

Judicial Manpower

Lack of adequate number of judges to handle the large number of cases pending in courts is often cited to be one of the main reasons for delays. The problem of shortage of judges is being addressed through a two pronged strategy. Firstly, by filling up the large number of existing vacancies in the judiciary and secondly, increasing the sanctioned strength of judges. It would be pertinent to note that as per the Constitutional framework the selection and appointment of judges in subordinate courts is the responsibility of State Governments and High Courts.

The Supreme Court has delivered a series of significant decisions on the subject. These include the All India Judges' Association case where the Supreme Court directed that the number of judges should be increased, in the first instance by filling up the existing vacancies followed by an increase in the judge strength in a phased manner. In the Malik Mazhar Sultan case the Supreme Court devised a process and time schedule to be followed by the High Courts and State Governments for the filling up of judicial vacancies. In April, 2012 the Supreme Court issued a direction in the Brij Mohan Lal case requiring that 10% additional posts should be created in the subordinate judiciary. Issues relating to increasing judicial strength and filling up of vacancies have also been discussed extensively in the Joint Conference of Chief Ministers and Chief Justices of High Courts and during meetings of the Advisory Council of the National Mission.

The Supreme Court in its Order dated 1st February, 2012 in the case of Imtiyaz Ahmed Versus State of Uttar Pradesh asked the Law Commission of India to evolve a method for scientific assessment of the number of additional courts to clear the backlog of cases. Pursuant to this Law Commission submitted its 245th Report titled "Arrears and Backlog: Creating Additional Judicial (wo)manpower" in 2014. In this report, the Law Commission has, *inter-alia*, observed that filing of cases *per capita* varies substantially across geographic units as filings are associated with economic and social conditions of the population. The Law Commission did not consider the judge population ratio to be a scientific criterion for determining the adequacy of the judge strength in the country. The Law Commission found that in the absence of complete and scientific approach to data collection across various High Courts in the country, the "Rate of Disposal" method to calculate the number of additional judges required to clear the backlog of case as well as to ensure that new backlog is not created, is more pragmatic and useful.

The Law Commission has also observed that a systemic perspective, encompassing all levels of the judicial hierarchy is needed for meaningful judicial reforms. Taking measures for the timely disposal of cases at all levels of the judicial system, encouraging Alternative Dispute Resolution Methods, where appropriate and more efficient allocations and utilization of resources are required to fulfil the goal of providing timely justice to litigants. The Law Commission has strongly recommended that the High Courts be directed to evolve uniform data collection and data management methods in order to ensure transparency and to facilitate data based policy prescriptions for the judicial system.

In May, 2014, the Supreme Court asked the State Government and the High Courts to file their response to the recommendations made by the Law Commission. By an order dated 20.08.2014, the Hon'ble Supreme Court directed the National Court Management Systems Committee (NCMS Committee) to examine the recommendations made by the Law Commission of India on the criteria to be adopted for determining the additional courts required, and to furnish their recommendations on the subject to this Hon'ble Court.

National Court Management System Committee (NCMS Committee) has submitted its report to the Supreme Court in March, 2016. It has, *inter-alia*, observed that in the long term, the judge strength of the subordinate courts will have to be assessed by a scientific method to determine the total number of "Judicial Hours" required for disposing of the case load of each court. In the interim, this Committee has proposed a "weighted" disposal approach – disposal weighted by the nature and complexity of cases in local conditions.

On account of the concerted efforts made by all stakeholders there has been a gradual increase in the sanctioned strength of the subordinate judiciary over the past few years. It has increased from 17,715 at the end of 2012 to 20,502 in December, 2015. In case of the High Courts, the Chief Justice of India gave an "in principle" concurrence in April, 2014 to the joint recommendation of the Chief Ministers and Chief Justices Conference held in April, 2013 to increase the sanctioned strength of High Courts by 25 per cent. Several States have already accepted this proposal, as a result of which the sanctioned strength of High Courts has increased from 906 judges in March 2014 to 1079 judges in May 2016. The judge-population ratio in the country, taking into account sanctioned strength of judges at all levels now stands at about 18 judges per one million of the population.

However, it is noted that despite the gradual increase in the sanctioned strength, there still remain a large number of vacancies in subordinate courts. As of 31st December, 2015, there were 4432 vacancies in the posts of judicial officers, representing about 22 per cent of the sanctioned strength. In case of the High Courts, 458 of the 1079 posts, representing 42 per cent of the sanctioned strength, were vacant as of June, 2016. Recently, in the Conference of Chief Justices held on 22nd and 23rd April, 2016 it was *inter-alia* resolved that the Chief Justices shall take effective steps in coordination with the State Governments to ensure an increase in the cadre strength of the district judiciary commensurate with the needs of their states and in compliance with the judgments of the Supreme Court.
