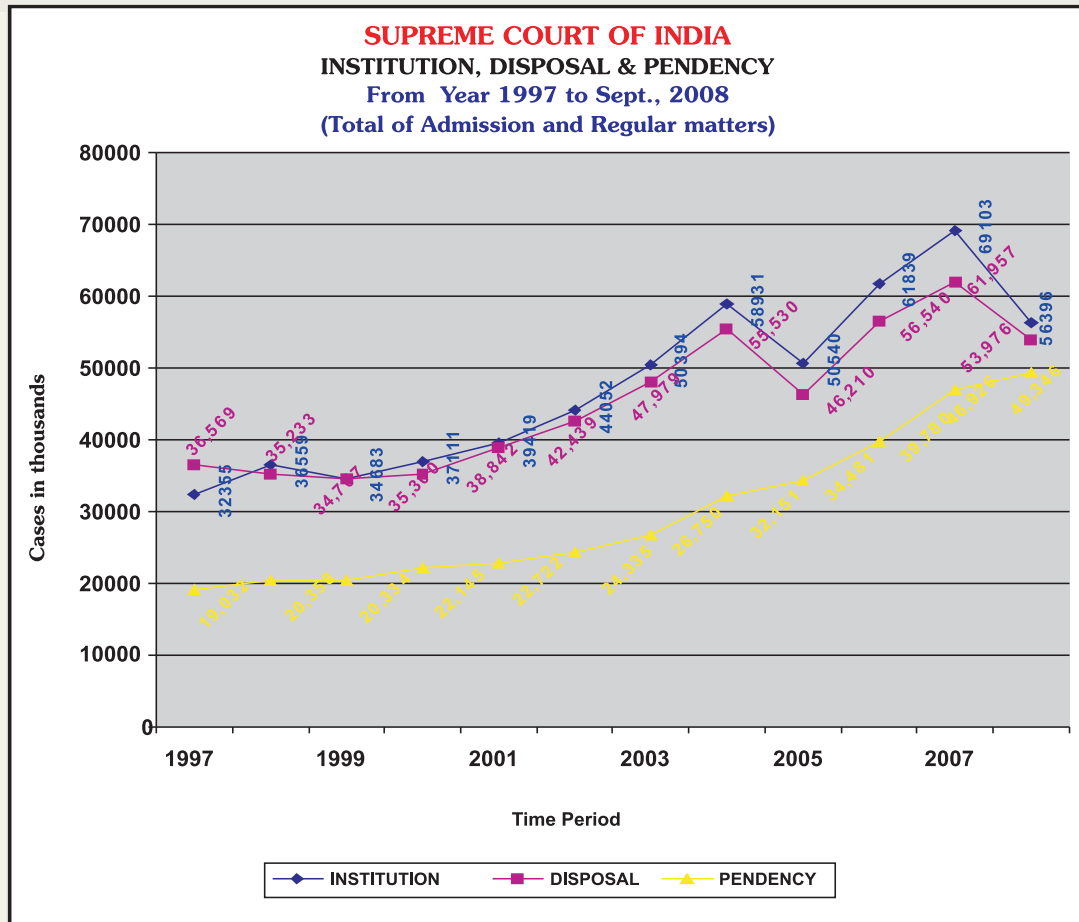
1993	18,778	2,870	21,648	17,166	3,718	20,884	37,549	21,245** (98,240)	58,794**
1994	29,271	12,775	42,046	35,853	12,037	47,890	30,967	21,983	52,950
1995	35,689	15,754	51,443	51,547	16,790	68,337	15,109	20,947	36,056
1996	26,778	6,628	33,406	35,227	10,989	46,216	6,660	16,586	23,246
1997	27,771	4,584	32,355	29,130	7,439	36,569	5,301	13,731	19,032
1998	32,769	3,790	36,559	31,054	4,179	35,233	7,016	13,342	20,358
1999	30,795	3,888	34,683	30,847	3,860	34,707	6,964	13,370	20,334
2000	32,604	4,507	37,111	30,980	4,320	35,300	8,588	13,557	22,145
2001	32,954	6,465	39,419	32,686	6,156	38,842	8,856	13,866	22,722
2002	37,781	6,271	44,052	36,903	5,536	42,439	9,734	14,601	24,335
2003	42,823	7,571	50,394	41,074	6,905	47,979	11,483	15,267	26,750
2004	51,362	7,569	58,931	47,850	7,680	55,530	14,995	15,156	30,151
2005	45,342	5,198	50,540	41,794	4,416	46,210	18,543	15,938	34,481
2006	55,402	5,300	53,066	43,957	4,070	48,027	26,170	18,649	44,819
2007	62,281	6,822	69,103	56,682	5,275	61,957	27,960	18,966	46,926
JAN., 2008	7,960	1,205	9,165	8,838	744	9582	27,082	19427	46509
FEB., 2008	6056	701	6757	6321	1362	7683	26817	18766	45583
MAR., 2008	4977	530	5507	4931	272	5203	26863	19024	45887
APR., 2008	5840	738	6578	5630	461	6091	27073	19301	46374
MAY, 2008	5836	760	6596	4926	673	5599	27983	19388	47371
JUN., 2008	1336	37	1373	822	67	889	28497	19358	47855
JUL., 2008	6597	567	7164	6164	451	6615	28930	19474	48404
AUG., 2008	5770	622	6392	5427	531	5958	29273	19565	48838
SEP., 2008	6283	581	6864	5830	526	6356	29726	19620	49346

\* The pendency figures shown upto the year 1992 indicates the number of matters after expanded hyphenated number on files.

\*\* From 1993 onwards the figure of pendency of matters are actual file-wise, i.e., without expanding hyphenated number on files.







## 7.

ARREARS COMMITTEE

1. An ARREARS COMMITTEE had been constituted in 2005 by the then Hon'ble Chief Justice of India to suggest ways & means to reduce the pendency of cases in Courts at various levels. Hon'ble Mr. Justice S.B. Sinha is the Chairman of the Committee. It was reconstituted in 2008 by including Hon'ble Justice (Retd.) P.K. Balasubramanyan, Chairman, E-Committee and Prof. Mohan Gopal, Director, National Judicial Academy as its Member.
2. The Committee has been collecting data with regard to various categories of cases in the Courts throughout the country with a view to evolve a system of court management. It submitted a preliminary report for consideration of the Conference of Chief Justices held in 2007. It is presently in the process of finalising guidelines, suggestions and measures to bring down the period of 'pendency' of a case, as also to bring down the mounting arrears.
3. The Committee has been undertaking several collateral projects. In the year 2007, two noteworthy projects commenced.
4. The first project is an experimental pilot project to ascertain possibility of reducing the overall pendency by special focus on disposal of "petty offence" cases in the Courts of Magistrates. This initiative led to holding of Mega Lok Adalat on 8th and 9th September, 2007 at four district centers of Delhi, viz. Tis Hazari, Karkardooma, Rohini and Patiala House. The encouraging results firmed up the view that concerted efforts can help achieve major reduction in arrears in other large metropolitan cities and, in turn, facilitate focus of magisterial courts on serious crimes. High Courts have been requested to conduct such adalats.
5. The second project undertaken by the Arrears Committee concerns efficient settlement & disposal of motor accident claims. The pilot project in this regard is expected to be initiated in New Delhi and Bhopal during the course of the year. Computer software is in the process of being developed by the National Informatics Centre and assistance will be taken of law students in carrying out the research project. It is expected that if law students are actively involved in the venture and their participation is meaningful, law students all over the country can be engaged in other similar projects relating to myriad other categories to collect empirical data for devising ways & means for better administration of courts and management of cases.
6. The Arrears Committee has prepared a 'White Paper' suggesting broad ways and means of tackling the problem of arrears and backlog of pending cases. The salient points made therein are as under:-
  - (A) The problem of arrears cannot



be tackled by a generalized approach, taking the broad figures of pendency and the number of judicial personnel available. Each High Court and State has different problems and statistics reveal bottlenecks at different levels. The only way is to have an in-depth analysis and categorization of pending cases at every level of judicial hierarchy starting with courts of Civil Judge (Junior Division) upwards.

(B) With the increased use of computers and the development of e-governance in the judiciary, it is necessary to set up in every state a specialized body headed by retired judicial persons and assisted by professional managers, with mandate to make:

- (i) An analysis of topic-wise pending cases in the State at every level.
- (ii) On the basis of topic-wise analysis of pending cases, the Committee would make suggestions to the Chief Justice of the High Court to tackle specific areas or bottlenecks, taking one issue at a time.
- (iii) The Committee proposes to identify and differentiate between on-track and off-track cases.
- (iv) A vital aspect of improving judicial efficiency and case management is judicial training at different levels and different phases.

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## 8.

## CONFERENCES & MEETS

1. During the period under report, Hon'ble the Chief Justice of India and Hon'ble Judges hosted in India or attended abroad various Conferences & Meets. Meetings of various Legal Forums and visits of various foreign delegations to the Supreme Court were significant events. These visits or fora offered a venue for interaction between the legal luminaries of varied jurisdictions, and exchange of ideas.

### Legal Forum Meets

2. **INDO-AUSTRALIAN LEGAL FORUM MEET:** The 1st Indo-Australian Legal Forum Meet was held in Supreme Court of India on 9th and 10th October, 2007. The Australian Delegation was headed by Hon'ble Mr. Justice J. Dyson Heydon AC, Judge, High Court of Australia. The Indian side was headed by Hon'ble the Chief Justice of India and included, as members, Hon'ble Mr. Justice B.N. Agrawal, Hon'ble Mr. Justice Ashok Bhan, Shri Goolam E. Vahanvati, Solicitor General of India and Shri L. Nageswara Rao and Shri Uday U. Lalit, Senior Advocates. The topics discussed in the Meet were a) Commercial Litigation and Arbitration: New Challenges; b) Criminal Trial: Tackling Procedural constraints to improve efficiency and expedite the process and c) Comparative Constitutional Issues: Freedom of Speech and Role of Media.

3. **INDO-FRENCH LEGAL FORUM MEET:** Hon'ble the Chief Justice of India, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice C.K. Thakker participated in the 1st Indo-French Legal Forum Meet held in Paris from 16th to 19th October, 2007. The topics discussed during the Meet were: (a) Intellectual Property Rights in the Digital Era, (b) Optimal use of Information Technology by the Judiciary and (c) Access to Supreme Court and Screening Process of Appeals. Shri V.K. Jain, Secretary General, Supreme Court of India also accompanied the Delegation during the visit (a) to assist the Indian Delegates during the Meet and (b) to have independent meetings with court administrators/ managers to study and discuss various aspects of case management and court management at Paris.

4. **INDO-BRITISH LEGAL FORUM MEET:** The 10th Indo-British Legal Forum Meet was held in Supreme Court of India on 17th and 18th March, 2008. The British Delegation was headed by Rt. Hon'ble Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales. Other members of the delegation were Rt. Hon'ble Lord Mance (House of Lords), Rt. Hon'ble Lord Hamilton, Lord President of the Court Session, Rt. Hon'ble Lord Justice Campbell, Lord Justice of Appeal in Northern Ireland, Rt. Hon'ble Lady Justice Arden (Court of Appeal), Rt. Hon'ble The Baroness Scotland,



The Indo  
British Legal  
Forum Meet

QC, Attorney General, Sir Sumantra Chakrabarti, Permanent Secretary at the Ministry of Justice and Mr. Michael Payton, Senior Partner of Clyde & Co. LLP. The Indian side was headed by Hon'ble the Chief Justice of India and included, as members, Hon'ble Mr. Justice B.N. Agrawal, Hon'ble Mr. Justice Ashok Bhan, Hon'ble Dr. Justice Arijit Pasayat, Shri T.R. Andhyarujina, Senior Advocate, Shri Gopal Subramaniam, Additional Solicitor General of India and Shri Ranjit Kumar, Shri Gourab Banerji, and Ms. Indu Malhotra, Senior Advocates. The topics discussed during the Meet were (i) Challenges before the Judiciary – Judicial Appointments and Diversity, Judicial Accountability, Conduct and Discipline and Judicial Independence; (ii) Comparative Constitutional Issues – Freedom of Speech and the role of media; (iii) The Rule of Law and the Constitutional Function of Law Officers and (iv) Alternative Dispute Resolution and International Arbitration.

5. **INDO-CANADIAN LEGAL FORUM MEET:** Hon'ble the Chief Justice of India alongwith Hon'ble Dr. Justice Arijit Pasayat participated in the Fourth Indo-Canadian Legal Forum Meet held from 21st to 23rd

May, 2008 at Ottawa, Canada. The following topics were discussed during the meet: - (a) Religion and the Courts; (b) Religious Freedom in Canada in the Charter Era; (c) National Security and Civil Liberties - an Indian Perspective; and (d) Conflict between Human Rights and National Security Concerns.

### Other International Conferences

6. Hon'ble Shri K.G. Balakrishnan, Chief Justice of India visited:
- (i) London to participate in the traditional ceremonies marking "The opening of the Legal year in England and Wales" on 1st October, 2007;
  - (ii) Beijing and Xian (China) as Head of the Indian delegation to participate in the Indo-Chinese Exchange Programme from 6th to 10th November, 2007. Hon'ble Mr. Justice B.N. Agrawal, Hon'ble Mr. Justice Ashok Bhan, Hon'ble Dr. Justice Arijit Pasayat and Hon'ble Mr. Justice H.K. Sema were the other Members of the Delegation. The Hon'ble Judges visited Shanghai also to participate in the Indo-Chinese Exchange Programme;



- (iii) Abu Dhabi (U.A.E) to attend the International Conference of the Presidents of the Supreme Courts of the World from 23rd to 24th March, 2008;
  - (iv) Ottawa (Canada) as Head of the Indian delegation to attend Indo-Canadian Legal Forum Meet 2008 held from 21st May to 23rd May, 2008. Hon'ble Dr. Justice Arijit Pasayat was the other Member of the Delegation;
  - (v) South Africa as Head of the Indian delegation to attend (a) Symposium on Social Justice held from 31st May, 2008 to 1st June, 2008 at Durban, South Africa and (b) Conference on "Enforcement of Socio-Economic Rights in South Africa/India" on 4th June, 2008 at Billville, Cape Town, South Africa. Hon'ble Dr. Justice Arijit Pasayat, Hon'ble Mr. Justice S.B. Sinha, Hon'ble Mr. Justice A.K. Mathur (since retired), Hon'ble Mr. Justice R.V. Raveendran and Hon'ble Mr. Justice P. Sathasivam were the other Members of the Delegation;
  - (vi) Brazil to participate in the Bicentennial Celebrations of the Supreme Court of Brazil on 15th August, 2008 at Brasilia and to attend 73rd Biennial Conference of the International Law Association (ILA) from 17th to 21st August, 2008 at Rio De Janeiro.
7. Hon'ble Mr. Justice Ashok Bhan (since retired) visited:
- (i) Australia to participate in the Inaugural Judicial Seminar on Commercial Litigation held at Sydney (Australia) from 3rd to 5th April, 2008; and
  - (ii) Brazil to participate in the 73rd Biennial Conference of the International Law Association (ILA) from 17th to 21st August, 2008 at Rio De Janeiro (Brazil).
8. Hon'ble Dr. Justice Arijit Pasayat visited London to witness the opening of Michaelmas Sittings on 1st October, 2007, followed by a Reception in the Royal Gallery, Palace of Westminster.
9. Hon'ble Mr. Justice S.B. Sinha visited Barcelona (Spain) to attend the 3rd International Conference on the Training of the Judiciary from 21st to 25th October, 2007.
10. Hon'ble Mr. Justice A.K. Mathur (since retired) visited:
- (i) Bangkok (Thailand) to participate in the IXth Congress of International Association of Supreme Administrative Jurisdictions from 22nd to 24th November, 2007;
  - (ii) Milan (Italy) to attend the International Meeting of the World Forum Mediation Centres held at Milan from 28-29 March, 2008; and
11. Hon'ble Mr. Justice P.P. Naolekar (since retired) visited Bangkok (Thailand) to participate in the IXth Congress of International Association of Supreme Administrative Jurisdictions from 22nd to 24th November, 2007.
12. Hon'ble Mr. Justice R.V. Raveendran visited Washington (U.S.A.) to participate in a "Study of Civil and Criminal Fast-Track Procedures and Intellectual Property Rights Enforcement in the United States" held at Washington D.C., and California (U.S.A) from 15th to 19th October, 2007.
13. Hon'ble Dr. Justice Mukundakam Sharma visited:
- (i) China to attend (a) official meetings with the Chinese Judicial dignitaries and academicians and also to speak to faculty and students of IP Research Institute of Renmin

University at Beijing from 6th to 8th July, 2008 and (b) to attend the International Conference on Judicial Protection of IPR, 2008 held at Shanghai; and

- (ii) Boston (U.S.A.) to attend the 41st International Congress organized by the international Association for the Protection of Intellectual Property (AIPPI) from 6th to 11th September, 2008.

### Chief Justices' Conference

14. The Chief Justices' Conference is convened normally every year by Hon'ble the Chief Justice of India at the Supreme Court of India, New Delhi wherein all the Chief Justices of the High Courts participate. The last Chief Justices' Conference was held on 17th and 18th April, 2008 to devise ways and means to expedite disposal of cases and to streamline & improve the Justice Delivery System. Resolutions pertaining to reduction of arrears, speedy trial of cases, upgrading and augmenting the infrastructure of Subordinate Courts, norms for revising the strength of Judges in High Courts, strengthening of A.D.R. system, modernization and computerization of Justice Delivery

System, formation of All India Judicial Service and strengthening of legal aid mechanism were adopted.

### Joint Conference of the Chief Ministers of States and Chief Justices of the High Courts

15. The Joint Conference was held at Vigyan Bhawan, New Delhi on 19th April, 2008. It was inaugurated by the Hon'ble Prime Minister. Decisions were taken on upgrading and augmenting the infrastructure of Subordinate Courts and progress made in modernization and computerization of Justice Delivery System; steps to be taken to reduce the arrears and ensure speedy trial of cases; filling-up of vacancies in High Courts as well as Subordinate Judiciary and enhancing Judges Strength at all levels; Setting up of Gram Nyayalayas; Strengthening of A.D.R. mechanisms and setting-up of permanent mechanism for implementation of earlier decisions.

### Visits of Foreign Delegations

16. A twelve member team from Royal College of Defence Studies accompanied by Group Captain Ian Draper, British Naval and Air Adviser and a member of the British High

*Hon'ble the Chief Justice of India, Hon'ble Justice B.N. Agrawal and Hon'ble Justice Ashok Bhan with the Chief Justices of various States.*



- Commission, Political Department visited Supreme Court of India on 10th October, 2007 and had a meeting with Hon'ble Mr. Justice Altamas Kabir, Hon'ble Mr. Justice R.V. Raveendran and Hon'ble Mr. Justice D.K. Jain.
17. Hon'ble Mr. Justice Navanethem Pillay, sitting Judge at the International Criminal Court, Hague visited Supreme Court of India on 29th October, 2007 and had a meeting with Hon'ble the Chief Justice of India, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice Ashok Bhan.
18. A four member delegation from Bangladesh headed by Mr. Justice M.M. Ruhul Amin, Judge of the Appellate Division of the Supreme Court of Bangladesh and Chairman, Judicial Service Commission of Bangladesh visited Supreme Court of India on 14th November, 2007 and had a meeting with Hon'ble Mr. Justice S.H. Kapadia.
19. A seven member delegation from Mongolia headed by Mr. Baysgain Gungaa, State Secretary for Justice and Home Affairs visited Supreme Court of India on 22nd November, 2007 and had a meeting with Hon'ble the Chief Justice of India.
20. Hon'ble Mr. Y.K.J. Teung Sik Yuen, Chief Justice of Mauritius visited Supreme Court of India on 4th December, 2007 and had a meeting with Hon'ble the Chief Justice of India.
21. Rt. Hon'ble Dato' Abdul Hamid bin Haji Mohamad, Chief Justice, Federal Court of Malaysia visited Supreme Court of India on 18th February, 2008 and had a meeting with Hon'ble the Chief Justice of India, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice Ashok Bhan.
22. An eleven-member Sri Lankan delegation headed by Mr. Sisira Ratnayake, District Judge, Colombo, President, JSA visited Supreme Court of India on 7th April, 2008 and had a meeting with the Secretary General.
23. A delegation from the Indonesian National Commission for Human Rights visited Supreme Court of India on 8th May, 2008 and had a meeting with the Secretary General.

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T H E   S U P R E M E   C O U R T   O F   I N D I A



*Court of the Chief Justice of India*

## 9.

## TONING UP OF REGISTRY

1. All Judicial Sections and various Administrative Wings have been computerized and software modules for maintaining the records. Computer systems are used for updating the case databases pertaining to different sections; Minimizing movement of files; Generation of notices; Generation of Dismissal letters; Registration of cases; Disposal of cases; Finding status of cases; etc.

### Use of Information Technology (IT)

2. Activities of Information Technology (IT) in the Supreme Court were initiated in 1990 when the COURTIS (Court Information System) Project was commissioned for streamlining the Registry.

