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*Chief Justice of India*



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### FROM THE DESK OF CHIEF JUSTICE OF INDIA

Information is indispensable for the functioning of a true democracy and people must be kept informed about the functioning of all the organs of the State. Transparency leads to openness, accountability and integrity. Free-flow of information not only creates enlightened and informed opinion, but also renders those in authority, accountable. Availability of statistics and other required information will enable the society to assess judiciary, and its institutions, in a fair and objective manner. Publication of this Newsletter is an attempt in that direction.

It gives initiation, pendency and disposal figures of cases as well as the vacancy position at the level of Supreme Court, High Courts and Subordinate Courts. Appointments and transfers in superior judiciary; a brief gist of some judgments of public importance delivered by the Supreme Court in the last quarter and important events and developments relating to administration of justice, including improvements made therein from time to time have also been incorporated herein. Through this Newsletter, legal fraternity as well as the general public shall be kept informed of the amendments, if any, made in the rules and procedure of Supreme Court.

It is proposed to publish the Newsletter on quarterly basis. Any suggestion for improvement and making the publication more informative will be welcomed by Supreme Court Registry. I hope that the publication will prove useful and serve the intended purpose.

A handwritten signature in black ink, appearing to read 'Y.K. Sabharwal', with a horizontal line underneath.

3<sup>rd</sup> April, 2006

( Y.K. SABHARWAL )

## APPOINTMENTS OF SUPREME COURT AND HIGH COURT JUDGES

S.No.	Name of the Court	Name of the Hon'ble Judge	Date of Appointment
A.	Supreme Court of India	Mr. Justice Lokeshwar Singh Pantia	03-02-2006
		Mr. Justice Devinder Kumar Jain	10-04-2006
		Mr. Justice Markandey Katju	10-04-2006
B.	High Courts		
1.	Allahabad High Court	Mr. Justice V.D. Chaturvedi	16-01-2006
		Mr. Justice R.N. Misra	16-01-2006
2.	Andhra Pradesh High Court	Mr. Justice M.E.N. Patrudu	04-01-2006
		Mr. Justice D. Apparao	04-01-2006
		Mr. Justice G. Bhawani Prasad	04-01-2006
3.	Bombay High Court	Mr. Justice K.R. Vyas as CJ	25-02-2006
		Mr. Justice S.R. Dongaonkar	27-02-2006
		Mr. Justice V.R. Kingaonkar	27-02-2006
4.	Delhi High Court	Mr. Justice S.N. Dhingra	28-02-2006
		Mr. Justice S.L. Bhayana	28-02-2006
		Mr. Justice J.M. Malik	28-02-2006
		Mrs. Justice Reva Khetrapal	28-02-2006
		Mr. Justice S.N. Aggarwal	28-02-2006
5.	Gauhati High Court	Mr. Justice Zelre Angami	28-03-2006
6.	Jharkhand High Court	Mr. Justice D.P. Singh	27-02-2006
		Mr. Justice D.G.Patnaik	27-02-2006
		Mr. Justice R.R. Prasad	27-02-2006
		Mr. Justice D.K. Sinha	27-02-2006
7.	Karnataka High Court	Mr. Justice A.S. Basheti	06-01-2006
		Mr. Justice A.S. Bopanna	06-01-2006
		Mr. Justice N. Ananda	06-01-2006
		Mr. Justice Jawad Rahim	06-01-2006

## APPOINTMENTS OF SUPREME COURT AND HIGH COURT JUDGES

S.No.	Name of the Court	Name of the Hon'ble Judge	Date of Appointment
8.	Kerala High Court	Mr. Justice V.K. Bali as CJ	22-01-2006
9.	Patna High Court	Mr. Justice Navaniti Prasad Singh	06-03-2006
		Mr. Justice Ramesh Kumar Datta	06-03-2006
10.	Punjab & Haryana High Court	Mr. Justice Ranjit Singh	22-03-2006
		Mr. Justice V.K. Sharma	22-03-2006
		Mr. Justice T.P. Singh Mann	22-03-2006
		Mr. Justice Mahesh Grover	22-03-2006
		Mr. Justice Ajai Lamba	22-03-2006
		Mr. Justice Rajesh Bindal	22-03-2006
		Mr. Justice P.S. Patwalia	22-03-2006
		Mr. Justice Ripudaman Singh Madan	01-04-2006
		Mr. Justice Arvind Kumar	01-04-2006
		Mr. Justice Serv Daman Anand	01-04-2006
		Mr. Justice Harjinder Singh Bhalla	01-04-2006
		Mr. Justice Amar Nath Jindal	01-04-2006
Mr. Justice Mohinder Mohan Singh Bedi	01-04-2006		
11.	Orissa High Court	Mr. Justice Indrajit Mahanty	31-03-2006
12.	Rajasthan High Court	Mr. Justice Chatra Ram Jat	20-01-2006
		Mr. Justice G.S. Sarraf	20-01-2006

**TRANSFERS OF HIGH COURT JUDGES**

S. No.	From	To	Name of the Hon'ble Judge	Date of Transfer order
1	Andhra Pradesh High Court	Madras High Court	Mr. Justice M.E.N. Patrudu	20-02-2006
2	Jammu & Kashmir High Court	Rajasthan High Court	Mr. Justice R.C. Gandhi	04-01-2006
3	Kerala High Court	Uttaranchal High Court	Mr. Justice Rajeev Gupta, CJ	04-01-2006
4	Punjab & Haryana High Court	Calcutta High Court	Mr. Justice Tapen Sen	02-01-2006
5	Rajasthan High Court	Gujarat High Court	Mr. Justice Yad Ram Meena	31-03-2006

