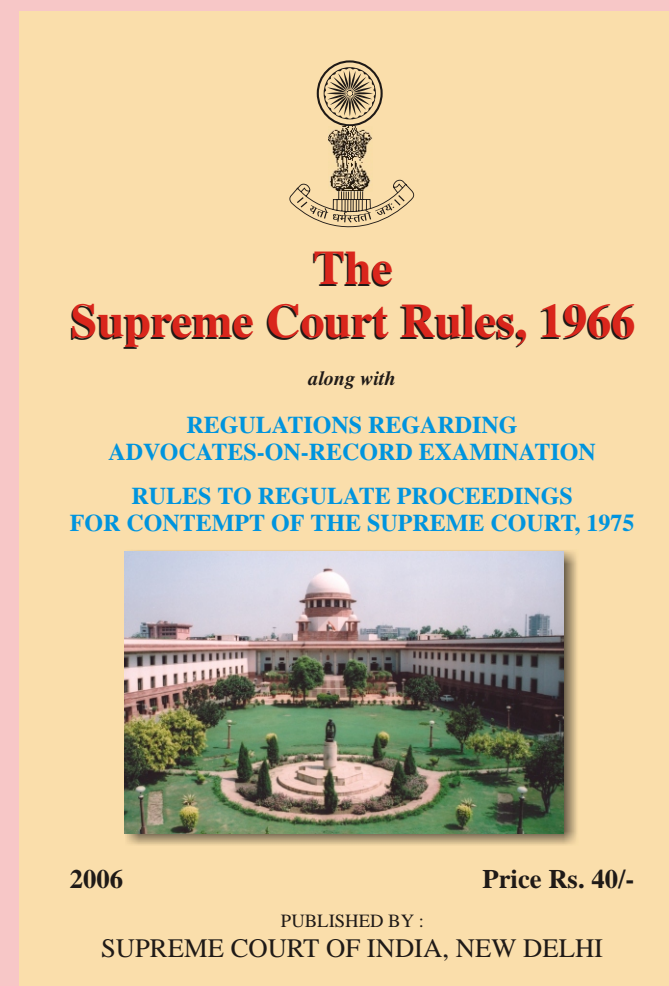
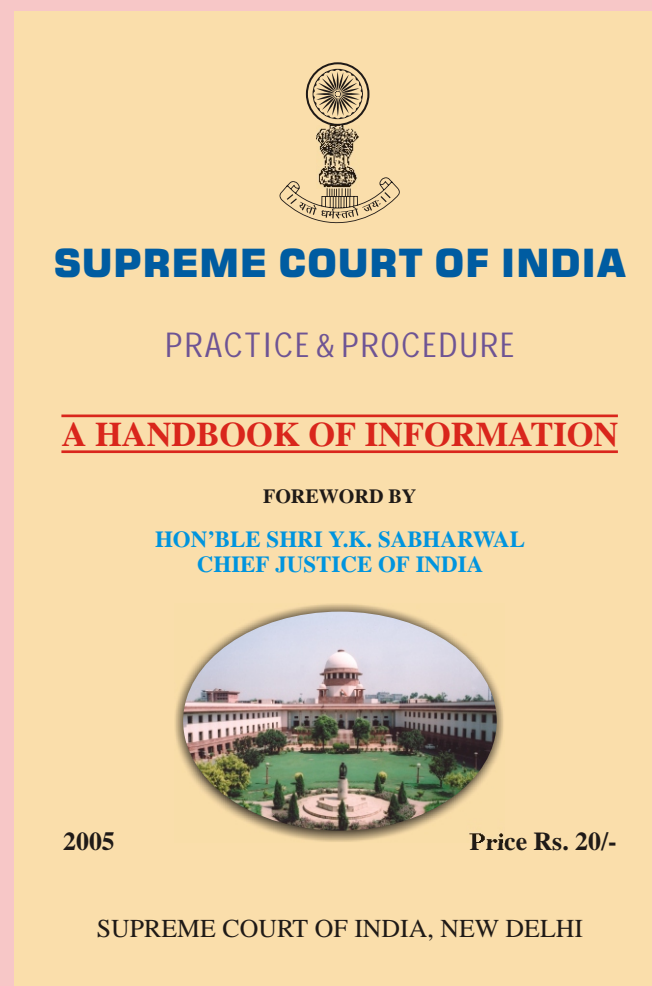


## OTHER SUPREME COURT PUBLICATIONS

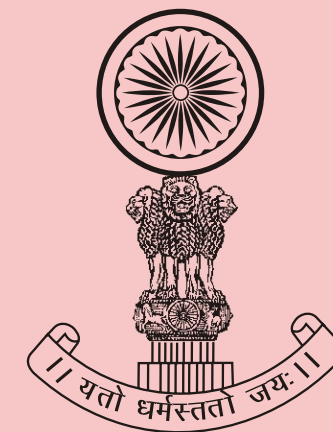


**Both publications available at :**

**Reception Counter and Filing Counters,  
Supreme Court of India, Tilak Marg, New Delhi-110001**

**Also available by post on payment of postal charges**

**Also available on our website : [www.supremecourtfindia.nic.in](http://www.supremecourtfindia.nic.in)**



## COURT NEWS

Vol. I Issue No. 2

April-June 2006



### EDITORIAL BOARD

Hon'ble Mr. Justice B.N. Agrawal, Judge, Supreme Court of India  
Hon'ble Mr. Justice Dalveer Bhandari, Judge, Supreme Court of India

### COMPILED BY

V. K. Jain, Registrar General, Supreme Court of India  
Bibhuti Bhushan Bose, Assistant Editor, Supreme Court Reports

**A quarterly newsletter published by Supreme Court of India, New Delhi**

**Also available on our website : [www.supremecourtfindia.nic.in](http://www.supremecourtfindia.nic.in)**

## CONTENTS

From the desk of Chief Justice of India	1
Appointments and Retirements of Supreme Court Judges	2
Appointments of High Court Judges	3-4
Transfers of High Court Judges	5
Vacancies in Courts	6-7
Institution, Disposal and Pendency of Cases	8-10
Some Recent Supreme Court Judgments of Public Importance	11-16
Supreme Court Middle Income Group Legal Aid Society	17-19
Major Initiatives	20
Major Events of the Quarter	21-23
Visits and Conferences	24

## LIST OF SUPREME COURT JUDGES

(As on 24th July, 2006)

