

PENDENCY OF CASES IN INDIA (JUSTICE DELAY IS JUSTICE DENIED)

ALICE CHOUHAN¹

Abstract

In present the reality of court which is well known to people is pendency of cases. Pendency of court cases is a long ailing problem which is faced by Indian Judiciary. In India pending cases is continuously rising. This is one of the most crucial drawback of Indian Judiciary. In India more than half of the population avoid to approach court to resolve their problem DUE TO DELAY IN THE JUSTICE WHICH IS EQUIVALENT TO DENIED IN THE JUSTICE. At every hierarchy of judiciary there has been significantly increase in pending cases. According to data of Ministry of Law and Justice, in India More than 3.68 crore cases are pending in Supreme Court, High Courts and numerous District and Subordinate Courts. THE NUMBER OF UNRESOLVED LITIGATION IN INDIA IS 3.59 CRORE, WHICH SHOWS THE URGENCY TO TAKE SERIOUS STEP TO REDUCE THE PENDING CASES IN DIFFERENT COURTS. In this article we will analyse about the total number of pending cases, reason or cause of pendency of cases, COVID 19 impact, Government measure and suggestion to solve this problem.

KEYWORDS -

Ailing, Litigation, Mediation, Pandemic, ad-hoc Judges, Accused, Disposition, Allegation.

¹ SCHOOL OF LAW, DAVV, INDORE

PENDENCY OF CASES IN INDIA

In twenty first century the biggest challenge before India is to provide timely justice. Constitutional provisions, rights are of no use if remedy is not provided on time.” According to black law dictionary, pendency is the state of being pendent or undecided, the state of an action after it has been begun and before the final disposition of it. ²

Parliament with the view to reduce pendency of cases introduce a bill which increases the number of judges of Supreme Court from 30 to 33 (including the chief justice of India)³. National Court Management System ⁴ was approved by Supreme Court in 2017 with the view to reduce pending cases. Supreme Court in its report estimated that with the increase in population, literacy rate, awareness among the people the number of new cases will be increased by 25 crore.

CAUSES OF PENDENCY OF CASES IN INDIA

Some of the important reasons for pending cases in India are as follows –

- **LOW STRENGTH OF JUDGES**

The main cause of pendency of cases in India is low strength of judges. As per latest data there are approximately 1800 strength of judge need in High courts of India, out of this only 700 is working and rest seats are vacant. Similar situation prevails in District and Subordinate Courts. With this we can analyse that nearly half of the strength of the judges’ seats are vacant that is one of the reason for pendency of cases.

- **TIME CONSUMING PROCEEDINGS**

Time consumed in proceedings of cases is too lengthy that people have to wait years for the judgement of the court. Government and Supreme Court released the guidelines to lowers courts to dispose judgement within the specified time limits, but this was unsuccessful due to seriousness of cases and diverting of correct judgement which harms none.

- **NUMBERS OF APPEAL PROVISION OF THE COURTS**

If parties are not satisfied with judgement of lower courts they can appeal to higher courts. Appeal provision was inserted to give opportunity and satisfy the parties with the judgement of the court but now a days this is misuse by litigants it to earn money. This is another cause of pendency of cases.

- **LACK OF INFRASTRUCTURE**

Especially in District and Subordinate courts there is infrastructure problem which contributes to pendency of cases. There are small trail in which only 7 to 8 peoples can accommodate, no library for judges and advocates, no sitting facilities and no proper washrooms.

² Definition by Black law Dictionary.

³ Amendment Bill 2019.

⁴ Policy and Plan of government for management of courts.

- **LESS COMPETENCY OF JUDGES**
Before appointment of judges proper training should be provided to them so that they are competent enough to give quick and effective judgement which can satisfy the aggrieved party without further appeals.
- **LACK OF LITIGATION FROM GOVERNMENT SIDE**
Government should increase litigations from its side as according to latest data more than half of the cases pending in court are of government litigations. So there is urgency to increase government litigations.
- **LACK OF COURTS**
With the increase in population, literacy rate and awareness among the people, cases are increasing at high rate which create need for increase in the number of courts. Both the central and state government should allocate its expenditure to the judiciary system.
- **LACK OF FAIR COMPETITION**
Indian judiciary suffers from unfair competition. There is unfair competition between advocates against each other. When judge give judgement against another advocate than advocate challenge the judgement on ground of corruption, biasness. This is the reason for the increase in the unnecessary cases and pendency of cases.
- **LACK OF AWARENESS AMONG THE PEOPLES**
In India more than half of the population are unaware about the alternative dispute resolution, lok adalats, tribunals and pre-litigation mediation which solve disputes at grass root level. But due to unawareness among the people, they directly approach the District Court which increases the pending cases.