## VACANCIES IN COURTS

### A) SUPREME COURT OF INDIA (As on 14<sup>th</sup> April, 2006)

Approved Strength	Actual strength	Vacancies
26	24	2

### B) HIGH COURTS ( As on 1<sup>st</sup> April, 2006)

S.No.	Name of the High Court	Approved strength	Actual strength	Vacancies
1.	Allahabad	95	82	13
2.	Andhra Pradesh	39	31	08
3.	Bombay	64	57	07
4.	Calcutta	50	30	20
5.	Chhattisgarh	08	08	00
6.	Delhi	36	30	06
7.	Gauhati	27	17	10
8.	Gujarat	42	34	08
9.	Himachal Pradesh	09	04	05
10.	Jammu and Kashmir	14	09	05
11.	Jharkhand	12	10	02
12.	Karnataka	40	36	04
13.	Kerala	29	28	01
14.	Madhya Pradesh	42	38	04
15.	Madras	49	40	09
16.	Orissa	22	15	07
17.	Patna	43	21	22
18.	Punjab & Haryana	53	40	13
19.	Rajasthan	40	31	09
20.	Sikkim	03	03	00
21.	Uttaranchal	09	08	01
	TOTAL	726	572	154

## VACANCIES IN COURTS

### C) DISTRICT & SUBORDINATE COURTS ( As on 1<sup>st</sup> January, 2006)

S.No.	Name of the concerned High Court	Approved strength	Actual strength	Vacancies
1.	Allahabad	2172	1416	756
2.	Andhra Pradesh	699	661	38
3.	Bombay	1608	1378	230
4.	Calcutta	706	603	103
5.	Chhatisgarh	235	172	63
6.	Delhi	414	291	123
7.	Gujarat	906	858	48
8.	Guwahati	409	337	72
9.	Himachal Pradesh	117	112	5
10.	Jammu and Kashmir	191	175	16
11.	Jharkhand	503	465	38
12.	Karnataka	811	679	132
13.	Kerala	418	394	24
14.a	Tamil Nadu	757	728	29
14.b	Pondicherry	22	17	5
15.	Madhya Pradesh	930	770	160
16.	Orissa	477	420	57
17.	Patna	1346	869	477
18.a	Punjab	328	256	72
18.b	Haryana	307	229	78
18.c	Chandigarh	20	18	2
19.	Rajasthan	821	726	95
20.	Sikkim	15	7	8
21.	Uttaranchal	200	101	99
	Total	14412	11682	2730

## INSTITUTION, DISPOSAL AND PENDENCY OF CASES

### A) SUPREME COURT OF INDIA (FROM 01-01-2006 TO 31-03-2006)

Month & year	Institution		Total	Disposal		Total	Pendency		Total
	Admission	Regular		Admission	Regular		Admission	Regular	
PENDENCY as on 31 <sup>st</sup> December, 2005							18,543	15,938	34,481
JAN, 2006	4,534	651	5,185	4,724	293	5,017	18,353	16,296	34,649
FEB, 2006	4,612	459	5,071	4,337	413	4,750	18,628	16,342	34,970
MAR, 2006	4,459	555	5,014	4,092	691	4,783	18,995	16,206	35,201

# INSTITUTION, DISPOSAL AND PENDENCY OF CASES

## B) HIGH COURTS (FROM 1-1-2005 TO 31-12-2005)

S. No.	Name of High Court	Civil Cases				Criminal cases				Total pendency of civil and criminal cases as on 31-12-05
		Opening balance as on 1-1-05	Institution from 1-1-05 to 31-12-05	Disposal from 1-1-05 to 31-12-05	Pendency as on 31-12-05	Opening balance as on 1-1-05	Institution from 1-1-05 to 31-12-05	Disposal from 1-1-05 to 31-12-05	Pendency as on 31-12-05	
1	Allahabad	544655	132754	111909	565500	175993	71318	48389	198922	764422
2	Andhra Pradesh	133316	50989	43056	141249	16161	10441	8032	18570	159819
3	Bombay	301304	112150	101811	311643	39103	24314	27107	36310	347953
4	Calcutta	205180	60310	45995	219495	47538	17487	28527	36498	255993
5	Chhatisgarh	42158	16836	9473	49521	21574	7893	6085	23382	72903
6	Delhi	60350	44789	36268	63655	10772	16659	12707	14724	78379
7	Gujarat	113505	40517	60596	93426	25962	20999	20328	26633	120059
8	Guwahati	51293	25535	22423	54405	7002	6444	6027	7419	61824
9	Himachal Pradesh	17939	12235	12436	17738	5600	2214	1758	6056	23794
10	Jammu and Kashmir	42417	17341	20229	39529	2435	1309	1300	2444	41973
11	Jharkhand	20865	10643	6423	25085	14947	13749	9911	18785	43870
12	Karnataka	118899	59047	54178	72538	10754	10039	7569	12403	84941
13	Kerala	113652	55366	59702	109316	21752	19327	17019	24060	133376
14	Madras	275730	186431	127778	334383	23029	70213	64074	29168	363551
15	Madhya Pradesh	141785	69838	81364	130259	59133	32841	36215	55759	186018
16	Orissa	170315	45600	30102	185813	15029	21831	19143	17717	203530
17	Patna	63290	23719	18173	66547	21658	51284	36670	25033	91580
18	Punjab & Haryana	218457	46028	33277	201151	46845	30213	27599	42320	243471
19	Rajasthan	146447	52807	40936	158318	41853	27600	21586	47867	206185
20	Sikkim	29	65	65	29	5	26	18	13	42
21	Uttaranchal	29738	19492	18793	30437	6160	4197	3194	7163	37600
	Total	2811324	1082492	934987	2870037	613305	460398	403258	651246	3521283