3. Some of the web-enabled applications, successfully implemented at Supreme Court, include:

- ❑ The website ([www.supremecourtfindia.nic.in](http://www.supremecourtfindia.nic.in)) developed by NIC for the Supreme Court of India to freely provide, inter alia, information about:

- ◆ **CONSTITUTION:** Law, Courts and the Constitution, Sources of Law, Enactment of Laws, Applicability of Laws, Judiciary, Constitution of Supreme Court, Supreme Court Registry, Attorney General, Supreme Court Advocates;

- ◆ **JURISDICTION:** to explain the jurisdiction of Supreme Court of India and its related terms like Jurisdiction of the Supreme Court, Public Interest Litigation, Provision of Legal Aid, Amicus Curiae, High Courts, Advocate General, Lok Adalats;

- ◆ **RULES:** Supreme Court Rules, 1966, Regulations regarding advocates-on-record examination, Rules to Regulate proceedings for contempt of The Supreme Court, 1975 and the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970;

- ◆ **CJI & JUDGES:** photo gallery of sitting Hon'ble Chief Justice of India and Judges of Supreme Court along with their bio data;

- ◆ **CAUSE LISTS:** Daily, Weekly, Advance and Supplementary cause lists of Supreme Court;

- ◆ **DISPLAY BOARD:** Court-wise listing of cases, updated after every 30 seconds;

- ◆ **DAILY ORDERS:** within 24 hours, with free text based search also making available copy;

- ◆ **CASE – STATUS:** latest status information about pending or disposed of case including Lower court details, party and advocate names, Date on which last listed, Waiting position, Subject category along with exact verbatim of the text of

the Court's order; accessible through: Case Number, Title, Advocate names and Lower court details;

- ◆ **INFORMATION:** on Legal Aid, Supreme Court Legal Service Committee, Ministry of Law and Justice etc.;
- ◆ **MISCELLANEOUS:** Monthly Statements, and Pending Cases, Tender Notices, Purchase Procedure Policy for Acquisition of Books for Supreme Court Library, Supreme Court Handbook of Information, Information about Supreme Court Museum and Information about Right to Information Act, speeches delivered by Hon'ble the Chief Justice and Judges from April, 2005 onwards, photo gallery of former CJIs of Supreme Court, current and last years' calendar, bio-data and photographs of Secretary General and Registrars of Supreme Court;
- ◆ **LINKS:** Connectivity with other websites like JUDIS (web-enabled retrieval system called 'Judgment Information System' incorporating complete text of all reported judgments of the Supreme Court from 1950 to date), Daily Orders, Case Status (COURTNIC), and Cause List, India Code (all the latest Acts and Legislation passed by the Indian Parliament);
- **FILING COUNTER COMPUTERIZATION:** On tender of a fresh case at the Filing Counter, the data entry Operator enters preliminary details of the case required for the purpose of Registration, generating information about court fee & limitation and also Filing receipts;
- **E-FILING:** NIC has developed, for Supreme Court, software as a convenience tool especially for

out station petitioners/advocates to facilitate filing their petitions or pleadings without the need to come to the Supreme Court; the system also provides facility of serving court notices, latest Orders of the Court, etc., through e-mail;

- **AUTOMATIC SCHEDULING OF REGULAR HEARING CASES:** A software module has been in use for automatic scheduling and generation of Cause List of Regular Hearing matters;
- **LIST OF BUSINESS INFORMATION SYSTEM (LOBIS):** which contains information about pending and disposed cases since 1990, its database running into 7 lakh records, also utilized in time-critical application of generating Cause Lists and also for bunching/grouping technique;
- **COURT ORDERS/ PROCEEDINGS COMPUTERIZATION:** Software enables the Court Masters to speed up the process of typing orders/judgments by providing the preamble, which includes the Item Number of the Case in the Cause List, Names of Parties, Advocate Names, High Court/Lower Court details, date of order, etc.
- **RECORD ROOM COMPUTERIZATION:** keeps track of (13,57,750 files from 1950 till date of) records consigned (out of which about 12,699 files of period 2000 to 2004 and about 9069 files of the period 1950 to 1967 have been scanned), weeding of files, Records; Movement of files and Tracing of files;
- **COPYING SECTION:** Using software developed for the purpose the process of issuance of certified orders/Judgments is



streamlined, keeping track of status of readiness with the help of registration number generated at the time of application;

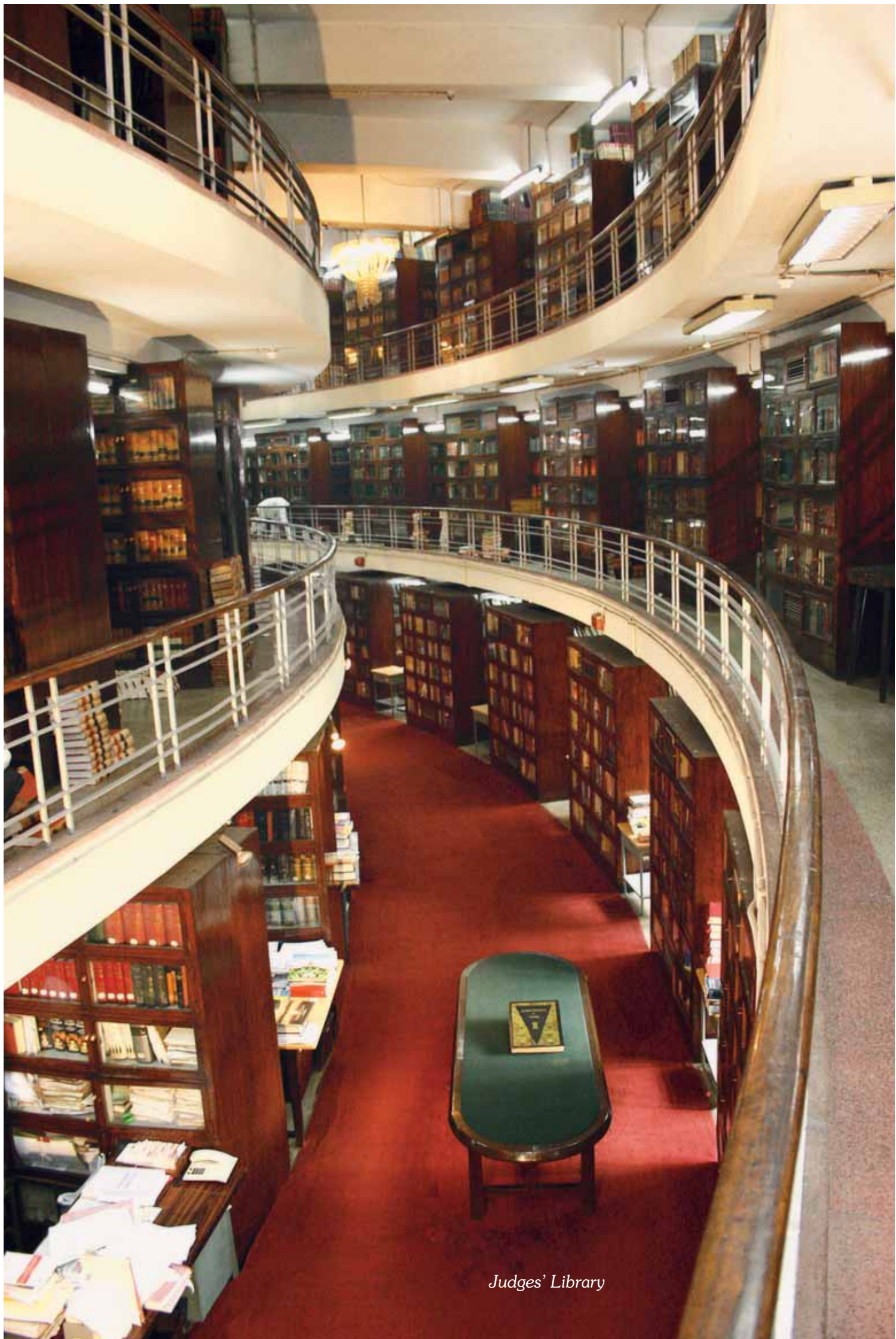
- ❑ **STATISTICAL REPORTS:** to generate every month Statistical reports on the institution, disposal and pendency;
- ❑ **LEGISLATION INFORMATION SYSTEM:** containing information about all Central Acts, right from the bill stage till its enactment, retrievable through title, catchwords, subject, year, etc.
- ❑ **RECEIPTS AND ISSUE SECTION:** uses software module, developed for its specific needs to maintain records about receipt and dispatch of letters, notices, etc.;
- ❑ **SUPNET:** A web enabled retrieval system for the Supreme Court employees that includes Telephone Directory of officers, Leave records, Personal information of an employee, Pay details and status of various advances taken, etc.

### **Library and Information System**

4. The Supreme Court Judges Library was established in 1937, then known as Federal Court Library. It contains significant legal literature to support the need of Hon'ble Courts and Judges and has a collection of about 2,50,000 legal documents, which include books, monographs, commission/committee Reports, government publications, centre and state legislations, other legislative materials and E-Resources in the form of On-Line and CD-ROM Legal Databases. It subscribes to about 200 Indian and Foreign Journals both academic and reporting. The Library has staff strength of 84 including 16 professional librarians. The users of the library are Hon'ble Judges, Senior Advocates, officers of the Registry, Research Scholars of different universities and the Law

clerks attached to the Hon'ble Judges. On an average 800-850 books/other materials are being issued per day to the different courts and to the Hon'ble Judges for the use in the residential libraries. If a desired book is not available in the library, it is procured from the different libraries on "Inter-Library Loan".

5. In order to provide the desired information expeditiously, the Library has developed an "Alphabetical Index" containing legislative history of all Central Acts and separate indexes with the legislative history of all the Acts of each State, which is being regularly updated as soon as any amendment in any Act occurs. "Union Catalogue of Current Legal Periodicals" showing periodical holdings of Supreme Court Judges Library and all the High Court Libraries has also been developed to ascertain availability of any particular "Law Report" at the time of need.
6. The Library subscribes to many computerized legal databases, viz., SCC-ONLINE, MANUPATRA, ITR, ExCus, All England Law Reports. Recently, the Library has acquired an international legal database, namely, "Westlaw International" containing Caselaws, Statutes and Articles from Foreign Journals and AIR INFOTECH Legal Database. Access to Westlaw, SCC-ONLINE, AIR INFOTECH and MANUPATRA legal databases has also been provided at the Residential Library of Hon'ble Judges.
7. For the current awareness purposes, Library provides 'Press Clippings' from leading National Dailies. Selective Dissemination of Information on legal aspects is a regular Service for Hon'ble Judges. Library also brings out a quarterly publication namely "Accession List" Consisting a list of books and Legislative materials acquired by the library in a particular quarter for the information of the Hon'ble Judges. Annual cumulation of this List is also



*Judges' Library*



compiled and circulated under the title “Library Catalogue Supplement”. Recently, Supreme Court Judges Library has also started “Current Contents” containing content pages of major Foreign Law Journals for information of the Hon’ble Judges about the recent articles published in different Foreign Law Journals.

8. As an innovation, an “Equivalent Citation Table” from four major Law Journals viz, “Supreme Court Cases”, “AIR (SC)”, “Judgments Today” and “SCALE” to Supreme Court Reports and other Journals has been prepared by the Library. This Table has also been made available on the Website of the Court for the benefit of legal fraternity.
9. Supreme Court Judges’ Library is a grid of libraries. In addition to Central Library, it also maintains workable collection in 12 Bench libraries and 26 residential libraries of Hon’ble Judges. Supreme Court Judges Library is essentially a reference and research wing of the Apex Court. It has to keep close watch over the multifarious literature requirements of Hon’ble Judges and Court functionaries and provides quick reference service.
10. Supreme Court Judges Library has utilized Information Technology tools to a great advantage for providing expeditious and efficient information services. Besides making available desired information to the Hon’ble Judges through ‘Internet’ and “CD-ROM Databases” subscribed in the library, the library has developed four indigenous legal databases (SUPLIS, SUPLIB and LEGIS) for providing pinpointed information to the Hon’ble Judges, which are accessible through “INTRANET” as well as website of the Supreme Court. These are:

- (i) SUPLIS (Database of Caselaws)
- (ii) SUPLIB (Database of Legal Articles)

(iii) LEGIS (Legislation Information System)

(iv) OPAC (On-line Public Access Catalogue)

11. **SUPLIS** is a case indexing database containing approximately 42000 reported cases decided by the Supreme Court from 1950 onwards; retrievable by date of Judgment, Party Name, Citation, Judge Name, Petition Number, Famous Case Name and Subject.



12. **SUPLIB**, as the name makes it clear, is a database developed in the Supreme Court library and contains more than 15400 articles from more than 200 Indian and Foreign Journals subscribed in the library of the Supreme Court, retrievable instantly.

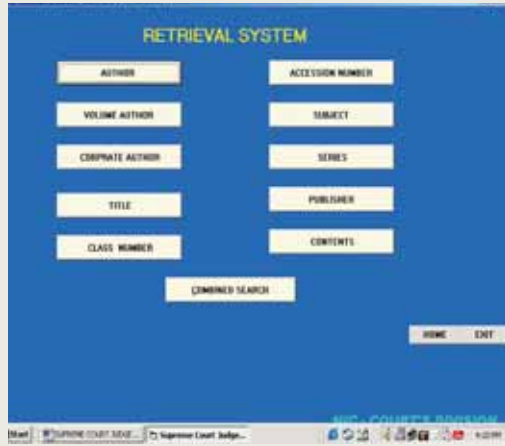
**SUPREME COURT JUDGES LIBRARY  
SUPLIB- Database of case laws  
RETRIEVAL SYSTEM**



**SUBJECT WISE  
JOURNAL WISE  
TITLE WISE  
AUTHOR WISE  
COURT INFORMATICS DIVISION  
NATIONAL INFORMATION CENTRE**

13. **LEGIS**, is a database that contains details of Central Acts/Amending





Acts and other statutory materials such as Rules, Bills etc.

14. **OPAC** has been specially developed for quickly ascertaining the availability and location of any book procured after the year 1973 through any access point such as Author, Title, Series, Subject, Collaborators, Editors, Accession No., Class No., Publisher etc.
15. **DIGITAL SIGNATURE:** The application of Digital Signature was initially introduced on intra-net (on Supreme Court LAN) in July, 2007. Every Court Master is provided with a Smart Card based Digital Signature alongwith Smart Card Reader installed in the Computer system. File Signer Plug-in Software is also loaded in the computer system for signing documents in Linux Operating System. As soon as hard copy of the Record of Proceedings is signed by Court Master, he also signs the Record of Proceedings in electronic form available in the computer with his Digital Signature. The Digitally Signed documents are transferred to the Central Server. Officer In-Charge of Copying Branch receives the Digitally Signed document through Local Area Network, verifies the authenticity of the Digital Signature and integrity of the document through a File Verifier Software, and upon satisfaction generates hard copy of the document for certified copy to be issued.

## Transit Home-Cum-Guest House

16. The Transit Home-cum-Guest House of the Supreme Court of India is at Bungalow No.1, Rajaji Marg, New Delhi. The building is allotted by Hon'ble the Chief Justice of India to newly appointed Hon'ble Judge of the Supreme Court till the Judge shifts to the official Bungalow and also to retired Hon'ble Chief Justices of India/Hon'ble Judges of this Court visiting Delhi and any other dignitaries.

## Other Facilities

17. A Bank, Post Office and a Railway Reservation Counter of Northern Railway are functioning in the Supreme Court Complex. A departmental Canteen is functioning in the Supreme Court apart from an Advocates' Canteen.
18. The Supreme Court Dispensary is located in the Supreme Court premises to provide medical facilities to the Hon'ble Judges, officers and staff of the Supreme Court. Various other specialist medical services are also provided there.
19. The facility of yoga training to the Hon'ble Judges has been arranged in the Supreme Court premises through Morarji Desai National Institute of Yoga, New Delhi.

## Recent Initiatives

20. Hon'ble the Chief Justice of India has requested the Hon'ble Prime Minister to set-up at least one Family Court in each of 465 cases, where no such Court has been set-up besides 48 additional courts in the places where the number of such Courts is inadequate.
21. To expedite disposal of corruption cases involving public servants, Hon'ble the Chief Justice of India has requested the Hon'ble Prime Minister

to set-up 69 additional courts for trial of corruption cases investigated by Central Bureau of Investigation, which is a special police force for detection and investigation of such offences.

22. **SUMMER VACATION TRAINING:** During the last Summer Vacation, necessary computer training was imparted to the officers and members of staff with effect from 19th May, 2008 to 4th July, 2008.

**Welfare Measures:**

23. A Free Health Check-up Camp, and a Free Eye Check-up Camp were organized in the Supreme Court First Aid Post.
24. Right to Information Act, 2005: Under the Right to Information Act, 773 applications were received by the Central Public Information Officer

[Additional Registrar (Admn.)] during the year and 771 applications were disposed of. Out of the 105 appeals filed, the First Appellate Authority [Registrar (Admn.)] disposed of 99 appeals.

**Budget**

25. Under Article 146(3) of the Constitution of India, the administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, are charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court form part of that fund.
26. The Budgetary Grants for the financial years 2007-08 was Rs. 56.74 crores and for 2008-09 it is Rs. 57.07 crores.

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*Chief Justice's Chamber*



## 10.

# THE SUPREME COURT IN THE MORNING OF THE 21ST CENTURY

Prof. G. Mohan Gopal<sup>1</sup>

## INTRODUCTION

The Supreme Court of India is a judicial institution without parallel in the world. Not only are its jurisdiction and powers more extensive than any other apex court but, more importantly, the Supreme Court of India has been entrusted by the founders of our Constitution with a unique and historic role not asked of many other apex courts – to be the guardian of the social revolution that is the goal of the Constitution.

The Constitution of India has been described by a leading scholar as “a social revolutionary statement.... a modernizing force.... [of which] social revolution and democracy were to be the strands of the seamless web most closely related”.<sup>2</sup> In turn, the judiciary has been described as “an arm of the social revolution [launched in the Constitution] and “the Supreme Court as “a guardian of the Social Revolution”.<sup>3</sup> Taking judicial note of this unique new role of the judiciary under the Constitution, the Supreme Court of India itself declared in one of its judgments that, “The judiciary has a socio-economic destination and a creative function. It has ...to become an arm of the socio-economic revolution and perform an active role calculated to bring social justice within the reach of the common man. It cannot remain content to act merely as an umpire but it must be functionally involved in the goal of socio-economic justice.”<sup>4</sup>

This role of the Indian judiciary in realizing the social vision of the Constitution stands in sharp contrast with the traditional, conservative role of courts in other countries, or even in India in pre-Constitutional times. Typically, courts are designed as conservative institutions that resolve disputes in order to maintain and uphold the existing social order -- avoiding, minimizing and mitigating popular demand for social change and reaffirming well established values and beliefs. In interpreting law, courts generally look backward for guidance to history and precedent, rather than forward to a new society.

The Supreme Court of India has been an exception to this traditional approach. Throughout its 58 year history, true to its historic Constitutional mandate, an important theme of the work of the Supreme Court has been the shaping of a new society as envisioned in the Constitution. The Court has played a central role in building democracy and the rule of law as the foundation of a new society and in giving flesh and meaning to the fundamental rights enumerated in the Constitution.

This Note briefly presents an overview of the work of the Supreme Court in the first eight years of the new millennium<sup>5</sup>. Section A of this Note provides a brief quantitative overview of the work of the Supreme Court during this period; and Section B briefly illustrates the depth and

<sup>1</sup> Director, National Judicial Academy, India (NJA). This Note has been prepared with research assistance from NJA staff and valuable inputs from judges, Supreme Court of India staff, lawyers and leading Indian on-line law publishers.

<sup>2</sup> Granville Austin, *The Indian Constitution – Cornerstone of a Nation* (New Delhi: Oxford University Press, 2005).

<sup>3</sup> *Id.*

<sup>4</sup> *S.P. Gupta v. Union Of India*, 1982 (2) SCR 365

<sup>5</sup> Decisions issued between January 1, 2000 and September 30, 2008

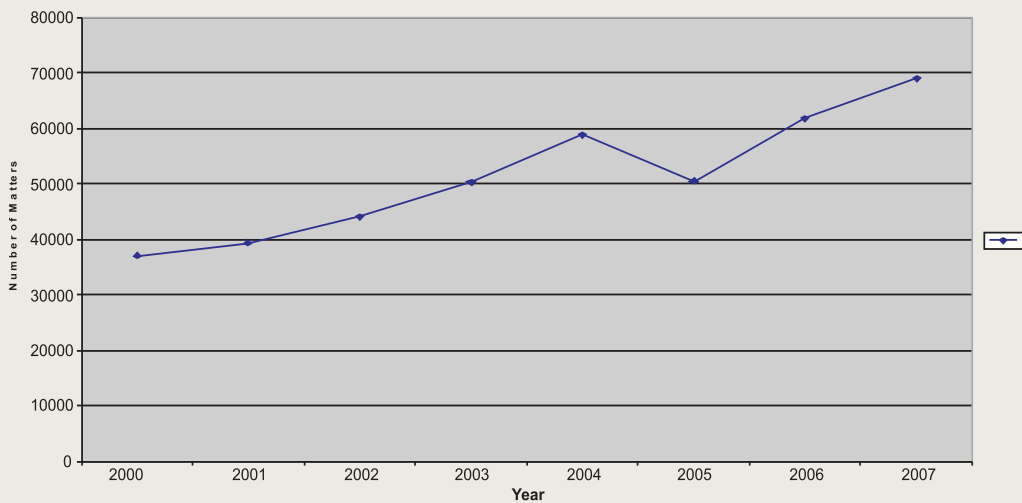
breadth of the engagement of the Court with key national challenges facing the country as “the nation” sets about the task of building a new society in the new century. The Note is not an analytical piece, nor is it intended to be exhaustive. It merely illustrates the range of issues being dealt with by the Supreme Court of India in ‘the morning of the new millennium’.

**A. QUANTITATIVE OVERVIEW**

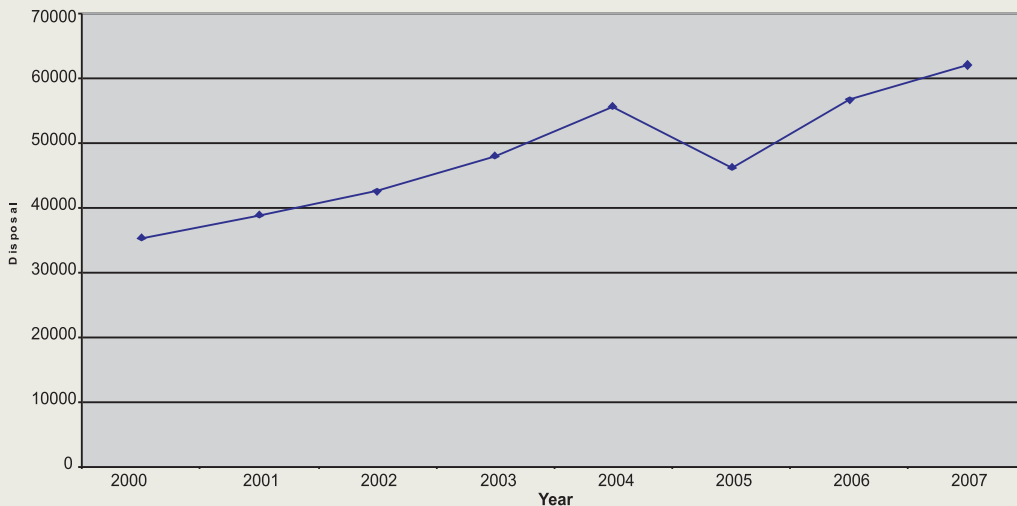
467785 matters were filed and 438773 matters were disposed by Supreme Court of India between January 1, 2000 and September, 2008, with 49346 cases remaining on file at the end of September, 2008. The number of

matters disposed of by Supreme Court of India has steadily risen as shown below, reaching the highest point in 2007. Annual disposal of 2007 was 61957 as against disposal of 35300 in the year 2000, without there being any increase in the number of Supreme Court Judges. The institution of cases during this period, increased from 37111 in the year 2000 to 69103 in the year 2007. The disposal in the first ten months of the calendar year 2008 was 57489 as against institution of 59826 during this period. The Judges of the Supreme Court of India are widely recognized as having the highest per-judge disposal and per-judge caseload of any apex court in the world.

**ADMISSION OF MATTERS IN THE SUPREME COURT (2000-2007)**



**DISPOSAL OF MATTERS BY THE SUPREME COURT (2000-2007)**



The bulk of cases filed in the Supreme Court are appeals from decisions of lower courts and tribunals admitted under special leave granted by the Court under Article 136 of the Constitution of India. Matters come to the Supreme Court from all across the country. The four main metropolitan cities of Bombay, Delhi, Chennai and Bangalore as well as the States of Punjab and Haryana and Uttar Pradesh have a significant share of the filing. A full range of legal issues are brought to the Supreme Court. Civil (especially economic and commercial)

matters contribute a substantial share. Criminal law and public law issues (Constitutional and Administrative law) are also a major part of the docket of the Court. The Government, including public sector entities, is a party in a large number of matters. 55 honourable judges have served on the Supreme Court during the period under review Justice K.G. Balakrishnan, Hon'ble Chief Justice of India, has the longest tenure on the Court in the period in review. The Court has been led by nine Chief Justices in these 8 years.