Former Chief Justice of India Ranjan Gogoi gave direction to High Court and District Courts that they should not take leave on working days, except in case of emergency.

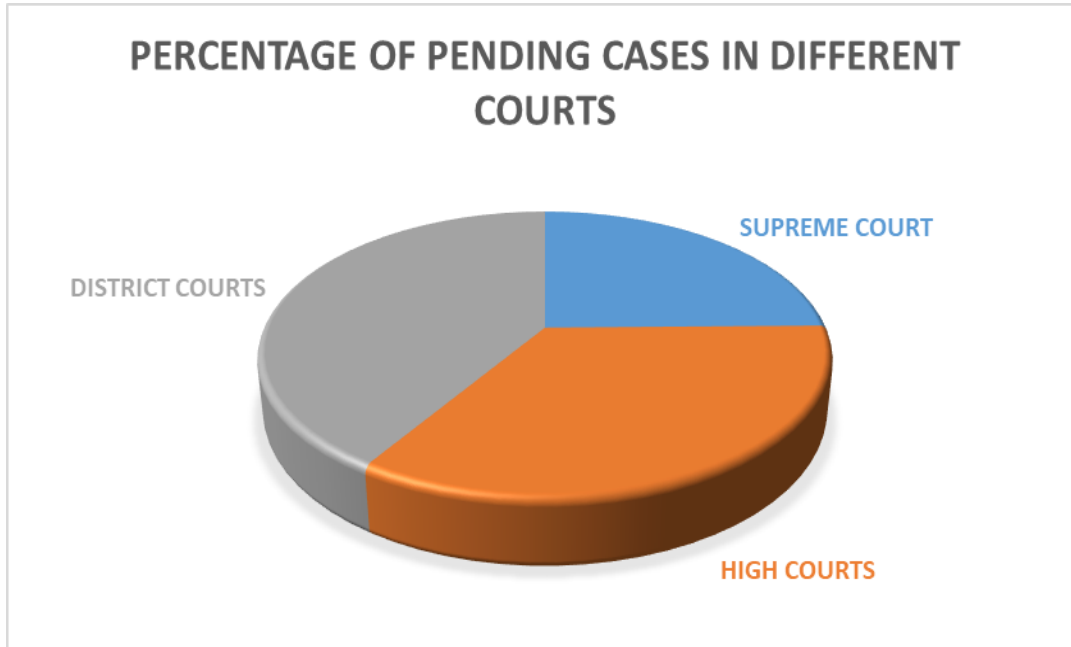
Law Commission of India has decreased the vacation of judges by 10 to 15 days and increase the working days by half an hour. Continuous efforts are made by Central and State government to decrease the pendency of cases.

STATUS OF PENDENCY OF CASES IN INDIA ⁵

All over the India there has been 3.52 million cases pending in various courts including Supreme Court, High Court, District Court and various Subordinate Courts. Pendency of cases has been increasing since last decade.

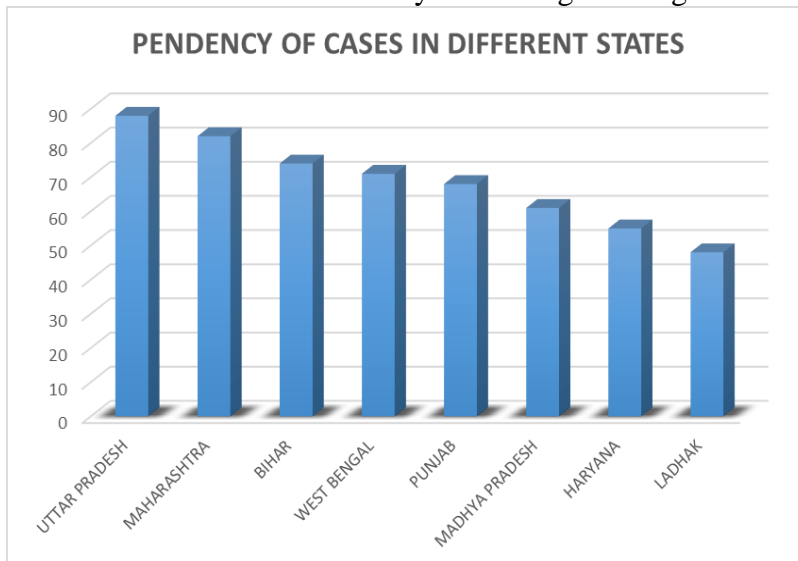
There is almost 86% cases pending in District courts and Subordinate Courts, 72% cases pending in High Courts and 52% cases pending cases in Supreme Courts. We can analyse it through this figure -

⁵ Latest data according to Report of 2020.