Name of the Hon'ble Judge	Date of Appointment	Date of Retirement
01. Hon'ble Mr. Justice Y.K. Sabharwal, Chief Justice of India (CJI)	28.01.2000 As CJI: On 01.11.2005	14.01.2007
02. Hon'ble Mr. Justice K.G. Balakrishnan	08.06.2000	12.05.2010
03. Hon'ble Mr. Justice B.N. Agrawal	19.10.2000	15.10.2009
04. Hon'ble Mr. Justice Ashok Bhan	17.08.2001	02.10.2008
05. Hon'ble Mr. Justice Arijit Pasayat	19.10.2001	10.05.2009
06. Hon'ble Mr. Justice B.P. Singh	14.12.2001	09.07.2007
07. Hon'ble Mr. Justice H.K. Sema	09.04.2002	01.06.2008
08. Hon'ble Mr. Justice S.B. Sinha	03.10.2002	08.08.2009
09. Hon'ble Dr. Justice AR. Lakshmanan	20.12.2002	22.03.2007
10. Hon'ble Mr. Justice G.P. Mathur	20.12.2002	19.01.2008
11. Hon'ble Mr. Justice S.H. Kapadia	18.12.2003	29.09.2012
12. Hon'ble Mr. Justice A.K. Mathur	07.06.2004	07.08.2008
13. Hon'ble Mr. Justice C.K. Thakker	07.06.2004	10.11.2008
14. Hon'ble Mr. Justice Tarun Chatterjee	27.08.2004	14.01.2010
15. Hon'ble Mr. Justice P.K. Balasubramanyan	27.08.2004	28.08.2007
16. Hon'ble Mr. Justice P.P. Naolekar	27.08.2004	29.06.2008
17. Hon'ble Mr. Justice Altamas Kabir	09.09.2005	19.07.2013
18. Hon'ble Mr. Justice R.V. Raveendran	09.09.2005	15.10.2011
19. Hon'ble Mr. Justice Dalveer Bhandari	28.10.2005	01.10.2012
20. Hon'ble Mr. Justice Lokeshwar Singh Panta	03.02.2006	23.04.2009
21. Hon'ble Mr. Justice D.K. Jain	10.04.2006	25.01.2013
22. Hon'ble Mr. Justice Markandey Katju	10.04.2006	20.09.2011

*Y.K. Sabharwal*  
*Chief Justice of India*



*5, Krishna Menon Marg,*  
*New Delhi-110011*

FROM THE DESK OF CHIEF JUSTICE OF INDIA

*It gives me immense pleasure to place the second issue of Court News in your hands. The first issue, released on 19<sup>th</sup> April, 2006, was widely appreciated, not only by Judges, Advocates and Law Students, but also by the common citizens, who, for the first time, had authentic information on institution, pendency and disposal of Court cases at various levels, vacancies of Judges and functioning of this Court. It also informed them of the judgments of public importance delivered by this Court between January to March, 2006. A large number of letters and messages have been received by Supreme Court Registry making enquiries about the publication and its availability.*

*The present issue, besides updating the statistical information, also gives a gist of some important judgments of public interest, delivered by this Court between April to June, 2006. Supreme Court Middle Income Group Legal Aid Society provides the services of Senior Advocates as well as of Advocates-on-Record, to the persons belonging to middle strata of the society who want to engage competent lawyers at reasonable fee. This issue gives information on the procedure to obtain legal aid from the Society and the fee payable to the advocates empanelled by it for the purpose. Major activities of National Legal Services Authority and National Judicial Academy also stand incorporated in the issue.*

*I am confident that the second issue will prove to be equally useful to the readers. Any suggestion, for further improvement of the Newsletter, will be appreciated by Supreme Court Registry.*

*[Y.K. Sabharwal]*

*27<sup>th</sup> July, 2006*

**APPOINTMENTS AND RETIREMENTS OF SUPREME COURT JUDGES****APPOINTMENTS**

<b><i>Name of the Hon'ble Judge</i></b>	<b><i>Date of Appointment</i></b>
Mr. Justice D.K. Jain	10-04-2006
Mr. Justice Markandey Katju	10-04-2006

**RETIREMENTS**

<b><i>Name of the Hon'ble Judge</i></b>	<b><i>Date of Retirement</i></b>
Mr. Justice Arun Kumar	12-04-2006
Mr. Justice B.N. Srikrishna	21-05-2006
Mrs. Justice Ruma Pal	03-06-2006

## APPOINTMENTS OF HIGH COURT JUDGES

S.No.	Name of the High Court	Name of the Hon'ble Judge	Date of Appointment
1.	Allahabad	Ran Vijai Singh	07-07-2006
		Pankaj Mithal	07-07-2006
2.	Andhra Pradesh	G.V. Seethapathy	24-05-2006
3.	Calcutta	D.K. Gupta	22-06-2006
		Nadira Patherya	22-06-2006
		Ashim Kumar Roy	22-06-2006
		Biswanath Somadder	22-06-2006
		Dipankar Datta	22-06-2006
		Sanjib Banerjee	22-06-2006
		P S Banerjee	22-06-2006
		Tapan Mukherjee	22-06-2006
		Arunabha Basu	22-06-2006
		Kalidas Mukherjee	22-06-2006
		Manik Mohan Sarkar	22-06-2006
		Rudrendra Nath Banerjee	22-06-2006
		Tapas Kumar Giri	22-06-2006
		Kishore Kumar Prasad	22-06-2006
		Partha Sakha Datta	22-06-2006
Prasenjit Mandal	22-06-2006		
4.	Delhi	P.K. Bhasin	05-04-2006
		Kailash Gambhir	29-05-2006
		G.S. Sistani	29-05-2006
		S. Murlidhar	29-05-2006
		Hima Kohli	29-05-2006
		Vipin Sanghi	29-05-2006
		Aruna Suresh	04-07-2006

5.	Madhya Pradesh	Suresh Chandra Sinho	15-05-2006
6.	Patna	Anwar Ahmad	10-05-2006
		Subash Chandra Jha	10-05-2006
		Madhavendra Saran	10-05-2006
		Shyam Kishore Sharma	15-05-2006
7.	Punjab & Haryana	R.S. Madan	01-04-2006
		Arvind Kumar	01-04-2006
		Serv Daman Anand	01-04-2006
		H.S. Bhalla	01-04-2006
		Amar Nath Jindal	01-04-2006
		M.M.S. Bedi	01-04-2006
8.	Rajasthan	Mohammed Rafiq	15-05-2006

**TRANSFERS OF HIGH COURT JUDGES**

<b>S. No.</b>	<b>From</b>	<b>To</b>	<b>Name of the Hon'ble Judge</b>	<b>Date of Transfer</b>
1.	Calcutta High Court	Orissa High Court	A.K. Ganguly	21-04-2006
2.	Jammu & Kashmir High Court	Jharkhand High Court	Permod Kohli	04-05-2006