### CHIEF JUSTICES OF INDIA (2000-2008)

	CHIEF JUSTICES OF INDIA	FROM	TO	LENGTH OF TENURE AS CJI
1.	Justice A.S. Anand	10.10.1998	31.10.2001	1 year and 10 months in the 21st century
2.	Justice S.P. Bharucha	01.11.2001	05.05.2002	6 months and 4 days
3.	Justice B. N. Kirpal	06.05.2002	07.11.2002	6 Months and 1 day
4.	Justice G.B. Pattanaik	08.11.2002	18.12.2002	1 month and 10 days
5.	Justice V.N. Khare	19.12.2002	01.05.2004	1 year, 4 months and 12 Days
6.	Justice S. Rajendra Babu	02.05.2004	31.05.2004	29 days
7.	Justice R.C. Lahoti	01.06.2004	31.10.2005	1 year, 4 months, 30 days
8.	Justice Y.K. Sabharwal	01.11.2005	13.01.2007	1 year, 2 months and 12 days
9.	Justice K.G. Balakrishnan	14.01.2007	11.05.2010	3 years, 3 months and 27 days

### B. ENGAGEMENT WITH KEY NATIONAL CHALLENGES

Instead of presenting the work of the Supreme Court in the first eight years of the 21st century in a traditional manner -- merely in terms of the areas of law in which it pronounced judgment -- this Note seeks to provide a brief insight

into the social contribution of the Court, responding to the unique social mandate placed on it by the Constitution. To this end, this Note outlines the contribution of the Supreme Court to certain key challenges facing the country in the 21st century and sets out a few illustrations of how the Court has engaged with these challenges: The purpose of this part of the



note is not to present an analysis of the work of the Court or focus only on new contributions to the development of law in this period. Rather, it seeks to merely illustrate the range of issues in which the Supreme Court was involved in these last eight years, using a few examples.

### Major Challenges Facing the Country

The main social challenges facing the country during the 21st century, relevant to the work of the legal and judicial system, may be categorized as follows.

**First**, the challenge of ensuring that everyone enjoys *Fundamental Rights* guaranteed to them under Part III of the Constitution – and they do not remain mere promises on paper.

**Second**, the challenge of *poverty alleviation and securing social justice*, in line with the social vision of Part IV of the Constitution, even as the majority of people continue to suffer from poverty, disease, hunger, deprivation, discrimination, social exclusion, denial of civil and political rights as well as inadequate access to basic needs and public goods (such as nutrition, health, water and education).

**Third**, the challenge of *strengthening social cohesion* in line with the vision of fraternity, dignity and unity contained in the Preamble and the values elaborated in Part IVA of the Constitution, by overcoming divisive forces such as casteism, communalism and regionalism that are still active in the country; strengthening individual, family, community and nation, and infusing them with Constitutional values;

**Fourth**, the challenge of *ensuring safety and security*. The safety and security of the country are under unprecedented armed attack. Crime, criminality, impunity, insurgency and terrorism are major threats to the country. On the other hand, criminal justice remains elusive for a large section of people including

large sections of under-trial prisoners. Under these circumstances, ensuring the effectiveness of criminal justice administration is of great importance to society.

**Fifth**, the challenge of *environmental protection and conservation* so as to preserve and protect the rich heritage of nature, in the face of burgeoning demand for its irresponsible consumption.

**Sixth**, the challenge of *strengthening Constitutional governance and the rule of law*, in the face of such diverse threats as corruption, lack of accountability and disregard for the rule of law. Public institutions responsible for governance are not as effective as they should be. Even democratic and judicial institutions have come under pressure.

**Seventh**, the challenge of *catalyzing investment and economic growth*. Sustained, equitable, fair, people-friendly and environment-friendly economic growth is needed for prolonged periods if “the pie is to be expanded” and adequate employment and wealth generated to lift people out of poverty.

These seven challenges arise at least in part from, and need to be considered in light of *two phenomena* that have dominated the end of the last century and the beginning of the new millennium in India: *Globalization* and the new directions in economic policy initiated by the economic reforms of 1991.

### Supreme Court’s Response to the Challenges of the 21st Century

This Note briefly outlines some illustrative decisions of the Supreme Court of India in the 21st century (between January 1, 2000 and September 30, 2008), in relation to the seven challenges facing the country. The work of the Court covers a vast swathe of issues in addition to the decisions and issues discussed here. This Note focuses only on the response of the Court to the seven

identified challenges in order to highlight how the Court is engaging with them. The cases referred to here are neither intended to be an exhaustive description of Supreme Court judgments on these challenges, nor even the most important amongst them. They are intended merely to be illustrative of the manner in which the Court has engaged with these challenges. Nor is there an attempt here to present the response of the Court to these issues as either ‘right’ or ‘wrong’.

**(1) Challenge #1: Securing Fundamental Rights**

As noted earlier, fundamental rights are at the heart of the Indian Constitution. In turn, also as noted earlier, the Indian judiciary itself was conceived in the Constitution as an extension of the fundamental rights. The Supreme Court has played a major role in giving flesh to these rights through interpretation as well as by expanding remedies available for the protection of rights. In the period under review, the Supreme Court continued to be asked to play a key role in the protection of a wide variety of Constitutional rights.

The Supreme Court clarified and expanded the scope of the protection of the ‘Right to Equality’ under Article 14 of the Constitution in a variety of new circumstances<sup>6</sup>. The Court also reiterated that the law may, to the extent permitted by the Constitution, impose restrictions on the freedom guaranteed under Article 19(1)(g) of the Constitution of India if the statute imposing restriction is a reasonable one and is in the interests of the general public<sup>7</sup>. At the same time the Supreme Court has also held that closure of a trade or business for a limited period is not an unreasonable restriction and is not violative of Article 19(1)(g) of the Constitution of India.<sup>8</sup> In a decision that has symbolic and sentimental importance, the Court held that the right to fly the National Flag freely, with respect and dignity is a fundamental right of a citizen within the meaning of Article 19(1) (a) of the Constitution of India, being an expression and manifestation of his allegiance and feelings and sentiments of pride for the nation.<sup>9</sup> The Supreme Court affirmed that the protection of Article 21 would extend to non-citizens in addition to citizens<sup>10</sup>. The Court elaborated on the offence of outraging

<sup>6</sup> (1) In *Dwarka Prasad Agarwal v. B.D. Agarwal*, (2003) (Supp1) SCR 336, the Court held that any trial which deviates from judicial process, which is based on reasonableness and fairness, is violative of Article 14. (2) In *UOI v. International Trading Company*, 2003 (Supp1) SCR 55, the Court held that Article 14 applies to all matters including policy, where arbitrariness per se, uninformed by reason, results in unconstitutionality. (3) In *K Thimmappa v. Chairman, Central Board of Directors, S.B.I.*, 2000 (Supp 5) SCR 368, the Court held that “mere differentiation does not per se amount to discrimination within the inhibition of the equal protection clause. Article 14 operates only when the selection of differentiation is unreasonable or arbitrary and it does not rest on any rational basis having regard to the object which the legislature has in view. (4) In *State of Andhra Pradesh v. Nallamilli Rami Reddy*, 2001 (Supp 2) SCR 287, the Court held that a classification which is not patently arbitrary is justified even if it is not scientifically proved or logically complete, provided there is equality and uniformity within the group. (5) In *Ashutosh Gupta v. State of Rajasthan*, 2002 (2) SCR 649, the Court held that any challenge to a law on the basis of discrimination must be clear, specific and unambiguous and the burden of proof is on the person who challenges. (6) In *Anuj Garg v. Hotel Association of India*, 2007 (12) SCR 991, the Court held that no law in its ultimate effect should end up perpetuating the oppression of women. Personal freedom is a fundamental tenet which cannot be compromised in the name of expediency until there is a compelling state purpose. The Court held that the impugned legislation suffered from incurable fixations of stereotype morality and conception of sexual role. (7) The Court in *Jamshed Hormusji Wadia v. Board of Trustees, Port of Mumbai*, 2004 (1) SCR 483, held that the “position of law is settled that the ‘state’ and its authorities including instrumentalities have to be just, fair and reasonable in all their activities including those in the field of contracts”. (8) In *MP Rural Agricultural Extension Officers Association v. State of MP*, 2004 (3) SCR 821, the Court held that the state under Article 309 can unilaterally make or amend the conditions of service of its employees by framing appropriate rules, even with retrospective effect. A policy decision to give one scale to graduates and another to non-graduates among the existing employees is not violative of Article 14.

<sup>7</sup> *Udai Singh Dagar and Ors. v. Union of India and Ors*, 2007 (6) SCR 707.

<sup>8</sup> *Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat*, 2008 (4) SCR 1020.

<sup>9</sup> *Union of India v. Naveen Jindal and Anr.* 2004 (1) SCR 1038.

<sup>10</sup> In *The Chairman, Railway Board v. Chandrima Das*, 2000 (1) SCR 480, the Supreme Court affirmed that public law remedies have been extended to the realm of tort and that the Court has awarded compensation to petitioners who suffered personal injuries at the hands of the officers of the Government. The Union Government can, subject to other legal requirements being satisfied, be held vicariously liable in damages to the person wronged by its employees. The Court further clarified that non-citizens also are protected by Article 21 and have the right to live, so long as they are in India, with human dignity.

the modesty of a woman<sup>11</sup>. Protecting human rights as well as fundamental rights of employees under Article 21, the Supreme Court issued directions to States of Bihar and Jharkhand to deposit sums for payment to employees in Public Sector Undertakings on the ground that employees had a human right as well as a fundamental right under Article 21 which States were bound to protect<sup>12</sup>. The Court also held that the right to privacy under Article 21 of Constitution of India can be curtailed in accordance with procedure validly established by law, as long as the law contains sufficient safeguards. In the process, the Court upheld the validity of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA)<sup>13</sup>. The Court also strongly affirmed that Article 21, in view of its expansive meaning, not only protects life and liberty but also envisages a fair procedure; and that liberty of a person should not ordinarily be interfered with unless there exist cogent grounds<sup>14</sup>. The Court held that personal liberty protected under Article 21 is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of a detaining Authority to show that impugned detention meticulously accords with the procedure established by law. It ruled that no law is an end in itself and the curtailment of liberty for reasons of State

security and national economic discipline as a necessary evil has to be administered under strict constitutional restrictions<sup>15</sup>. Expanding the right to food as envisaged under Article 21 of the Constitution of India, the Court *inter alia* directed the Government to sanction a minimum of 14 lakh Angan Wadi Centers under ICDS (Integrating Child Development Scheme).<sup>16</sup> The Supreme Court set out the scope of various fundamental rights in relation to the vital field of education – the right to establish and operate educational institutions; the extent to which social obligations may be imposed as constraints to the fundamental right to establish and administer educational institutions as well as rights of minorities to establish and administer educational institutions.<sup>17</sup>

Public Interest Litigation (PIL) was developed by the Indian judiciary as an efficacious and accessible tool to empower public-minded citizens to invoke the law to protect Constitutional rights. In quantitative terms, PIL remains a relatively small part of the docket of the Supreme Court. However, qualitatively, it remains a potent and significant tool for the protection of Constitutional rights. As is to be expected, as powerful a tool as PIL is on occasion misused to protect private or parochial interests rather than

<sup>11</sup> Ramkripal s/o Shyamlal Charmakar v. State of M.P. (Criminal Appeal No: 370 of 2007) The Court held that the culpable intention of the accused is the crux of the matter. The absence of reaction of the woman is not decisive. Modesty is an attribute associated with females as a class, a virtue that attaches to a female owing to her gender. Knowledge that actions are likely to outrage the modesty of a woman is sufficient to constitute the offence even if outraging modesty may not be the sole intent of the act.

<sup>12</sup> Kapila Hingorani v. State of Bihar, 2005 (1) SCR 456. In this case, in the wake of suicides and starvation of the employees working in PSU's, the Court handed down a severe rebuke to the PSU – "While the State expects the industrial houses and multi-national companies to take such measures which would provide a decent life to the persons living in the society in general and to their employees in particular and in that premise is it too much to ask the State to practice what it preaches? This gives rise to another question. Can the state be so insensitive to the plight of its own citizens in general and the employees of public sector undertakings in particular? The court in a situation of this nature is obligated to issue necessary directions to mitigate the extreme hardship of the employees involving violations of human rights of the citizens of India at the hands of the government companies and corporations fully owned or controlled by it. A right to carry on business is subject to compliance of constitutional obligations as also provided in the Constitution." The Court held that financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental rights arises.

<sup>13</sup> State of Maharashtra v. Bharat Shanti Lal Shah, 2008 (12) SCALE 167.

<sup>14</sup> Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra and Anr. 2005 (3) SCR 345.

<sup>15</sup> Union of India v. Yumnam Anand, 2007 (5) SCR 60.

<sup>16</sup> People's Union For Civil Liberties v. Union of India 2006 (Supp 10) SCR 907.

<sup>17</sup> In T.M.A. Pai Foundtion v. State of Karnataka, 2005 (Supp 3) SCR 587, P.A. Inamdar v. State of Maharashtra, 2005 (Supp 2) SCR 603, and Islamic Academy of Education. & Anr. v. State of Karnataka & Ors, 2003 (Supp 2) SCR 474 and related cases that followed, the Court clarified and strengthened a variety of fundamental rights in relation to education under Articles 15(4), 19(1)(g), 19(6), 26(a), 29, 30(1), 41, 51-A (h) and (i) and 141.



public interest. The Supreme Court has provided guidance in a number of important judgments on safeguarding the effective use of PIL. The Court declared that Public Interest Litigation is meant to protect basic human rights of the weak and the disadvantaged but in recent times there has been increasing abuse of PIL. The Court held that it would exercise its powers when a petition is filed by any interested person for the welfare of disadvantaged people. The Court would interfere when fundamental rights are violated. Public interest litigation would not ordinarily be entertained unless the public has an interest in the cause<sup>18</sup> Cautioning that Public Interest Litigation is a weapon which has to be used with great care and circumspection, the Court has said that the judiciary has to be extremely careful to see that behind the veil of public interest lurks no private malice, vested interest and/or publicity seeking. It explained the concept and meaning of Public Interest Litigation as legal action initiated in a court of law for enforcement of public interest or general interest in which the public or class or community have pecuniary interest<sup>19</sup>.

## **(2) Challenge #2: Poverty Alleviation and Social Justice**

The promise of social justice for common people – and the struggle to achieve it – lies at the core of our Constitution. One of the most unique and innovative features of the Indian Constitution in this regard is an express scheme to ensure that socially and educationally backward classes of people (including, in particular, scheduled castes and scheduled tribes) obtain their due share of at least the

three main prerogatives accruing from the State that have traditionally been monopolized by privileged classes ((i) exercise of legislative power through membership in the legislature; (ii) exercise of executive power through public employment; and (iii) access to education. One of the most complex and sensitive challenges facing the Supreme Court in the period in review has been adjudicating disputes over reservations provided under this Constitutional scheme with regard to education<sup>20</sup> and employment<sup>21</sup>. Education has assumed crucial importance in the context of globalization and the emergence of a so-called knowledge society. Decisions of the Supreme Court in this regard have shaped legislative programmes for social justice in response to Constitutional challenges mounted against them. The words of the Hon'ble Chief Justice of India, Justice K.G. Balakrishnan provide a vision for society in approaching the challenge of social justice. The Hon'ble Chief Justice of India said, "The Founding Fathers of the Constitution... aware of the ripples of inequality present in society, decried the notion of caste and ensured that the Constitutional framework contained adequate safeguards that would ensure the upliftment of the socially and educationally backward classes of citizens, thus creating a society of equals."<sup>22</sup>

On a separate point, the Supreme Court held that a woman from a forward class marrying a tribal man cannot automatically attain the status of a tribal unless she has been accepted by the community as one of them, and has observed all rituals, customs and traditions practiced by the members of

<sup>18</sup> Guruvayur Devaswom Managing Commit. and Anr. v. C.K. Rajan and Ors, 2003 (Supp 2) SCR 619.

<sup>19</sup> Dr. B. Singh v. Union of India and Ors. AIR 2001 SCR 1560. See also Bombay Dyeing and Mfg. Co. Ltd. v. Bombay Environmental Action Group and Ors., 2006 (2) SCR 920.

<sup>20</sup> Ashoka Kumar Thakur v. Union of India and Ors. 2008 (4) SCR 1. The Court held that the Constitution 93rd Amendment Act, 2005 by which clause (5) was inserted in Article 15 of the Constitution to enable the State to make provision for advancement of SC, ST and Socially and Educationally Backward Classes (SEBC) of citizens in relation to admission to educational institutions] was valid and did not "violate the 'basic structure' of the Constitution so far as it related to "State maintained institutions and aided educational institutions. In *Nair Service Society v. State of Kerala*, AIR 2007 SC 2891, the Court upheld the exclusion of the creamy layer on the basis that persons who have reached the status of general category, cannot be permitted to defeat the purport and object of reservations.

<sup>21</sup> Rajesh Kumar Daria v. Rajasthan Public Service Commission 2008 (4) SCR 1. The Court examined the difference between vertical (social) reservation in favour of SC, ST and OBC and horizontal (special) reservation in favour of women.

<sup>22</sup> Ashoka Kumar Thakur v. Union of India and Ors. (2008 (4) SCR 1 at para 2, pg 445.

the tribal society for the purpose of social relations with the village community. Such acceptance must be by a resolution of the village community<sup>23</sup>.

### **(3) Challenge #3: Strengthening Social Cohesion**

The focus of the work of the Court in strengthening social cohesion has been on the family, addressing changing family relationships in a rapidly changing society and, in several instances, advancing Constitutional values within the family.

A number of decisions touched on the issue of divorce. The Court reiterated the definition of “cruelty” under Section 13(1)(i)(a), Hindu Marriage Act, 1955 to cover a broad range of conduct in addition to physical violence<sup>24</sup>. Holding that there cannot be a constant definition of the concept of “mental cruelty”, the Court held that it would differ from person to person depending on individual upbringing, level of sensitivity, educational, family and cultural background, financial position, social status, customs, traditions, religious beliefs and human values<sup>25</sup>. The Court subsequently reaffirmed this position holding that cruelty includes mental cruelty; cruelty need not be physical<sup>26</sup>. After careful consideration of the state of law in India and in other countries, and the ground realities prevailing in changing family relationships, the Supreme Court recommended to the Union of India to seriously consider amending the Hindu Marriage Act, 1955 to incorporate

irretrievable breakdown of marriage as an additional ground for divorce<sup>27</sup>.

*Protection of women* was an issue on which the Court was called upon to adjudicate. The Court clarified that the non-existence of a valid marriage is not a defense to prosecution under Section 498A of the Indian Penal Code, as the section is intended to apply to all relationships in the nature of marriage<sup>28</sup>. Reversing a decision of a High Court, the Supreme Court held that High Courts, in exercise of their inherent powers under Section 482 of the Code, can quash criminal proceedings or FIR or complaint of cruelty lodged by a wife under Section 498A of the Indian Penal Code if the wife subsequently settles pending disputes and agrees to rejoin the matrimonial home and both spouses approach the High Court jointly praying for quashing of the criminal proceedings or the First Information Report or complaint filed by the wife, although the offences are non-compoundable under Section 320 of the Code<sup>29</sup>. The Court has also had the opportunity to decide a matter under the newly enacted Protection of Women from Domestic Violence Act, 2006<sup>30</sup>.

The Court strengthened the effort of society to stamp out dowry by affirming the view that no accused under this provision should be allowed to escape liability for making a demand for dowry.<sup>31</sup> The Court held that demand for money on account of some financial stringency, for meeting some urgent domestic expenses or for purchasing manure cannot be considered

<sup>23</sup> Anjan Kumar v. Union of India & Ors. (2006) 3 SCC 257

<sup>24</sup> Naveen Kohli v. Neelu Kohli, AIR 2006 SC 1675.

<sup>25</sup> Samar Ghosh v. Jaya Ghosh (2007) 4 SCR 428.

<sup>26</sup> Smt. Mayadevi v. Jagdish Prasad (AIR 2007 SC142) The Court held that, to constitute cruelty, the conduct complained of should be “grave and weighty” so as to come to the conclusion that the petitioner spouse cannot be reasonably expected to live with the other spouse. It must be something more serious than “ordinary wear and tear of married life”.

<sup>27</sup> Naveen Kohli v. Neelu Kohli, AIR 2006 SC 1675.

<sup>28</sup> Reema Aggarwal v. Anupam and Ors. 2004 (1) SCR 378.

<sup>29</sup> B.S. Joshi and Anor. v. State of Haryana and Ors., 2003 (2) SCR 1104.

<sup>30</sup> S.R. Batra and Anr. v. Smt. Taruna Batra, 2006 (Supp 10) SCR 1206 in which the Court held that under the Protection of Women from Domestic Violence Act, 2006 a wife is only entitled to claim a right to residence in a shared household, that term being defined as a house belonging to or taken on rent by the husband, or house which belongs to a joint family of which the husband is a member, but not to a house that belongs to the mother in law of the wife and not to the husband.

<sup>31</sup> Reema Aggarwal v. Anupam and Ors., 2004 (1) SCR 378.

to be a demand for dowry as the word is normally understood<sup>32</sup>. The Court held that while payments in connection with a marriage – whether before the marriage, at the time of the marriage ceremony or at any time after the marriage – would fall within the definition of dowry, customary payments (e.g., given at the time of the birth of a child or other ceremonies as prevalent in society) would not fall within the definition of dowry<sup>33</sup>.

The Court held that marriages of all persons are compulsorily registrable in the State in which the marriage was solemnized<sup>34</sup>.

**Children:** The Supreme Court elaborated on the law on paternity to more effectively protect the interests of the child<sup>35</sup>. While granting custody of child, the court reiterated that paramount consideration should be given to the welfare of child and if the child is residing with the mother mere remarriage of the mother cannot be taken as a ground for not granting her custody of the child.<sup>36</sup> The Court held that in determining custody courts must be guided above all by the welfare and interest of the child rather than statutory rights of parents, or merely their wealth or love for the child<sup>37</sup>.

**Adoption:** The Court held that a married Hindu woman cannot adopt a child, even with the consent of the husband, during the subsistence of her marriage even if she is separated from her husband for a prolonged period and is living 'like a divorced woman'<sup>38</sup>.

**Maintenance:** The Court held that the wife and children of an irregular marriage that continues to subsist until it is terminated in accordance with law are entitled to maintenance under Section 125 of the Cr. P.C.<sup>39</sup>

**Caste and Religion:** Observing that the caste system is a curse on the nation and inter-caste marriages are in the national interest the Court affirmed that threats, harassment and violence against couples who marry across caste are illegal and must be severely punished. Authorities must ensure that such couples are duly protected<sup>40</sup>. The Court held that considerations of religion, caste, colour or political loyalty are totally irrelevant and discriminatory in the exercise of Constitutional power<sup>41</sup>. On a social issue pertaining to sensitive religious sentiments, the Court declined to direct the Government to impose a total ban on cow slaughter as it amount to judicial legislation, encroaching upon the powers of the legislature<sup>42</sup>.