# INSTITUTION, DISPOSAL AND PENDENCY OF CASES

## C) SUBORDINATE COURTS (FROM 1-1-2005 TO 31-12-2005)

S. No.	Name of State	Civil Cases				Criminal cases				Total pendency of civil and criminal cases as on 31-12-05
		Opening balance as on 1-1-05	Institution from 1-1-05 to 31-12-05	Disposal from 1-1-05 to 31-12-05	Pendency as on 31-12-05	Opening balance as on 1-1-05	Institution from 1-1-05 to 31-12-05	Disposal from 1-1-05 to 31-12-05	Pendency as on 31-12-05	
1	Uttar Pradesh	1188577	447866	428441	1208002	2987987	2051074	1788202	3250859	4458861
2	Andhra Pradesh	497724	279986	283417	494293	467882	257591	259349	466124	960417
3	Maharashtra	1037549	426642	449262	1014929	2897283	1669133	1497454	3068962	4083891
4	West Bengal	521066	123535	128894	515707	1405685	698926	638223	1466388	1982095
5	Chhatisgarh	51447	45997	46065	51379	203674	197901	187437	214138	265517
6	Delhi	133354	69718	83458	119614	590115	1699479	1622744	666850	786464
7	Gujarat	775782	210196	200703	785275	3071661	1069301	1115679	3025283	3810558
8(a)	Assam	46050	28787	25204	49633	129608	127788	116201	141195	190828
8(b)	Nagaland	1204	81	267	1018	3113	1174	1211	3076	4094
8(c)	Meghalaya	3873	1525	1205	4193	6908	1994	1923	6979	11172
8(d)	Manipur	3070	2479	2245	3304	1943	864	995	1812	5116
8(e)	Tripura	6469	5679	5165	6983	22230	53595	49926	25899	32882
8(f)	Mizoram	832	25	23	834	393	448	573	268	1102
8(g)	Arunachal Pradesh	784	165	102	847	7396	1170	2156	6410	7257
9	Himachal Pradesh	65415	46700	47779	64336	100150	142079	129149	113080	177416
10	Jammu & Kashmir	48132	41927	36321	53738	83812	123324	108935	98201	151939
11	Jharkhand	57412	13233	19809	50836	226431	121962	113021	235372	286208
12	Karnataka	602075	275819	299936	577958	466371	497102	473135	490338	1068296
13	Kerala	241807	438862	263294	417375	484305	718709	712529	490485	907860
14(a)	Tamil Nadu	383684	877678	837174	424188	351923	946483	866546	431860	856048
14(b)	Pondicherry	7976	16122	12389	11709	6306	27085	26722	6669	18378
15	Madhya Pradesh	210038	179156	194954	194240	853989	820841	916092	758738	952978
16	Orissa	176770	47986	48693	176063	698684	286397	201568	783513	959576
17	Bihar	226622	46589	36185	237026	1014897	303178	204078	1113997	1351023
18(a)	Punjab	240075	139992	132140	247927	306123	450230	443824	312529	560456
18(b)	Haryana	201999	104988	104462	202525	384741	176740	257158	304323	506848
18(c)	Chandigarh	18873	8602	7003	20472	51318	55410	47206	59522	79994
19	Rajasthan	277355	168692	152827	293220	725832	596852	565530	757154	1050374
20	Sikkim	243	598	542	299	227	2301	2080	448	747
21	Uttaranchal	25741	19448	18967	26222	97811	95158	93335	99634	125856
	Total	7051998	4069073	3866926	7254145	17648798	13194289	12442981	18400106	25654251

## AMENDMENTS IN SUPREME COURT RULES AND PRACTICE

Vide amendments carried out in Order VI, Rules 1 and 2 of Supreme Court Rules, 1966 published in Gazette Notification (Extraordinary) No. 76 Part-II-Section 3 – Sub section (i) dated 1<sup>st</sup> March, 2006:—

- I The powers of the Court in relation to the following matters have been conferred upon a Single Judge sitting in chambers:
  - (a) Summons for non-prosecution under Order XV, Rule 30 of Supreme Court Rules.
  - (b) Office Report on default.
  - (c) Application for exemption from paying court fee.
  - (d) Application for condonation of delay in seeking substitution and application for substitution where it would involve setting aside an abatement.
  - (e) Application for condonation of delay in re-filing where the delay exceeds 90 days from the date of notifying the defects.
  - (f) Application for refund of security.
  - (g) Application for withdrawal of any appeal/petition with the consent of all the appearing parties or where the other side has not appeared.
  - (h) Application for exemption from surrendering.
  - (i) Applications for enlargement or abridgement of time except applications for condonation of delay in filing Special Leave Petitions.
  
- II The powers of the Court in relation to the following matters have been conferred upon the Registrar:
  - (a) Application for condonation of delay in re-filing, provided the delay does not exceed 90 days from the date of notifying the defects.
  - (b) Application for condonation of delay in filing process fee.
  - (c) Issue of fresh summons and notices.
  - (d) Application for extension of time for filing pleadings, provided that the Registrar shall not grant more than two extensions for the same purpose.
  - (e) Application for cancellation of date on the written joint request of the appearing parties, provided the matter has not appeared in the final cause-list, on the date of filing of application.
  - (f) Application for amendment of pleadings with the consent of all the appearing parties, or where the other side has not appeared.
  - (g) Office Report for renewal of Fixed Deposit Receipts and Bank Guarantees.
  - (h) Application for exemption from filing official translation.
  - (i) Application for exemption from filing process fee and/or spare copies.

- (j) All uncontested Interlocutory Applications of formal nature.
- (k) Any matter which in accordance with orders or directions issued by the Court, is required to be dealt with by the Registrar.
- (l) Imposing costs on the party in default of compliance of the orders passed by the Registrar.

III Sub-Rule (1) of Rule 13 of Order XVI has been substituted by the following sub-Rule:

Respondent to whom a notice in a Special Leave Petition is issued or who had filed a caveat shall be entitled to oppose the grant of leave or interim orders, without filing any written objections. He shall also be at liberty to file his objections within 30 days from the date of receipt of notice or not later than 2 weeks before the date appointed for hearing, whichever be earlier, but shall do so only by setting out the grounds in opposition to the questions of law or grounds set out in the SLP and may produce such pleadings and documents filed before the Court/Tribunal against whose order the SLP is filed and shall also set out the grounds for not granting interim order or for vacating interim order if already granted.

IV The following Rule has been inserted in Order XXI after Rule 7:

7A. The Respondent shall be at liberty to file his objections within 30 days from the date of receipt of notice or not later than 2 weeks before the date appointed for hearing, whichever be earlier.

