

Efficiency of Article 224 A of the Indian Constitution

“Justice delayed, is justice denied.”

-William E. Gladstone

It is a universal truth, that when individuals fail to fight back their abused rights, the law and justice becomes their last resort. However when such system itself fails to act especially due to pendency of cases, then the entire trust over the judiciary comes at stake, let alone the justice. Around 920,000 cases on record are pending only in the High Courts in India. In order to rectify the same, Article 224 A of the Indian Constitution comes to highlight wherein the retired High Court judges are appointed to act as *ad-hoc* or additional sitting judges in the same or other High Courts of the States to help end the pendency.

- Reasons for pendency of cases

Among the several causes for the pendency of cases, the first and the most important is the inadequacy of the judges to preside over the hearings. There is an existing lack of judges both at the subordinate and the higher level of the judiciary since time immemorial. The rate of the filing of the cases outweighs the rate of the appointment of the judges^[3].

Secondly, filing false cases or even malicious prosecutions against parties, unnecessarily increases the burden of the courts as these are filed not to seek justice, but to satisfy the personal vendetta of the applicants thereby exhausting the resources and time of the courts.

Apart from this, even the poor and inadequate infrastructure and functioning of the courts at the subordinate levels, mainly the District Courts amount to backlogs in the courts.

- Importance and efficiency of Article 224 A

The said provision states that the Chief Justice of a particular High Court can, upon a request made by him to the President, seek to appoint *ad-hoc* judges, who shall be the retired judges of the said High Court, or of any other High Court to act as a sitting judge for clearing the backlogs

of the cases if it exceeds the required limit, or is being pending for more than 10-15 years. The provision is limited to High Courts only.

It is important to note that the consent of the judge who is supposed to act as the sitting judge, must be given to effectuate the said provision, and is to be considered of prime importance.

In the recent case of *Lok Pahari v. Union of India*, the Supreme Court specifically emphasized that Article 224 A is a salutary provision and that it should be used for pacifying the burden of the High Courts and thereby deal with constitution bench matters. It was suggested that the *ad-hoc judges* will take up the pending cases and the fresh ones will be dealt with by the regular judges in order to ensure an efficient and timely functioning.

The bench discussed the procedure and number of appointments, tenure, as well as the allowances to these additional judges. For the purpose of effectuating the said provision, it is important that the regular vacancies are filled in order to appoint these additional judges.

The provision appears to be quite vague with respect to the appointment, tenure, salaries and allowances of the addition sitting judges at the first instance and therefore, in the present case the bench appears to expand its interpretation in order to help lessen the burden of the High Courts of the nation. In view of the same, the Court gives out 5 basic guidelines to be followed while activating Article 224 A to appoint additional judges in the High Courts:

- (i) If more than 10% of the cases are pending for more than 5 years.
- (ii) If the cases of a particular category are pending for more than 5 years.
- (iii) If the vacancies of the Court amounts to more than 20% of its strength.
- (iv) If the rate of filing the cases is more than the rate of disposal.
- (v) If the situation of increase in backlogs arises eventually in a particular Court.

In the said circumstances, it is very well valid and justifiable for the Chief Justice of a particular High Court to extract the benefit of the said provision in order to clear the backlogs and help

provide justice to the parties, thereby enhancing the essence of Judiciary. The additional judges can also form a division bench to hear the pending cases.

To conclude, one can state that despite having Alternate Dispute Mechanisms, scrapping out of redundant laws and even setting up of fast-track courts, the pending cases still amount to nearly 3.7 million cases overall in the country. Hence Article 224 A of the Indian Constitution simply proves to be a minimal yet a robust mechanism to help the Judiciary in delivering its effective services to the citizens and thereby re-building the trust along with justice in the institution.