## VACANCIES IN COURTS

### A) SUPREME COURT OF INDIA (As on 24<sup>th</sup> July, 2006)

Sanctioned Strength	Working strength	Vacancies
26	22	4

### B) HIGH COURTS ( As on 24<sup>th</sup> July, 2006)

S.No.	Name of the High Court	Sanctioned strength	Working strength	Vacancies
1.	Allahabad	95	82	13
2.	Andhra Pradesh	39	32	7
3.	Bombay	64	53	11
4.	Calcutta	50	45	5
5.	Chhattisgarh	8	8	0
6.	Delhi	36	34	2
7.	Gauhati	27	17	10
8.	Gujarat	42	34	8
9.	Himachal Pradesh	9	3	6
10.	Jammu and Kashmir	14	8	6
11.	Jharkhand	12	10	2
12.	Karnataka	40	35	5
13.	Kerala	29	26	3
14.	Madhya Pradesh	42	39	3
15.	Madras	49	38	11
16.	Orissa	22	16	6
17.	Patna	43	24	19
18.	Punjab & Haryana	53	39	14
19.	Rajasthan	40	31	9
20.	Sikkim	3	3	0
21.	Uttaranchal	9	8	1
	<b>TOTAL</b>	<b>726</b>	<b>585</b>	<b>141</b>



**C) DISTRICT & SUBORDINATE COURTS (As on 30<sup>th</sup> April, 2006)**

<b>S. No.</b>	<b>Name of State/ Union Territory</b>	<b>Sanctioned Strength</b>	<b>Working Strength</b>	<b>Vacancies</b>
1.	Uttar Pradesh	2172	1393	<b>779</b>
2.	Andhra Pradesh	827	760	<b>67</b>
3.	Maharashtra	1610	1361	<b>249</b>
4.	West Bengal	706	597	<b>109</b>
5.	Chhatisgarh	235	213	<b>22</b>
6.	Delhi	394	269	<b>125</b>
7.	Gujarat	913	857	<b>56</b>
8.a	Assam	285	268	<b>17</b>
8.b	Meghalaya	10	7	<b>3</b>
8.c	Tripura	83	60	<b>23</b>
8.d	Manipur	34	28	<b>6</b>
8.e	Nagaland	24	25	<b>-</b>
8.f	Mizoram	Judiciary is not yet separated from Executive in these States		
8.g	Arunachal Pradesh			
9.	Himachal Pradesh	118	112	<b>6</b>
10.	Jammu and Kashmir	191	180	<b>11</b>
11.	Jharkhand	447	404	<b>43</b>
12.	Karnataka	809	676	<b>133</b>
13.	Kerala	420	393	<b>27</b>
14.a	Tamil Nadu	762	723	<b>39</b>
14.b	Pondicherry	22	16	<b>6</b>
15	Madhya Pradesh	935	781	<b>154</b>
16	Orissa	477	441	<b>36</b>
17	Bihar	1352	845	<b>507</b>
18.a	Punjab	328	250	<b>78</b>
18.b	Haryana	307	224	<b>83</b>
18.c	Chandigarh	20	17	<b>3</b>
19	Rajasthan	821	717	<b>104</b>
20	Sikkim	15	7	<b>8</b>
21	Uttaranchal	265	99	<b>166</b>
	<b>Total</b>	<b>14582</b>	<b>11723</b>	<b>2860</b>

## INSTITUTION, DISPOSAL AND PENDENCY OF CASES

### A) SUPREME COURT OF INDIA (FROM 01-04-2006 TO 30-06-2006)

Month & year	Institution		Total	Disposal		Total	Pendency		Total
	Admission	Regular		Admission	Regular		Admission	Regular	
<b>PENDENCY as on 31<sup>st</sup> March, 2006</b>							18,995	16,206	<b>35,201</b>
<b>APRIL, 2006</b>	5,077	572	<b>5,649</b>	4,600	444	<b>5,044</b>	19,472	16,334	<b>35,806</b>
<b>MAY, 2006</b>	4,778	493	<b>5,271</b>	4,564	472	<b>5,036</b>	19,686	16,355	<b>36,041</b>
<b>JUNE, 2006</b>	1,725	71	<b>1,796</b>	500	14	<b>514</b>	20,911	16,412	<b>37,323</b>

**B) HIGH COURTS (FROM 1-1-2006 TO 31-03-2006)**

S. No.	Name of High Court	CIVIL CASES				CRIMINAL CASES				Total pendency of civil and criminal cases as on 31-03-06
		Opening balance as on 1-1-06	Institution from 1-1-06 to 31-03-06	Disposal from 1-1-06 to 31-03-06	Pendency as on 31-03-06	Opening balance as on 1-1-06	Institution from 1-1-06 to 31-03-06	Disposal from 1-1-06 to 31-03-06	Pendency as on 31-03-06	
1	Allahabad	565500	34939	27471	572968	198922	18297	14604	202615	775583
2	Andhra Pradesh	142042	11608	11161	142489	18570	2745	3828	17487	159976
3	Bombay	311643	27958	25724	313877	36310	6899	6782	36427	350304
4	Calcutta	219495	16902	11868	224529	36498	4501	3748	37251	261780
5	Chhatisgarh	49521	4576	3323	50774	23382	2184	2172	23394	74168
6	Delhi	63655	10941	11533	63063	14724	4619	3750	15593	78656
7	Gujarat	93426	8765	11212	90979	26633	4802	3330	28105	119084
8	Guwahati	54406	6017	6855	53568	7418	1294	1578	7134	60702
9	Himachal Pradesh	17738	2561	2206	18093	6056	498	363	6191	24284
10	Jammu & Kashmir	39529	5099	4381	40247	2444	312	410	2346	42593
11	Jharkhand	25085	2737	2094	25728	18785	3690	3808	18667	44395
12	Karnataka	72538	13257	11733	74062	12403	3250	2550	13103	87165
13	Kerala	109316	15012	20454	103874	24060	5473	5239	24294	128168
14	Madras	334383	48945	36191	347137	29168	17617	16265	30520	377657
15	Madhya Pradesh	130259	16462	14136	132585	55759	8293	7389	56663	189248
16	Orissa	185813	12777	9346	189244	17717	6048	7876	15889	205133
17	Patna	66549	5943	3603	68889	25033	14889	13448	26474	95363
18	Punjab & Haryana	201151	12762	11230	202683	42320	7902	8803	41419	244102
19	Rajasthan	158318	12731	10863	160186	47867	6724	6011	48580	208766
20	Sikkim	29	26	5	50	13	1	2	12	62
21	Uttaranchal	27487	1521	2401	26607	6838	715	735	6818	33425
	<b>Total</b>	<b>2867883</b>	<b>271539</b>	<b>237790</b>	<b>2901632</b>	<b>650920</b>	<b>120753</b>	<b>112691</b>	<b>658982</b>	<b>3560614</b>

