



COURT NEWS

Vol. I Issue No. 3

July-September 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

CONTENTS

From the desk of Chief Justice of India	1
Appointments of High Court Judges	2
Transfers of High Court Judges	2
Vacancies in Courts	3-5
Institution, Disposal and Pendency of Cases	6-8
Some Recent Supreme Court Judgments of Public Importance	9-16
Major Initiatives	17
Major Events	18-21
Important Visits and Conferences	22-24

Y.K. Sabharwal
Chief Justice of India



5, Krishna Menon Marg,
New Delhi-110011

FROM THE DESK OF CHIEF JUSTICE OF INDIA

The first two issues of Court News were widely acclaimed, not only by legal fraternity, but also by law students, law teachers and the common citizens. The third issue, besides updated information on institution, pendency and disposal of cases in Courts at all levels and vacancies in different Courts, also contains gist of important judgments of Public Importance delivered by this Court between July to September, 2006. It also gives an insight into activities of National Legal Services Authority and National Judicial Academy.

An important recent development has been introduction of E-filing in Supreme Court. This facility will be of immense use, particularly to persons residing away from Delhi. Salient features of the scheme have been included in this issue.

I am confident that like previous issues, this one also will prove to be useful and informative to the readers. Any suggestion for carrying out further improvements will be gladly considered by Supreme Court Registry.

3rd November, 2006

[Y.K. Sabharwal]

APPOINTMENTS OF HIGH COURT JUDGES

(From 1st July, 2006 to 30th September, 2006)

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	N. Ramamohana Rao	11-09-2006
		C.V. Nagarjuna Reddy	11-09-2006
3.	Bombay	H.S. Bedi (As Chief Justice)	30-09-2006
		A.B. Chaudhari	08-09-2006
		R.M. Borde	08-09-2006
		R.V. More	08-09-2006
		R.M. Savant	08-09-2006
		P.R. Chandra Borkar	08-09-2006
		C.L. Pangarkar	08-09-2006
4.	Delhi	Aruna Suresh	04-07-2006
5.	Jharkhand	M. Karpagavinayagam (As Chief Justice)	17-09-2006
6.	Madhya Pradesh	Rakesh Chandra Mishra	11-09-2006
7.	Madras	K. Venkataraman	31-07-2006
		K. Chandru	31-07-2006
		V. Ramasubramanian	31-07-2006
		S. Manikumar	31-07-2006
		A. Selvam	31-07-2006
		P.R. Shivakumar	18-09-2006
		G. Rajasuria	18-09-2006
8.	Uttaranchal	Dharam Veer	23-09-2006

TRANSFERS OF HIGH COURT JUDGES

(From 1st July, 2006 to 30th September, 2006)

S.No.	From	To	Name of the Hon'ble Judge	Date of Transfer
1.	Jharkhand High Court	Madras High Court	S. J. Mukhopadhaya	31-08-2006

VACANCIES IN COURTS

A) SUPREME COURT OF INDIA (As on 1st October, 2006)

Sanctioned Strength	Working strength	Vacancies
26	22	4

B) HIGH COURTS (As on 1st October, 2006)

S.No.	Name of the High Court	Sanctioned strength	Working strength	Vacancies
1.	Allahabad	95	82	13
2.	Andhra Pradesh	39	34	05
3.	Bombay	64	61	03
4.	Calcutta	50	45	05
5.	Chhattisgarh	08	07	01
6.	Delhi	36	34	02
7.	Gauhati	27	17	10
8.	Gujarat	42	33	09
9.	Himachal Pradesh	09	03	06
10.	Jammu and Kashmir	14	08	06
11.	Jharkhand	12	10	02
12.	Karnataka	40	35	05
13.	Kerala	29	26	03
14.	Madhya Pradesh	42	39	03
15.	Madras	49	45	04
16.	Orissa	22	16	06
17.	Patna	43	28	15
18.	Punjab & Haryana	53	37	16
19.	Rajasthan	40	31	09
20.	Sikkim	03	03	00
21.	Uttaranchal	09	09	00
	TOTAL	726	603	123

- Above statement is compiled on the basis of figures received from the High Courts

C) DISTRICT & SUBORDINATE COURTS (As on 30th June, 2006)

