

**SPEECH OF HON'BLE MINISTER OF LAW AND JUSTICE**  
**FOR THE PROGRAMME ON 5.12.2014**

**INTRODUCTION:**

Mr. Manan Kumar Mishra, Senior Advocate, Chairman, Bar Council of India, Mr. Bhoje Gowda S.L., Vice-Chairman of the Bar Council of India, office bearers and members of Bar Council of India, representatives of all the State Bar Councils, the office bearers of Supreme Court Bar Association, High Court Bar Association and all other Bar Associations of Delhi & NCR , other invitees and dignitaries, ladies and gentlemen, I am greatly delighted to be with you today.

**LEGAL PROFESSION IN INDIA:**

Legal profession in our country is not a new one. It has a cherished history. The history of the legal profession in India can be traced back to the establishment of the First British Court in Bombay in 1672.

**JUSTICE DELIVERY SYSTEM:**

In the justice delivery system, there are three stakeholders – Judiciary, Bar and the Government. What Government should do is that it should provide sufficient infrastructure facilities, establish more number of courts and create more posts of judges. What judiciary should do is to prioritise and dispose of cases as early as possible. What lawyers should do is that they should come to the court fully prepared and avoid asking for long adjournments so that length of the trial period can be reduced. Hence it is the collective responsibility of all the three stakeholders to ensure quick disposal of cases. It is high time that all the three come together to address the issue of speedy disposal and reduction in pendency.

The reason why I am laying stress on this point is that poor citizens of our country can hardly afford litigation as the cost of litigation is high and unaffordable for most of our citizens. When I talk about the cost of litigation, it is not only the cost of engaging a lawyer and fees paid to the court. The cost of litigation is much more than this. We have to take into account the time spent and the benefits forgone by the parties to the litigation which is much more than the cost paid to the lawyers and Court fees.

We need to adopt three pronged strategy to reduce the level of high level of litigation:

1. Avoid litigation
2. Adopt alternate dispute resolution mechanism
3. Adjudicate quickly.

Avoiding litigation is in the hands of litigants. It is also possible to avoid litigation if each and everyone of the advocates advise the clients to avoid litigation, if possible. If we create a scenario in which litigation should be treated as a last resort, then I am sure the level of litigation will come down considerably in our country.

In the event of a situation in which the client is not able to avoid the litigation, we should encourage settling the disputes through alternate dispute resolution mechanisms.

The alternative dispute resolution mechanisms are not only quicker in disposing of the disputes but also bring down the pendency in the courts as well as the cost of litigation. We should, as a deliberate policy, encourage alternate dispute mechanisms. In this regard, the role of advocates and the role of judiciary is very important. It is the advocates and counsels who are the first point of contact in the process of litigation. If the Bar and its members advise the clients

to opt for alternative dispute resolution mechanisms, I am sure in the days to come, this will become popular.

I am also aware that it is judiciary which is the ultimate authority in encouraging as well as promoting alternative dispute resolution mechanisms by recognising its role in resolving the disputes as well as giving finality to the settlement of awards passed by the alternative dispute resolution mechanism. This not only will help the litigants but also the whole system will stand to gain as the pendency in the courts will come down considerably. Hence, it is my appeal to the Bar as well as judiciary to promote this mechanism.

In the event of not being able to avoid litigation and if it is not possible to adopt alternative dispute resolution mechanism, the only other way to reduce the pendency is to adjudicate quickly. This in my opinion is only in the hands of the advocates and the Judiciary. As far as the role of advocates in disposing of the cases quickly is concerned, it is by avoiding adjournments and filing the statements and evidence as soon as possible.

We may also have to think of some process reforms like examination-in-chief through sworn in statements or affidavits so that the time taken to complete the trial can be cut short considerably.

We should adopt a system of pre-trial conference involving parties to the litigation so that the schedule for the trial stage beginning with the statements to be filed, the evidence of witnesses and arguments by the counsels of the parties to the litigation can be decided. Government is actively considering the system of pre-trial conference to be made mandatory so that the trial stage can go on as per schedule and bring down the time taken for disposing of cases.

However, as you all know, making it mandatory alone will not help unless the culture of sticking to the schedule agreed upon comes into practice among all of us. My request to all of you is to join hands with this thought of the Government so that we can help our judiciary in disposing of cases as early as possible.

We should also think about penalising the parties to the litigation who are responsible for unnecessary delay by awarding complete cost to the other party. The cost calculated must include the salary of judges, the officers involved in the litigation, the rent for the court building and the cost borne by the other party to litigation. This will considerably regulate and bring down the delays in the trial stage.