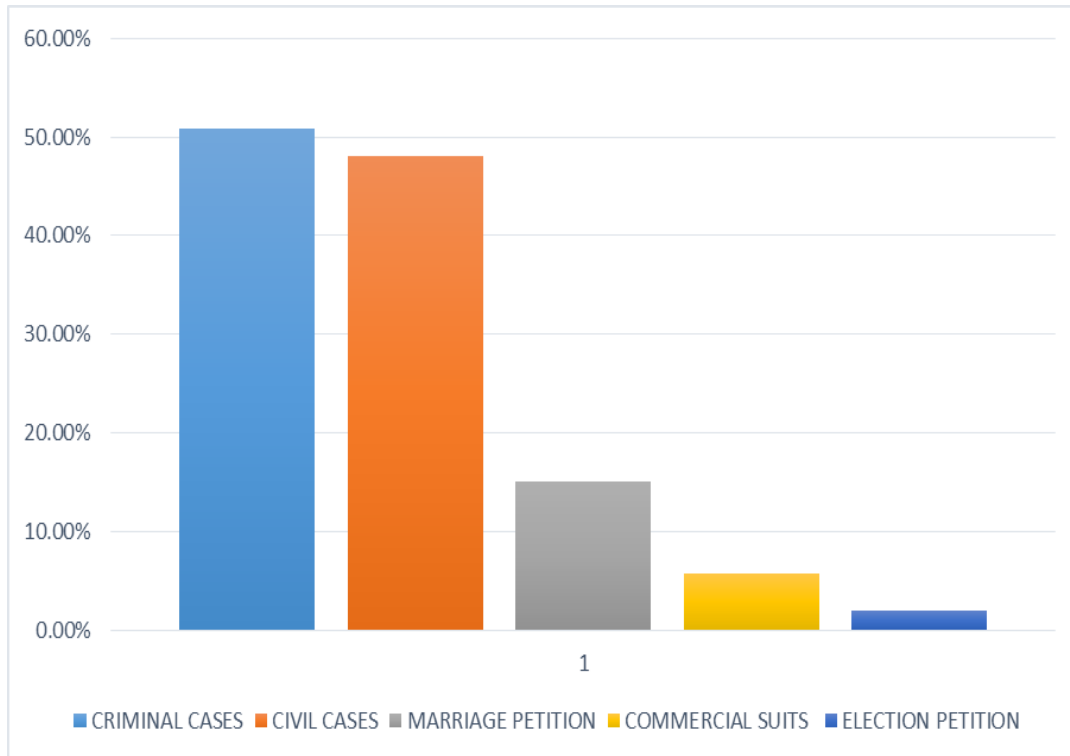


CASES PENDING IN DIFFERENT STATES

Largest number of pending cases are in Uttar Pradesh followed by Maharashtra, Bihar, West Bengal, Punjab, Madhya Pradesh, Haryana and many other states. Lowest number of pending cases is in Ladhak. We can analyse it through this figure-



DIFFERENT CATEGORIES OF CASES PENDING IN DIFFERENT COURTS



CASE LAWS EMPHASIS IN SPEEDY JUSTICE

Hussainara Khaton V/S State of Bihar ⁶

Writ petition of Habeas Corpus was filed before Supreme Court on the matter that large no. of men, women, children were in the prison for many year waiting for their trial in court for adjudication of their cases. State government of Bihar ordered to release under trial prisoner whose investigation continued for more than 6 months. In this case Supreme Court held that Article 21 of Indian constitution was violated as prisoners are kept in jail for the period exceeding the period of their conviction. State cannot refuse for speedy trial for the accused because of financial and administrative inability. Supreme court emphasis on article 39 A which provides for free legal aid to people irrespective of their economic condition which also involves reasonable just and fair procedure in court of law.