S.No.	Name of State/Union Territory	Sanctioned Strength	Working Strength	Vacancies
1.	Uttar Pradesh	2172	1706	466
2.	Andhra Pradesh	827	752	75
3.	Maharashtra	1611	1395	216
4.	West Bengal	706	569	137
5.	Chhatisgarh	235	212	23
6.	Delhi	394	269	125
7.	Gujarat	762	703	59
8.a	Assam	285	268	17
8.b	Meghalaya ^I	10	6	4
8.c	Tripura	83	60	9^{II}
8.d	Manipur	34	28	6
8.e	Nagaland ^{III}	Nil	Nil	Nil
8.f	Mizoram ^{III}	Nil	Nil	Nil
8.g	Arunachal Pradesh ^{III}	Nil	Nil	Nil
9.	Himachal Pradesh	118	112	6
10.	Jammu and Kashmir ^{IV}	191	180	11
11.	Jharkhand	503	453	50
12.	Karnataka	822	665	157
13.	Kerala	420	391	29
14.a	Tamil Nadu	762	718	44
14.b	Pondicherry	22	16	6
15	Madhya Pradesh	935	781	154
16	Orissa	477	408	69
17	Bihar	1352	847	505

S.No.	Name of State/Union Territory	Sanctioned Strength	Working Strength	Vacancies
18.a	Punjab	328	249	79
18.b	Haryana	307	223	84
18.c	Chandigarh	20	18	2
19	Rajasthan	821	716	105
20	Sikkim ^V	15	7	5
21	Uttaranchal	200 ^{VI}	97	103
	Total	14412	11849	2546

- Above statement is compiled on the basis of figures received from the High Courts.

^I Judiciary is not separated from Executive in the State of Meghalaya except Shillong Municipal area.

^{II} Number of vacancies does not include 10 leave reserve/deputation posts which are never filled up and another 4 posts for which infrastructural facilities are not available.

^{III} Judiciary is not yet separated from Executive.

^{IV} 11 Temporary deputation posts not included in Sanctioned Strength

^V Sanctioned Strength includes Registrar General, Registrar, High Court of Sikkim and Law Secretary while Working Strength does not include Registrar General, Registrar, High Court of Sikkim and Law Secretary.

^{VI} Sanctioned strength does not include 65 additional posts which the State Government has agreed in principle to create.

INSTITUTION, DISPOSAL AND PENDENCY OF CASES

A) SUPREME COURT OF INDIA (FROM 01-07-2006 TO 30-09-2006)

Month & year	Institution		Total	Disposal		Total	Pendency		Total
	Admission	Regular		Admission	Regular		Admission	Regular	
PENDENCY as on 30th June, 2006							20,911	16,412	37,323
JUL, 2006	5,533	481	6,014	5,712	580	6,292	20,732	16,313	37,045
AUG, 2006	5,629	700	6,329	5,337	376	5,713	21,024	16,637	37,661
SEP, 2006	5,072	608	5,680	4,743	268	5,011	21,353	16,977	38,330

B) HIGH COURTS (FROM 1-4-2006 TO 30-06-2006)

S. No.	Name of High Court	CIVIL CASES				CRIMINAL CASES				Total pendency of civil and criminal cases as on 30-6-06
		Opening balance as on 1-4-06	Institution from 1-4-06 to 30-6-06	Disposal from 1-4-06 to 30-6-06	Pendency as on 30-6-06	Opening balance as on 1-4-06	Institution from 1-4-06 to 30-6-06	Disposal from 1-4-06 to 30-6-06	Pendency as on 30-6-06	
1	Allahabad	572968	31268	19737	584499	202615	18911	13875	207651	792150
2	Andhra Pradesh	142489	11470	8668	145291	17487	2500	3882	16105	161396
3	Bombay	313877	25770	18670	320977	36427	5853	4699	37581	358558
4	Calcutta	224529	15538	12582	227485	37251	3855	3219	37887	265372
5	Chhatisgarh	50774	4165	2584	52355	23394	2110	1466	24038	76393
6	Delhi	63063	9419	9218	63264	15593	4824	3282	17135	80399
7	Gujarat	90979	10441	10638	90782	28104	4220	3803	28521	119303
8	Gauhati	53568	5827	6977	52418	7134	1730	1964	6900	59318
9	Himachal Pradesh	18389	2961	2316	19034	5895	547	449	5993	25027
10	Jammu & Kashmir	38007	5603	3588	40022	1928	524	504	1948	41970
11	Jharkhand	25728	2608	2671	25665	18667	4225	4182	18710	44375
12	Karnataka	74062	10871	7236	77697	13103	2465	1836	13732	91429
13	Kerala	103874	10492	12992	101374	24294	4476	4093	24677	126051
14	Madras	347137	49124	37104	359157	30520	13958	12724	31754	390911
15	Madhya Pradesh	132585	13128	13784	131929	56663	7756	6813	57606	189535
16	Orissa	189244	10508	6566	193186	15889	6144	4779	17254	210440
17	Patna	68889	4622	3630	67724[#]	26474	13521	14889	25106	92830
18	Punjab & Haryana	202683	11261	11942	202002	41419	7716	7645	41490	243492
19	Rajasthan	160186	8306	7352	161140	48580	6216	4478	50318	211458
20	Sikkim	50	21	24	47	12	2	3	11	58
21	Uttaranchal	26607	1623	3078	25152	6818	987	883	6922	32074
	Total	2899688	245026	201357	2941200	658267	112540	99468	671339	3612539