V The following Rule has been inserted in Order XXXV after Rule 8:

8A. If the Court, on preliminary hearing, orders issue of show cause notice to the Respondent, he shall be entitled to file his objections within 30 days from the date of receipt of such notice or not later than 2 weeks before the date appointed for hearing, whichever be earlier.

Consequent to the aforesaid amendments, Hon'ble the Chief Justice of India has been pleased to direct as under:—

With effect from 3<sup>rd</sup> April, 2006

1. The matters which, under Order VI, Rules 1 & 2 of Supreme Court Rules can be heard before the Hon'ble Chamber Judge/Registrar shall not be listed before the Hon'ble Court and shall be listed before the Hon'ble Chamber Judge/Registrar, as the case may be.
2. Wherever an application which can be entertained by the Hon'ble Chamber Judge/Registrar under Order VI, Rules 1 & 2, is to be listed along with main matter or along with an application which can be heard only by the Hon'ble Court, that application will be listed before the Hon'ble Court and not before the Hon'ble Chamber Judge/Registrar.
3. All the Incomplete matters (including Final Disposal matters), viz., in which service is not complete on all the parties or counter/rejoinder has not been filed in terms of the order of the Hon'ble Court, except matters in which a specific date has been given by the Hon'ble Court, will be listed before the Registrar.

4. No incomplete matter in terms of clause (3) above, except specific date matter shall be listed before the Hon'ble Court unless expressly directed by the Registrar or by the Hon'ble Court.
5. Wherever dates have already been given by the Registry, in such matters attempt shall be made to list them before the Registrar on those very dates. However, the matters of 'In-person' shall be listed before the Registrar only after sending three weeks notice to the In-person.
6. Applications for cancellation of dates in respect of the matters scheduled to be listed on a Friday shall be accepted upto previous Thursday and in respect of matters scheduled to be listed on Monday, upto previous Monday.
7. The list of Registrar shall be issued one day in advance on the pattern of daily lists for Wednesday and Thursday. Registrar shall hold the Court on every working day from Monday to Friday, from 11.00 A.M. till 4.00 P.M. or till he exhausts the Cause List, whichever is earlier.
8. Ordinarily, Registrar shall not give specific dates for listing the matters in the Court except for adequate and special reasons to be recorded in writing. However, he shall give specific dates in the matters directed to be listed before him.
9. Mentioning before the Registrar General will discontinue and can be made before the Registrar exercising powers of the Hon'ble Court delegated under Order VI, Rule 1 of Supreme Court Rules.
10. The Registrar shall not entertain the application for cancellation of dates in Special Bench matters as dates in such matters are given as per directions of the Hon'ble Presiding Judge of the Special Bench.
11. Application for change of date in fresh matters shall not be entertained by the Registrar.
12. Application for deletion of any Regular Matter which is shown in the Weekly or Daily List will not be entertained by the Registrar. Even at present Registry does not entertain request for adjournment for such matters.

## SOME RECENT SUPREME COURT JUDGMENTS OF PUBLIC IMPORTANCE

- ◆ On 2<sup>nd</sup> January, 2006, a Division Bench in Mohd. Yousuf vs Smt. Afaq Jahan & Anr. (Crl. Appeal No.2 of 2006) held that “for the purpose of enabling the police to start investigation, it is open to the Magistrate to direct the police to register an FIR”
- ◆ On 5<sup>th</sup> January, 2006, a Three Judges Bench in Union of India and Others vs Kali Dass Batish and Another (Civil Appeals No.6663 of 2004 with Civil Appeal Nos. 7575-76 of 2004) while considering the scope of judicial review in appointment/non-appointment of a member of the Central Administrative Tribunal made in consultation with the Chief Justice of India, held that “the consultation with the Chief Justice of India is neither a routine matter nor an idle formality. It was held that “If Parliament has reposed faith in the Chief Justice of India as the paterfamilias of the judicial hierarchy in this country, it is not open for anyone to contend that the Chief Justice of India might have given his concurrence without application of mind or without calling for the necessary inputs.”
- ◆ On 24<sup>th</sup> January, 2006, a Constitution Bench in Rameshwar Prasad & Ors vs Union of India and Anr. (Writ Petition (C) No. 257 of 2005), per majority, held the reports given by the Bihar Governor Mr. Buta Singh, which led to dissolution of the Bihar Legislative Assembly by a Presidential Proclamation, as “the personal ipse dixit of the Governor”. Holding that “the Governor misled the Council of Ministers, which led to aid and advice being given by the Council of Ministers to the President” leading to issue of the Proclamation, the Court said it “cannot remain a silent spectator watching the subversion of the Constitution”. The impugned Presidential Proclamation was consequently held to be unconstitutional.
- ◆ On 3<sup>rd</sup> February, 2006, a Three Judges Bench in Sube Singh v State of Haryana (Writ Petition (Crl.) No. 237 of 1998) issued a set of six guidelines to prevent custody torture and called for empowering an independent investigating agency (preferably the respective Human Rights Commissions or the CBI) to investigate complaints of custodial violence against police personnel. The Bench said there was a need for the police training to be re-oriented, so that the police personnel recognize and respect human rights, and adopt thorough and scientific investigation methods. The Bench also called for continuous monitoring of the functioning of lower level Police Officers by their superiors; for introduction of simple and fool-proof procedures for prompt registration of First Information Reports(FIRs) as also use of computerization and video-conferencing to prevent FIRs and other police records from being manipulated. The Bench further said that the eleven requirements enumerated earlier in D.K.Basu case should be ensured in all cases of arrest and detention.

