

MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE

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Ministry of Law and Justice is the oldest limb of the Government of India. The Ministry functions through three integral departments - Department of Legal Affairs, Legislative Department and the Department of Justice.

**VISION OF THE DEPARTMENT OF JUSTICE**

Facilitating administration of Justice that ensures easy access and timely delivery of Justice to all

**FUNCTIONS OF THE DEPARTMENT OF JUSTICE**

Department of Justice performs the Administrative functions in respect of setting up of higher courts, appointment of Judges in higher Judiciary, maintenance and revision of the conditions and rules of service of the Judges and issues relating to legal reforms. The Department of Justice is also responsible jointly with the judiciary for reduction of pendency of cases in courts. It provides funding assistance to State Governments for modernization of infrastructure and for projects such as computerization of subordinate courts. Detailed functions of Department of Justice are at Annexe.

**SCHEMES UNDER THE DEPARTMENT OF JUSTICE:**

Apart from above functions, the Department of Justice administers various schemes to improve justice delivery.

### **1. Centrally sponsored scheme for development of infrastructure for the judiciary**

A Centrally Sponsored Scheme for the development of infrastructure facilities for the judiciary is being implemented by the Department of Justice. The scheme provides funding for construction of court-buildings and residential accommodation for judicial officers/judges covering both the High Courts and districts/subordinate Courts. One of the main conditions of the scheme is that the State Government must provide 25% of the amount against 75% released by the Centre.

### **2. Gram Nyayalayas (People's Court)**

The Gram Nyayalayas Act 2008 has been enacted to provide for the establishment of Gram Nyayalayas at the grass-root level for the purpose of providing access to justice to the citizens at their door steps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities.

The Central Government has committed to fund the initial cost in terms of the non- recurring expenses for setting up these courts.

### **3. e-Courts**

The Government is implementing an e-Courts Mission Mode Project for computerization of District & Subordinate Courts in the country and for up gradation of ICT infrastructure of the Supreme Court and the High Courts. By virtue of this, case filing, allocation, registration, case workflow, orders and judgements will all be ICT enabled in the

long run. The project was built a national judicial data grid which enables lawyers and litigants to access case information and the judiciary to improve case and court management.

#### **4. National Mission for Justice Delivery and Legal Reform**

The National Mission for Justice Delivery and Legal Reforms was set up in August, 2011 to achieve the twin goals of (i) increasing access by reducing delays and arrears; and (ii) enhancing accountability through structural changes and by setting performance standards and capacities.

#### **5. Legal Aid to Poor**

Assistance is provided to poor people throughout the country for enabling them to access free legal services. The activities and free legal services are provided through National Legal Services Authority (NALSA) established vide National Legal Services Authority Act, 1987.

#### **6. Access to Justice for the marginalized**

The Department of Justice is implementing two projects on 'Access to Justice for Marginalised People' one of them with UNDP support. The focus of the projects has been on empowering the poor and marginalized, make them aware of their rights to demand legal services, while at the same time supporting national and local justice delivery institutions to bring justice to the poor.

#### **7. Fast Track Courts**

The Eleventh Finance Commission had recommended a scheme for creation of Fast Track Courts (FTCs) in the country for disposal of long pending Sessions and other cases. Fast Track Courts are set

up by the State Governments in consultation with the respective High Court. Central Government provided financial assistance to states for Fast Track Courts for eleven years from 2000-2001 to 2010-2011. In its judgment in Brij Mohan Lal vs Union of India & Others on 19.04.2012, the Supreme Court has directed the States that they shall not take a decision to continue the Fast Track Courts scheme on an adhoc and temporary basis. They (States) will need to decide either to bring the Fast Track Courts scheme to an end or to continue the same as a permanent feature in the State. A number of States are now continuing Fast Track Courts from their own resources.

In the Conference of Chief Ministers and Chief Justices held in New Delhi on 7<sup>th</sup> April, 2013, it has been resolved that the State Governments shall, in consultation with the Chief Justices of the respective High Courts, take necessary steps to establish suitable number of FTCs relating to offences against women, children, differently abled persons, senior citizens and marginalized sections of the society, and provide adequate funds for the purpose of creating and continuing them. Government has requested the State Governments and the Chief Justices of the High Courts to implement this decision.

The 14<sup>th</sup> Finance Commission has endorsed the proposal to strengthen the judicial system in States which includes, inter-alia, establishing 1800 FTCs for a period of five years for cases of heinous crimes; cases involving senior citizens, women, children, disabled and litigants affected with HIV AIDS and other terminal ailments; and civil disputes involving land acquisition and

property/rent disputes pending for more than five years. The 14<sup>th</sup> Finance Commission has urged State Governments to use additional fiscal space provided by the Commission in the tax devolution to meet such requirements.

## **JUDICIAL STRUCTURE**

India has a three tier judicial structure. At the lowest level are the District and Subordinate Courts, in over 600 administrative districts. At the next level are the High Courts in the States. By and large, each State has a High Court. But some states have a common High Court. (There are a total of 24 High Courts in the country). At the apex level is the Supreme Court of India situated at New Delhi.