Katar Singh V/S State of Punjab⁷

⁶ Writ petition 1979 AIR 13369.

In this case Supreme Court held that Article 21 (Right to life and personal liberty include right to speedy trial). Right to speedy trial has become the fundamental right of Indian Citizens.

Abdul Rahman Antulay v/s R.S.Nayak⁸

In this case Supreme Court had issued certain guidelines for the speedy trial and speedy justice of cases. Right to speedy trial is included in all stages like investigation, inquiry, summon, trial, appeal and judgement also.

CASE LAWS (PENDING FROM DECADES) -

Uphaar Cinema Case – (JUDGEMENT GIVEN AFTER 2 DECADES)⁹

In this case fire break at cinema theatre were people were watching BORDER movie. 59 people were died of Asphyxia and 100 were injured. After 2 decades Supreme had given judgement of one year imprisonment to Gopal Ansal(owner of cinema theatre) and he is also liable to pay 25 Crores compensation to relatives of victims.

Jessica Lal Case¹⁰

Jessica who was model in New Delhi was shot dead on April 30, 1999. Several were witnessed by the court. Fast Track Court daily hear the trail over 25 days. On 6th December 2006, Manu Sharma was found guilty of murdered and was convicted.

Tandoor Murder Case¹¹ (JUDGEMENT GIVEN AFTER 20 YEARS OF PRNDING CASE)

Sushil Sharma, a youth congress leader on 2 July 1995 in an anger murdered his wife Naina Sahni and chopped her body into pieces and put it in Tandoor of restaurant. Sushil Sharma was convicted of murder by Delhi High Court and in 2018 he was given life imprisonment by order of Supreme Court.

GOVERNMENT STEPS TO DECREASE PENDENCY OF CASES –

Government is continuously taking steps to reduce the pendency of cases.

FAST TRACK COURT

Eleventh Finance Commission in 2000, made recommendation for the FASRT TRACK COURT for next five years to eliminate pendency of cases in District and Subordinate Courts. Central government has extended deadline of fast track court to March 2015 but State Government can establish it in various Districts depending pending cases. Central government has also ordered to

⁷ 1994 SCC (3) 569, JT 1994 (2) 423.

⁸ Writ petition 833 of 1990.

⁹ 2003 ACC 114.

¹⁰ 2010 (6) SCC 1.

¹¹ 2007 SCC 4008.

pay Rs.80 Crores as a Judge salaries. Retired Judges used to preside cases of this court. Fast track court helps in speedy disposal of cases and make judiciary more effective and efficient.

BORIJ MOHAN LAL V/S UNION OF INDIA¹²

In this case Supreme Court held that State government should provide funds for setting up more fast track court as it disposed more than 3.3 Lakhs cases as compared to High Court.

With time fast track court gain more importance for speedy trails. Fast track court hear the cases of crimes against Children, women, senior citizens, disabled people and other heinous crimes. In Magna Carta of English law, right to speedy trial is mentioned but it is absent in the Magna Carta of India.

LOK ADALAT¹³

It is known as People's Court. It is based on Ghandhian Principle. It is one of the simplest method of resolving disputes among the parties. It enriched Article 39 (A) of Indian Constitution which provides for free legal aid to weaker section of the society. It aim for speedy justice, providing justice to every member of society irrespective of their economic condition. Any people can approach Lok Adalat if case is pending in subordinate courts. Advantages of Lok Adalat-

- It provides free justice.
- It provides quick judgement.
- It involves simple process of trial of cases.
- Parties can directly interact with the judges to resolve their disputes.
- It reduces burden on higher courts.
- It has jurisdiction over all cases (civil cases, criminal cases, revenue cases, family disputes, labour disputes, partition, matrimonial cases and land acquisition cases and other cases).

Parliament in 2002 did amendment in Legal Services Authority Act 1987 to make lok adalat permanent body to settle disputes related to public utility services.

TRIBUNALS¹⁴– (QUAI JUDICIARY INSTITUTION)

Tribunals are an adjudicatory body. Indian constitution has two provisions related to tribunals Article 323 A and Article 323 B.

Article 323 A provides for Administrative Tribunals. Parliament is empowered to set up Administrative Tribunals for Public Services matters (matters related to appointment, qualification, retirement, suspension and other matters relate to services).

¹² (2005) 3 SCR 103.

¹³ Legal Service Authority Act 1987.

¹⁴ Inserted by 42 nd Amendment act 1976.
Part XIV A.