#### **(4) Challenge #4: Enhancing Safety, Security and Redress for Injury**

Ensuring safety and security, and providing redress from injury (both criminal and civil) are amongst the most basic responsibilities of the State, requiring coordinated action by not only the judicial system but also the legislature and the executive system. The Supreme Court observed in this regard that the "security of persons and property of the people is an essential function of the State. It could be achieved through the instrumentality of criminal law. Undoubtedly, there is a

<sup>32</sup> Appasaheb & Anr. v. State of Maharashtra (AIR2007SC763)

<sup>33</sup> Ran Singh and Anr. v. State of Haryana and Anr. AIR 2008 SC 1294

<sup>34</sup> Seema v. Ashwani Kumar(2006)2SCC578

<sup>35</sup> Smt. Kanti Devi & Anr. v. Poshi Ram, 2001 (3) SCR 729, in which the Court held that in a case where the husband denies paternity, the burden of proof should be higher than preponderance of probabilities, so as to ensure that there was no possibility of the child being conceived through the husband.

<sup>36</sup> Lekha v. P. Anil Kumar, 2006 (Supp 9) SCR 234.

<sup>37</sup> Mausami Moitra Ganguli v. Jayant Ganguli (CA No: 3500 of 2008)

<sup>38</sup> Brajendra Singh v. State of M.P. & Anr. (Civil Appeal No;7764 of 2001)

<sup>39</sup> Chand Patel v. Bismillah Begum and Anr. AIR 2008 SC 1915. The case dealt with a marriage governed by Hanafi law.

<sup>40</sup> Lata Singh v. State of U.P. & Anr. (2006) 5 SCC 475

<sup>41</sup> Epuru Sudhakar & Anr. v. Govt of AP & Ors.(JT 2006 (9) SC 72)

<sup>42</sup> Akhil Bharat Goseva Sangh v. State of Andhra Pradesh & Ors (2006) 4 SCC 162



cross-cultural conflict where living law must find answers to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law, which must be achieved by imposing appropriate sentence<sup>43</sup>. “Therefore, law as a cornerstone of the edifice of “order” should meet the challenges confronting .society.”<sup>44</sup>

India arrived into the 21st century carrying with it the legacy of a criminal justice system in crisis, unable to safeguard the Constitutional right to a speedy trial mainly because of failures in investigation and prosecution. To this a new challenge has been added in the 21st century – terrorism.

To address this challenge, the Government of India established the Committee on Reforms to the Criminal Justice System in 2003, to recommend changes to the criminal justice system in India. The changes recommended by this Committee have brought to the forefront a national debate on some of

the fundamentals of the criminal justice system. The adequacy of traditional criminal justice institutions, mechanisms and laws to meet new, globalized threats is one of the most important issues currently being debated in society. India has also seen continuing social conflict across caste, communal and regional divides.

The Supreme Court addressed a range of issues pertaining to criminal justice. First, the Court laid down important principles of law in a number of key areas. The Court clarified the law on presumptions of guilt and reversal of burdens of proof – increasingly used in legislation targeting various specific types of crimes – and its impact on the fundamental principle of the presumption of innocence<sup>45</sup>. The Court also settled the law pertaining to a number of crucial and complex issues of admissibility of confessions, extra judicial confessions, retracted confessions and circumstantial evidence, pointing to the danger that conjectures and suspicion may take the place of legal truth<sup>46</sup>. The Court clarified the law on the grant of bail<sup>47</sup> and also used and explained the use of video conferencing in justice

<sup>43</sup> State of Punjab v. Prem Sagar and Ors (2008) 7 SCC 550

<sup>44</sup> State of Punjab v. Prem Sagar and Ors (2008) 7 SCC 550, quoting the Supreme Court in Jasantbhai and Anr. v. State of Gujarat and Ors (2006)2SCC359.

<sup>45</sup> In Noor Aga v. State of Punjab and Anr, 2008 (10) SCR 379, the Court held that the “presumption of innocence although cannot per se be equated with the fundamental right and liberty adumbrated in Article 21 of the Constitution of India,” it is a human right as envisaged under Article 14(2) of the International Covenant on Civil and Political Rights, that “cannot be thrown aside, but has to be applied subject to exceptions.” The Court took the view that limited inroads on the presumption would be justified and said that “provisions imposing reverse burden, however, must not only be required to be strictly complied with but may also be subject to proof of some basic facts as envisaged under the statute in question” and observed that “indisputably, civil liberties and rights of citizens must be upheld.”

<sup>46</sup> Alope Nath Dutta and Ors. v. State of West Bengal, 2006 (Supp 10) SCR 662. In State (N.C.T. of Delhi) v. Navjot Sandhu @ Afsan Guru, 2005 (Supp 2) SCR 79, the Court held that a retracted confession cannot be acted upon unless it is voluntary and can be corroborated by other evidence; that a confession of the accused can be used against the co-accused only if there is sufficient evidence pointing to his guilt; a confession made under POTA cannot be used against co-accused as POTA operates independently of Indian Evidence Act and Indian Penal Code; a confession made involuntarily is inadmissible evidence and Section 10 of Evidence Act has no applicability as confessional statement has not been relied on for rendering conviction. The Court also held that intercepted phone calls are an admissible piece of evidence under ordinary laws even though provisions of POTA cannot be invoked as it presupposes investigation to be set in motion on the date of interception. Commenting on the impact of procedural safeguards under POTA on confession, the Court held that if procedural safeguards have not been complied, it will affect the admissibility and evidentiary value of evidence.

<sup>47</sup> In Jayendra Saraswathi Swamigal v. State of Tamil Nadu, 2008 (11) SCR 161, the Court held that “considerations which normally weigh with the Court in granting bail in non-bailable offences... basically...are – the nature and seriousness of the offence; the character of evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case...” In Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra and Anr., 2005 (3) SCR 345, the Court held that if the Court, having regard to the material brought on record, is satisfied that in all probability he may not be ultimately convicted, an order granting bail may be passed. The satisfaction of the Court as regards his likelihood of not committing an offence while on bail must be construed to mean an offence under the Act under which the accused is charged and not any offence whatsoever be it a minor or major offence. The Court held that the wording of Section 21(4) of MCOCA does not lead to the conclusion that the Court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. The Court also held that although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate

administration<sup>48</sup>. The Court addressed the mounting concern of criminal trials being undermined by witnesses turning hostile under duress or for corrupt reasons by imposing a stern penalty of one year imprisonment and a monetary fine of Rs.50,000 for perjury on a witness who had turned hostile<sup>49</sup>. The Court held that the requirement to surrender prior to registration of a criminal appeal under Order 21, Rule 13-A of the Supreme Court Rules, 1966 is mandatory in character, to be complied with except when an order is passed for exemption from this requirement<sup>50</sup>. The Court held that the sole testimony of the prosecutrix in a rape case may be relied upon even in the absence of medical evidence<sup>51</sup>. The Court held that an accused cannot exculpate himself from a charge of rape if the accused obtained the consent of the woman based on a false promise to marry her when, in fact, the accused did not really entertain any such intention at the time he made such a promise<sup>52</sup>. The Court also laid down the law on the claim of aggressors to the right of *private defence*<sup>53</sup>. It clarified the scope of criminal liability for conspiracy<sup>54</sup>. The Supreme Court clarified in detail the scope of the power of review in the context of criminal proceedings<sup>55</sup>. The Court clarified the law on dying declarations in circumstances in which an eye witness found the declarant to be mentally fit at the time of making the declaration but there was no certification of a doctor on fitness of mind; and on the legal requirement that the declaration be

recorded by a magistrate<sup>56</sup>.

*Second*, the Supreme Court laid down the law on the role and responsibility of courts. After considering earlier judgments of the Court on the matter, it decided against judicial imposition of time limits for trials as it would be tantamount to impermissible legislation, beyond the powers which the Constitution confers on the judiciary. The Court ruled that such a bar of limitation is inconsistent with the law laid down by the Constitution Bench in A.R. Antulay's case and therefore runs counter to the doctrine of precedents and their binding efficacy<sup>57</sup>. The Court also clarified that the power under Section 482, Cr.PC. to quash the FIR or criminal proceedings should be used sparingly and with circumspection.<sup>58</sup> The Supreme Court also laid down the responsibility of lower courts in the face of failure of investigation and ineffective prosecution, requiring of such courts a proactive role, including in the context of mass crimes such as riots. In this case the Court opened up the possibility of directing retrial in already concluded cases in exceptional circumstances.<sup>59</sup>

The Supreme Court held that if a fair trial, as envisaged under the Code is not being assured, and a court has reason to believe that the prosecuting agency or prosecutor is not acting in the required manner, the court can exercise its powers under Section 311 of Cr.PC or Section 165 of Evidence Act to call for the material witnesses and procure

application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail. In *Rajesh Ranjan @ Pappu Yadav and Anr. v. CBI, through its Director*, 2007 (12) SCR 717, the Court considered the issue of multiple applications for grant of bail. In *State of Maharashtra v. Bharat Shanti Lal Shah*, MANU/SC/3789/2008 the Court held that a person who is on bail after being arrested for violation of law unconnected with the Maharashtra Control of Organised Crime Act, 1999 (MCOCA) should not be denied his right to seek bail if he is arrested under MCOCA, for it cannot be said that he is a habitual offender.

<sup>48</sup> *State of Maharashtra v. Praful B. Desai*, 2003 (3) SCR 244.

<sup>49</sup> *Zahira Habibulla H. Sheikh and Anr. v. State of Gujarat and Ors.*, 2004 (Supp 2) SCR 571

<sup>50</sup> *Mayuram Subramanian Srinivasan v. CBI* (2006) 5 SCC 752

<sup>51</sup> *Moti Lal v. State of M.P.*, 2008 (10) SCR 983.

<sup>52</sup> *Pradeep Kumar @ Pradeep Kumar Verma v. State of Bihar and Anr* (Cr. Appeal No: 1086 of 2007)

<sup>53</sup> *Triloki Nath and Ors. v. State of U.P.*, 2005 (Supp 4) SCR 931.

<sup>54</sup> *Jayendra Saraswathi Swamigal v. State of Tamil Nadu*, 2008 (11) SCR 161; *State v. Navjot Sandhu* AIR 2005 SC 3820

<sup>55</sup> *Devender Pal Singh v. State, N.C.T. of Delhi and Anr.*, 2002 (Supp 5) SCR 332.

<sup>56</sup> *Laxman v. State of Maharashtra*, AIR 2002 SC 2973.

<sup>57</sup> *P. Ramachandra Rao v. State of Karnataka*, AIR 2002 SC 1856.

<sup>58</sup> *Som Mittal v. Government of Karnataka*, 2008 (3) SCR 130.

<sup>59</sup> In *Zahira Habibulla H. Sheikh and Anr. v. State of Gujarat and Ors.*, 2004 (Supp 2) SCR 571, the Court held that "Courts

the relevant documents so as to serve the cause of justice<sup>60</sup>. *Third*, the Court addressed issues of policy. The Court laid down the criteria to be followed by courts in sentencing, holding that in the determination of the just and appropriate sentence to be awarded for an offence, aggravating and mitigating factors and circumstances in which the crime was committed were to be balanced on the basis of relevant circumstances in a dispassionate manner. Justice demands that courts should impose a punishment befitting the crime so that courts reflect the public abhorrence of the crime. Courts must not only keep in view the rights of the criminal but also the rights of the victim of the crime and the society at

large while considering the imposition of appropriate punishment<sup>61</sup>. In a decision that shone the torch into the future, the Court highlighted the absence of, and the need for, a considered sentencing policy for the country<sup>62</sup>. The Court elaborated the law on the use of the death sentence<sup>63</sup>. In the face of conflicting previous decisions, the Court settled the law that the date of committing the offence will be the determining date for ascertaining the age of a juvenile under the Juvenile Justice (Care and Protection of Children) Act, 2000 and also clarified transitory arrangements between this Act and the previous Act. In so doing the Court took into account the United Nations Standard Minimum Rules for the Administration of

have to take a participatory role in a trial. They are not expected to be tape recorders to record whatever is being stated by the witnesses.” It held that “if an acquittal is the result of ‘tainted evidence, tailored investigation, unprincipled prosecutor and perfunctory trial and evidence of threatened/terrorized witnesses’, it is no acquittal in the eye of law and no sanctity or credibility can be attached and given to the so-called findings. There being several infirmities in investigation and the High Court having come to a definite conclusion that the investigation carried out by the police was dishonest and faulty, ought to have directed a re-trial of the case.” The Court further held that “when the circumstances clearly indicated that there was some truth or prima facie substance in the grievance made, appropriate course for the Courts was to admit additional evidence for final adjudication so that the acceptability or otherwise or evidence tendered by way of additional evidence could be legally tested in the context of probative value of the two versions.” However, to maintain and uphold the framework for governance, the Court held in *Popular Muthaiah v. State*, 2006 (Supp 3) SCR 100, that High Courts should not ordinarily interfere with the statutory power of the investigating agency and cannot issue directions to investigate a case from a particular angle or by a particular agency. The inherent jurisdiction of High Court is available while dealing with criminal appeal filed by accused. The High Court, apart from exercising its revisional or inherent power, may also exercise its supervisory jurisdiction. In *Sakiri Vasu v. State of U.P.* 2007 (12) SCR 1100, the Court held that Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

<sup>60</sup> *Himanshu Singh Sabharwal v. State of M.P.*, 2008 (4) SCR 783.

<sup>61</sup> *Jasvantbhai and Anr. v. State of Gujarat and Ors* 2006 (1) SCR 477.

<sup>62</sup> In *State of Punjab v. Prem Sagar and Ors.*, 2008 (8) SCR 574, the Court held that there is need for a sentencing policy in India. The Court noted that “in our judicial system, we have not been able to develop legal principles as regards sentencing.... The superior courts except making observations with regard to the purport and object for which punishment is imposed upon an offender, had not issued any guidelines. Other developed countries have done so. The Ministry of Law, Government of India, Committee on Reforms of the Criminal Justice System, 2003 has observed that there was no uniformity in awarding sentence as discretion was exercised according to the judgment of every judge. The committee emphasized the need for having sentencing guidelines to minimize uncertainty in awarding sentences. It recommended the appointment of a statutory committee to lay down the sentencing guidelines. Also in *Shailesh Jaswantbhai v. State of Gujarat*, (2006) 2 SCC 359, the Court held that the facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration, while sentencing. Relying upon the decision of this Court in *Sevaka Perumal v. State of T.N.*, 1991 (2) SCR 711, the Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. In *State of Karnataka v. Raju*, 2007 (9) SCR 970, the Court held that a normal sentence in a case where rape is committed on a child below 12 years of age, is not less than 10 years’ rigorous imprisonment, though in exceptional cases “for special and adequate reasons” sentence of less than 10 years’ rigorous imprisonment can also be awarded. It was, thus, opined that socio-economic status, religion, race, caste or creed of the accused or the victim are irrelevant considerations in sentencing policy. To what extent should the judges have discretion to reduce the sentence so prescribed under the statute has remained a vexed question.

<sup>63</sup> In *Swamy Shraddananda @ Murali Manohar Mishra v. State of Karnataka*, 2008 (11) SCR 93, the Court held that, “death penalty ought not to be imposed save in the rarest of rare cases when the alternative option is unquestionably foreclosed”. The Court dealt with the issue of whether the death penalty can be substituted by life imprisonment with the further direction that the convict would not be released for the rest of his life. The court laid down that the issue of sentencing has two aspects, a sentence may be excessive and unduly harsh or it may be highly and disproportionately inadequate. When an appellant comes to this Court carrying a death sentence awarded by the Trial Court and confirmed by the High Court, the Supreme Court may find that the case just falls short of the rarest of the rare category and may feel somewhat reluctant in endorsing the death sentence but at the same time, having regard to the nature of the crime, the Court may strongly feel that a sentence of life imprisonment, that subject to remission normally works out to a term of 14 years, would be grossly disproportionate and inadequate. In such a circumstance Court would take recourse to the expanded option



Juvenile Justice.<sup>64</sup> In a series of cases relating to the plight of under-trials, the Supreme Court provided for tortious compensation for a mentally unfit person who had been under custody for decades, laying an important basis for the future development of law<sup>65</sup>.

### **(5) Challenge #5: Enhancing Environmental Protection**

As is well recognized, environmental protection is an area in which the Supreme Court of India has played a major role and its contribution in this regard is appreciated and recognized the world over. The Supreme Court effectively used public interest litigation to develop environmental jurisprudence and contributed substantially to environmental governance in the country. This tradition has been continued into the 21st century.

Setting the stage for the new millennium, in the late 1990s, the Supreme Court recognized important rights in the field of environmental law. In a catena of landmark decisions, the principles of sustainable development<sup>66</sup>, precautionary principle<sup>67</sup>, polluter pays<sup>68</sup>,

absolute liability<sup>69</sup> and public trust<sup>70</sup> were recognized. In the 21st century, the Supreme Court has reaffirmed its allegiance to environmental protection and has upheld the right to environment and sustainable development as part of Article 21. Recognizing that the objective of environmental statutes is to create harmony between development and environment<sup>71</sup>, it has sought to balance interests and arrive at sustainable results<sup>72</sup>.

In an important decision, recognizing the grave threat arising to the people of India from high levels of noise pollution and to protect their right to life enshrined in Article 21 of the Constitution, the Supreme Court issued a series of far reaching directions that will, once implemented fully, have a positive impact in alleviating noise pollution in the country<sup>73</sup>. The Supreme Court also had occasion to hold that the right to freedom of religion could be curtailed in public interest to prevent noise pollution.<sup>74</sup> The Court also upheld the constitutionality and validity of legislation prohibiting trade in imported ivory<sup>75</sup>. The Court intervened in favour of effective waste management<sup>76</sup> and zoning and

primarily because in the facts of the case, the sentence of 14 years imprisonment would amount to no punishment at all. For the present case, the Court said that there is a good and strong basis for the Court to substitute a death sentence by life imprisonment or by a term in excess of fourteen years and directed that the convict must not be released from prison for the rest of his life or for the actual term as specified in the Order.

<sup>64</sup> Pratap Singh v State of Jharkhand and Anr., 2005 (1) SCR 1019.

<sup>65</sup> In R.D. Upadhyay v. State of A.P. & Ors, 2006 (3) SCR 1132, the Court, concerned by the plight of the under-trial prisoners languishing in various jails in the country, particularly children who are in jail with their mothers or who are in jail either as undertrial prisoners or convicts, issued various guidelines for the welfare and development of such children.

<sup>66</sup> Vellore Citizens Welfare Forum v. Union of India, 1996 (Supp 5) SCR 241,

<sup>67</sup> Vellore Citizens Welfare Forum v. Union of India., 1996 (Supp 5) SCR 241

<sup>68</sup> Indian Council for Enviro-Legal Action v. Union of India, 2000 (5) SCALE 286.

<sup>69</sup> In M.C. Mehta v. Union of India AIR 1987 SC 1086.

<sup>70</sup> M.C.Mehta v. Kamal Nath, (1997) 1 SCC 388.

<sup>71</sup> In Essar Oil v. Halar Utkarsh Samiti, 2004 (1) SCR 808, the Court held that the sole aim is to balance economic and social needs on the one hand with environmental considerations on the other. There need not necessarily be a deadlock between development on the one hand and the environment on the other. The objective of all laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other.

<sup>72</sup> Intellectuals Forum, Tirupathi v. State of A.P., 2000 (Supp 4) SCR 94; In Bombay Dyeing and Manufacturing Company Ltd., v. Bombay Environmental Action Group, 2006 (2) SCR 920, the Court asked for a balancing of legitimate public interests; In Susetha v. State of Tamil Nadu, 2006 (Supp 4) SCR 361, the Court gave directions to maintain water bodies in the locality; In Sushanta Tagore v. Union of India, 2006 (Supp 2) SCR 362, development in the concerned area was not allowed as ecology would be affected.

<sup>73</sup> In Re: Noise Pollution- Forum, Prevention of Environment and Sound Pollution v. Union of India and Anr., 2005 (Supp 1) SCR 624. the Court issued detailed directions on the control of noise pollution. And asked that the Central Government/ State Governments lay down standards and notify authorities where not already done

<sup>74</sup> Church of God in India v. K.K.R. Majestic Colony Welfare Association and Others, 2000 (Supp 3)SCR 15.

<sup>75</sup> Indian Handicrafts Emporium and Ors. v. Union of India and Ors., 2003 (Supp 3) SCR 43.

<sup>76</sup> In Almitra H. Patel v. UOI, 2000 (1) SCR 841, the Court held that the fact that keeping Delhi clean is a daunting task, cannot be a reason for a lack of initiative or inaction on the part of authorities concerned. The Court expressed its disapproval for complete lack of accountability at all levels of the Corporation, which has lead to a lack of effort on the part of the employees concerned. The Court reiterated that local authorities, Government and all statutory authorities must discharge

urban planning<sup>77</sup>.

Using the instrument of continuing mandamus, the Supreme Court has continued to intervene to protect our forest resources<sup>78</sup>.

### **(6) Challenge #6: Strengthening Constitutional Governance and the Rule of Law**

The role and contribution of the Supreme Court of India in upholding Constitutional governance and the rule of law has been central to the development of the country. This tradition has been strongly maintained into the 21st century.

The 21st century has however, added two new dimensions to this challenge that have important implications for the role of courts: first, globalization and second, a new model for economic development. In a globalizing and privatizing economy, Governments rely on the market as the main engine for economic growth. Governments' policies seek to facilitate increased private sector investment. When private economic activity has a negative impact on the lives of citizens, or the costs and benefits of growth are not equitably shared, they turn to courts, asking for mitigation and compensation for harm and demanding that needed controls that the legislature and the executive have failed to put in place or implement in their anxiety for accelerating economic growth, be placed judicially on private sector activities, in the public interest.

This role is to be contrasted with the role played by courts in the economic model that was dominant in India in the first four decades of independence in which the Government occupied the

commanding heights of the economy and restricted the private sector. In this scenario, courts were frequently called upon to protect private property rights against governmental controls in the public interest. This is to be contrasted with the new challenge of protecting the public interest against negative impacts of private economic activity.

The jurisprudence, remedies and instruments for restraining private individuals and corporations is a relatively new area in which new judicial approaches and remedies will need to be evolved in India. These new challenges faced by India in the 21st century demand a new role for India's legal and judicial system.

Under this challenge we examine decisions pertaining to judicial review, a central Constitutional instrument for upholding Constitutional governance and take note of some illustrative decisions by the Court on (i) executive governance; (ii) legislative governance; and (iii) judicial governance. We also take note of some decisions on the division of power and the mutual relationships between the three branches.