**c) DISTRICT AND SUBORDINATE COURTS [other than in the State of Bihar# ]  
(FROM 1-1-2006 TO 31-03-2006)**

S. No.	Name of State/Union Territory	CIVIL CASES				CRIMINAL CASES				Total pendency of civil and criminal cases as on 31-03-06
		Opening balance as on 1-1-06	Institution from 1-1-06 to 31-03-06	Disposal from 1-1-06 to 31-03-06	Pendency as on 31-03-06	Opening balance as on 1-1-06	Institution from 1-1-06 to 31-03-06	Disposal from 1-1-06 to 31-03-06	Pendency as on 31-03-06	
1	Uttar Pradesh	1188440	101894	97177	1193157	3225101	458490	390180	3293411	4486568
2	Andhra Pradesh	494293	88980	90517	492756	466124	85643	83719	468048	960804
3	Maharashtra	1014931	90441	94271	1011101	3069154	322191	288133	3103212	4114313
4	West Bengal	514238	35869	56418	493689	1474665	219220	201080	1492805	1986494
5	Chhatisgarh	51379	13453	13679	51153	214138	51371	53737	211772	262925
6	Delhi	129248	18840	16116	131972	431266	66820	31798	466288	598260
7	Gujarat	785275	91089	97379	778985	3025283	259806	323973	2961116	3740101
8(a)	Assam	52734	7866	7380	53220	112602	34415	30578	116439	169659
8(b)	Nagaland	1094	76	58	1112	2626	219	218	2627	3739
8(c)	Meghalaya	4193	287	251	4229	6979	448	359	7068	11297
8(d)	Manipur	3260	464	618	3106	6087	1104	1193	5998	9104
8(e)	Tripura	6481	1591	1601	6471	23017	15519	13472	25064	31535
8(f)	Mizoram	1211	408	306	1313	2066	1278	892	2452	3765
8(g)	Arunachal Pradesh	345	178	175	348	5686	431	521	5596	5944
9	Himachal Pradesh	64336	9259	9284	64311	113080	29098	27068	115110	179421
10	Jammu & Kashmir	53738	8717	11427	51028	98201	32146	38864	91483	142511
11	Jharkhand	50836	6157	8786	48207	235372	33448	33925	234895	283102
12	Karnataka	577958	65863	72519	571302	490338	120956	112789	498505	1069807
13	Kerala	417375	68478	70334	415519	490485	176423	175216	491692	907211
14(a)	Tamil Nadu	424188	226748	223812	427124	431860	204470	199062	437268	864392
14(b)	Pondicherry	11709	4452	4054	12107	6669	7630	7368	6931	19038
15	Madhya Pradesh	194240	37132	38776	192596	758738	143847	163616	738969	931565
16	Orissa	176063	17088	14795	178356	783513	74546	71606	786453	964809
17(a)	Punjab	247927	36162	30565	253524	312529	129975	137825	304679	558203
17(b)	Haryana	202525	32807	28707	206625	304323	42434	45073	301684	508309
17(c)	Chandigarh	20472	2408	1888	20992	59522	12945	10529	61938	82930
18	Rajasthan	293220	39566	40215	292571	757154	166137	160293	762998	1055569
19	Sikkim	209	33	50	192	442	162	177	427	619
20	Uttaranchal	26222	7045	6699	26568	99634	26012	23835	101811	128379
	<b>Total</b>	<b>7008140</b>	<b>1013351</b>	<b>1037857</b>	<b>6983634</b>	<b>17006654</b>	<b>2717184</b>	<b>2627099</b>	<b>17096739</b>	<b>24080373</b>

# In Bihar, the information/ figure is compiled on a half-yearly basis.

## SOME RECENT SUPREME COURT JUDGMENTS OF PUBLIC IMPORTANCE

❖ On 3<sup>rd</sup> April, 2006, a two Judges Bench in *Malik Mazhar Sultan & Anr. vs U.P. Public Service Commission & Ors.* [Civil Appeal No.1867 of 2006] stressed on the necessity of evolving “a mechanism to speedily determine and fill vacancies of Judges at all levels.” Accordingly the Bench directed all the State Governments, Union Territories and/or High Courts to provide for a time schedule “so that every year vacancies that may occur are timely filled.”

“Non-filling of vacancies for long not only results in the avoidable litigation but also results in creeping of frustration in the candidates. Further, non-filling of vacancies for long time deprives the people of the services of the Judicial Officers. This is one of the reasons of huge pendency of cases in the Courts”, said the Bench.

❖ On 5<sup>th</sup> April, 2006, a two Judges Bench in *Union of India & Anr. vs Satya Prakash & Ors.* [Civil Appeal Nos. 5505-5507 of 2003] considered the question as to whether Other Backward Class (OBC) candidates selected for civil services posts on merit and placed in the list of open category candidates could still for the purpose of placement (preference) be considered to be OBC candidates thereby exhausting the quota reserved for relaxed OBC candidates from allocation of service.

Interpreting the Civil Services Examination (CSE) Rules, 1996, the Bench held that “by opting for a preference, the quota reserved for OBC candidate does not exhaust.” It held that “while a reserved category candidate recommended by the Union Public Service Commission without resorting to the relaxed standard will have the option of preference from the reserved category recommended by the Commission by resorting to relaxed standard, but while computing the quota/percentage of reservation he/she will be deemed to have been allotted seat as an open category candidate (i.e. on merit) and not as a reserved category candidate recommended by the Commission by resorting to relaxed standard.”

❖ On 5<sup>th</sup> April, 2006, a two Judges Bench in *Central Government of India & Ors vs Krishnaji Parvetesh Kulkarni* [Civil Appeal No.4819 of 2000] held that an Indira Vikas Patra (IVP) “is akin to an ordinary currency note. It bears no name of the holder. Just as a lost currency note cannot be replaced, similarly the question of replacing a lost IVP does not arise”. The Bench said that Rule 7(2) of the Indira Vikas Patra Rules, 1986 (framed under the Government Saving Certificates Act, 1959) made it clear that “a certificate lost, stolen, mutilated, defaced or destroyed beyond recognition will not be replaced by any post office.”