### **1. Supreme Court of India**

The Supreme Court of India comprises the Chief Justice and 30 other Judges appointed by the President of India. The Judges of the Supreme Court are appointed by the President under Article 124 (2) of the Constitution while the Judges of the High Courts are appointed under Article 217 (1) of the Constitution. The President is required to hold consultation with such of the Judges of the Supreme Court and of the High Courts in the State as he / she may deem necessary for the purpose. However, consultation with the Chief Justice of India is mandatory and constitutionally a must, for appointment of Judges other than the Chief Justice in the Supreme Court. Supreme Court Judges retire upon attaining the age of 65 years. In order to be appointed as a Judge of the Supreme Court, a person must be a citizen of India and must have been, for at least

five years, a Judge of a High Court or of two or more such Courts in succession, or an Advocate of a High Court or of two or more such Courts in succession for at least 10 years or he must be, in the opinion of the President, a distinguished jurist. Provisions exist for the appointment of a Judge of a High Court as an Ad-hoc Judge of the Supreme Court and for retired Judges of the Supreme Court or High Courts to sit and act as Judges of that Court.

## **2. High Courts**

The High Court is the apex court of the State's judicial administration. The Judges of the High Courts are appointed by the President under Article 217 (1) of the Constitution. There are 24 High Courts in the country, three having jurisdiction over more than one State. Among the Union Territories Delhi alone has a High Court of its own. Other six Union Territories come under the jurisdiction of different State High Courts. Each High Court comprises a Chief Justice and such other Judges as the President may, from time to time, appoint. The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the State. The procedure for appointing puisne Judges is the same except that the Chief Justice of the High Court concerned is also consulted. They hold office until the age of 62 years and are removable in the same manner as a Judge of the Supreme Court. To be eligible for appointment as a Judge one must be a citizen of India and have held a judicial office in India for ten years or must have practised as an Advocate of a High Court or two or more such Courts in succession for a similar period.

The transfer of Judges from one High Court to another High Court is made by the President after consultation with the Chief Justice of India under Article 222 (1) of the Constitution.

### **3. Subordinate Courts**

Different State laws provide for different kinds of jurisdiction of courts. Each State is divided into judicial districts presided over by a District and Sessions Judge, which is the principal civil court of original jurisdiction and can try all offences including those punishable with death. The Sessions Judge is the highest judicial authority in a district. Below him, there are Courts of civil jurisdiction, known in different States as Munsifs, Sub-Judges, Civil Judges and the like. Similarly, the criminal judiciary comprises the Chief Judicial Magistrates and Judicial Magistrates of First and Second Class.

In exercise of powers conferred under proviso to Article 309 read with Articles 233 and 234 of the Constitution, the State Government frames rules and regulations in consultation with the High Court for appointments, posting and promotion of District Judges. As per Article 235, the control over subordinate courts in a State vests in the High Court. The members of the State Judicial Service are governed by these rules and regulations. Therefore, the service conditions, including appointment, promotion, and reservations etc. of judicial officers of the District/Subordinate Courts are governed by the respective State Governments.

### **NATIONAL JUDICIAL APPOINTMENTS COMMISSION**

The Government of India has decided to set up a National judicial Appointments Commission (NJAC) for appointment of Judges of Supreme Court and High Courts. The NJAC would replace the present Collegium system of the Supreme Court for recommending appointment of Judges in higher judiciary.

The Constitution Amendment Act, 2014 published on 31<sup>st</sup> December, 2014 provides for the composition and the functions of the National Judicial Appointments Commission (NJAC). The NJAC would be chaired by the Chief Justice of India. Its membership would include two senior most Judges of the Supreme Court, the Union Minister of Law & Justice, two eminent persons to be nominated by a committee of the Prime Minister of India, the Chief Justice of India, and the Leader of the Opposition in the House of the People, or if there is no Leader of the Opposition, then the Leader of the single largest Opposition Party in the House of the People. Secretary (Justice) will be the Convenor of the Commission.

### **GRIEVANCES AGAINST JUDICIARY**

Department of Justice receives online/off line grievances from public against judgments of the Courts, delay in their cases and against Judges/Judicial Officers. These grievances are forwarded to the Secretary General of Supreme Court/Registrar Generals of the concerned High Courts for disposal at their end.

### **PREVIOUS VISIT OF CHINESE DELEGATION**

A Chinese Delegation lead by Shri Zhang Sujun, Hon'ble Vice Minister for Justice of People's Republic of China, visited Department of Justice on 26<sup>th</sup> Nov, 2012 and held discussions with Secretary (Justice) and other senior officers of Department of Justice. A copy of the Record of Discussion of this meeting is at Annexe-I.

### **MOU BETWEEN INDIA & CHINA**

A Memorandum of Understanding between the Ministry of law & Justice of the Government of Republic of India and the Supreme

Peoples' Prosecution Service of the People's Republic of China relating to promotion of cooperation in Legal/Judicial matters was signed on 23<sup>rd</sup> June, 2003. Copy of the MoU is at Annexe-II.

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## Annexe

- Appointment, resignation and removal of the Chief Justice of India, Judges of the Supreme Court of India and High courts; their salaries, rights in respect of leave of absence (including leave allowances), pensions and travelling allowances.
- Constitution and organization (excluding jurisdiction and powers) of the Supreme Court (but including contempt of such Court) and the fees taken therein.
- Constitution and organization of the High courts and the courts of Judicial Commissioners except provisions as to officers and servants of these courts.
- Constitution and organization of courts in the Union Territories and fees taken in such courts.
- Administration of funds approved under Finance Commission awards.
- Collection of data on institution, disposal, pendency of cases in courts and monitoring the status of under trial prisoners.
- Initiate policy measures for judicial reforms.
- Setting up and operationalisation of National Mission for Justice Delivery and Legal reforms.
- Creation of All India Judicial Service (AIJS).
- Implementation of various schemes to facilitate development and modernization of infrastructure for judiciary.
- Strengthening Department of Justice – e-office, statistical wing, revamp official website, training and augmentation of human resources

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