**Judicial Review:** Judicial review is a Constitutional tool of central importance in upholding Constitutional governance in India. A number of decisions of the Court applied established principles of judicial review and, where, needed, clarified and developed the law.<sup>79</sup> The Court held that absolute immunity from judicial review is not compatible with the basic structure of the Constitution and thus laws included in the Ninth Schedule to the Constitution, in the post April 1973 period, are not beyond judicial review<sup>80</sup>.

their statutory duties and obligations in keeping the city at least reasonably clean.

<sup>77</sup> In *M.C. Mehta v. Union of India* 2006 (2) SCR 264, the Court upheld the power of the Delhi Municipal Corporation (DMC) to seal residential premises being used for commercial purpose and issued directions to the DMC in this regard.

<sup>78</sup> *T. N. Godavarman Thirumulpad v. Union of India and Ors.*, series of cases – (2000) 6 SCC 413, (2001) 10 SCC 645, (2002) 9 SCC 502, (2002) 10 SCC 606, (2002) 10 SCC 636, (2002) 10 SCC 644, (2002) 10 SCC 646, (2002) 10 SCC 649, (2002) 10 SCC 650, 2003 (1) SCALE4, (2006) 1 SCC 1, (2006) 5 SCC 45, (2006) 10 SCC 480, (2006) 10 SCC 490, (2006) 10 SCC 491, (2008) 3 SCC 182, (2008) 7 SCC 126.

<sup>79</sup> *Nair Service Society v. State of Kerala*, 2007 (3) SCR 149.

<sup>80</sup> *I.R.Coelho (Dead) by LRs. v. State of Tamil Nadu* (2007) 1 SCR 706

Several decisions of the Court focused on the definition of “State” under Article 12 of the Constitution. The Court was called upon to broaden and deepen this definition so as to widen the range of institutions that are accountable for protecting fundamental rights; thus providing people with the powerful writ remedy to protect such rights. The Court clarified the status in this regard of various State sponsored and supported institutions<sup>81</sup>. In a landmark judgment that considerably widened the scope of the use of Article 226 for the enforcement of public duties, the Supreme Court held that a writ under Article 226 could also be issued against any private body or person in appropriate circumstances. The scope of mandamus is limited to enforcement of public duty and is determined by the nature of the duty to be enforced, rather than the identity of the authority against whom it is sought.<sup>82</sup> The Court observed that the principle of judicial review cannot be denied even in contractual matters or matters in which Government exercises contractual powers. Judicial review is intended to prevent arbitrariness and must be exercised in the larger public interest<sup>83</sup>. The Court held that the exercise – or non-exercise – of the power

of pardon vested in the President and in the Governor is not immune from judicial review as Constitutional power is not to be exercised arbitrarily or with malafide intentions<sup>84</sup>. The Court affirmed that a statute that takes away someone’s right or imposes duties cannot be upheld where for all intent and purport there is no provision for effective hearing<sup>85</sup>.

**Executive Governance:** The Supreme Court clarified the law on a number of aspects of executive governance. As described earlier the definition of “State” evolved in the jurisprudence of the Court in response to the changing nature of the State. The Court held that criminal acts performed under colour of authority shall not be protected under the doctrine of State immunity<sup>86</sup>. The Court clarified the legal framework governing the fight against corruption<sup>87</sup>. In the face of mounting concerns about the state of policing in India, the Court issued guidelines to strengthen police administration including the constitution of State Security Commissions, procedure for selection and appointment of senior police officials, separation of investigation and for the establishment of a Police Establishment

<sup>81</sup> (1) In *Biman Krishna Bose v. United India Insurance Company Ltd*, 2001 (Supp 1) SCR 255, the Court held that United India Insurance Company falls within the meaning of ‘State’ and declared that “even in the arena of contractual relations, the state and its instrumentalities are enjoined with obligations to act with fairness”. Arbitrariness should not appear in their actions or decisions. (2) In *Steel Authority of India Ltd. v. National Union Water Front Workers*, 2001 (Supp 2) SCR 343, the Court held that SAIL is within the meaning of ‘State’, as the government is acting through the instrumentality or agency of a corporation. Hence, it is subject to the same limitations as the Government. (3) In *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and Ors.*, 2002 (3) SCR 100, C.S.I.R. was held to be within the meaning of ‘State’ under Article 12 because of administrative and financial control of the Government of India. (4) In *Ram Gopal Sharma v. Sukhdev Raj Rudra*, (2001) 9 SCC 201, the Court held that L.I.C. is ‘State’. (5) In *Bank of India v. O.P. Swarankar*, 2002 (Supp 5) SCR 438, State Bank of India and a Nationalised Bank were held to be ‘State.’ (6) Setting boundaries to the scope of the definition of ‘State’. In *Zee Telefilms Ltd. v. UOI*, 2005 (1) SCR 913, the Court held that the Board of Control of Cricket is not ‘State’ because it is not “financially, functionally or administratively dominated by or under the control of government.” The limited control of government is not pervasive in nature. “Such limited control is purely regulatory and nothing more.” So writ remedy under Article 32 would not be available. The fact that the Board regulates fundamental rights of cricketers under Article 19(1)(g) does not make it a ‘State’. Mere regulatory authority of Government may not be sufficient to bring an entity under the definition of ‘State’.(7) In *United India Insurance Company Limited v. Manubhai Dharamsinhbhai Gajera and Ors.* 2008 (9) SCR 778., the Court deliberated upon the responsibility of public insurance companies within the framework of the welfare state took the view that, “there is no escape from the fact that the appellant is a ‘State’ within the meaning of Article 12. (8) In *Municipal Corporation of Greater Mumbai v. KV Shramik Sangh*, 2002 (2) SCR 1122, the issue was whether the contract labourers engaged by the Corporation through a contractor are to be treated as the employees of the Corporation or the Contractor. The Court held that since the workers were performing the statutory duties of the Corporation (here, solid waste management), they are to be treated as the employees of the Corporation.

<sup>82</sup> *Binny Ltd. v. V. Sadasivan*, 2005 (Supp 2) SCR 421.

<sup>83</sup> *Reliance Energy Ltd. And Anr. v. Maharashtra State Road Development Corporation Ltd. & Ors.* (2007) 9 SCR 853.

<sup>84</sup> *Epuru Sudhakar & Anr. v. Govt of AP & Ors.*(JT 2006 (9) SC 72)

<sup>85</sup> *Bidhannagar (Salt Lake) Welfare Association v. Central Valuation Board* (2007) 7 SCR 430

<sup>86</sup> *Prakash Singh Badal and Anr. v. State of Punjab and Ors.* 2006 (Supp 10) SCR 197

<sup>87</sup> In *Madhya Pradesh Special Police Establishment v. State of Madhya Pradesh and Ors.*, 2004 (Supp 5) SCR 1020, the Court upheld the decision of the Governor, contrary to the advice of the Council of Ministers, to grant sanction for prosecution



Board, Police Complaints Authority and National Security Commission<sup>88</sup>. The Court issued guidelines on curbing electricity theft<sup>89</sup> and considered the legal principles governing tender evaluation in large infrastructure projects<sup>90</sup>. The Court issued detailed guidelines for curbing the menace of ragging in educational institutions, asked that exemplary punishment should be meted out for ragging as a deterrent and that concerned authorities should be held accountable for any failure on their part in acting to curb ragging<sup>91</sup>.

Continuing to develop the framework for Constitutional governance in India, the Supreme Court explained the nature and functioning of the proportionality test in India and the application of principles of unreasonableness, the Wednesbury principles and the doctrine of legitimate expectations<sup>92</sup>.

**Local Self-Government:** The Court held that it is incumbent upon

authorities to implement the mandate of the Constitution and to ensure that a new municipality is constituted in time and that elections to a municipality are conducted before the expiry of its duration of five years as required mandatorily in Article 243-U(1) of the Constitution. State Governments are to follow directions of the State Election Commission and the Election Commission of India in the same manner in which they follow directions of the Election Commission of India during Parliamentary and State Assembly Elections<sup>93</sup>.

**Legislative Governance:** The Court held that the powers and privileges of legislatures in India include the power of expulsion of their members; and that the exercise of this power is subject to judicial review<sup>94</sup>. The Court interpreted the meaning of the phrase “office of profit”, holding that what is relevant in determining whether a person holds an “office of profit” is whether that office is capable of yielding a profit or pecuniary

of ministers on the ground that although normally the Governor acts on the aid and advice of his council of Ministers and not independently or contrary to it, there are exceptions under which the governor can act in his own discretion. If in cases where a prima facie case is clearly made out, sanction to prosecute high functionaries is refused, democracy would itself be at stake. Hence, grant of sanction by Governor held justified. In *Prakash Singh Badal v. State of Punjab*, 2006 (Supp 10) SCR 197, protection of public servants under Section 19(1) (a) of Prevention of Corruption Act; was discussed. *Prabha D. Kanan v. Indian Airlines Ltd. and Anr.*, AIR 2007 SC 548 dealt with dismissal of an employee charged with breach of trust.

<sup>88</sup> *Prakash Singh and Ors. V. UOI and Ors.* (JT 2006 (12) SC 225)

<sup>89</sup> *Jagmodhan Mehtabsing Gujarat v. State of Maharashtra* (2006) Supp. 8 SCR 332

<sup>90</sup> *Reliance Airport Developers (P) Ltd. V. AAI & Ors.* (2006) Suppl. 8 SCR 398

<sup>91</sup> *University of Kerala v. Council, Prinipals' College, Kerala & Ors.* (2007) 7 SCALE 390

<sup>92</sup> The doctrines of unreasonableness, proportionality and the continued application of the Wednesbury principles received the consideration of the Court in a number of decisions. *Anuj Garg and Ors. v. Hotel Association of India and Ors.* 2007 (12) SCR 991. The Court also held that on certain grounds judicial review on facts is also maintainable. Doctrine of unreasonableness has not given way to doctrine of proportionality. *Indian Airlines Ltd., v. Prabha D. Kanan* 2006 (Supp 8) SCR 1027. In *Management of Coimbatore District Central Co-operative Bank v. Secretary, Coimbatore, District Central Co-operative Bank Employees Association* 2002 (2) SCR 1122, the Court explaining the scope of principle of proportionality observed: “proportionality is a principle where the Court is concerned with the process, method or manner in which the decision maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision making consists in the attribution of relative importance to the factors and considerations in the case. In *State of U.P. v. Sheo Shnkar Lal Srivastava* 2006 (2) 656, the Court observed that it was not oblivious to the fact that the doctrine of unreasonableness was giving way to the doctrine of proportionality. In *M.P. Gangadharan v. State of Kerala* 2006 (Supp 2) SCR 649, the Court observed that, “from the doctrine of Wednesbury unreasonableness, the court was leaning towards the doctrine of proportionality.” In *Secretary, State of Karnataka and Ors. v. Umadevi and Ors.* (2006) 4 SCC 1, the Court held that the doctrine of legitimate expectations cannot be invoked by temporary, contractual, casual, daily wage or ad hoc employees as the State cannot hold out any promise to continue them or make them permanent. In *Om Kumar v. UOI*, 2000 (Supp 4) SCR 693, The Court held that administrative action in India affecting fundamental freedoms has always been tested on the anvil of ‘proportionality’ in the last fifty years even though it has not been expressly stated that the principle being applied is the ‘proportionality’ principle. Proportionality was held to mean that while regulating the exercise of fundamental rights the appropriate or least restrictive choice of measures have been adopted by the legislature or the administrator so as to achieve the object of the legislation or the administrative order. It was observed that it was for the superior courts to decide whether the choice made by the legislature or the administrative authorities infringed rights excessively.

<sup>93</sup> *Kishansing Tomar v. Municipal Corporation, Ahmedabad* (2006) Supp.7 SCR 454

<sup>94</sup> “If a citizen, whether a non-member or a member of the Legislature, complains that his fundamental rights under Article 20 or 21 had been contravened, it is the duty of the Court to examine the merits of the said contention, especially when the impugned action entails civil consequences. There is no basis to claim of bar of exclusive cognizance or absolute immunity to the Parliamentary proceedings in Article 105(3) of the Constitution. The manner of enforcement of privilege by the legislature can result in judicial scrutiny, though subject to the restrictions contained in the other Constitutional provisions.



Hon'ble the Chief Justice of India on a visit to National Judicial Academy along with Prof. Mohan Gopal, the Director

gain and not whether the person actually obtained a monetary gain<sup>95</sup>.

The Supreme Court continued its work on strengthening the framework for free and fair elections to legislatures by clearly establishing the very important right of voters to know relevant particulars of their candidates, asserting that voters have the elementary right to know full particulars of a candidate who is to represent them in the Parliament and such right to get information is universally recognized. The Supreme Court also affirmed the wide powers available to the Election Commission to uphold free and fair elections.<sup>96</sup> The Court held that the action of the Government recommending the dissolution of the Assembly should be with the sole object of preservation of the Constitution and not promotion of the political interest of one or other party. If a Governor acts to the contrary by creating a situation whereby a party is prevented even to stake a claim and then recommends dissolution of the Assembly to achieve this aim, the exercise of such jurisdiction would be unconstitutional<sup>97</sup>. The Supreme Court also acted to ensure

that the procedure for confirming the floor majority of the Government reduced the possibility of abuse.<sup>98</sup> The Court held that double entry of the name of a citizen in the electoral roll was neither a ground for disqualification for registration in an electoral roll or a ground for rejecting nominations under Section 36(2) of the Act. The Court held that the term “recognized party” in the proviso to Section 33(1) refers not only to a recognized national party but also to a recognized state party<sup>99</sup>. To further the objectives of curbing the menace of defection, the Court held that members of the legislative assembly of the ruling party who merely meet and give a letter to the Governor requesting him to call the leader of the opposition to form a government would have given up the membership of their original party and would stand disqualified from membership of the Assembly<sup>100</sup>. The Court held that there was nothing in the Constitution that disallows the appointment of a Rajya Sabha member as chief minister or minister of a state keeping in view the provisions of the Prohibition of Simultaneous Membership Rules, 1950<sup>101</sup>.

The Court distinguished between legislation by incorporation and legislation by reference and the status of the incorporated provisions and the impact of subsequent amendments of the incorporated statute, contrasting it with status and effect of legislation by reference<sup>102</sup>.

**Judicial Governance:** In a number of important decisions the Supreme Court clarified the role and responsibility of the various agencies involved in the

Proceedings which may be tainted on account of substantive or gross illegality or unconstitutionality are not protected from judicial scrutiny;” Raja Ram Pal v. The Hon'ble Speaker, Lok Sabha and Ors., 2007 (1) SCR 317.

<sup>95</sup> Jaya Bachan v. Union of India and Ors.(2006) 5SCC 266

<sup>96</sup> In Union of India vs. Association for Democratic Reforms and another, (2002) 5 SCC 294 the Election Commission was directed by the Supreme Court to call for information on an affidavit from each candidate seeking election to Parliament or State Legislature as a necessary part of his information on aspects detailed in the judgment..

<sup>97</sup> Rameshwar Prasad and Ors. v. Union of India,, 2006 (1) SCR 562.

<sup>98</sup> Anil Kumar Jha v. Union of India, (2005) 3 SCC 150.

<sup>99</sup> Pothula Ram Rao v. P.Venkata Krishna Rao (2007 8 SCR 982)

<sup>100</sup> Sri. Rajendra Singh Rana & Ors. V. Swami Prasad Maurya & Ors. (2007) 2 SCR 591.

<sup>101</sup> Ashok pandey v. Km. Mayawati & Ors. (2007) 7 SCR 1006

<sup>102</sup> Bharat Cooperative Bank (Mumbai) Ltd. V. Cooperative Bank Employees' Union (2007) 4 SCR 347

administration of justice and the privileges of courts.

The Supreme Court laid down a comprehensive framework for strengthening the service conditions of judicial officers based on the recommendations of the Shetty Commission<sup>103</sup>.

The Court strengthened the basis for use of alternate dispute resolution in India by upholding the validity of the amendments made to the Code of Civil Procedure by Amendment Acts of 1999 and 2002 including through introduction of Section 89<sup>104</sup>. The Court has enunciated how statutory interpretation is to be approached, emphasizing the need for courts to follow the doctrine of “purposive construction”<sup>105</sup>. The Court held that while fair and temperate criticism of courts, even if strong, may not be actionable for contempt, attributing improper motives to bring judges or courts into hatred constitutes contempt for which notice must be taken<sup>106</sup>.

The Court laid down the obligations of advocates in the administration of justice and ruled on the rights of advocates to strike work<sup>107</sup>.

**Separation of Powers.** An issue that has received attention is the extent of judicial “deference” to be given to the Government policy-making function, particularly in the area of economic development.<sup>108</sup> The Supreme Court held that courts can make recommendations for increase of salaries, allowances and betterment of working conditions but its jurisdiction ends there. Courts cannot give binding directions<sup>109</sup>. The issue of “judicial activism” was another matter to which the Court directed its attention<sup>110</sup>. The Court held that when a parent Act remains in force, it is not open to executive authorities to nullify directions of the Supreme Court through subordinate legislation<sup>111</sup>.

**Inter-State Disputes:** The Supreme Court set out discussed elaborately the legal framework for

<sup>103</sup> See for example: All India Judges Association and Ors. v. Union of India and Ors. AIR 2002 SC 1752.

<sup>104</sup> Salem Advocate Bar Association, Tamil Nadu v. Union of India, 2005 (Supp 1) SCR 929.

<sup>105</sup> In New India Assurance Company Ltd. v. Nusli Neville Wadia and Anr. 2007 (13) SCR 598, the Court laid down the need for courts to follow the doctrine of “purposive construction”.

<sup>106</sup> Haridas Das v. Usha Rani Banik & Ors. (2007) 8 SCR 365.

<sup>107</sup> In Ex-Capt. Harish Uppal v Union of India and Anr., 2002 (Supp 5) SCR 186, the Court held that it is the duty of every advocate who accepts a brief from a client to attend trial even during strike. It is unprofessional and unethical for an advocate to refuse to attend court when a strike is going on. Courts are under an obligation to hear and decide cases and not to adjourn matters on grounds of lawyers’ strike. Participation of lawyers in strike is bad and they would be answerable for consequences suffered by clients for non-appearance solely on grounds of strike. Bar Councils have a duty to ensure that there is no unprofessional and unbecoming conduct on the part of advocates. Additionally, Bar Councils should not give a call for strike. Lawyer’s strikes are illegal. If required, protest may be made by giving press statements, TV interviews, wearing colored arm bands and peaceful protest marches.

<sup>108</sup> Union of India v. Elphinstone Spinning and Weaving Co. Ltd. and Ors., 2001 (1) SCR 221. Drawing on a 1981 decision of the Supreme Court in the Bearer Bonds’ case, R.K. Garg v. Union of India and Ors., 1982 (1) SCR 941 in which the Court held that it is a rule of equal importance that laws relating to economic activities should be viewed with greater latitude than laws touching civil rights, such as freedom of speech, religion etc. The Court said, reviewing past decisions, that on economic regulation courts must give considerable leeway to the Legislature. It is a fundamental rule that the duty of judges is to expound and not to legislate. There is no doubt a marginal area in which the courts mould or creatively interpret legislation and they are thus finishers, refiners and polishers of legislation which comes to them in a state requiring varying degrees of further processing. But by no stretch of imagination Judge is entitled to add something more than what is there in the Statute by way of a supposed intention of the legislature. It is, therefore, a cardinal principle of construction of statute that the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed.

In BALCO Employees Union v. UOI, 2001 (Supp 5) SCR 511, the Court held that judicial interference by way of PIL is available only in case of dereliction of Constitutional or statutory obligations on the part of the Government and regarding the sphere of economic policy or reform Court is not a proper forum. Every matter of public curiosity need not be a matter of public interest. Courts are not intended to conduct administration of the country and hence unless there is any illegality on face of it, resulting in violation of Constitutional or statutory duties of the Government, Court should be highly reluctant in entertaining such policy matters by way of PIL.

<sup>109</sup> State of U.P. v. Jeet S. Bisht, 2007 (7) SCR 705.

<sup>110</sup> In Divisional Manager, Aravali Golf Club & Anr. vs Chander Hass & Anr., 2007 (14) SCALE 1, a two judge bench of the Court held that the “Court cannot arrogate to itself ...purely executive or legislative function”.

<sup>111</sup> Sarbananda Sonowal v. Union of India (2006) Supp.10 SCR 167.



the settlement of inter-state river water disputes<sup>112</sup>.

**(7) Challenge #7: Enhancing Investment and Economic Growth**

As the economy moved towards a market model and expanded several fold since 1991, contractual relationships -- rather than licences and permits -- became the legal backbone of the economy. In turn, Courts are increasingly called upon to clarify the mutual rights and obligations of contracting parties.

**Taxation:** Analyzing the Constitutional scheme of distribution of taxation power under the Constitution, the Court held that State legislation which makes provisions for levying a cess, whether by way of tax to augment the revenue resources of the State or by way of fee to render services as *quid pro quo*, but without any intention of regulating and controlling the subject of the levy, cannot be said to have encroached upon the field of ‘regulation and control’ belonging to the Central Government merely by reason of the incidence of levy being permissible to be passed on to the buyer or consumer, and thereby affecting the price of the commodity or goods. In this decision the Court also clarified the law, in the light of some earlier judicial decisions apparently to the contrary, that royalty is not a tax<sup>113</sup>. The Court, speaking through a Constitution bench of five judges, clarified the constitutional position regarding compensatory taxes<sup>114</sup>. In the context of increasingly rapid technological advances, the decision of the Supreme Court holding that canned software would amount to ‘goods’ and would therefore be subject to sales tax is notable. The Supreme Court held



*Hon'ble the Chief Justice of India, interacting with the participants of a Conference at National Judicial Academy*

that though software may be intellectual property, such intellectual property contained in a medium, which can be bought and sold, would be treated as ‘goods’, and hence subject to sales tax<sup>115</sup>. The Court held that the sale of lottery tickets, not being goods, is not subject to sales tax<sup>116</sup>. The Court has also had opportunity to consider issues relating to international taxation. Interpreting the India-Mauritius Double Tax Avoidance Agreement (DTAA), the Court held that the provisions of such an agreement would operate even if inconsistent with the provisions of the Income-Tax Act<sup>117</sup>. The Court considered the India-US DTAA and held that in determining arms length compensation for the activities of the Indian captive company, the function and risk assumed must be duly considered<sup>118</sup>. This decision, relating to the taxation of back-office operations of foreign companies which have been outsourced to India, has clarified the position relating to the taxation of BPO units in India, and provided much-needed certainty in this developing sector of the economy. The Court distinguished between the concept of depreciation in commercial accounting on one hand and tax accounting on the other hand<sup>119</sup>, dealt

<sup>112</sup> State of Karnataka v. State of Andhra Pradesh & Ors., AIR 2001 SC 1560.

<sup>113</sup> The State of West Bengal vs. Kesoram Industries Ltd. and Ors. (2004)10SCC201

<sup>114</sup> Jindal Stainless Ltd. and Anr. v. State of Haryana and Ors. 2006 (3) SCR 1095. The Court held that the classic decisions in the Atiabari Tea Company Ltd. v. State of Assam AIR 1961 SC 232) and Automobile Transport (Rajasthan) Ltd. v. the State of Rajasthan 1963 SCR 491 were correct, and that later cases that deviated from the principles laid down therein were per incuriam.