❖ On 10<sup>th</sup> April, 2006, a three Judges Bench in *T.N. Godavarma Thirumulpad vs Union of India & Ors.* [IA Nos. 989, 1221 & 1331 in IA Nos.857-858 in Writ Petition (Civil) No. 202 of 1995] examined

the bonafides of a person who in purported public interest filed application before this Court alleging that the State of Chhattisgarh had unlawfully leased forest land for setting up of a coal washery plant. On perusal of the record, the Bench held that the applicant had been “set up by others” and was “nothing but a name lender” and strongly deprecated the filing of an “entirely misconceived and malafide application in the garb of public interest litigation” by him. The Bench said that “the applicant has abused the process of law and deserves to be sternly dealt with” and that “enormous judicial time has been wasted which could have been used for deciding other cases.” It further said that it also resulted in the Central Empowered Committee(CEC) [which had been directed by the Court to enquire into the matter], and others “incurring huge expenses and their wastage of time as well” and accordingly asked the applicant to pay CEC costs quantified at Rupees One Lakh.

Enumerating the basic issues required to be satisfied in every public interest litigation, the Bench said, “howsoever genuine a cause brought before a Court by a public interest litigant may be, the Court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bonafides and credentials are in doubt. In a given exceptional case, where bonafides of a public interest litigant are in doubt, the Court may still examine the issue having regard to the serious nature of the public cause and likely public injury, even if the bona fides of the litigant was in doubt, by appointing an Amicus Curiae to assist the Court, but under no circumstances with the assistance of a doubtful public interest litigant.” The Bench said that “no trust can be placed by Court on a mala fide applicant in public interest litigation.”

❖ On 13<sup>th</sup> April, 2006, a three Judges Bench in *R.D. Upadhyay vs State of A.P. & Ors.* [Writ Petition (Civil) No. 559 of 1994] held that “children of women prisoners who are living in jail require additional protection”. “In many respects they suffer the consequences of neglect”, the Bench said and accordingly issued directions so as to ensure that the minimum standards are met by all States and Union Territories vis-à-vis the children of women prisoners living in prison. Some of the important guidelines/directions issued are as follows:-

(i) “A child shall not be treated as an undertrial / convict while in jail with his/her mother. Such a child is entitled to food, shelter, medical care, clothing, education and recreational facilities as a matter of right.”

(ii) “Before sending a woman who is pregnant to a jail, the concerned authorities must ensure that jail in question has the basic minimum facilities for child delivery as well as for providing pre-natal and post-natal care for both, the mother and the child.” As far as possible and provided the woman prisoner has a suitable option, “arrangements for temporary release/parole (or suspended sentence in case of minor and casual offender) should be made to enable an expectant prisoner to have her delivery outside the prison. Only exceptional cases constituting high security risk or cases of equivalent grave descriptions can be denied this facility.”

(iii) “Births in prison, when they occur, shall be registered in the local birth registration office. But the fact that the child has been born in the prison shall not be recorded in the certificate of birth that is issued. Only the address of the locality shall be mentioned.”

(iv) “Female prisoners shall be allowed to keep their children with them in jail till they attain the age of six years.” Upon reaching the age of six years, “the child shall be handed over to a suitable surrogate as per the wishes of the female prisoner or shall be sent to a suitable institution run by the Social Welfare Department. As far as possible, the child shall not be transferred to an institution outside the town or city where the prison is located in order to minimize undue hardships on both mother and child due to physical distance.” Children kept under the protective custody in a home of the Department of Social Welfare “shall be allowed to meet the mother at least once a week.”

For securing compliance with its directions, the Bench directed that the Jail Manual and/or other relevant Rules, Regulations, instructions etc. be suitably amended within three months. However it also said that “if in some jails, better facilities are being provided, same shall continue.”

❖ On 13<sup>th</sup> April, 2006, a Constitution Bench in *Jindal Stainless Ltd. & Anr vs State of Haryana & Ors* (Civil Appeal No.3453 of 2002) examined the concept of “compensatory tax”. Earlier in *Automobile Transport (Rajasthan) Ltd. vs State of Rajasthan*, AIR 1962 SC 1406, a working test had been enunciated for deciding whether a tax is compensatory or not. The working test is “to enquire whether the trade is having the use of certain facilities for the better conduct of its business and paying not patently much more than what is required for providing the facilities”. However, subsequently in *M/s Bhagatram Rajeevkumar v. Commissioner of Sales Tax, M.P and others*, 1995 Supp. (1) SCC 673, the Court went on to widen the concept of compensatory tax by holding that “if there is substantial or even ‘some link’ between the tax and the facilities extended to dealers directly or indirectly the levy cannot be impugned as invalid.” Since by reason of the subsequent decision, the concept of compensatory tax got blurred, the matter was referred to this Constitution Bench to decide with certitude the parameters of the judicially evolved concept of “compensatory tax” vis-à-vis Article 301 of the Constitution.

This Bench held that the working test as propounded in *Automobile Transport’s* case “will continue to apply” and that the test of “some connection” (some link) as propounded in *Bhagatram’s* case which is “not only contrary to the working test” but also “obliterates the very basis of compensatory tax” is not good law.

❖ On 20<sup>th</sup> April, 2006, a three Judges Bench in *State of Karnataka & Anr. vs All India Manufacturers Organization & Ors*. [Civil Appeal No. 3492-3494 of 2005] rejected appeals filed by the State of Karnataka against the judgment of Karnataka High Court directing it to continue implementation of the “Bangalore–Mysore Infrastructure Corridor Project”. The said project had the twin objectives of

providing an express highway linking Bangalore with Mysore, and of developing infrastructure along the corridor and in and around Bangalore city.

Taking an overall view of the matter, the Bench held that “there could hardly be a dispute that the Bangalore–Mysore Infrastructure Corridor Project is a mega project which is in the larger public interest of the State of Karnataka and merely because there was a change in the Government, there was no necessity for reviewing all decisions taken by the previous Government, which is what appears to have happened.” The Bench found it strange that “the State Government woke up after seven long years, and even more strangely after a change in the State’s political leadership, to the fact that there was fraud/misrepresentation” by M/s Nandi Infrastructure Corridor Enterprises Ltd. [the company serving as a corporate vehicle for development and implementation of the project] or anyone else. It further held that “the constitution and functioning of the Expert Committee” set up to go into the allegations of excess land acquired by the Government for implementation of the Project “also illustrated the mala fides with which the State Government has approached the Project.”

