

**GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
DEPARTMENT OF JUSTICE**

LOK SABHA

**UNSTARRED QUESTION NO. 953
TO BE ANSWERED ON FRIDAY, THE 22ND JULY, 2022**

ANALYSIS OF PENDENCY OF CASES IN COURTS

953. MS. DIYA KUMARI:

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether the Government has conducted or proposes to conduct a district- wise or a State-wise analysis on the causes of high pendency of cases in the courts of India, if so, the details thereof;**
- (b) whether the Government has taken note of infrastructural challenges of various courts of India, adding onto the pendency of cases, if so, the details of the steps being taken to improve the infrastructure of the courts; and**
- (c) whether the Government has taken/proposes to take steps to increase the intake of judicial officers to address pendency, if so, the details thereof?**

ANSWER

MINISTER OF LAW AND JUSTICE

(SHRI KIREN RIJJU)

(a): Disposal of cases pending in various courts is within the domain of judiciary. Timely disposal of cases in courts depends on several factors which, *inter-alia*, include availability of adequate number of judges and judicial officers, supporting court staff and physical infrastructure, complexity of facts involved, nature of evidence, co-operation of stake holders *viz.* bar, investigation agencies, witnesses and litigants and proper application of rules and procedures.

In the case of *Imtiyaz Ahmed versus State of Uttar Pradesh and others*, the Supreme Court had asked the Law Commission of India to evolve a method for scientific

assessment of the number of additional courts required to clear the backlog of cases. In 245th Report (2014), the Law Commission observed that filing of cases *per capita* varies substantially across geographical units as filings are associated with economic and social conditions of the population. As such 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 the “*Rate of Disposal*” method i.e. to calculate the number of additional judges required to clear the backlog of cases as well as to ensure that new backlog is not created to be more pragmatic and useful.

In August 2014, the Supreme Court asked the National Court Management System Committee (NCMS Committee) to examine the recommendations made by the Law Commission and to furnish its recommendations in this regard. NCMS Committee submitted its report to the Supreme Court in March, 2016. The report, *inter-alia*, observes 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, the Committee has proposed a “*weighted*” disposal approach i.e. disposal weighted by the nature and complexity of cases in local conditions.

As per the direction of the Hon’ble Supreme Court in its Order dated 02.01.2017, the Department of Justice has forwarded a copy of interim report of the NCMS Committee to all the State Governments and High Courts to enable them to take follow up action to determine the required strength of district and subordinate judiciary.

The cadre strength of Judges in Supreme Court was raised from 30 to 33 excluding the Chief Justice of India in the year 2019 and in the High Courts from 906 to 1108 from the year 2014 to 2022. The cadre strength of Judges in District and Subordinate Courts has increased from 19,518 in 2014 to 24,631 in July, 2022. The new courts at District and below District / Subordinate (Tehsil / Taluka) level are established by the respective State Governments in consultation with the concerned High Courts, as per their need and

resources. Central Government has no role in the matter. In Malik Mazhar case, the Supreme Court, through a judicial order has devised a process and time-frame for filling up vacancies in the Subordinate Judiciary in a time bound manner.

The Union Government is committed to speedy disposal of cases and reduction in pendency of cases to improve access to justice in line with the mandate under Article 39A of the Constitution. The National Mission for Justice Delivery and Legal Reforms, established by the Union Government, has adopted many strategic initiatives, including improving infrastructure for Judicial Officers of District and Subordinate Courts, leveraging Information and Communication Technology (ICT) for better justice delivery, filling up of vacant positions of Judges in High Courts and Supreme Court, reduction in pendency through follow up by Arrears Committees at District, High Court and Supreme Court level, emphasis on Alternate Dispute Resolution (ADR) and initiatives to fast track special type of cases etc.

(b): The primary responsibility of development of infrastructure facilities for judiciary rests with the State Governments. To augment the resources of the State Governments, the Union Government has been implementing a Centrally Sponsored Scheme for Development of Infrastructure Facilities in district and subordinate courts by providing financial assistance to State Governments / UTs in the prescribed fund sharing pattern. The scheme is being implemented since 1993-94. It covers the construction of court buildings and residential accommodations for judicial officers of district and subordinate judiciary. As per the data made available by the High Courts, as on 30.06.2022, there are 20993 Courts Halls and 18502 Residential Units are available for Judges/Judicial Officers covering District & Subordinate Courts against the Sanctioned Strength of 24623 Judges/Judicial Officers of District & Subordinate Courts. The scheme has been extended from 2021-22 to 2025-26 with a budgetary outlay of Rs. 9,000 crore including central share of Rs. 5,307 crore. Besides the construction of court halls and residential quarters, the scheme now also covers the construction of lawyers' halls, digital computer rooms and toilet complexes in the district and subordinate courts. The release of funds under the

scheme are released after the state government fulfilling the conditions as per the extant guidelines of the scheme. The release in respect of a State is subject to the budgetary allocation made under the scheme. Funds amounting to Rs. 982.00 crore, 593.00 and Rs. 770.44 crore were allocated at RE stage during the Financial Years 2019-20, 2020-21 and 2021-22 respectively under the Centrally Sponsored Scheme for the Development of Infrastructure Facilities for Judiciary.

(c): Filling up of vacancies in the High Courts is a continuous, integrated and collaborative process between the Executive and the Judiciary. It requires consultation and approval from various Constitutional Authorities both at the State and Centre level. While every effort is made to fill up the existing vacancies expeditiously, vacancies of Judges in High Courts do keep on arising on account of retirement, resignation or elevation of Judges and also due to increase in the strength of Judges.

Under Article 235 of the Constitution of India, the administrative control over the members of district and subordinate judiciary in the States vest with the concerned High Court. Further, in exercise of powers conferred under proviso to Article 309 read with Articles 233 and 234 of the constitution, the respective State Government, in consultation with the High Court, frames the Rules and Regulations regarding the issue of appointment, promotion, reservations and retirement of Judicial Officers in the State Judicial Service. Hence, in so far as recruitment of judicial officers in the States is concerned, respective High Courts do it in certain States, whereas the High Courts do it in consultation with the State Public Service Commissions in other States.

The Union Government does not have a role under the Constitution in the selection and appointment of judicial officers in District/ subordinate judiciary. The Supreme Court, in its orders of 04th January, 2007 in Malik Mazhar case, has devised a process and time frame to be followed for the filling up of vacancies in subordinate judiciary which stipulates that the process for recruitment of judges in the subordinate courts would commence on 31st March of a calendar year and end by 31st October of the same year.

The Supreme Court has permitted State Governments / High Courts for variations in the time schedule in case of any difficulty based on the peculiar geographical and climatic conditions in the State or other relevant conditions.

Further, in compliance of the above directions of the Supreme Court, Department of Justice forwarded a copy of the Malik Mazhar judgement to Registrars General of all High Courts for necessary action. Department of Justice is writing from time to time to Registrars General of all High Courts to expedite the filling up of vacancies in subordinate judiciary mandated by Malik Mazhar case.