• Above statement is compiled on the basis of figures received from the High Courts

Figures shown as pending on 30-06-2006 does not tally in accordance with opening balance on 01-04-2006, as some of the figures have now been rectified by the High Court.

C) DISTRICT AND SUBORDINATE COURTS (FROM 1-4-2006 TO 30-06-2006)

S. No.	Name of State/Union Territory	CIVIL CASES				CRIMINAL CASES				Total pendency of civil and criminal cases as on 30-6-06
		Opening balance as on 1-4-06	Institution from 1-4-06 to 30-6-06	Disposal from 1-4-06 to 30-6-06	Pendency as on 30-6-06	Opening balance as on 1-4-06	Institution from 1-4-06 to 30-6-06	Disposal from 1-4-06 to 30-6-06	Pendency as on 30-6-06	
1	Uttar Pradesh	1193157	104269	82409	1215017	3293411	451090	330652	3413849	4628866
2	Andhra Pradesh	492756	81631	73052	501335	468048	69053	62258	474843	976178
3	Maharashtra	1011101	82933	77472	1016562	3103212	329001	270752	3161461	4178023
4	West Bengal	493689	30613	31578	492724	1492805	193023	155130	1530698	2023422
5	Chhatisgarh	51153	5932	5023	52062	211772	34122	32296	213598	265660
6	Delhi	131972	20105	14397	137680	466288	47125	25250	488163	625843
7	Gujarat	778985	61265	59419	780831	2961116	259053	521546	2698623	3479454
8(a)	Assam	52860	11558	8466	55952	116439	42604	36131	122912	178864
8(b)	Nagaland	1112	40	23	1129	2627	163	159	2631	3760
8(c)	Meghalya	4229	297	282	4244	7068	523	764	6827	11071
8(d)	Manipur	3106	685	557	3234	5998	1702	1680	6020	9254
8(e)	Tripura	6471	1582	1534	6519	25064	13051	11605	26510	33029
8(f)	Mizoram	1313	594	611	1296	2452	2056	1502	3006	4302
8(g)	Arunachal Pradesh	348	128	245	231	5596	296	903	4989	5220
9	Himachal Pradesh	64311	11890	11949	64252	115110	36216	34184	117142	181394
10	Jammu & Kashmir	51028	16551	14792	52787	91483	50364	51945	89902	142689
11	Jharkhand	48207	5138	6279	47066	234895	34988	38851	231032	278098
12	Karnataka	571302	63033	65013	569322	498505	109891	91660	516736	1086058
13	Kerala	415519	51617	46587	420549	491692	157419	142365	506746	927295
14(a)	Tamil Nadu	427124	167571	156207	438488	437268	174269	175087	436450	874938
14(b)	Pondicherry	12107	4085	3365	12827	6931	5179	4412	7698	20525
15	Madhya Pradesh	192596	51812	47417	196991	738969	202229	182564	758634	955625
16	Orissa	178356	12010	9734	180632	786453	65864	52913	799404	980036
17	Bihar	237045	11157	11696	236506	1015598	73137	53857	1034878	1271384
18(a)	Punjab	253524	40469	33898	260095	304679	101571	95188	311062	571157
18(b)	Haryana	206625	28540	26800	208365	301684	45229	45343	301570	509935
18(c)	Chandigarh	20992	2677	1554	22115	61938	13796	9486	66248	88363
19	Rajasthan	292571	29670	32982	289259	762998	166356	167966	761388	1050647
20	Sikkim	199	66	78	187	460	408	431	437	624
21	Uttaranchal	26568	5376	5249	26695	101811	44299	41941	104169	130864
	Total	7220326	903294	828668	7294952	18112370	2724077	2638821	18197626	25492578

• Above statement is compiled on the basis of figures received from the High Courts

SOME RECENT SUPREME COURT JUDGMENTS OF PUBLIC IMPORTANCE

1. On 7th July, 2006, a two Judge Bench in *Lata Singh vs State of U.P. & Another* [Criminal Writ Petition No.208 of 2004] expressed concern over the several instances of harassment, threats and violence against young men and women who marry outside their caste and held that “such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished.”