Considering the “frivolous arguments and the *mala fides*” with which the State of Karnataka and its instrumentalities conducted litigation before the High Court and this Court, the Bench directed it to pay M/s Nandi Infrastructure Corridor Enterprises Ltd. costs quantified at Rupees Five Lakhs. The Bench further directed the “two MLAs and a social worker”, who filed PILs challenging the project before High Court and then filed appeals before this Court, to pay, in addition to the costs already imposed on them by the High Court, costs quantified at Rupees Fifty Thousand.

❖ On 28<sup>th</sup> April, 2006, a Constitution Bench in *M/s. Sunrise Associates vs Govt. of NCT of Delhi & Ors.* [Civil Appeal No.4552 of 1998] held that the sale of a lottery ticket does not involve a sale of goods and at the highest amounts to transfer of an actionable claim. The Bench said “a lottery ticket has no value in itself. It is a mere piece of paper. Its value lies in the fact that it represents a chance or a right to a conditional benefit of winning a prize of a greater value than the consideration paid for the transfer of that chance. It is nothing more than a token or evidence of this right.” It further said that “on purchasing a lottery ticket, the purchaser would have a claim to a conditional interest in the prize money which is not in the purchaser’s possession. The right would fall squarely within the definition of an actionable claim and would therefore be excluded from the definition of ‘goods’ under the Sale of Goods Act and the Sales Tax statutes.”

❖ On 8<sup>th</sup> May, 2006, a three Judges Bench in *Jaya Bachchan vs Union of India & Ors.* [Writ petition (Civil) No.199 of 2006] rejected the writ petition filed by Ms. Jaya Bachchan against her disqualification from membership of Rajya Sabha for holding an “office of profit”. Ms. Jaya Bachchan had been disqualified under Article 102(1)(a) of the Constitution for holding the office of Chairperson of the U.P. Film Development Council on ground that the same was an “office of profit” under the Government of Uttar Pradesh.



The Bench held that “an office of profit is an office which is capable of yielding a profit or pecuniary gain” and “holding an office under the Central or State Government, to which some pay, salary, emolument, remuneration or non-compensatory allowance is attached, is holding an office of profit.” In its view “for deciding the question as to whether one is holding an office of profit or not, what is relevant is whether the office is capable of yielding a profit or pecuniary gain and not whether the person actually obtained a monetary gain.”

Noticing that the office held by Ms. Bachchan carried with it a monthly honorarium of Rs.5000/-, entertainment expenditure of Rs.10,000/-, staff car with driver, telephones at office and residence, free accommodation and medical treatment facilities to self and family members, apart from other allowances etc, the Bench held that “these are pecuniary gains, cannot be denied.” It held that the fact that Ms. Bachchan “is affluent or was not interested in the benefits/facilities given by the State Government or did not, in fact, receive such benefits till date are not relevant to the issue.”

❖ On 10<sup>th</sup> May, 2006, a three Judges Bench in *T. N. Godavarman Thirumulpad Through the Amicus Curiae vs Ashok Khot and Anr.* [Contempt Petition (Civil) No.83 of 2005] sentenced the Minister-in-charge as also the Principal Secretary, Department of Forest, Government of Maharashtra at the relevant point of time for contempt. The two contemnors were each sentenced to a months simple imprisonment for permitting resumption of operations by six saw mills/ veneer and plywood industries in the State of Maharashtra in direct contravention of the earlier orders of this Court. The Bench held that both the contemnors “deliberately flouted the orders of this Court in a brazen manner”. Rejecting the “explanations of the contemnors” it held that “*mens rea*” was “writ large”. The Bench said “this is a case where not only right from the beginning attempt has been made to overreach the orders of this Court but also to draw red-herrings. Still worse is the accepted position of inserting a note in the official file with oblique motives. That makes the situation worse. In this case the contemnors deserve severe punishment. This will set an example for those who have propensity of dis-regarding the court’s orders because of their money power, social status or posts held.”

❖ On 12<sup>th</sup> May, 2006, a two Judges Bench in *Karnataka Industrial Areas Development Board vs Sri C. Kenchappa & Ors.* [Civil Appeal No.7405 of 2000] asked the Appellant-Karnataka Industrial Areas Development Board “to insist on conditions emanating from the principle of ‘sustainable development’”. The Bench explained that “sustainable development means a development which can be sustained by nature with or without mitigation. In other words, it is to maintain delicate balance between industrialization and ecology.” It said that “while development of industry is essential for the growth of economy, at the same time, the environment and the ecosystem are required to be protected” and that “in order to protect sustainable development, it is necessary to implement and enforce some of its main components and ingredients such as - Precautionary Principle, Polluter Pays and Public Trust Doctrine.”

❖ On 23<sup>rd</sup> May, 2006, a two Judges Bench in *The Chairman, SEBI vs Shriram Mutual Fund & Anr.* [Civil Appeal No.9523-9524 of 2003] considered the question as to whether once a Mutual Fund violates the terms of Certificate of Registration (which are statutory in nature, as prescribed by Section 15(D)(b) of the Securities and Exchange Board of India Act, 1992) and the statutory Regulations i.e. SEBI (Mutual Funds) Regulations, 1996, the imposition of penalty becomes a *sine qua non* of the violation. The Bench held that “penalty is attracted as soon as contravention of the statutory obligation as contemplated by the Act and the Regulation is established” and that “intention of the parties committing such violation” i.e. *mens rea* was wholly irrelevant.

The Bench held that the impugned judgment of the Securities Appellate Tribunal had “set the stage for various market players to violate statutory regulations with impunity and subsequently plead ignorance of law or lack of *mens rea* to escape the imposition of penalty.” It held that “imputing *mens rea* into the provisions of Chapter VI-A of the Act is against the plain language of the statute and frustrates entire purpose and object of introducing Chapter VIA to give teeth to the Securities and Exchange Board of India (SEBI) to secure strict compliance of the Act and the Regulations”.

## **SUPREME COURT MIDDLE INCOME GROUP LEGAL AID SOCIETY**

The Supreme Court Middle Income Group Legal Aid Society has been constituted under the Societies Registration Act to provide partial legal service to the middle class section of the Society whose annual income does not exceed Rs.2,00,000/- per annum. 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, framed pursuant to Section 29 of the Legal Services Authorities Act, 1987. It has formulated 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.

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 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. Every person who is desirous of availing the services of an advocate has to approach the Secretary of the Society by filling up an application in the prescribed form available in the office alongwith other relevant documents.

The office of the Society is presently functioning at 109, Lawyers Chambers, Supreme Court Compound(Fax/Phone: 91-11–23388597) and establishment services to it are being provided by the Supreme Court Legal Services Committee.