<sup>115</sup> Tata Consultancy Services v. State of Andhra Pradesh 2004 (Supp 5) SCR 1040.

<sup>116</sup> Sunrise Associates v. Government of NCT & Ors. (2006) 5 SCC 603

<sup>117</sup> Union of India v. Azadi Bachao Andolan 2003 (Supp 4) SCR 222.

<sup>118</sup> D.I.T v. Morgan Stanley & Co (2007) 7 SCC 1.

with the valuation of closing stock for the purpose of Income Tax<sup>120</sup>; the levy of a tax by a State on the consumption and sale of electricity<sup>121</sup>; and the imposition of entertainment tax providing for different rates with respect to different language films<sup>122</sup>. The Court affirmed that the burden lay on the Income Tax Department to establish that the assessee had concealed his income<sup>123</sup>. The Court held with reference to the law governing valuation of goods under the Customs Act, 1962, that it is for the Department to prove under-invoicing<sup>124</sup>. The Court held that Parliament has legislative competence to levy service tax under Entry 97 of the Union List in the Seventh Schedule in view of Entry 60 of the State List<sup>125</sup>. The Court also held that only such part of the income of a non-resident entity as is attributable to operations carried out in India can be taxed in India and that “sufficient territorial nexus between the rendition of services and territorial limits of India is necessary to make the income taxable.” Location of the source of income within India would

not constitute sufficient nexus to tax the income from that source<sup>126</sup>.

**Financial Sector:** In the financial sector, the Court clarified the rights and obligations of creditors and debtors under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002<sup>127</sup>. The Court also ruled on the vicarious criminal liability of company directors for dishonour of cheques issued by companies<sup>128</sup>. The rights and obligations of guarantors were clarified<sup>129</sup>. The Court clarified the law governing membership in stock exchanges<sup>130</sup>. The process for determination of interest payments on decreed money suits was elaborated<sup>131</sup>. Cases under Section 138 of the Negotiable Instruments Act are crowding the dockets of subordinate courts. In a decision that would facilitate expeditious processing of this litigation the Court held that the mandatory requirement under Section 138(b) stands complied with when notice is sent to the accused by registered post correctly addressing

<sup>119</sup> Delhi Electricity Regulatory Commission v. BSES Yamuna Power Ltd. & Ors. (2007) 2 SCR 747

<sup>120</sup> Commissioner of Income Tax, Udaipur v. Hindustan Zinc Limited (2007) 7 SCR 302

<sup>121</sup> Southern Petrochemical Industries Co. Ltd. V. Electricity Inspector and ETIO and Ors (2007) 6 SCR 955

<sup>122</sup> Aashirwad Films v. UOI and Ors (2007) 7SCR310

<sup>123</sup> Dilip N. Shroff v. Joint Commissioner of Income Tax, Special Range, Mumbai and Anr. (2007) 7 SCR 499.

<sup>124</sup> Commissioner of Customs, Calcutta v. South India Television (P) Ltd. (2007) 8 SCR 95

<sup>125</sup> All India Federation of Tax Practitioners v. UOI ((2007) 9 SCR 147

<sup>126</sup> Ishikawajma-Harima Heavy Industries Ltd. V. Director of Income Tax, Mumbai (2007) 1 SCR 112

<sup>127</sup> In *Mardia Chemicals Ltd. Etc. v. Union of India and Ors.*, AIR 2004 SC 2371, the Court held that the non-obstante clause under Section 13(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 provides that notwithstanding anything contained in Section 69 of the Transfer of Property Act, a secured interest can be enforced without intervention of the court. Before taking any steps in the direction of realizing the dues, the secured creditor must serve a notice in writing to the borrower requiring him to discharge the liabilities within a period of 60 days.

<sup>128</sup> *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla and Anr.*, AIR 2005 SC 3512; *Sabitha Ramamurthy v. R.B.S. Channabasavaradhya*, AIR 2006 SC 3086.

<sup>129</sup> *Syndicate Bank v. Channaveerappa Beleri and Ors.*, (2006) 11 SCC 506. In *Industrial Finance Corporation of India Ltd. v. The Cannanore Spinning & Weaving Mills Ltd. and Ors.*, (2002) 5 SCC 54, the Court held that a contract of guarantee has no relation with that of the Nationalization Act neither is it dependant thereon. It is an independent contract to be honored to fulfill the contractual obligation between sureties and creditors.

<sup>130</sup> In *B.S.E. Brokers Forum, Bombay & Ors v. Securities and Exchange Board of India and Ors.*, (2001) 3 SCC 482, the Court explained the meaning of ‘trading member’ under Chapter 5 of National Stock Exchange Bye-laws, Section 3 of Securities Contracts (Regulation) Act, 1956 and Regulation 10 of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Rules, 1992 clarifying that more than one class of trading members of exchange may be determined by board from time to time and a trading member need not necessarily be a member of the NSE. Further, the Court said that there can be more than one class of members who can be admitted as members of stock exchange and any of those members belonging to any of those classes will fall within the definition of ‘member’.

<sup>131</sup> In *Central Bank of India v. Ravindra*, (2002) 1 SCC 367, the Court explained the meaning to be assigned to the phrases ‘the principal sum adjudged’ and ‘such principal sum’ as occurring in Section 34 of the Code of Civil Procedure, 1908 and its implications in suits for recovery of money, specially those filed by banking institutions against their borrowers. The Court said that subject to a binding stipulation contained in a voluntary contract between the parties and/or an established practice or usage, interest on loans and advances may be charged on periodical rests and also capitalized on remaining unpaid. The principal sum actually advanced coupled with the interest on periodical rests so capitalized is capable of being adjudged as principal sum on the date of the suit. And the principal sum so adjudged is ‘such principal sum’ within the meaning of Section 34 of the C.P.C. on which interest pendente lite and future interest i.e. post-decree interest, at such rate and for such period which the Court may deem fit, may be awarded by the Court.

the drawer of the cheque<sup>132</sup>.

**Insurance:** Disputes about insurance claims arising from motor vehicles accidents have emerged as one of the largest areas of litigation in the country. The Supreme Court has had occasion to lay down the law in respect to a number of questions relating to insurance in this area.<sup>133</sup>

**Contracts:** The Court considered a variety of contractual issues. It examined the nature of guarantee contracts<sup>134</sup> and the impact of nationalization on such contracts<sup>135</sup>. The Court considered the legal nature of the contract for the sale of a lottery ticket and held that it is not a contract for the sale of goods<sup>136</sup>.

**Labour:** The Court laid down the legal principles governing the absorption of contract labour, a matter of increasing importance in the new economy<sup>137</sup>. The Court held that services rendered by medical practitioners of hospitals/nursing homes run by the ESI Corporation cannot be regarded as gratuitous<sup>138</sup>.

**Consumer Protection Act:** Another important area that is emerging in a very significant way in a growing market economy is consumer disputes. The Supreme Court has contributed in a significant way to the development of consumer protection law in India during the period in review<sup>139</sup>.

**Arbitration:** The jurisdiction of the

<sup>132</sup> C.C. Alavi Haji v. Palapetty Muhammed and Another (2007)7SCR 326

<sup>133</sup> In Oriental Insurance Company v. Hansrajbhai, (2001) 5 SCC 175, the issue before the Court was whether compensation payable under Section 163A of Motor Vehicles Act, 1988 on the basis of a structured formula is in addition or in substitution to the determination of compensation on the principle of 'fault liability'. The Court observed that determination of compensation in a case takes longer time and hence to avoid delay in awarding compensation to the affected party, a system of structural compensation must be utilized. This system takes into account the age of the deceased, monthly income at the time of death, earning potential in case of minors and loss of income on account of loss of limb. The affected party may have an option of accepting lump-sum compensation or of pursuing claim through normal channels. In National Insurance Co. Ltd., Chandigarh v. Nicolletta Rohtagi and Ors., AIR 2002 SC 3350, the court held that an insurer cannot avoid its liability on any other grounds except those mentioned in Section 149(2) of the Motor Vehicles Act, 1988. Further the Court held that even if no appeal is preferred by the insured party, under Section 173 of the Act, against the award of the tribunal, it is not permissible for an insurer to file an appeal questioning the quantum of compensation as well as findings as regards negligence or contributory negligence of the offending vehicle.

In New India Assurance Company v. Asha Rani, AIR 2003 SC 607, the issue was whether an insurer is liable to pay compensation to the dependants of the deceased passenger, while the deceased passenger was traveling in a goods vehicle and that vehicle met with an accident, on account of which the passenger died or suffered bodily injury. Subsequent to amendment of Section 147 of Motor Vehicles Act, the expression 'including owner of the goods or his authorized representative carried in the vehicle' was added to the pre-existent expression 'injury to any person', making it compulsory for the insurer to insure the owner of the goods or his authorized representative, being in a goods vehicle when that vehicle met with an accident and the owner of goods or his representative, either died or suffered bodily injury. In National Insurance Company Ltd. v. Baljit Kaur, AIR 2004 SC 1340, the Court held that the words "any person" under Section 147(i) b(i) and (ii) of Motor Vehicles Act, 1988 were not intended to include gratuitous passengers but rather the legislative intent was confined to provide for third party risk. Although owner of goods or his authorized representative would be covered by insurance policy after the 1994 Amendment it was not the intention of legislature to provide for liability of insurer with respect to gratuitous passenger. In National Insurance Company Ltd. v. Kusum Rai, AIR 2006 SC 3440, the Court held that although the obligation lay on the owner to take care to see that the driver had appropriate license to drive vehicle, where it was found that accident was caused because of some unforeseen causes which had no nexus with driver not possessing requisite type of licence, the insurer would not be allowed to avoid its liability for technical breach of conditions concerning driving licence.

<sup>134</sup> In NHAI v. Ganga Enterprise, 2003 (Supp 3) SCR 114, explaining Section 5 of Indian Contract Act, the Court said that a person may have the right to withdraw his offer but if he has made his offer on the condition that earnest money would be forfeited for not entering into contract, then in case of withdrawal he has no right to claim that the earnest money be returned to him. Contract of guarantee is a complete and separate contract by itself and the Court can only interfere when invocation is against the terms of the guarantee or when a fraud has been committed.

<sup>135</sup> Industrial Finance Corporation of India Ltd. v. The Cannanore Spinning & Weaving Mills Ltd. Ors., 2002 (2) SCR 1093.

<sup>136</sup> Sunrise Associates v. Government of NCT & Ors. (2006) 5 SCC 603

<sup>137</sup> In Secretary, State of Karnataka and Ors. v. Umadevi and Ors. (2006) 4 SCC 1, the Court, dealing with the rights of temporary, contractual, casual, daily wage or ad hoc employees, held that it would not be right to order their regularization based on long period of their service or engagements. The doctrine of legitimate expectations cannot be invoked by them as the State cannot hold out any promise to continue them or make them permanent. Courts must be careful in ensuring that they do not unduly interfere with the economic arrangement of affairs by the State or lend themselves as instruments to facilitate the bypassing of the Constitutional and statutory mandates

<sup>138</sup> Kishore Lal v. Chairman, Employees State Insurance(ESI) Corporation (2007) 6 SCR 139)

<sup>139</sup> In Ghaziabad Development Authority v. Balbir Singh, 2004 (3) SCR 68, the issue was grant of interest at the rate of 18% per annum by consumer forums in all cases. The Court held that the power and duty to award compensation does not mean that irrespective of the facts of a case, compensation can be awarded in all matters at a uniform rate of 18% per annum. Amount of compensation has to be based on a finding of loss or injury and has to correlate with the amount of loss or injury. The National Forum was held to be unjustified in awarding interest at a flat rate of 18% per annum. Therefore,



courts to review arbitral awards underwent an expansion with the Supreme Court widening the interpretation of 'public policy' under Section 34 of the Arbitration and Conciliation Act, 1996. The Court expanded judicial review to cover foreign arbitrations<sup>140</sup>. The Court held that any domestic arbitral award in violation of Indian statutory provisions could be set aside by Indian courts for violating 'public policy'<sup>141</sup>. The Court affirmed that the existence of an arbitration agreement under Section 7 of the Arbitration and Conciliation Act, 1996, was a condition precedent for exercise of the power to appoint an arbitrator<sup>142</sup>. The court also dealt with the appointment of an arbitrator by the Chief Justice in circumstances where the parties' chosen method for constituting the tribunal had failed. The Court held that the Chief Justice, while discharging this function, is entitled to adjudicate on contentious preliminary issues such as the existence of a valid arbitration agreement and is entitled to call for evidence to resolve jurisdictional issues. These findings would be final and binding on the arbitral tribunal.<sup>143</sup> A Constitution Bench of seven Judges of the Supreme Court, having considered the scope of Sub-section (6) of Section 11 of the Arbitration and Conciliation Act, 1996, held that the power exercised by the Chief Justice of the High Court and the Chief Justice of India or their nominee is a judicial power and not an administrative power and no person other than a Judge can be designated for entertaining an application for appointing an arbitrator under Sub-section (6) of Section 11 of the Act<sup>144</sup>. With regard to

the jurisdiction of courts in respect of an international commercial arbitration the Supreme Court has held that an ouster of jurisdiction cannot be implied but needs to be express. Provisions of Part I of the Arbitration and Conciliation Act, 1996 are also applicable to international commercial arbitration including when it takes place outside India, unless the parties by agreement expressly or impliedly excluded it or any of its provisions and such an interpretation does not lead to any conflict between any of the provisions of the Act. The Court also held<sup>145</sup> that a company's nationality is determined primarily by its place of incorporation, and is not affected by the company's 'central management and control' being located outside India. Therefore, when both the companies are incorporated in India, and have been domiciled in India, the arbitration agreement entered into by and between them would not be an international commercial arbitration agreement i.e. domestic parties cannot preclude Indian law.

**Independent Regulatory Authorities:** One of the features of a market-oriented globalized economy is the emergence of a new model of regulation in which autonomous regulatory bodies established by the State – rather than the Government itself directly – take on responsibilities that are legislative, executive and judicial in nature. This institutional development has serious implications for the traditional legal and judicial systems. The Supreme Court has had occasion to deal with some of the legal issues arising from Independent

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it was held that the award of compensation must be under separate heads and must vary from case to case depending on the facts of each case. *Samira Kohli v. Dr Prabha Manchanda*, 2008 (1) SCR 719, involved discussion on a surgical procedure involving removal of reproductive organs. The issue was whether informed consent of patient was necessary for carrying out such surgery and if so what should be the nature of such consent. The Court held that consent in the context of a doctor-patient relationship, means grant of permission by the patient for an act to be carried out by the doctor, such as a diagnostic, surgical or therapeutic procedure. In Medical Law, where a surgeon is consulted by a patient, and consent of the patient is taken for diagnostic procedure/surgery, such consent cannot be considered as authorization or permission to perform therapeutic surgery either conservative or radical (except in life threatening or emergent situations). Consent given only for a diagnostic procedure cannot be considered as consent for therapeutic treatment.

<sup>140</sup> *Venture Global Engineering v. Satyam Computers Services Ltd.*, AIR 2008 SC 1061.

<sup>141</sup> *Oil and Natural Gas Corporation Ltd. v. Saw Pipes Ltd.*, 2003 (3) SCR 691.

<sup>142</sup> *Jagdish Chander v. Ramesh Chander and Ors* (2007)5 SCR 720

<sup>143</sup> *West Bengal State Electricity Board v. Patel Engineering Co. Ltd.*, 2001 (1) SCR 352.

<sup>144</sup> *SBP & CO. Vrs. Patel Engineering Ltd. and another* (2005) 8 SCC 618

<sup>145</sup> *TDM Infrastructure Pvt. Ltd. v. UE Development India Pvt Ltd.*, 2008 (8) SCR 775.

Regulatory Authorities (IRAs). The Court considered the regulatory jurisdiction of TRAI, holding that commercial cable subscribers will not be outside its purview. It also held that members of hotel associations who provide television services to their guests have privity of contract with broadcasters and are thus ‘consumers’.<sup>146</sup>

**Property Rights:** Noting that courts around the world are taking an unkind view towards statutes of limitation overriding property rights on the grounds of adverse possession, the Supreme Court called for a review the current Indian law on adverse possession. The Court observed that “the law of adverse possession which ousts an owner on the basis of inaction within limitation is irrational, illogical and wholly disproportionate. The law as it exists is extremely harsh for the true owner and a windfall for a dishonest person who had illegally taken possession of the property of the true owner.” The Court has opined that “there is an urgent need of fresh look regarding the law on adverse possession” and has recommended to the Union of India “to seriously consider and make suitable changes in the law of adverse possession.”<sup>147</sup>

**Intellectual Property Rights:** The Court laid down the factors which must be taken into account while deciding deceptive similarity under Trade and Merchandise Marks Act, 1938 which are, (i) nature of marks (ii) degree of resemblance between marks (iii) nature of goods in respect of trade marks used (iv) similarity in nature, character and performance of goods of rival traders (v) mode of purchasing goods or placing orders for goods and (vi) any other

surrounding circumstances which may be relevant<sup>148</sup>. The Court explained the distinction between trade marks and domain names stating that a trademark is protected by the laws of a country where such trademark may be registered. Since the internet allows for access without any geographical limitation, a domain name is potentially accessible irrespective of the geographical location of the consumers. The outcome of this potential for universal connectivity is not only that a domain name requires world wide exclusivity but also that national laws might be inadequate to effectively protect a domain name<sup>149</sup>. Addressing the issue of copyright, the Court clarified that “to invoke copyright protection in a derivative work, variation must be substantive in nature than merely trivial. Judicial pronouncements of the Apex Court, since in the public domain, its reproduction or publication would not infringe the copyright.”<sup>150</sup> Clarifying aspects of the law on compulsory licensing, the Supreme Court held that “by virtue of Section 31(1)(b), if the owner of a copyright refuses to allow communication to the public of a sound recording on terms which a complainant considers reasonable, a complaint to the Board made in this regard for issuance of compulsory license is maintainable, as it has the jurisdiction to deal with the same.”<sup>151</sup> Clarifying aspects of the law in copyright, the Court held that “any owner of a copyright has a right akin to the right of property. It is also human rights.”

## CONCLUSION

The ‘first generation’ achievement of the Indian judiciary (1947-77) was to firmly establish the foundations of the ‘Rule of Law’ in India, making it clear

<sup>146</sup> Hotel and Restaurant Association and Anr. v. Star India Pvt. Ltd. and Ors., AIR 2007 SC 1168.

<sup>147</sup> Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan and Ors 2008(12)SCALE697. See also P.T. Muncichikanna Reddy and Others v. Revamma and Ors (2007)SCR 491 in which the Court observed that the right to property is now not only a Constitutional and statutory right but also a human right

<sup>148</sup> Cadila Health Care v. Cadila Pharmaceuticals Limited, 2001 (2) SCR 743.

<sup>149</sup> Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd, 2004 (Supp 2) SCR 465.

<sup>150</sup> Eastern Book Company and Ors. v. D.B. Modak and Anr., 2007 (13) SCR 182.

<sup>151</sup> Entertainment Network (India) Ltd. v. Super Cassettes Industries Ltd. and Phonographic Performance Limited v. Millineum Chennai Broadcast (P) Ltd., 2008 (9) SCR 165.

to the Executive and the Legislature that they must accomplish their social, political and economic goals through law under the Constitution. Putting in place protection for the 'Basic Structure' of the Constitution from erosion by a transient parliamentary majority was an inherent part of this accomplishment.

In the 'second generation' (1977-date), the Indian judiciary has been firmly establishing a framework of comprehensive and specific rights for the protection of the common people of India. The judiciary has delivered a clear message to the Executive and the Legislature that the State must respect and honour these rights.

'Third generation' challenges are now emerging. These include creation of new rights and the expansion and deepening of existing rights required to meet the needs of the new social, political and

economic national and global scenario, ensuring the effective implementation of these rights including the availability of ready access to remedies against injustice at the local level ('taking justice to the door step' of common people). This will, in particular, involve rejuvenating the subordinate courts of the country. The central 'third generation' challenge is perhaps the complex task of reconciling competing rights and ensuring policy goals are achieved without derogating from rights. Another key challenge is to respond to the paradigm shifts in political, social and technological ideas in India and globally.

As the 21st century progresses, the Supreme Court will continue to meet these and other challenges and discharge its unique role and responsibility in shaping the new society envisioned in the Constitution.

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11.E-COMMITTEE

1. The main problem challenging the Indian justicing process is the mounting arrears and long delays. The Indian judiciary comprises of nearly 15,000 courts situated in 2,500 court complexes located across the country. The total pendency of cases in the subordinate courts presently is around 25 million. About 37.12 lacs cases are pending in the High Courts while 49,346 cases (as at the end of September 2008) are pending in the Supreme Court. To tackle the gigantic task, information technology has come as a handy tool.
2. In order to devise a National Policy and Action Plan with appropriate spread and phasing to implement ICT in courts across the country and their web-based interlinking, E-Committee was constituted by the decision of the Union Cabinet. Hon'ble Mr. Justice P.K. Balasubramanyan, retired Supreme Court Judge, is the Chairman of the E-Committee since 1st February, 2008 on the expiry of the term of Dr. Justice G.C.Bharuka. The mandate of the E-Committee was, inter alia, to formulate a National Policy on computerization of the justice delivery system and to draw up an action plan with appropriate phasing for technological, communication and management related changes and time-bound implementation. This Committee is also required to design an IT network along with NIC and other knowledge and service providers and create an IT grid, linking the Apex Court to all the courts in the country.
3. The E-Committee framed the National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary, which was approved by Hon'ble Chief Justice of India on 04.08.2005. It is proposed to implement ICT in Indian Judiciary in three phases over a period of five years. Keeping in view the importance of the project, in 2006, the Union Cabinet declared the project to be one of the Mission Mode Projects under the National E-Governance Plan and thereafter accorded sanction to the budgetary requirements and allotted Rs. 441.80 crores for implementation of the 1st phase. The E-Courts project is to be implemented in three phases over a period of five years.
4. **PHASE I** is under way. It extends over a period of two years. The ICT components which are to be introduced in the judiciary during this period are the following:-
  - Creation of computer rooms and Judicial Service Centers in all the 2,500 Court complexes
  - Establishment of digital inter-connectivity between all the Courts from the taluka level to the Apex Court
  - State-of-the-art video-conferencing facilities at Supreme Court, High Courts and all the District Court
  - Wi-fi facilities in Supreme Court and High Courts
  - Around 15,000 Judicial Officers would be provided with laptops

- Extensive ICT training to Judicial Officers and Court staff
- Arranging of awareness programs and training modules for lawyers
- Creation of well structured database of all the stakeholder, Courts, cases with user-friendly retrievable facilities
- Digital archiving of Supreme Court and High Courts
- Creation of e-filing facility in Supreme Court and High Courts
- Upgradation of ICT infrastructure of Supreme Court and High Courts
- Extensive process re-engineering and change management exercises
- Development of comprehensive and integrated customized software application for the entire judicial system with regional language support

5. The steps taken/initiated in **PHASE I** include:

- Creation of Computer rooms in all court complexes – Out of estimates for site preparation received from 1356 complexes, approval has been given in 1109 sites and funds remitted for 577 sites to make them ready before the end of the current year for receiving the hardware to be installed.
- 13365 Laptops and 12454 laser printers have been supplied to Judicial Officers and Judges.
- Broadband connections have been provided in 486 District Courts and 1272 Subordinate Courts and to 9686 judicial officers at their residences.
- IT training has been given to 11005 Judicial Officers and 44020 Court Staff.
- National Informatic Centre is selecting and training officers for being deputed to the various District Courts so as to help the District Courts in training the Judicial Officers and the staff,

in finalizing the site preparations and for other help that may be required in the matter of installation of the hardware.