- ◆ On 10<sup>th</sup> February, 2006, a Division Bench in *Managing Director, Orix Auto Finance (India) Ltd. vs Shri Jagmander Singh & Anr.* (Civil Appeal No.1070 of 2006) while dealing with the issue of interference by High Courts in writ petitions concerning right of financiers to take re-possession of the financed vehicle, held that “essentially these are matters of contract” and unless they are shown to be unconscionable or opposed to public policy, “the scope of interference in writ petitions in such contractual matters is practically non-existent”
  
- ◆ On 14<sup>th</sup> February, 2006, a Division Bench in *Anjan Kumar vs Union of India* (Civil Appeal No.6445 of 2000), held that the child born out of wedlock between a tribal woman and a forward caste non-tribal man could not claim Scheduled Tribe(ST) status, where the parents of the child had performed Court marriage outside the village; settled down in a city and the child was born and brought up in the environment of the forward community. The Bench gave this ruling while rejecting the claim of ST status by a person whose father was a Kayastha and mother belonged to the Oraon tribe, a recognized Scheduled Tribe in the State of Madhya Pradesh.
  
- ◆ On 14<sup>th</sup> February, 2006, a Division Bench in *Smt. Seema vs Ashwani Kumar* (Transfer Petition (C) No. 291 of 2005) held that “marriages of all persons who are citizens of India belonging to various religions should be made compulsorily registrable in their respective States, where the marriage is solemnized” and accordingly passed directions to the Centre and the States. “If the record of marriage is kept, to a large extent, the dispute concerning solemnization of marriages between two persons is avoided”, the Bench said. It was clarified though, “that the registration itself cannot be a proof of valid marriage per se, and would not be the determinative factor regarding validity of a marriage, yet it has a great evidentiary value in the matters of custody of children, right of children born from the wedlock of the two persons whose marriage is registered and the age of parties to the marriage.”
  
- ◆ On 16<sup>th</sup> February, 2006, a Three Judges Bench in *M.C. Mehta vs Union of India & Ors* (Interlocutory application No.22 in Writ Petition (Civil) No. 4677 of 1985) held that the Commissioner of Municipal Corporation of Delhi (MCD) has power under the Delhi Municipal Corporation Act, 1957 to seal premises in case of its misuser. The Bench issued various directions for taking immediate steps to seal residential premises in Delhi being misused for commercial purposes.
  
- ◆ On 21<sup>st</sup> February, 2006, a Division Bench in *Ramesh Kumari vs State (NCT of Delhi) & Ors.* (Crl. Appeal No. 1229 of 2002) held that the police is duty bound to register a case on the basis of an information disclosing cognizable offence. “Genuineness or otherwise of the information can only be considered after registration of the case. Genuineness or credibility of the information is not a condition precedent for registration of a case”, the Bench said.

- ◆ On 2<sup>nd</sup> March, 2006, a Three Judges Bench in *Bharat Sanchar Nigam Ltd, & Anr. vs Union of India & Ors.* ( Writ Petition (Civil) No.183 of 2003) while dealing with the issue of imposition of sales tax on mobile telecom services held that "telephone service is nothing but a service. There is no sales element apart from the obvious one relating to the hand set, if any. That and any other accessory supplied by the service provider remain to be taxed under the State Sales Tax Laws". The Bench however left the issue of taxability of SIM cards for determination by the Sales Tax Assessing Authorities.
- ◆ On 7<sup>th</sup> March, 2006, a Division Bench in *Bombay Dyeing & Mfg. Co. Ltd vs Bombay Environmental Action Group & Ors* (Civil Appeal No.1519 of 2006) held as valid the Development Control Regulation(DCR) 58 framed in terms of the Maharashtra Regional and Town Planning Act, 1966. The Bench held that the "DCR 58, as inserted in 2001 and as clarified in 2003", which laid down a scheme for development or redevelopment of lands belonging to cotton textile mills including sick and/or closed mills, is "not contrary to the principles governing environmental aspects including the principles of sustainable and planned development vis-à-vis Article 21 of the Constitution."
- ◆ On 8<sup>th</sup> March, 2006, a Division Bench in *Zahira Habibullah Sheikh & Anr vs State of Gujarat & Ors* (Criminal Misc. Petition Nos.6658-6661 of 2004 in Crl. Appeal Nos.446-449 of 2004) held the Best Bakery case star witness Zaheera Sheikh, who made conflicting statements and changed stand from the statements made at different stages, particularly in the Supreme Court, guilty of contempt of Court and sentenced her to undergo one year simple imprisonment with a cost of Rs. 50,000/-.
- ◆ On 21<sup>st</sup> March, 2006, a Three Judges Bench in *Naveen Kohli vs Neelu Kohli* (Civil Appeal No.812 of 2004) held that the Legislature should consider including "irretrievable breakdown of marriage" as a ground for grant of divorce under the Hindu Marriage Act, 1955. "Once the parties have separated and the separation has continued for a sufficient length of time and one of them has presented a petition for divorce, it can well be presumed that the marriage has broken down. The Court, no doubt, should seriously make an endeavour to reconcile the parties; yet, if it is found that the breakdown is irreparable, then divorce should not be withheld. The consequences of preservation in law of the unworkable marriage which has long ceased to be effective are bound to be a source of greater misery for the parties", the Bench said.

## MAJOR INITIATIVES

- I. Reduction of Summer Vacation by Supreme Court of India: , With a view to reduce arrears and increase the disposal of cases, the Supreme Court has decided to reduce its Summer Vacation by one week. The Court shall resume its sitting after Summer Vacation on Monday the 3<sup>rd</sup> July, 2006 instead of 10<sup>th</sup> July, 2006, as notified earlier.
- II. Hearing of old / urgent cases in Summer Vacation: In a major initiative aimed at expeditious disposal of old / urgent cases, a number of Hon'ble Judges of Supreme Court have volunteered to sit in Special Benches during Summer Vacation. Special Benches have accordingly been constituted by Hon'ble the Chief Justice of India, during forthcoming Summer Vacation, exclusively for hearing such cases.