The website of the Society is linked with the Supreme Court website, namely, <http://www.supremecourtfindia.nic.in> and contains all the information about its functioning.

### **Salient Features of the Scheme are as follows:**

1. The Scheme is applicable for cases intended to be filed in Supreme Court. The litigant can approach the Society in two situations viz. to file or defend a case in the Supreme Court.
2. The applicant may indicate any 3 names both in relation to the Advocate-on-Record or the arguing counsel or the Senior Counsel as the case may be in the order of preference from out of the panel maintained by Society.
3. Any intending litigant desirous of availing the benefit of the Scheme is required to fill up the form prescribed and accept all the terms and conditions contained therein. The proforma also contains a schedule of fee and expenses as applicable from time to time. A sum of Rs.500/- is payable to the Society as service charges.
4. If the Advocate who is appointed under the Scheme is found negligent in the conduct of the case entrusted to him, then he is required to return the brief together with the fee which may have been received by him from the applicant under the Scheme.

5. Schedule of Fee for Advocate on Record /Advocates is as follows:-

(A) Appearance on behalf of the Petitioners.

Item of work	Fee payable
Drafting SLP / Writ Petition / Transfer Petition including list of dates and miscellaneous application ( before notice stage )	Rs.2200/-
Drafting rejoinder affidavit, and / or contesting matter after notice and till disposal at the notice stage	Rs.1100/-
Hearing of the matter at final disposal stage inclusive of adjournment, if any, and / or at appeal stage-	Rs.1650/- per day upto a maximum of Rs.3300/-

(B) Appearance on behalf of the Respondents

Item of work	Fee payable
Drafting counter affidavit / statement of objections and all other necessary applications upto admission stage	Rs.2200/-.
Hearing of matter at final disposal stage including adjournment, if any, and / or at appeal stage.	Rs.1650/- per day upto a maximum of Rs.3300/-

(C) Fee for Senior Advocates.

Item of work	Fee payable
Settlement of Pleadings including conference etc.	Rs.1000/-
Appearance at the admission stage / after notice	Rs.1650/- per appearance upto a maximum of Rs.3300/-.
Appearance at final disposal / appeal stage	Rs.2500/- per appearance upto a maximum of Rs.5000/-

**6. Schedule of rates for Out-of-Pocket expenses is as follows:-**

- (a) Computer Typing charges are payable @ Rs.10.00 per page
- (b) Photostat charges are payable for each extra copy @ Rs. 0.50 per page
- (c) Steno charges are payable @ Rs. 8.00 per page
- (d) Paper Book Binding charges are payable @ Rs. 5.00 each
- (e) Court fee is payable on the petition as per the Supreme Court Rules, 1966 as amended upto date.

## MAJOR INITIATIVES

- 1. Registrar's Courts:** Vide amendments carried out in Order VI, Rules 1 and 2 of the 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, powers of this Court in relation to certain matters were conferred upon the Registrar. Consequently, the first Court of the Registrar started functioning w.e.f 3<sup>rd</sup> April, 2006. 125 matters are being listed everyday before the Registrar.
- 2. Attendance recording system:** For the purpose of monitoring attendance of the Officers and staff in the Supreme Court, Attendance Recording System has been installed at a number of entry points / locations in the Supreme Court Building. Officers/officials have to press the employee code on the machine and thereafter give their thumb or finger print impression on the finger scanner and the machine automatically records the attendance with timings.

## MAJOR EVENTS OF THE QUARTER

### I. Inauguration of exhibition on “Alipore Bomb Conspiracy Case: A pre-Independence Trial” at the Supreme Court Museum.

An exhibition on “Alipore Bomb Conspiracy Case: A pre-Independence Trial” was inaugurated in the Supreme Court Museum on 13<sup>th</sup> May, 2006 by Hon’ble Shri Y.K. Sabharwal, Chief Justice of India in the august presence of Hon’ble Judges of the Supreme Court, Union Minister of Law & Justice, Shri H.R. Bhardwaj and other dignitaries. A Booklet and a Brochure were released by His Lordship on the said occasion. The exhibition is open all days from 10.00 A.M. to 6.00 P.M.

The exhibition traces the history of the incident of Muzaffarpur Bomb outrage in which Khudiram Bose and Prafulla Chaki threw a bomb on 30<sup>th</sup> April, 1908 on a carriage mistaking it for the carriage of Kingsford, the infamous Presidency Magistrate of Calcutta who had awarded unconscionable sentences to Indians. The wife and daughter of Pringle Kennedy, a Barrister at the Muzaffarpur Bar were killed in the incident. Khudiram Bose was arrested and Prafulla Chaki committed suicide. Khudiram Bose was tried and sentenced to death on 11<sup>th</sup> August, 1908.

The exhibition portrays exhibits/objects in different sections relating to (i) historical background of the event; (ii) British Imperialism in India; (iii) the event and its impact on the administration; (iv) trial in the Court of Alipore and (v) the aftermath of the trial and its impact on independence movement.

### II. Activities of NALSA (National Legal Services Authority)

1. *Programme Planning Workshop Under The Project Nyaya Sankalp*: A new project titled ‘Nyaya Sankalp’ was launched in association with UNDP with the object of sensitization and capacity building of Judiciary Members for prevention of trafficking and HIV/AIDS on 16<sup>th</sup>-17<sup>th</sup> April 2006 at Vigyan Bhawan, New Delhi. The programme, under the project, is being implemented in 11 States of the country.
2. *Programme On Legal Rights Of Labouring Communities*: National Legal Aid Week for Protection of Labour Rights was observed from 25<sup>th</sup> April 2006 to 1<sup>st</sup> May 2006. A Symbolic Cycle Rally of labourers was flagged off by Hon’ble Mr. Justice Y.K. Sabharwal, the Chief Justice of India from His Lordship’s residence in the morning on 1<sup>st</sup> May 2006. A Workers Colloquium on Social Justice and Equality was organised by the Authority at Siri Fort Auditorium, Khel Gaon, New Delhi. Hon’ble Mr. Justice Y.K. Sabharwal, the Chief Justice of India along with Dr. H.R. Bhardwaj, Hon’ble Union Minister for Law & Justice, Hon’ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Chairman, Supreme Court Legal Services Committee and Hon’ble Mr. Justice Vijender Jain, Acting Chief Justice, Delhi High Court addressed the gathering.
3. *All India Meet Of High Court Legal Services Committees*: The First All India Meet of High Court Legal Services Committees was organised to develop Plan and Policy Initiative and a Charter of Action Plan for the improvement of the Quality of Delivery of Legal Aid Services to the poor and disadvantaged at the High Court Level on 29<sup>th</sup> April 2006 at Gulmohar Hall, Habitat World, India Habitat Centre, Lodhi Road, New Delhi. Hon’ble Mrs. Justice Ruma Pal, Judge, Supreme Court of India & Executive Chairperson, Nalsa inaugurated the Meet in the

august presence of Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Chairman, Supreme Court Legal Services Committee and Hon'ble Mr. Justice Arijit Pasayat, Judge, Supreme of India. The Meet was also attended by the Chairpersons and Secretaries of the High Court Legal Services Committees.