Article 323 B provides for tribunals for other purposes. Parliament and State Legislature are empowered to set up Tribunals for other purposes (including taxation, land reforms, rent, labour issues, foreign exchange, environment, export and import and various other issues).

Purpose for setting tribunals is-

- To reduce burden and pending cases in various courts.
- To provide quick justice.
- To provide expertise decision for problem solving.
- To involves speedy and simplicity procedure of justice.
- It provides informal and inexpensive justice.

Tribunals are the part of civil and criminal court system under supremacy of Supreme Court.

PRE-LITIGATION MEDIATION

It is one of the method used to reduce pendency of cases in judicial system. In this system legal service authority conduct pre litigation mediation of parties before matter reaches to the court.

E-COURT NATIONAL PORTAL

This portal gives training, measurable reports to District Court Judges and other staff for proper utilization of Judicial Administration Data Framework.

GRAM NAYAYALAYAS (GRAM NAYAYALAYAS ACT 2008) -

Gram Nayayalayas or VILLAGE COURT has been set up in the rural areas for adjudication of justice. It help to reduce workload of higher courts by solving disputes at low level at low cost in effective manner. This court are presided by Nyayadhikari, who is appointed by State government after consulting with the High Court Judge and he enjoys same power as judicial magistrate of first class. Gram Nayayalayas follows the same procedure as court and its appeal can be made to higher courts.

DIGITAL CARE AND SUPPORT CENTERS

It has been set up by high judicial system at rural areas to resolve the disputes at grass root level which reduces pending cases at higher courts.

With the Special Court, Alternative Dispute Resolution, Lok Adalat, Gram Nayalalayas, Fast Track Court- all this contributed to reduce pendency of cases but still there is around 3.65 Crore cases pending in different courts in India.

PANDEMIC IMPACT ON PENDENCY OF CASES

Due to this pandemic of COVID 19, court hearings shifted from physical to virtual hearings. As per data from National Judicial Data Grid (NJDG) ¹⁵ Pendency of cases has been significantly increasing at high rate. In this pandemic pendency of cases reached full height including cases of District Court, High Court and Supreme Court.

Data of cases increased in this pandemic-

Various Court in India	Percentages of pending cases
SUPREME COURTYT	11.50%
HIGH COUERTS	25.6%
DISTRICT COURTS	32.00%

According to Chief Justice S.A.Borde ¹⁶

Pendency of cases has gone out of control and there is need for guidelines for appointment of temporary Judges to tackle this problem.

Recently, **PM Modi has launched Justice Khehar's** policies to resolve problem of pendency of cases and emphasis on use of technology for legal work. He put stress on digitalisation of judiciary system to resolves this problem. ¹⁷

Minister Ravi Shankar Prasad put emphasis on "MISSION MODE" to solve problem of increasing litigations in India.

President Ram Nath Kovind – "Judges are overburdened by volumes of cases and this leads to long delay in Indian Legal System." So there is urgent need for to increase the strength of the Judges.

Hearing of cases in this pandemic –

Supreme Court heard – approximately 52000 cases through Video Conferencing.

High Courts heard - approximately 21 lakhs cases through Video Conferencing.

District Courts heard - approximately 46 lakhs cases through Video Conferencing.

The pandemic had a serious effect on every individuals of country and each one is trying his best to come out of this situation.

¹⁵ A government platform monitoring judicial data.

¹⁶ Latest report by THE HINDU.

¹⁷ Latest report by THE TIMES OF INDIA.

CONCLUSION –

Pendency of cases is one of the biggest problem of Indian Judiciary which need urgent solution. Both the central and state government is making continuous effort to increase the strength of courts and judges to tackle this problem. Government has taken various steps like setting up Tribunals, lok adalats and many more institution to solve people disputes and problems at lower level of judiciary but this are also ineffective with increase in population, literacy rate and awareness among the people. We all have heard the quote “JUSTICE DELAY IS JUSTICE DENIED”, it is true when people did not get justice on time and it is equivalent to deny in justice. Not only the government but people should also contribute with the government by solving their problems by pre-litigation mediation and giving time to court to solve severe issues of society.

REFERENCES –

www.wikipedia.com
www.iblog.pleader.com
www.economicstimes/statical/data.com
www.thehindu.com
www.bitly.com
www.legalservices.com/article
www.latestlaw.com/library/legal-document
www.barandbench.com
www.indiakanoon.com