- A Software Development Committee was constituted on 7.3.2008 for development of customized applications software for Indian Judiciary. It is headed by Hon'ble Chairman of the E-Committee and includes, as members, Hon'ble Mr. Justice Madan Lokur, Judge, Delhi High Court, Hon'ble Mr. Justice R.C. Chavan, Judge, High Court of Maharashtra and four others. Under the supervision of the Committee, NIC is developing software to be run on pilot basis in six centre namely, Mumbai, Chennai, Cochin, Gwalior, Dehradun and two sites in the State of Assam. On the basis of trials and study of advantages and disadvantages, common software will hopefully be prepared to be used in all centre with necessary local modifications.
  - Steps have been taken to finalise the digital signatures.
  - For upgradation of the IT infrastructure in Supreme Court and High Courts, proposals have been called for from the Supreme Court and all the High Courts regarding the requirements.
  - For inter-linking various courts, steps have been taken to provide Video Conferencing Facility, for which equipments have been finalised and tender floated.
6. PHASE II will be of duration for two years, during which the E-Committee proposes to provide ICT coverage of judicial processes from filing to execution and all administrative activities.
7. PHASE III will be of one year, during which it would lead to the creation of Information Gateways between Courts and Public Agencies & Departments and use of advanced ICT and scientific tools.

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## 12.

# ROLE IN TRAINING & EDUCATION

### Judicial Training

1. A major initiative of the Supreme Court in the closing years of the last century has been the establishment of an All India Institution for judicial education, research and training at Bhopal. On September 5, 2002, the President of India formally dedicated the National Judicial Academy (NJA) to the Nation and propounded a Second Vision for the Republic in which His Excellency envisaged a new, dynamic role for the judiciary for making India a developed country by the year 2020.



*National Judicial Academy*

2. National Judicial Academy was established as a Registered Society, fully funded by the Government of India and commenced its activities immediately. Hon'ble the Chief Justice of India is Ex-officio Chairman of the Society. The Society, inter alia, has two puisne judges of the Supreme Court as Members.
3. In October 2006, the Academic Council of the National Judicial

Academy, chaired by the Hon'ble Chief Justice of India, adopted the National Judicial Education Strategy, which establishes, for the first time, a clear framework for national judicial education. The strategy sets the goal of national judicial education as enhancing timely justice through delay and arrears reduction and enhancing the quality and responsiveness of justice. The strategy aims to scale up national judicial education so as to provide every Judge an opportunity to participate in judicial education – at the state or national level - for at least one week each year.

4. NJA has been implementing the strategy in earnest since October 2006. The national judicial education provides an interactive forum for the Judges of India, across the country and across different levels of the Judiciary, to come together to discuss cross-cutting problems facing the administration of justice and develop solutions with legal and inter-disciplinary inputs. In order to contribute to the enhancement of timely justice, NJA has also taken up formulating proposals for policy development for consideration of the Supreme Court and the conference of Chief Justices. NJA has drafted a national judicial infrastructure plan and is also developing minimum standards of infrastructure for state judicial academies. To implement this programme, NJA has also strengthened its academic, administrative and financial capacity.



**Programmes held during the relevant period (till May 2008)**

5. **NATIONAL JUDICIAL WORKSHOP ON TECHNIQUES AND TOOLS FOR ENHANCING TIMELY JUSTICE:** Six National Workshops and six Regional workshops were held on “Techniques and Tools for Enhancing Timely Justice” by NJA during the above period. The program discussed two main themes – Delay and Arrears Reduction and Quality and Responsiveness of Justice. The participants were from the district judiciary.
6. **ORIENTATION PROGRAMME FOR NEWLY APPOINTED ADJs:** 13 Orientation Programmes were held during the relevant period for the newly appointed Additional District Judges (ADJs) which focused on the Role and Responsibilities of a Judge, Vision of Justice guiding Judging, Judicial Method: Enhancing Objectivity and Impartiality, Judicial Method: Enhancing Professional Excellence and Judicial Ethics.
7. **EDUCATION FOR EDUCATORS PROGRAMME:** Six programmes were held on “Communication Skills and Time Management for District Judiciary”, “Judicial Education”, “Plea Bargaining”, “Enhancing Timely Justice-Delay and Arrears Reduction and Enhancing Quality and Responsiveness of Justice”, “Mediation” etc.
8. **JUDICIAL SEMINAR “PROTECTION OF HUMAN RIGHTS UNDER THE CONSTITUTION: ROLE OF DISTRICT JUDICIARY”:** The participants discussed the problems they were facing in applying human rights perspective in cases before them. The sessions focused on issues of ‘the institutional Framework’ for human right and a human rights approach to judging, protection of human rights in criminal proceedings

and protection of rights of vulnerable groups.

9. **HIGH COURT JUSTICES CONFERENCE “CRIMINAL JUSTICE ADMINISTRATION: AGENDA FOR REFORM”:** The main objective of this Conference was to identify the key challenges facing the Criminal Justice System in the country and to discuss strategies to combat these challenges. Discussion was taken up on various themes: a) Role of the Police and Prosecutors in the Criminal Justice System. b) Equality and criminal law- The need to eliminate biases in the interpretation of criminal law. c) Balancing Rights of the Accused in the criminal justice system. d) Balancing Rights of victims in the criminal justice system Sentencing. f) Cross Border crimes.
10. **JUDICIAL SEMINAR: “GENDER AND LAW: ROLE OF DISTRICT COURTS”:** The main objective of this seminar was to discuss the approach to judging when issues of gender are involved. The aim was to have a discussion on the various challenges that arise in this context and the methodology to be adopted to combat these challenges.
11. **JUDICIAL WORKSHOP ON “JUDICIAL ADMINISTRATION- STRATEGIC PLANNING BUDGETING, FINANCIAL MANAGEMENT AND RESOURCE MANAGEMENT FOR DISTRICT JUDGES”:** Exhaustive discussions took place for building an effective court administration and Court Management system. Participant Judges discussed the strategic goals for judicial administration with the help of management experts.
12. **HIGH COURT JUSTICES CONFERENCE: “ROLE OF HIGH COURTS IN DELAY AND ARREARS REDUCTION”:** All the High Courts made presentations on the ways and means adopted

by them in reducing the delays and arrears in their respective High Courts and in the Sub-ordinate courts in their supervisory capacity. Extensive discussions took place among the participants and the resource persons on the causes and remedies of delay and the need to effectively address the same in order to build public confidence to provide them an effective remedy.

13. **SUPREME COURT JUDGES' RETREAT, DECEMBER, 2007:** NJA organized a Winter Retreat of the Judges of the Supreme Court India at the National Judicial Academy's campus in Bhopal. The main focus of the Retreat was on "Strengthening the Administration of Justice in India in the Emerging Global Scenario." The purpose of the retreat was to provide Judges an opportunity to discuss mutually, and with policy makers and analysts, key challenges facing the country in the emerging global scenario, most relevant to strengthening the administration of justice. The Retreat dealt with three broad themes: First, challenges facing India in the emerging global and national scenario and its implications for the administration of justice; second, recent developments in foreign and international law; and third, in light of the above, the challenges facing the administration of justice in India.

14. **JUDICIAL SEMINAR ON "ENVIRONMENTAL PROTECTION: ROLE OF THE DISTRICT JUDICIARY":** The programme was structured mainly around six thematic topics namely-Role of District Judiciary in Environmental Protection, Environmental Challenges facing India, Pollution- Air and Water, Pollution: Sanitation & waste management, Conservation of Forest and Natural Resources including rights of tribals, wild life, Protection against Mining and degradation

of Land and Human Rights and Environment.

15. **JUDICIAL SEMINAR: "THE IMPACT OF GLOBALIZATION ON SUBORDINATE COURTS: ISSUES AND CHALLENGES":** The Programme was structured around four main themes namely a) Globalization: A Critical Overview, b) Impact of Globalization on Legal and Judicial Systems, c) Dealing with Foreign and International Elements in Local Adjudication and d) Equipping District Judiciary to Respond to Impact of Globalization. The current and likely effect of Globalization on Governance and the Indian legal System was discussed. The group also deliberated on how members of the district judiciary may equip themselves to effectively respond to the challenges of globalization.
16. **JUDICIAL SEMINAR: "CONSTITUTIONAL AND ADMINISTRATIVE LAW ISSUES FOR THE DISTRICT JUDICIARY":** The main objective of the Programme was to discuss how the District Judiciary can enhance its role in the protection of Constitutional values and rights through use of principles of Constitutional and administrative law.
17. **HIGH COURT JUSTICES CONFERENCE ON DEVELOPMENT OF LAW: "SUSTAINABLE DEVELOPMENT AND INDIAN ENVIRONMENTAL LAW":** The main objective of the Conference was to discuss the environmental crisis facing the country and the various policy and legislative initiatives to overcome the crisis.
18. **JUDICIAL SEMINAR "COMMERCIAL AND ECONOMIC LITIGATION IN SUBORDINATE COURTS: ISSUES AND CHALLENGES":** Issues pertaining to land; key issues in banking and debt recovery; labour law; timely

enforcement of contractual obligation through courts; economic crime; consumer protection; commercial arbitration; delay and arrears reduction in civil and commercial litigation were discussed in the programme.

19. **JUDICIAL SEMINAR: “CRIMINAL JUSTICE ADMINISTRATION IN SUBORDINATE COURTS: KEY ISSUES AND CHALLENGES”:**

With the major amount of criminal litigation taking place in the subordinate courts this judicial seminar attempted to focus on areas of concern in criminal justice administration. Issues pertaining to rights of the accused and of the victim were discussed. The focus here was that these rights are not mutually exclusive and hence, there is no need to balance them.

20. **JUDICIAL SEMINAR: “CURRENT DEVELOPMENTS AND KEY ISSUES IN FORENSIC SCIENCE”:**

The increased use of forensics technology in both civil and criminal justice litigation and the manner in which these methods ought to be used by courts formed the focus of this judicial seminar. The seminar discussed new forms of scientific evidence like narco-analysis and brain mapping. DNA Analysis; the use of forensics in analysis of documents; forensics techniques in ballistics and cyber forensics.

21. **HIGH COURT JUSTICES CONFERENCE ON DEVELOPMENT OF LAW: “GOVERNANCE AND DEVELOPMENT”:**

The main theme of the programme was the multiple challenges to constitutional governance in India’s current context arising from the failure of governance; the changing nature of the State in an era of liberalization, privatization and globalization; and, debates and struggles over alternative models of development. This conference

discussed the role of the Judiciary in addressing these challenges and how it can best protect constitutional rights in governance.

22. **JUDICIAL WORKSHOP: “RESPONDING TO STAKEHOLDERS IN THE ADJUDICATIVE PROCESS, ENSURING TIMELINESS AND CURBING NEEDLESS LITIGATION”:**

The programme started with a very interesting analysis of connection between “Game Theory” and Litigation. The main stake holders in the litigation process sat together with the judges and discussed the possibilities of aligning interests and obtaining cooperation from the Bar, prosecution and police.

23. **HIGH COURT JUSTICES CONFERENCE ON DEVELOPMENT OF LAW: “CONTRIBUTION OF INDIAN HIGH COURTS TO THE DEVELOPMENT OF LAW”:**

As the backdrop of this Conference, a number of High Courts submitted papers on their respective contributions to the development of law in India. These papers were presented by Hon’ble Judges nominated by the High Courts and discussed during the course of the Conference. The meaning of “development of law” was discussed and it was decided that emphasis should be placed on contribution of the Courts to the rights jurisprudence.

24. **JUDICIAL SEMINAR ON “IMPLEMENTATION OF SPECIAL CRIMINAL ENACTMENTS & ADJUDICATION OF SPECIFIC TYPES OF CRIME : KEY ISSUES & CHALLENGES”:**

The focus of this judicial seminar was to discuss whether there is a different approach required in judging special criminal enactments. The participants shared their views and experiences on this issue, followed by a discussion



on conceptual understanding. Approaches to judging cases under the SC/ST (Prevention of Atrocities) Act, Prevention of Corruption Act, Narcotic Drugs and Psychotropic Substances Act and judging offences against women were discussed.

25. **JUDICIAL SEMINAR ON “FAMILY & PERSONAL LAW: CURRENT ISSUES & CHALLENGES FOR DISTRICT JUDICIARY”**: The seminar structured around the theme “Reconciling Personal Laws with Constitutional Values”, the seminar discussed contemporary issues relating to Property and Succession, the Domestic Violence Act, Crimes within the family, Child Custody, and the Working of Family Courts, including the use of ADR techniques by family courts.

26. **HIGH COURT JUSTICES NATIONAL CONFERENCE ON : SOCIAL JUSTICE : THE ROLE & CONTRIBUTION OF INDIAN COURTS**: Conference was to discuss whether a different approach is required for judging issues pertaining to social justice. The conference tried to define “social justice”. This was followed by a discussion on the constitutional understanding of social justice, followed by an analysis of the approach of Indian courts to this issue. Specific issues like labour laws, caste related issues and discrimination in that regard, affirmative action, poverty and displacement related issues and gender justice were discussed.

27. **JUDICIAL SEMINAR ON “CYBER LAW: CURRENT DEVELOPMENTS & KEY ISSUES FOR THE DISTRICT JUDICIARY”**: The topics that were discussed and deliberated upon during the sessions included ‘Digital Technology & Challenges to Law’, ‘Electronic Commerce: Origin and Development’, ‘Interceptions by Electronic Means and of Electronic Communication -Problems and

Perspectives’, ‘Proof of Electronic Records under section 65B of the Evidence Act’, ‘Cyber Crimes: Meaning and Content Control of child Abuse in the Internet: Legal issues’, ‘Enforcement of Cyber Crimes Cyber jurisdiction – Civil and Criminal Cyber Policing Civil and Criminal Remedies’, ‘IPR Issues in Internet Copyright Issues Domain Name protection’ and ‘Data protection and Privacy issues in Internet’.

28. **JUDICIAL SEMINAR ON “IPRS: CURRENT DEVELOPMENTS & KEY ISSUES FOR THE DISTRICT JUDICIARY”**: The object of the seminar was to understand the basic philosophy behind intellectual property rights, give a basic overview of various aspects of intellectual property and discuss cutting-edge issues and challenges in its adjudication. The Judicial Seminar explored compelling issues of IPRs, viz. TRIPS and concerns for India, access to knowledge in the copyright regime, access to health in the patent regime, trademarks and public interest in protecting the same, traditional knowledge, domain protection in the Internet and protection of industrial designs.

29. **HIGH COURT JUSTICES NATIONAL CONFERENCE ON “THE IMPACT OF INTERNATIONAL LAW & FOREIGN LAW ON INDIAN COURTS”**: The aim of this Conference was to analyze the impact of international and foreign law on adjudication in India and develop approaches to rationalize and manage such influences.

### **Legal Education**

30. Supreme Court is taking an effective though limited role in Legal Education. Hon’ble the Chief Justice of India is the Chancellor, or Visitor, of several reputed institutions like National Law University, Jodhpur,

the West Bengal National University of Juridical Sciences, Kolkata, University of Delhi, National Law School of India University – Bangalore, National Law Institute University – Bhopal, Hidayatullah National Law University, Raipur, the Gujarat National Law University, Gandhi Nagar, Dr. Ram Manohar Lohia Rashtriya Vidhi Sansthan-Lucknow and National University of Advanced Legal Studies – Kochi.

### Law Clerks

31. In order to initiate young law students into judicial process and to provide assistance in legal research to Hon'ble Judges of the Supreme Court, Law Clerks-cum-Research Assistants are engaged for short tenures by the Supreme Court. These Law Clerks are drawn from various empanelled National Law Schools and other approved Law Colleges and Universities. They are given assignments on a fixed honorarium/remuneration of Rs. 20,000/- per month. At present National Law University - Jodhpur, National Law Institute University - Bhopal, National Law School of India University - Bangalore, NALSAR University of Law - Hyderabad, Symbiosis Law College - Pune, ILS Law College – Pune, West Bengal National University of Juridical

Sciences - Kolkata and Hidayatullah National Law University – Raipur (For internship only) are the legal institutions which are empanelled by the Supreme Court. The stand-by list consists of School of Legal Studies, Cochin University of Science and Technology - Cochin, Government Law College – Bombay and Law Faculty, University of Delhi – Delhi.

32. The procedure for engaging Law Clerk-Cum-Research Assistants is streamlined. In the month of December, the Law Schools, which are on the panel, are required to submit applications/bio-data of their final year students pursuing 5-year law course. A panel of Judges selects the candidates and a list is prepared for selection of the Law Clerk-Cum-Research Assistants. Before the Law Clerk-Cum-Research Assistants enter into the assignments, they are required to execute a format of undertaking. Students from empanelled Law Schools/Colleges/Universities are also attached, for short periods, with Hon'ble Chief Justice of India/Judges, as Law Trainees. During last one year, 16 Law Graduates from various National Law Schools/Colleges/Universities have been engaged as Law Clerk-cum-Research Assistant and 113 Law Students have been placed as Law Trainees so far.

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# 13.

## ADR & MEDIATION

### Mediation & Conciliation Project Committee

1. Under the auspices of the Mediation and Conciliation Project Committee constituted by the Supreme Court, with Hon'ble Mr. Justice S.B. Sinha as its Chairman, the Delhi Mediation Centre began functioning in the Tees Hazari Courts complex in the District Courts of Delhi in August, 2005. The mediators deployed there originally were judicial officers with 40 hours of rigorous training in the art and technique of mediation. Encouraged by the results, the Delhi Mediation Centre extended its activities to the Karkardooma Courts complex at Delhi in December, 2005.
2. Cases are referred to the Delhi Mediation Centre by the District Courts, Delhi High Court and also by the Supreme Court. Demonstrating that mediation can be the satisfactory complimentary non-adjudicatory form of dispute resolution, Delhi Mediation Centre has been able to settle 4161 cases (along with 1266 connected settled cases) out of 6662 cases referred to it during 1.10.2007 to 30.9.2008. The settled cases include all categories including matrimonial cases, partition suits, motor accident cases, recovery suits, etc.
3. One of the major achievements of the Delhi Mediation Centre is to develop its own in-house training facilities. There are now six judicial officers who are expert trainers. Some of these officers have been invited to various parts of the country to spread awareness of mediation and to educate other judicial officers on the finer points of mediation.
4. Over the last two years, the Delhi Mediation Centre has fully computerized its administrative functions and also created its own website. Its activities have been taken note of even internationally. In the meeting of the Asian Mediation Association (AMA) held at Kuala Lumpur, Malaysia a Memorandum of Understanding was entered into on 12.9.2008 between Delhi Mediation Centre represented by Hon'ble Justice Madan Lokur (Delhi High Court) and AMA by which Delhi Mediation Centre was admitted as a Member of AMA.
5. The Committee is considering implementation of a National Plan for Mediation which is expected to transform dispute resolution options all over the country and has also evolved a code of conduct for mediation. The Committee has resolved that 40 hours training and 10 actual mediations is absolutely essential for mediation.

### Supreme Court Lok Adalats

6. First ever Lok Adalat was held in the Supreme Court on 3rd May, 2008. It was organized by the National Legal Services Authority and the Supreme Court Legal Services Committee. Hon'ble the Chief Justice of India inaugurated the Lok Adalat. Hon'ble





*Inauguration of Lok Adalat at Supreme Court on September 6, 2008*

the Chief Justice of India, Hon'ble Dr. Justice Arijit Pasayat, Hon'ble Mr. Justice P. Sathasivam, Hon'ble Mr. Justice Ashok Bhan (as he then was) and Hon'ble Mr. Justice Aftab Alam sat in two Benches and took up 45 matters, out of which 25 matters were settled/disposed of.

7. The 2nd Lok Adalat was held in the Supreme Court on 6th September, 2008. Hon'ble Chief Justice of India inaugurated the Lok Adalat. Prior to holding of Lok Adalat 14 Mediators were engaged to mediate in the cases relating to matrimonial disputes. Three Benches comprising of (1) Hon'ble the Chief Justice of India, Hon'ble Dr. Justice Arijit Pasayat and Hon'ble Mr. Justice P. Sathasivam (2) Hon'ble Mr. Justice B.N. Agrawal, Hon'ble Mr. Justice R.V. Raveendran and Hon'ble Mr. Justice V.S. Sirpurkar (3) Hon'ble

Mr. Justice Ashok Bhan (as he then was) and Hon'ble Dr. Justice Mukundakam Sharma took up 68 matters, out of which 30 matters were settled/disposed of.

### **National Meet on Mediation & Conflict Resolution**

8. A National Meet on Mediation and Conflict Resolution was organized on 26<sup>th</sup> March 2008 at Vigyan Bhawan, New Delhi. Hon'ble the Chief Justice of India inaugurated the Meet. Shri H.R. Bhardwaj, Hon'ble Union Minister of Law & Justice, Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA, Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India, Hon'ble Mr. Justice R.V. Raveendran, Judge, Supreme Court of India also attended.

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# 14.

## LEGAL SERVICES

### Supreme Court Legal Services Committee

1. The Supreme Court Legal Services Committee is a Statutory Body constituted under Section 3A of the Legal Services Authority Act, 1987. The functions of the Committee are regulated by the Supreme Court Legal Services Committee Regulations, 1996 and Supreme Court Legal Services Committee Rules, 2000. It is headed by a sitting Hon'ble Judge of the Supreme Court as its Chairman and has nine other distinguished members in its Executive Body.
2. The Committee provides legal aid free of cost to eligible litigants whose income does not exceed Rs.50,000/- per annum. There is, however, no income bar for litigants belonging to SC/ST, women, children, handicapped and litigants engaged in matters relating to Industrial Disputes, etc. as defined in the Act.

Any person desirous of availing legal aid through the Committee has to make an application to the Secretary, Supreme Court Legal Services Committee (109, Lawyers Chamber, Supreme Court Compound, New Delhi – 110 001). At present, the Committee has on its roll 161 Advocates-on-Record and 12 Senior Advocates. Senior Advocates render free legal services to the Committee.

3. The Committee has its own website, namely, <http://www.sclsc.nic.in>. The queries of the litigants are also answered through E-Mail i.e. [sclsc@nic.in](mailto:sclsc@nic.in). The website of the Committee is linked to the website of the Tihar Jail to facilitate the convicts lodged in that jail to download the Application forms for Legal Services, Affidavits and Vakalatnama for the purpose of filing petition in the Supreme Court. The expenditure incurred towards the establishment and the legal services programme is funded by the Government of India through grant-in-aid.