4. *Social Justice Week For Fisherfolks In Distress*: Social Justice Week for Fisherfolks in distress in the coastal States of Kerala and Tamil Nadu was observed from 25<sup>th</sup> – 30<sup>th</sup> May 2006. Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Chairman, Supreme Court Legal Services Committee launched two Mobile Legal Literacy Campaigns on Boat on 26<sup>th</sup> May 2006, one at Fishermen Village, Anjuthengu, Varkala and another at Janardhan Temple Chowk, Varkala. He also inaugurated a conference of Fisherfolks of Tamil Nadu and Kerala on 27<sup>th</sup> May 2006 at Nagerkoil, Kanyakumari (Tamil Nadu). About 1,300 fisherfolks were present in the Conference.
5. *Workshop of Bar Associations*: A workshop of the Bar Associations of the 11 States under the UNDP-TAHA Project was organised at Varkala (Kerala) on 26<sup>th</sup>-27<sup>th</sup> May 2006 to sensitize the Bar Members regarding the Legal and Human Rights Issues related to the survivors of Trafficking and HIV/AIDS. The workshop was inaugurated by Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India.
6. *Workshop of Judicial Academies*: A workshop of the State Judicial Academies of the 11 States under the UNDP-TAHA project was organized on 28<sup>th</sup>-29<sup>th</sup> May 2006 at Cochin, Kerala to consider the incorporation of HIV and Trafficking in Women and Girls in the curriculum of Judicial Academies. Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India inaugurated the workshop. Directors of the Judicial Academies of the project States participated therein.

### III. Activities of NJA (National Judicial Academy)

1. *Workshop on Mediation, Conciliation, Arbitration and Negotiated Settlement of Disputes*: This workshop which aimed to analyze the new provisions in the context of ground realities, identify strategies to promote the increased use of ADR in the system and help acquire essential skills in the use of ADR techniques in different types of disputes was held from 7-12 April, 2006. 36 District & Sessions Judges participated in the workshop.
2. *Judicial Symposium on Gender Discrimination, Population Policy and Rights of Women*: This Judicial Symposium jointly organized by the Population Foundation of India, New Delhi and the National Judicial Academy which explored the dismal social reality of Indian women with reference to demographic factors, reproductive rights and criminal justice administration was held from 15-16 April, 2006. The Hon'ble Chief Justice of India, Justice Y.K. Sabharwal and Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court, addressed the participants, which included Hon'ble High Court Justices in charge of judicial training in their respective States and as well as Directors and Additional Directors of the various State Judicial Academies. The highlights of the discussion were the critical evaluation of the declining sex ratio, the health rights of women with particular emphasis on reproductive rights. The application of the Medical Termination of Pregnancy Act, 1971 and the PNDT Act, 1994 in relation to gender justice were also discussed at length.
3. *Advanced Course on Economic Crimes*: With Globalisation and unprecedented developments in science and technology, the pattern of crime in the economic sector has assumed menacing



---

proportions. This course which specially focussed on the distinctive features and special procedure within the existing procedural laws which can be applied for adjudication of the speedy and effective disposal of economic crimes was held from 21-23, April 2006. 20 Special Judges of the Economic Offences Courts participated in the course.

4. *Refresher Course on Judiciary and Media Relations-Issues and Concerns*: The role and responsibility of media in reporting on judicial proceedings, especially those involving women and children; trial by media and its typology; the effective exercise of contempt power; and sting operations and the legal responses formed the core of the discussions in this course which was held from 4-7, May 2006. The four-day deliberations culminated in the formation of a comprehensive Code titled “Media Reporting of Legal and Judicial Proceedings: A Model Code”. 15 District & Sessions Judges, including Registrars of High Courts participated in the course.

## VISITS AND CONFERENCES

1. Hon'ble Mr. Y.K. Sabharwal, Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan and Hon'ble Mr. Justice Ashok Bhan, Judges, Supreme Court of India accompanied by Mr. V.K. Jain, Court Administrator-cum-Registrar General, Supreme Court of India attended the IXth Indo-British Legal Forum Meet at Edinburgh, U.K. on 29<sup>th</sup> and 30<sup>th</sup> June, 2006. A number of *important issues* such as Constitutional Law-Separation of powers; The Judiciary and the Media; The Effect of Human Rights on Environmental Law and Issues arising from Terrorism were extensively discussed at the Meet.
2. Hon'ble Mr. Y.K. Sabharwal, Chief Justice of India attended the (i) celebration of the 50<sup>th</sup> Anniversary of the Constitutional Court of Italy at Rome from 21<sup>st</sup> to 22<sup>nd</sup> April, 2006; (ii) 18<sup>th</sup> International Conference of International Council for Commercial Arbitration at Montreal, Canada from 31<sup>st</sup> May to 3<sup>rd</sup> June, 2006 and (iii) 72<sup>nd</sup> Biennial Conference of International Law Association at Toronto, Canada from 4<sup>th</sup> to 8<sup>th</sup> June, 2006
3. Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India participated in the celebrations of the Intensive Study Programme for Judicial Educators conducted by Commonwealth Judicial Education Institute at Halifax (Canada) from 7<sup>th</sup> to 14<sup>th</sup> June, 2006.
4. An eleven member South African delegation headed by H.E. Ms. Brigitte Sylvia Mabandla, Minister of Justice and Constitutional Development, visited Supreme Court of India on 10<sup>th</sup> April, 2006 and had a meeting with Hon'ble the Chief Justice of India, Hon'ble Mrs. Justice Ruma Pal and Hon'ble Mr. Justice K.G. Balakrishnan.
5. A five member Tanzanian delegation of the High Court of Tanzania (Commercial Division) headed by Dr. S.J. Bwana, Judge In-charge Commercial Court, visited Supreme Court of India on 12<sup>th</sup> June, 2006 and had a meeting with Hon'ble Dr. Justice G.C. Bharuka, Chairman and Mr. N.S. Kulkarni, Member (Judicial) and Mr. Manas Patnaik, Member (Technical) of the E-Committee.