Observing that “inter-caste marriages are in fact in the national interest as they will result in destroying the caste system”, the Bench held that “once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage.” Accordingly the Bench directed the administration/police authorities throughout the country to see to it “that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.”

Referring to instances of ‘honour killings’ of persons undergoing inter-caste or inter-religious marriage of their own free will, the Bench said “there is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment.”

2. On 12th July, 2006, a two Judge Bench in *Priya Patel vs State of M.P. & Anr.* [Criminal Appeal No.754 of 2006] examined the question as to whether a woman can be prosecuted for “gang-rape” under S.376(2)(g), IPC after the High Court had earlier held that if a woman facilitates the act of rape, Explanation-I to S.376(2) comes into operation and she can be prosecuted for “gang rape”. Referring to the Explanation, the Bench held that it “only clarifies that when a woman is raped by one or more in a group of persons acting in

furtherance of their common intention each such person shall be deemed to have committed gang rape. That cannot make a woman guilty of committing rape. This is conceptually inconceivable". It was held that "the expression 'in furtherance of their common intention' as appearing in the Explanation to S.376(2) relates to intention to commit rape. A woman cannot be said to have an intention to commit rape" and therefore appellant who was implicated alongwith her husband in a rape case "cannot be prosecuted for alleged commission of the offence punishable under S.376(2)(g)."

3. On 12th July, 2006, a two Judge Bench in *Kushum Lata vs Union of India and Ors.* [Civil Appeal No. 6527 of 2004] stressed on the requirement of weeding out petitions, which though titled as public interest litigations are in essence something else. Observing that "Public Interest Litigation" should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation", the Bench held that "a person acting *bona fide* and having sufficient interest in the proceeding of public interest litigation will alone have a *locus standi* and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration."

"Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking", said the Bench. It held that the "Court cannot afford to be liberal" and "has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature." It further held that the petitions of "busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs".

4. On 21st August, 2006, a two Judge Bench in *Committee of Management Kanya Junior High School Bal Vidya Mandir, Etah, U.P. vs Sachiv, U.P. Basic Shiksha Parishad Allahabad, U.P. & Others* [Civil Appeal No. 9595 of 2003] held that "only because an institution is managed by a person belonging to a particular religion, the same would not ipso facto make the institution run and administered by a minority community."

"A minority is determinable by reference to the demography of a State. Whether an institution is established and administered by a minority community or not may have to be determined

by the appropriate authority in terms of the provisions of the statute governing the field”, said the Bench. It furthermore held that “minority institutions are not immune from the operations of the measures necessary to regulate their functions” though “to what extent such regulations would operate, however, again is a matter which would be governed by the statute.”

5. On 22nd August, 2006, a Constitution Bench in *Confederation of Ex-Servicemen Associations & Ors vs Union of India & Ors*. [Writ Petition (Civil) No.210 of 1999] held that “getting *free* and *full* medical facilities is not a part of fundamental right of ex-servicemen”. It held “ultimately the State has to cater to the needs of its employees—past and present. It has also to undertake several other activities as a ‘welfare’ State. In the light of financial constraints and limited means available, if a policy decision is taken to extend medical facilities to ex-defence personnel by allowing them to become members of contributory scheme and by requiring them to make ‘one time payment’ which is a ‘reasonable amount’, it cannot be said that such action would violate fundamental rights guaranteed by Part III of the Constitution.”
6. On 22nd August, 2006, a Constitution Bench in *Kuldip Nayar vs Union of India & Ors*. [Writ Petition (Civil) No. 217 of 2004] set aside the challenge to the constitutional validity of the amendment made in the Representation of the People Act, 1951 whereby the requirement of “domicile” for getting elected to the Upper House (Council of States or Rajya Sabha) was done away with. Referring to the legislative history of constitutional enactments like the Government of India Act, 1935, the Bench said “residence or domicile are not the essential ingredients of the structure and the composition of the Upper House.” It said “residence was never the constitutional requirement” and “has been treated just a matter of qualification.” The Bench observed that the “qualification of residence has never been a constant factor” and ownership of assets, dwelling house, income, residence etc. have been “considered as qualification from time to time depending upon the context and the ground reality”. The Indian Constitution “does not cease to be a federal constitution simply because a Rajya Sabha Member does not ‘ordinarily reside’ in the State from which he is elected”, said the Bench.