## MAJOR EVENTS OF THE QUARTER

I. Chief Justices Conference-2006 was held from March 9 to March 10, 2006 in the Supreme Court Premises wherein the following important resolutions were passed:-

- 1 (i) The Chief Justices will constitute Benches exclusively for regular hearing of old criminal appeals/petitions, cases in which the accused are in custody or the proceedings before the Trial Court have been stayed and civil cases in which injunction or stay order has been passed;
- (ii) Retired Judges be appointed in High Courts under Article 224A of the Constitution to clear the backlog of old cases wherever it is considered necessary by the Chief Justice of the High Court concerned;
- (iii) Wherever required, additional Courts of Special Judges be set up exclusively for trial of corruption cases against politicians, Gazetted Officers of the Government, Police Officers, Inspectors/Officers of Municipal and Local Bodies or Managers of Bank/Public Sector Enterprises;
- (iv) Cases of rape and sexual harassment be heard by earmarked Courts on priority basis;
- (v) Cases in which proceedings before the Trial Court have been stayed by Sessions Court / Fast Track Courts, Sessions Cases in which accused are in jail for more than three years and civil cases in which injunctions/stay orders have been granted by subordinate Courts be identified and disposed of expeditiously;
- (vi) Petty offences including traffic and municipal challans be transferred to the Courts of Special Metropolitan Magistrates/Special Judicial Magistrates to be manned by retired Judicial Officers/senior Government Servants, which should make extensive use of various I.T. tools for disposal of such cases. State Governments be requested to appoint Special Metropolitan Magistrates/Special Judicial Magistrates, wherever required, for disposal of such cases and to provide necessary infrastructure and staff for them;
- (vii) State Governments be requested to sanction additional Courts of Magistrates to deal with complaints under Section 138 of Negotiable Instruments Act, and in the meanwhile, such cases be assigned to Civil Judges, by conferring necessary powers wherever found feasible;
- (viii) High Courts will consider devising a suitable mechanism to provide for termination of stay of proceedings before the Trial Court, at the end of six months, unless extended for adequate and special reasons to be recorded in writing;
- (ix) High Courts will identify cases relating to Intellectual Property Rights pending with them as well as in Subordinate Courts and their hearing will be taken up on priority basis;
- (x) High Courts will take necessary steps to ensure that matters which do not require effective hearing/hearing on merits are dealt with by the Registrars and that such matters are not listed before the Court; and
- (xi) High Courts will set up suitable mechanism for monitoring the cases of the nature referred in (i) to (x) above and will keep the Hon'ble Chief Justice of India informed of the progress, on regular basis.

- 2 (i) The Chief Justices will impress upon the governments, at the highest level, to increase the strength of subordinate Judges in terms of the recommendations made by the Law Commission in its 120<sup>th</sup> Report, endorsed by the Standing Committee of Parliament headed by Shri Pranab Mukherji, in its 85<sup>th</sup> Report and the directions given by the Hon'ble Supreme Court vide Judgment dated 21<sup>st</sup> March, 2002 in Writ Petition (Civil) No. 1022 of 1989.
- (ii) Examinations and interviews to fill-up the vacancies of Judicial Officers at all levels will be conducted atleast once a year and a panel of suitable Officers be prepared to fill-up the vacancies arising till next examination.
- (iii) Chief Justices will make recommendations for appointments to High Courts at least six months before the occurrence of vacancy.
- (iv) High Courts will earmark separate Courts for disposal of old cases.
- (v) High Courts will make all possible efforts for reducing arrears of cases by using techniques such as Case Flow Management, grouping and bunching, application of I.T. tools and optimum utilization of the available resources; and
- (vi) Whenever a new legislation likely to increase workload of the Courts is enacted, High Courts shall impress upon the State Governments to suitably increase the strength of Judges.
- 3 (i) The Chief Justices will take up with State Governments the issue of the augmentation of infrastructure for subordinate Courts by construction of new Court complexes, addition of Court Rooms to the existing Court buildings and renovation and modernization of the Court buildings;
- (ii) The new Court complexes be constructed as per uniform standard building plans and such buildings should be user and litigant friendly having all necessary and requisite amenities and facilities; and
- (iii) Chief Justices will impress upon the State Governments at the highest level to release their share of the funds in the Centrally Sponsored Schemes for Development of Infrastructure in Judiciary, so as to utilize the matching grant by the Central Government.
4. Since the Fast Track Courts of Sessions Judges have proved to be highly successful, as a very large number of criminal cases are pending before Magisterial Courts, Fast Track Courts of Magistrates are required to be set up immediately in all the States and a request be made to the Central Government to make the necessary finances available for the scheme.
- 5 (i) Modernisation and Computerisation of Justice Delivery System at all levels be undertaken by the High Courts giving priority to making available on Court's website: (a) all the cause lists; (b) case status; (c) Judgments and Orders.
- (ii) High Courts may also consider the feasibility of issuing digitally signed copies and introducing computerized attendance recording system;
- (iii) Facility of video conferencing be provided, wherever feasible, for remand of under trial prisoners and other purposes;
- (iv) Video linkage be established between National Judicial Academy and the State Judicial Academies as well as amongst the State Judicial Academies. High Courts will request the State Governments to provide requisite funds for the project; and