One of the very important objectives of our Government led by Hon' Prime Minister Shri Modiji is to make India an international hub for arbitration. It can happen only when certain basic systems are put in place, like the reducing time taken for deciding a dispute, certain modifications in the process adopted and the finality of those awards and the legal sanctity attached to the legal process. If all these are properly put in place, India can certainly dream of becoming an international hub for arbitration.

The benefits of becoming international hub for arbitration are that it can bring many opportunities for the advocates in our country, either by becoming panel lawyers or by becoming part of the arbitration mechanism. The potential financial benefits in international arbitration cases are much higher than what is possible in the domestic cases. Keeping all these in mind, it is in the best interests of the lawyer community of our country to come forward and help making India an international hub for arbitration. It will not only lift the image of India in the international arena but will also provide so much employment and generate income for the lawyer community.

Government is quite serious about reducing pendency of cases in the courts for which concerted efforts are being made. One step in this direction is to increase the number of courts and judges in the country. The second step is to amend certain Acts like the Negotiable Instruments Act, the Motor Vehicles Act and the Arbitration and Conciliation Act so that the number of petty cases handled by the judiciary by investing so much of its precious time can be reduced.

I would welcome any suggestions from all my advocate brothers to speed up justice delivery mechanism and to reduce pendency in our courts across the country.

I also call upon all of you to come forward and take steps to make the justice delivery system accessible to the common man. In this regard, I would urge upon all of you to facilitate the poor litigants by looking at their background and charge reasonable fees so that the citizens are not unduly burdened by high cost of litigation.

### **LEGAL AWARENESS:**

We all know that the legal awareness in India is much to be desired among common man. In this direction, whatever the steps are being taken by the Government and the Legal Services Authority will not be enough unless the bar joins in those efforts to help our countrymen in making them aware of their legal rights and the legal processes so that people do not find it uncomfortable to deal with the justice delivery system.

### **DIGITAL INDIA PROGRAMME:**

As you all know that our Government has taken up Digital India program very seriously. Computerization and digitization of judicial system is one of the main components. The digital India programme taken up by the various Departments can only succeed if there is a

legal sanctity to all those records they create or whatever business is transacted by the Departments. It's possible only if the Judicial system becomes completely computerized and adopts paperless system.

Judiciary adopting system is contingent upon the lawyers and the bar adopting the digital system, thus I call upon the lawyer fraternity to come forward and actively participate in modernizing and digitizing the judicial system in the country.

Making it easy to do business in India is another important programme of the govt which is possible only if we streamline the dispute settlement processes and the judicial system so that we create an enabling environment for the business to thrive in our system.

In this direction, the Law Ministry, the judiciary and the lawyer community will have to play a very important role so that doing business in India becomes hassle free and settling disputes becomes a smooth and easy process.

### **CONCLUSION AND COMMENTS:**

In the present days of globalization, it is time to re-look into our legislations and equip ourselves to meet the future challenges. We need to strengthen ourselves especially in the areas like Biotechnology, Genetic engineering, Intellectual Property Laws, Anti-dumping laws, etc. Needless to say that in order to equip ourselves we need to have an inter-disciplinary study with the active participation of bar across the country.

We all know that our Government has given lot of emphasis on repealing the obsolete laws and amending archaic laws. The Law Ministry has taken steps to repeal about 900 Appropriation Bills as well 750 Amending Acts and 30 original Acts. However, what is more important is to amend the laws in force so that these laws are made relevant in the current changing socio-economic scenario. As you all

know, India is a highly legislated country with so many laws governing our day-to-day life and administration, it is a huge task to look at all the laws in force and amend them to suit the present conditions. It is my earnest request to all the members of the bar to spend every day one hour time in your busy schedule on thinking about the provisions of laws in force to be amended so that we make them relevant as well as make the administration very efficient one.

I will wait for the suggestions from all of you in amending the Acts which are in force and make an effort to include all your suggestions to make our laws more useful to the citizens of our country and not a hindrance in the development and welfare.

The role played by the Bar Council of India and also various State Bar Councils in protecting the dignity of legal profession is laudable. I congratulate them for their efforts in this regard. As new situations arise the law has to be evolved in order to meet the challenge of such new situations.

We, therefore have to evolve new principles and lay down new norms, which would adequately deal with the new problems, which arise, in a highly industrialized economy. I wish them all success in their every endeavour.