### Statistical information with regard to the implementation of Legal Services Programme by the Committee for the period 21.09.2007 to 30.09.2008

1.	Total Number of applications received.	1077
2.	Number of applicants advised to approach the appropriate forum for relief.	208
3.	Number of cases approved for direct Filing viz. Respondent/302 I.P.C./Court Directed matters.	632
4.	Number of applications referred to the Screening Panel Advocates to ascertain whether the matter is worth prosecuting before the Supreme Court.	869
5.	Number of applications rejected being not found fit case for Filing by the Screening Panel Advocates.	303

6.	Number of cases pending in the Screening for legal opinion.	116
7.	Number of cases approved for Filing appropriate petitions in the Supreme Court.	450
8.	Total Number of cases sent for Filing. (450 + 632 = 1082)	1082
9.	Number of cases disposed of by the Supreme Court.	96
10.	Number of cases withdrawn by the Applicants.	06
11.	Number of cases pending for disposal before the Hon'ble Court	980
12.	Number of correspondence received during the period.	11391
13.	Number of reponses sent during the period.	14204

4. The Supreme Court Legal Services Committee is organizing All India Meet of the High Court Legal Services Committees every year. The purpose of this Meet is to encourage interaction and networking with State Committees, preparation and discussion on the need of State Plan of Action and National Plan of Action in due course of time.

### **Supreme Court Middle Income Group Legal Aid Society**

5. The Supreme Court Middle Income Group Legal Aid Society has been constituted under the Societies Registration Act to provide partial legal service to the poorer section of the Society whose gross annual income does not exceed Rs.3,00,000/-. The function of this Society is confined to the jurisdiction of the Supreme Court of India. The Society has been recognized vide Regulation 3 (4) of the Supreme Court Legal Services Committee Regulations, 1996, which was framed pursuant to Section 29 of the Legal Services Authorities Act, 1987 and is a totally self-funded scheme whereby the applicant pays the fees of the Advocates and the Senior Advocates but at a highly reduced fee Structure unlike the normal fees.

6. The Society is headed by a sitting Hon'ble Judge of the Supreme Court of India as its President and its governing body consists of 11 members, including the President and the learned Attorney General

as the ex-officio vice-President. The Society maintains a panel of advocates, including Advocates-on-Record and Senior Advocates, who are willing to take up cases assigned by the Society.

### **National Legal Services Authority**

7. The National Legal Services Authority (NALSA) is a Central Nodal Authority of the Govt. of India constituted under the Legal Services Authorities Act, 1987 to lay down policies and principles to frame effective and economical schemes for making legal services available, to spread legal literacy, and to monitor and evaluate implementation of legal aid programmes throughout the country. Hon'ble the Chief Justice of India is the Patron-in-Chief and Hon'ble Dr. Justice Arijit Pasayat, Judge, Supreme Court of India is presently the Executive Chairman of the Authority.

8. NALSA frames policies, principles, schemes and guidelines on Legal Aid for the poor and disadvantaged sections of the society and the same are got implemented through the State Legal Services Authorities, District Legal Services Authorities and Taluka Legal Services Committees throughout the country.

9. Primarily, the State Legal Services Authorities, District Legal Services Authorities, Taluka Legal Services Committees have been mainly assigned the task of providing free legal services to the eligible persons





*Hon'ble Prime Minister of India inaugurating the National level interaction on implementation of National Rural Employment Guarantee Scheme at Vigyan Bhawan, New Delhi*

and to organize Lok Adalats for amicable settlement of disputes. The Lok Adalat has been given statutory status under the Legal Services Authorities Act, 1987. Under this Act, an award made by a Lok Adalat is deemed to be a decree of a civil court final and binding on all parties.

10. For detailed statistics about the beneficiaries of the legal aid & advice provided, legal literacy camps organized by NALSA or the Lok Adalats held by it, may see the TABLES given below at the end of para 28.

### **Activities of Nalsa**

11. The NALSA has organized the following important programmes during the period under report:-

#### **National Level Interaction on Implementation of National Rural Employment Guarantee Scheme**

12. On 2nd October, 2008, National Level Interaction on Implementation of National Rural Employment Guarantee Scheme and Inauguration of Initiative on Supporting the National Rural Employment

Guarantee Scheme through State Legal Services Authorities was held at Vigyan Bhawan. The Seminar was organized jointly by National Legal Services Authority, Supreme Court Legal Services Committee and Supreme Court Middle Income Group Legal Aid Society. The Welcome Address was delivered by Hon'ble Dr. Justice Arijit Pasayat, Judge, Supreme Court of India and Opening Address by Hon'ble the Chief Justice of India. Hon'ble Mr. Justice C.K. Thakker, Hon'ble Mr. Justice S.H. Kapadia and Hon'ble Mr. Justice R.V. Raveendran, Judges, Supreme Court of India Chaired the Technical Sessions.

13. The Initiative on Supporting the National Rural Employment Guarantee Scheme through State Legal Services Authority was inaugurated by Dr. Manmohan Singh, Hon'ble the Prime Minister of India on the same day. Hon'ble Dr. Justice Arijit Pasayat, Dr. Raghuvansh Prasad, Hon'ble Union Minister for Rural Development, Dr. H.R. Bhardwaj, Hon'ble Union Minister for Law & Justice addressed. The Presidential Address was delivered by Hon'ble the Chief Justice of India.

### **World Mental Health Day**

14. On the occasion of World Mental Health Day, NALSA and State Legal Services Authorities observed the National Legal Aid Week for the Persons suffering from Mental Disabilities from 10<sup>th</sup> October 2007. During the period, efforts were made to make people aware of the provisions of the Mental Health Act, 1987 and visits made to some of the Mental Hospitals and Asylums. Hon'ble the Chief Justice of India inaugurated the campaign.

### **International Judicial Colloquium**

15. NALSA organized an International Judicial Colloquium on "Arbitration and Courts Harmony Amidst Disharmony" in association with Indian Council of Arbitration and International Federation of Commercial Arbitration Institutions on 19<sup>th</sup> October 2007 at New Delhi. The primary focus of the Judicial Colloquium was on the role of courts under the UNCITRAL Model Law.

### **National Legal Literacy Day**

16. NALSA observed National Legal Literacy Fortnight from 5<sup>th</sup> November 2007 to 18<sup>th</sup> November 2007 through its State Legal Services Authorities all over the country. During the period, the State Legal Services Authorities organized Lok Adalats; sensitization programmes for Judicial Officers, Legal Aid Counsel, Para Legals etc and also organized legal literacy campaigns.

### **National Campaign For Protection of Rights of Children**

17. NALSA organized a National Campaign for Protection of Rights of Children affected by terrorism, insurgency, internal conflicts, cross border violence, trafficking, trauma and HIV/AIDS on 14 November 2007 at Supreme Court Lawns, New Delhi. Hon'ble the Chief Justice of

India and other Hon'ble Judges of the Supreme Court were present on the occasion.

### **Community Legal Literacy Centre**

18. A Community Legal Literacy Centre for conducting Legal Literacy Classes at 'Ma Dham', a Shelter Home for Widows at Vrindaban has been set up with support of NALSA.

### **National Conference on Access to Justice to Prisoners**

19. NALSA organized a National Conference on Access to Justice to Prisoners on 19<sup>th</sup> November 2007 at Teen Murti House, New Delhi. Hon'ble Mr. Justice Ashok Bhan, the then Executive Chairman, NALSA inaugurated the Conference. Hon'ble the Chief Justice of India delivered the valedictory address at Siri Fort Auditorium, New Delhi.

### **World Aids Day**

20. On the occasion of World AIDS Day, the Authority organized a Meeting on Access to Justice to HIV/AIDS infected and affected citizens and families, New Delhi. The main objective of the meeting was to deliberate upon the issues pertaining to basic needs of the HIV/AIDS affected and infected citizens and how to accord the best of what is constitutionally guaranteed for the life and existence of the affected and infected citizens. Hon'ble the Chief Justice of India chaired the Meeting.

### **World Disability Day**

21. The Authority observed World Disability Day on 3<sup>rd</sup> December 2007 at New Delhi. The State Legal Services Authorities, District Legal Services Authorities and Taluka Legal Services Committees organized Legal Rights Awareness Campaigns for the affected citizens throughout the country.

### **Colloquium on Gender Violence and Protection of Women's Rights**

22. NALSA organized a Colloquium on Gender Violence and Protection of Women's Rights on 1<sup>st</sup> January 2008. The programme was organized to develop strategies for Women Empowerment.

### **Summit on Social Justice**

23. An All India Summit of NGOs on Protection of Environment and Access to Social Justice to Citizens affected by Environmental Hazards and Challenges was organized by NALSA from 31<sup>st</sup> January 2008 to 2<sup>nd</sup> February 2008 at Bangalore. Concept of Social Justice, Indian Constitution and Social Justice, Rights of Citizens affected by Environmental Hazards and Challenges and Role of State Legal Services Authorities in Access to Social Justice were the main subjects of discussion in the Summit.

### **National Conclave of North-eastern States for Access to Justice to Women**

24. A National Conclave of North-Eastern States for Access to Justice to Women of the Region was organized from 17<sup>th</sup> February 2008 to 25<sup>th</sup> February 2008 at New Delhi to promote Access to Justice in the North-Eastern States. The Conclave was inaugurated by Her Excellency the President of India, Smt. Pratibha Devisingh Patil in the presence of Hon'ble the Chief Justice of India, Hon'ble Union Minister for Law & Justice, Dr. H.R. Bhardwaj and Hon'ble Mr. Justice Ashok Bhan (since retired). The objective of the Conclave was to secure participation of North-Eastern population based in Delhi as well as originally from the State.

25. As an outcome of the National Conclave and an action oriented approach towards implementation

of NALSA's mandate, the Authority launched a Special Protection Initiative by establishing a Legal Assistance Centre for legal support to the women and girls of the North Eastern Region on 25<sup>th</sup> February 2008 at New Delhi.

### **Regional Meet of Legal Self Help Groups and Women for Justice Forums**

26. NALSA organized a Regional Meet of Legal Self Help Groups and Women for Justice Forums under the National Legal Literacy Mission on 4<sup>th</sup> March at Vrindaban. The main aim of this Meet was to motivate/encourage the communities to work for people's access to social justice, particularly, the widows of the region.

### **International Women's Day**

27. On the occasion of International Women's Day, the Authority organized a Women's Prayer for Peace and Conflict Resolution at the Amar Jawan Jyoti, India Gate and a March for Social Justice from India Gate to the Residence of His Excellency the Vice President of India. A Joint Consultative National Meet was also organized to highlight the Voices of Women for Justice through a Millennium Development Campaign on Gender Equality and Social Development.

### **Seminar on Rights of Girl Child**

28. NALSA in association with All India Federation of Women Lawyers and Chennai Women Lawyers Association organized a Seminar on "The Right of Girl Child- A New Dimension" at High Court Building, Chennai on 15<sup>th</sup> March 2008. Hon'ble Mr. Justice R.V. Raveendran, Judge, Supreme Court of India inaugurated the Seminar in the presence of Hon'ble Mr. Justice P. Sathasivam, Judge, Supreme Court of India.



**NATIONAL LEGAL SERVICES AUTHORITY**

**STATEMENT SHOWING THE NUMBER OF PERSONS BENEFITTED  
THROUGH LEGAL AID AND ADVICE**

S. No	State	SC	ST	BC	Women	Children	In custody	General	Total
1	Andhra Pradesh	5,939	5,303	8,910	6,114	234	2,627	24,424	53,551
2	Arunachal Pradesh	161	1,379	78	321	4	18	1,522	3,483
3	Assam *	27,265	18,704	3,443	17,265	1,174	510	78,034	146,395
4	Bihar **	3,395	1,386	5,419	5,373	727	939	14,007	31,246
5	Chhattisgarh	1910	2601	1687	2229	27	11337	4822	24,613
6	Goa	48	2	311	625	41	1,526	700	3,253
7	Gujrat	8,934	5,536	267	16,817	423	3,977	27,674	63,628
8	Haryana	1,060	90	779	2,387	314	14,849	10,183	29,662
9	Himachal Pradesh	579	99	1	2,239	95	106	3,470	6,589
10	Jammu & Kashmir	867	252	806	13,917	677	195	8,033	24,747
11	Jhsarkhand	465	554	199	524	79	227	1,948	3,996
12	Karnataka	7,522	2,003	19,938	10,731	178	45	80,373	120,790
13	Kerala	488	110	526	3,454	196	5,990	133,366	144,130
14	Madhya Pradesh	238,632	204,968	108,171	51,610	2,514	30,227	566,574	1,202,696
15	Maharashtra	27,281	16,098	4,173	57,687	988	11,672	421,266	539,165
16	Manipur	-	18	-	70	12	-	2,352	2,452
17	Meghalaya	73	204	18	16	-	12	142	465
18	Mizoram	224	17,871	2,475	2,280	351	1,895	5,802	30,898
19	Nagaland	371	867	461	411	157	557	116	2,940
20	Orissa	29,737	19,756	211	28,822	442	1,009	34,000	113,977
21	Punjab	7,174	514	4,374	5,326	533	16,208	17,958	52,087
22	Rajasthan	15,513	24,000	4,980	13,368	501	9,677	19,760	87,799
23	Sikkim	58	208	29	1,049	122	1,220	402	3,088
24	Tamil Nadu	167,188	21,723	63,510	315,808	2,028	14,337	1,231,471	1,816,065
25	Tripura	309	229	62	1,896	2	196	2,899	5,593
26	Uttar Pradesh	791,012	101,754	627,358	372,119	139,579	16,509	2,536,539	4,584,870
27	Uttarakhand	1,715	909	58	2,570	1,065	640	16,437	23,394
28	West Bengal	3,770	1,652	1,765	11,935	632	4,313	9,917	33,984
29	And.& Nico.Islands	-	-	-	116	-	13	386	515
30	U.T. Chandigarh	45	4	-	437	17	3,679	224	4,406
31	D & Nagar Haveli	-	-	-	-	-	-	1	1
32	Daman & Diu	-	-	-	-	-	-	-	-
33	Delhi	3,826	256	319	23,760	128	55,468	55,098	138,855
34	Lakshadweep	-	1	-	-	-	-	2	3
35	Puducheery	12,461	36	6,332	8,872	3,184	598	2,035	33,518
36	Supreme Court LSC	961	220	1,708	1,497	21	3,584	8,778	16,769
	<b>TOTAL :</b>	<b>1,358,983</b>	<b>449,307</b>	<b>868,368</b>	<b>981,645</b>	<b>156,445</b>	<b>214,160</b>	<b>5,320,715</b>	<b>9,349,623</b>

## NATIONAL LEGAL SERVICES AUTHORITY

### Statistical Information regarding no. of pre-litigation, post litigation cases and legal literacy camps Statewise

Sl.No.	Name of State Legal Services Authority	Pre-Litigation Cases	Post Litigation Cases	Legal Literacy Camps
1	Andhra Pradesh	92079	261575	14949
2	Arunachal Pradesh	1682	326	108
3	Assam *	30133	20105	315
4	Bihar **	165446	133594	6737
5	Chhattisgarh	1673	45902	5995
6	Goa	438	1177	678
7	Gujarat	369053	2020556	142170
8	Haryana	9936	205626	4528
9	Himachal Pradesh	17	12344	397
10	Jammu & Kashmir	5147	44774	288
11	Jharkhand	15379	41993	2340
12	Karnataka	5211	156279	12097
13	Kerala	47253	51996	2977
14	Madhya Pradesh	127970	441979	8670
15	Maharashtra	29429	141957	7129
16	Manipur	0	0	46
17	Meghalaya	140	751	43
18	Mizoram	439	205	74
19	Nagaland	209	365	6
20	Orissa	84747	479063	2951
21	Punjab	12248	197500	1471
22	Rajasthan	9105	124928	28576
23	Sikkim	410	596	227
24	Tamil Nadu	126026	59444	14097
25	Tripura	2780	2345	1128
26	Uttar Pradesh	42952	1374267	45317
27	Uttarakhand	38	41005	279
28	West Bengal	25435	30141	1619
29	And. & Nico. Islands	132	220	53
30	U.T. Chandigarh	8828	9547	260
31	D & Nagar Haveli	237	53	6
32	Daman & Diu	-	-	-
33	Delhi	107548	104062	428
34	Lakshadweep	7	4	4
35	Puduchery	16069	321	362
	<b>Total</b>	<b>1338196</b>	<b>6005000</b>	<b>306325</b>



*Supreme Court Building - An Aerial View*



## 15.

## OFFICIAL PUBLICATIONS

1. **SUPREME COURT REPORTS** is the official Reporter of the Supreme Court judgments. Under Section 3 of the Indian Law Reports Act, 1875, only the Reports published under the authority of state are to be cited in Courts. The work relating to Supreme Court Reports is governed by the Supreme Court (Council of Law Reporting) Rules, 1964. The headnotes of the judgments are prepared by Editorial Officers and are approved by the Hon'ble Judges. The Supreme Court Reports are published under the supervision of the Supreme Court Council of Law Reporting consisting of Hon'ble the Chief Justice of India, two Hon'ble Judges of the Supreme Court, Attorney General for India and an Advocate nominated by the Executive Council of the Supreme Court Bar Association. From 2007 onwards, SCR is published in running volumes, each consisting of 4 parts of about 300 pages each and a Volume Index. Besides circulation within the country, it is sent on reciprocal basis to many Commonwealth and other countries viz., USA, Nigeria, Canada, South Africa, Tanzania, Zimbabwe, Egypt etc.
2. **SUPREME COURT RULES, 1966:** Under Article 145(1) of the Constitution of India, Hon'ble the then Chief Justice of India with the approval of the President of India has formulated Supreme Court Rules, 1966, which regulate the procedure to be followed in working on the judicial side of the Registry. An authentic and official updated edition of the Rules has been published by the Supreme Court of India. These rules were recently amended (29.08.2008) to make provision for preservation of certain category of records (including papers of historical, sociological, scientific or archival value), permanently or for specified periods, in physical, digitized, scanned, microfilmed or such other form. Amendments have also been introduced in respect of fee payable to advocates appointed as Amicus Curiae in Civil/Criminal matters to bring the same at par with the fee payable by the Supreme Court Legal Services Committee.
3. **HANDBOOK OF INFORMATION:** A Hand Book of information on Practices and Procedures, being followed in Supreme Court, including (i) classification of jurisdiction, (ii) limitation and Court Fee, (iii) procedure for filing of cases, allocation of Benches, listing of cases & preparation of cause-lists, (iv) guidelines on Public Interest Litigation & Jail Petitions, (v) supply of copies & inspection of record, (vi) legal aid and advice, (vii) information available on internet, and (viii) allocation of work amongst different sections including particulars of the officers concerned with each Section has been published for convenience of the Advocates as well as litigants.

4. **COURT NEWS:** To promote transparency, accountability and to provide free flow of information, Supreme Court of India started publication of 'Court News', a quarterly news letter. Besides figures of institution, pendency and disposal of cases as well as vacancy position in Courts at all levels, it also contains a gist of judgments of public importance delivered by the Supreme Court of India in the last quarter. It is sent free of cost to all High Courts, Bar Associations, Law Colleges Government Departments etc. and is also available on the website of Supreme Court.

5. **ANNUAL REPORTS 2003-2004, 2004- 2005 and 2005-2006, 2006-2007:** Supreme Court has been publishing its Annual Reports on regular basis from 2003-2004 onwards, releasing it on Law Day (26th November) each year. Thus,

four Annual Reports have thus far been issued, the last being the fourth Annual Report for 2006-2007.

6. **SUPREME COURT OFFICERS AND SERVANTS (CONDITIONS OF SERVICE AND CONDUCT) RULES, 1961:** For the convenient transaction of all the official dealings, including the conditions of service and conduct of the Court servants, the Hon'ble Chief Justice of India with the approval of the President framed the Service Rules of 1961. The provisions of these rules regulate appointments, responsibilities, conditions of service, conduct & discipline etc. of Officers and employees of the registry of the Court and are enforced by the Secretary General.

Manual of Office Procedure (Judicial Side) is available on Supreme Court Website.

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## 16.

COURT & MEDIA

1. The media is allowed to observe the proceedings of the Supreme Court and report in various newspapers and other national news agencies. In view of the importance of the proceedings and need for proper comprehension and correct presentation to the public and to ensure accuracy of reporting, certain criteria have been prescribed for accreditation of Legal Correspondents to the Supreme Court. As per the requirements, Legal Correspondents should have a professional Law Degree with seven years' experience in reporting court proceedings to become eligible for accreditation. Such accredited correspondents are allowed access into all the Court Rooms and are afforded all basic facilities and comfortable working environment in the Press Lounge. They are provided free copies of the daily Cause List of the Courts. Copies of all the judgments are also made available on demand. This helps them in identifying the important and sensitive cases and to report the judgments and orders correctly.
2. Supreme Court attaches great importance to the role of media complementary to that of judicial organ in a democratic polity. In order to strengthen this partnership, Court took certain initiatives for mutual benefit.
3. Two-day Workshop on "Reporting of Court Proceedings by Media and Administration of Justice for Legal Correspondents/Journalists" was held at Vigyan Bhawan, New Delhi on 29th & 30th March, 2008. The Workshop was jointly organized by the National Legal Services Authority (NALSA), Supreme Court Legal Services Committee, Press Council of India, Indian Law Institute, and Editors Guild of India. Hon'ble the Chief Justice of India inaugurated the function. Hon'ble Dr. Justice Arjit Pasayat, Judge, Supreme Court of India presided over the inaugural session. The Workshop was attended by Hon'ble Judges of the Supreme Court, High Court, Senior Advocates, Senior Editors and Journalists. The Inaugural Session was followed by Six Technical Sessions on various topics. Efforts were made to survey and discuss the matters of common concern of Judiciary and Media. A number of useful observations, suggestions and recommendations were made in the six interactive sessions.
4. A Regional Workshop on "Reporting of Court Proceedings by Media & Administration of Justice for Legal Correspondents/Journalists" was organized on 21st June, 2008 at High Court of Kerala, Ernakulam by the National Legal Services Authority, Supreme Court Legal Services Committee, Kerala State Legal Services Authority, Indian Law Institute, Press Council of India

**Workshops on "Reporting of Court Proceedings by Media and Administration of Justice"**

and Editors' Guild of India. Hon'ble the Chief Justice of India delivered Inaugural Address. Hon'ble Mr. Justice H.L. Dattu, Chief Justice, Kerala High Court, Hon'ble Mr. Justice G.N. Ray, Chairman, Press Council of India and Hon'ble Dr. Justice Arijit Pasayat, Judge, Supreme Court of India participated.

5. 2nd Regional Workshop on "Reporting of Court Proceedings by

Media & Administration of Justice for Legal Correspondents/Journalists" was organized on 30th August, 2008 at Cuttack, Orissa by National Legal Services Authority, Supreme Court Legal Services Committee, Orissa State Legal Services Authority, Press Council of India, Editors' Guild of India and Indian Law Institute. Hon'ble the Chief Justice of India delivered the Inaugural Address.

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