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- (v) High Courts may explore the possibility of E-filing of cases initially at the High Court level; computerisation of Courts by E-Committee, through NIC, being supplementary to the obligations of the States, the High Courts at their own level may, in addition, undertake computerisation with the funds provided by the State Governments.
- 6 (i) Efforts will be made by the High Courts for increasing the use of various ADR modes with a view to reduce pendency of cases in the Courts with the help of NALSA and State Legal Services Authorities;
- (ii) Permanent mediation centers may be set up by the High Courts at appropriate levels. High Courts may accordingly take steps for training of Judges, lawyers and others in mediation in cooperation with National Judicial Academy;
- (iii) High Courts may make use of resource person(s) likely to be provided by NALSA, in Mediation;
- (iv) Chief Justices will make efforts for introduction of ADR systems as a subject of study in Law schools and colleges;
- (v) As far as possible, retired Judges/Judicial Officers and lawyers will be engaged for mediation and conciliation;
- (vi) Chief Justices will impress upon the State Governments, at the highest level, to establish permanent Lok Adalats in terms of the Chapter VI(A) of Legal Services Authorities Act; and
- (vii) State Legal Services Authorities will step-up their efforts to spread legal literacy by undertaking community education programmes, organizing legal aid clinics and associating genuine non-governmental organizations in their endeavour.
7. Chief Justices will take-up with the Government the issue of granting financial autonomy to the Chief Justices and will also impress upon them to: a) meet the budgetary demands made by the High Courts; b) grant power of appropriation and reappropriation of funds to the Chief Justices within the overall budgetary limits; c) substantially increase the allocation of funds for judiciary.
- 8 (i) 10 year old criminal cases pending in High Courts will be taken up on priority basis and disposed of at the earliest;
- (ii) High Courts will undertake regular review of cadre strength of subordinate Judicial Officers and impress upon the State Governments the need to increase the strength accordingly;
- (iii) High Courts will request the State Government to appoint competent Public Prosecutors in adequate numbers, separate investigation of cases from maintenance of law and order and establish an independent Directorate of Prosecution in the State; and
- (iv) The list of compoundable cases be enlarged so as to make more cases of appropriate nature, compoundable.
- 9 (i) Vigilance cells of the High Courts shall work directly under the control of the Chief Justice;
- (ii) Vigilance cells for the Magisterial staff shall be set-up in each district under the direct control of the District Judge;

- (iii) High Courts will regularly monitor the working of vigilance cells set-up in District Courts;
  - (iv) All out efforts shall be made by the High Courts to remove corruption in the subordinate Courts; and
  - (v) All vulnerable areas of corruption shall be plugged, by reducing the need of interaction between litigants and Court staff and making maximum use of IT applications as well as by necessary changes in the rules and procedure.
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- (i) Regular training programmes, workshops and refresher courses be conducted by State Judicial Academies for training of Judicial Officers, on the basis of curriculum agreed by the Chief Justices at National Judicial Academy, with appropriate modifications, wherever required, in view of the local conditions;
  - (ii) Selection of Judicial Officers for training at National Judicial Academy be made by the High Court after inviting requests and taking into consideration the aptitude and posting of the Judicial Officer; and
  - (iii) Training be imparted by State Judicial Academies to Court staff in Court management and administration;
11. Suitably constituted monitoring Committees be set-up at Central level as well as State level to ensure timely implementation of the resolutions passed at Chief Justices' Conference and Joint Conference of Chief Justices and Chief Ministers and to sort out all other matters concerning administration of justice.
12. High Courts may consider assigning civil cases pending in subordinate Courts to the existing Fast Track Courts, wherever found feasible.
13. Chief Justices shall impress upon the State Governments at highest level to entrust selection of subordinate Judicial Officers to the High Courts.
14. High Courts will issue necessary instructions to the subordinate Judges to strictly follow the provisions of Code of Civil Procedure in the matters of service of process, filing of written statement, use of ADR methods, imposing of costs, admission/denial of documents, examination of parties, discovery and inspection of documents, framing of issues, granting of adjournments, production of witnesses and granting of ex-parte injunction/stay orders.
15. State Legal Services Authority shall make efforts to strengthen the legal aid machinery and will ensure that only competent lawyers are engaged and that law students as well as genuine non-governmental organizations are involved in their activities.
16. High Courts will impress upon the State Governments to set up Juvenile Justice Boards, wherever not set-up. The Chief Justices may nominate a High Court Judge to oversee the condition and functioning of the remand/observation homes established under Juvenile Justice (Care and Protection of Children) Act, 2000.

II. Conference of the Chief Ministers of States and the Chief Justices of the High Courts was held on March 11, 2006 at Vigyan Bhawan, New Delhi wherein the following important decisions were taken:

- 1 (i) A Committee consisting of Hon'ble the Chief Justice of India, Union Minister for Finance and Union Minister for Law & Justice be set-up at national level for ensuring timely implementation of the decisions taken at Chief Justices' Conference and Joint Conference of Chief Ministers and Chief Justices. Wherever deemed appropriate, Hon'ble Prime Minister of India be invited to the meeting of the Committee; and
- (ii) Monitoring Committees at two levels be set-up in each State for timely implementation of the decisions taken at Chief Justices' Conference and Joint Conference of Chief Ministers and Chief Justices. The first level Committee should consist of Chief Secretary, Registrar General of the High Court and Law Secretary of the State, whereas the second level Committee should consist of Chief Minister, Chief Justice and Law Minister of the State.
2. Adequate steps aimed at reduction of arrears and speedy disposal of cases including increase in the strength of Judges, simplification of procedures, use of various IT tools and use of modern Court Management systems be taken by all concerned so as to achieve the desired results. Cases involving petty offences including traffic & municipal challans be transferred to the courts of Special Metropolitan Magistrates/Special Judicial Magistrates.
3. The knowledge and expertise in use of computers and various IT tools, available in our country, be used for modernization and computerisation of Justice Delivery System at all levels. States will make efforts to provide more funds for computerisation of Courts and augmenting infrastructure for them.
4. Adequate training be imparted by National Judicial Academy and State Judicial Academies to Judges as well as the Court staff.
5. Fast Track Courts of Magistrates be set-up at the earliest, by evolving a suitable scheme, on the lines of the existing scheme for Fast Track Courts of Session Judges.
- 6 (i) Chief Justice of the High Court be delegated full power to appropriate and reappropriate the funds within the budget allocated by the State Government for the judiciary in the State; and
- (ii) Consistent with their financial resources, State Governments shall provide adequate budgetary allocation for judiciary.
7. Facility of Video Conferencing be made available in all the States and model E-Courts be set-up in select places.
8. In States of Himachal Pradesh, West Bengal, Punjab and Kerala, setting up of question papers and evaluation of answer sheets be entrusted to the High Court. In other States, where selection of subordinate Judicial Officers is not being made by the High Court, such selection be entrusted to the High Court, by amending the relevant rules.

### III. Seminar on Narcotic Drugs and Psychotropic Substances

A two day seminar on Narcotic Drugs and Psychotropic Substances: The Law and the Society convened by High Court of Delhi and Government of NCT of Delhi was inaugurated by the President of India, Dr. A.P.J. Abdul Kalam at Vigyan Bhawan on 25<sup>th</sup> March, 2006. Key note address was delivered by Mr. Y.K. Sabharwal, Chief Justice of India and valedictory address by Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India. Hon'ble Mr. Justice Ashok Bhan, Hon'ble Mr. Justice Arijit Pasayat, Hon'ble Mr. Justice H.K. Sema, Hon'ble Mr. Justice Arun Kumar, Hon'ble Mr. Justice B.N. Srikrishna, Hon'ble Mr. Justice A.K. Mathur, Hon'ble Mr. Justice Tarun Chatterjee, Hon'ble Mr. Justice Altamas Kabir and Hon'ble Mr. Justice Dalveer Bhandari chaired different working sessions

### IV. Golden Jubilee Celebrations of the High Court of Kerala

Hon'ble Shri Y.K. Sabharwal, Chief Justice of India inaugurated the new Building of High Court of Kerala on 11<sup>th</sup> February, 2006, while Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India inaugurated the Golden Jubilee Celebrations of the High Court on that very day, in the august presence of Hon'ble Mr. Justice Arijit Pasayat, Hon'ble Mr. Justice B.N. Srikrishna, Hon'ble Dr. Justice AR Lakshmanan and Hon'ble Mr. Justice P.K. Balasubramanyan, Judges, Supreme Court of India.

### V. Important activities of National Legal Services Authority (NALSA)

1. Considering the importance of Students Community for implementation of the National Legal Literacy Mission, NALSA launched SAPLING (Students Advocacy Programme Linking Institutions of Learning) on 29<sup>th</sup> January, 2006 at Bangalore, (Karnataka). For sensitization and effective implementation of prevention of Devadasi and other related legislations pertaining to organized and commercial sexual exploitation of women and girl child, Project Combat was also launched on 29<sup>th</sup> January, 2006 at Bangalore (Karnataka). Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India and Chairman, Supreme Court Legal Services Committee launched the Projects in the august presence of Hon'ble Mr. Justice S.B. Sinha and Hon'ble Mr. Justice R.V. Raveendran, Judges, Supreme Court of India and other dignitaries. A Mobile Legal Literacy Campaign was also flagged off by Hon'ble Mr. Justice K.G. Balakrishnan, on this occasion.
2. To make the tourism industry and the hospitality industry aware of the vice of child sex tourism, its reasons, causes and the measures to be taken to avoid the same, NALSA organized a High Level Decision Maker's Forum on Sex Tourism and Protection of Child Rights on 5<sup>th</sup> February, 2006 at Goa. The Forum was chaired by Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India and Chairman, Supreme Court Legal Services Committee. Chairman and members of the Parliamentary Standing Committee also participated therein.

### VI. Important activities of National Judicial Academy (NJA)

1. A workshop was organized from 6-10 January 2006 on Cyber Laws and Cyber Forensics with a view to give the Judges a first hand knowledge of the law and technology interface and the challenges involved. 43 District and Session Judges and Chief Judicial Magistrates participated in the course.

2. An "Advanced Course on Civil Justice and Adjudication", was organized from 27-31 January, 2006. The aim of this course was to sensitize the Judges for effective application of the amendments carried out by the Code of Civil Procedure (Amendment) Act, 2002, towards providing speedy justice and reducing arrears. Application of new and effective settlement techniques like ADR and its different modes were deliberated upon in detail. The use of Information and Communication Technology in judicial proceedings was given priority as well. 37 District and Sessions Judges participated in the course.
3. A program on "IPR Adjudication and New Patent Regime" was organized from 3-5, February 2006. The highlight of the program was its eminent faculty who were Judges, scientists, patent attorneys drawn from US, UK, Israel, Germany and India, who drew an analogy between laws and enforcement of IPR issues in the binding WTO environment between India and their country, as well as brought to light diversity in interpretation of IPR issues adding complexity of jurisprudence in this area. 25 High Court Justices participated in the course.
4. A "Symposium for High Court Justices on Economic Analysis of Law and Adjudication of Economic Laws", was organized from 10-12, February 2006. The Symposium discussed for the first time in the context of the Indian Judiciary, the relevant elements of development economics in relation to the increasing variety of economic laws, national and international, and explored the understanding and the extent of application of such economic principles, and models in analyzing legal and regulatory systems. 18 High Court Justices participated in the course.

## VISITS OF FOREIGN DELEGATES TO SUPREME COURT

1. An eleven member Chinese delegation headed by Mr. Jin Shan, Vice President of All China Lawyers Association visited Supreme Court of India on 04.01.2006 and had a meeting with Hon'ble the Chief Justice of India, Hon'ble Mrs. Justice Ruma Pal, Hon'ble Mr. Justice K.G. Balakrishnan, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice Ashok Bhan.
2. A three member delegation headed by H.E. Mr. Mohamed Jameel Ahmed, Minister of Justice of the Republic of Maldives visited Supreme Court of India on 20.01.2006 and had a meeting with Hon'ble the Chief Justice of India.
3. A twenty member Judicial delegation of 'India Project of the George Washington University Law School' visited Supreme Court of India on 27.01.2006 and had a meeting with Hon'ble the Chief Justice of India.
4. Rt. Hon'ble Lord Mustill, Privy Councillor, Doctor of Laws (Cantab.), Vice-President, ICC Court of Arbitration visited Supreme Court of India on 22.02.2006 and had a meeting with Hon'ble the Chief Justice of India, Hon'ble Mrs. Justice Ruma Pal, Hon'ble Mr. Justice K.G. Balakrishnan, Hon'ble Mr. Justice B.N. Agrawal and Hon'ble Mr. Justice Ashok Bhan.
5. A four member delegation headed by Rt. Hon'ble Sir Igor Judge, President, Queen's Bench Division, England and Wales, visited Supreme Court of India on 06.03.2006 and had a meeting with Hon'ble the Chief Justice of India.