The Bench upheld another amendment in the Representation of the People Act, 1951, introducing open ballot system, in place of secret ballot for elections to the Upper House holding that “voting at elections to the Council of States cannot be compared with a general

election.” In a general election, the Bench said “there is no party affiliation and hence the choice is entirely with the voter” which is not the case “when elections are held to the Council of States as the electors are elected members of the legislative assemblies who in turn have party affiliations.” The Bench said “the context in which General Elections are held, secrecy of the vote is necessary in order to maintain the purity of the Election system” and “every voter has a right to vote in a free and fair manner and not disclose to any person how he has voted” but the context entirely changes in case of a “voter who is elected on the ticket of a political party.” It said that “the nature of elections, namely, direct or indirect, regulates the concept of right to vote. Where elections are direct, secret voting is insisted upon. Where elections are indirect and where members are chosen by indirect means, such as, by parliament or by legislative assembly or by executive, then open ballot can be introduced as a concept under the electoral system of voting.” The Bench further said that “since the amendment has been brought in on the basis of need to avoid cross voting and wipe out evils of corruption as also to maintain the integrity of our democratic set-up, it can also be justified by the State as a reasonable restriction under Article 19(2) of the Constitution, on the assumption that voting in such an election amounts to freedom of expression under Article 19(1)(a) of the Constitution.”

7. On 25th August, 2006, a two Judge Bench in *Director General, Directorate General of Doordarshan & Ors. vs Anand Patwardhan & Anr.* [Civil Appeal No.613 of 2005] held it improper on behalf of the Doordarshan “to deny telecast” of the award winning documentary made by Respondent merely on the ground that part II of the said documentary was certified as “A” by the Censor Board. “A documentary cannot be denied exhibition on Doordarshan simply on account of it’s “A” certification or “UA” certification”, the Bench said. It said that “the correct approach to be taken is to look at the documentary film as a whole and not in bits, as any message that is purported to be conveyed by way of a film cannot be conveyed just by watching certain bits of the film”. Consequently the Bench held that the documentary film made by Respondent “if judged in its entirety has a theme and message to convey” and the view taken by the Doordarshan “that the film is not suitable for telecast is erroneous.” It held that the Respondent had “a right to convey his perception on the oppression of women, flawed understanding of manhood and evils of communal violence through the documentary film produced by him.”

The Bench held that “the freedom of expression, which is legitimate and constitutionally protected, cannot be held to ransom on a mere fall of a hat” and that “Doordarshan being

a State controlled agency funded by public funds could not have denied access to screen the Respondent's documentary except on specified valid grounds."

Observing that Doordarshan had been "finding flimsy excuses time and again" in "not telecasting the documentary film in question every time the film was sought to be aired either at the instance of the Respondent or due to the orders of the Court", the Bench was of the view that this was "highly irrational" and "blatant violation of the right guaranteed under Article 19(1)(a) of the Constitution. The Bench held that Doordarshan was being "dictated by rules of malafides and arbitrariness in taking decisions with regard to the telecast of the Respondent's film" and consequently directed the Doordarshan "to exhibit the entire documentary film of the Respondent within 8 weeks."

8. On 31st August, a two Judge Bench in *Renuka Bai @ Rinku @ Ratan & Anr. vs State of Maharashtra* [Criminal Appeal No.722 of 2005] upheld the death penalty imposed by Courts below on two women (Appellants) for kidnapping several children below five years of age and killing them. Going by the details of the case, the Bench found "no mitigating circumstances in favour of the appellants", except for the fact that they were women. It held that the "nature of the crime and the systematic way in which each child was kidnapped and killed amply demonstrates the depravity of the mind of the appellants."

"These appellants indulged in criminal activities for a very long period and continued it till they were caught by the police. They very cleverly executed their plans of kidnapping the children and the moment they were no longer useful, they killed them and threw the dead body at some deserted place. The appellants had been a menace to the society and the people in the locality were completely horrified and they could not send their children even to schools. The appellants had not been committing these crimes under any compulsion but they took it very casually and killed all these children, least bothering about their lives or agony of their parents", the Bench said. On careful consideration of the whole aspects of the case, the Bench did not think that the appellants were likely to be reformed and confirmed the conviction and also the death penalty imposed on them by the Courts below.

9. On 12th September, 2006, a two Judge Bench in *State of Punjab & Ors. vs Shri Ganpat Raj* [Civil Appeal No.4089 of 2006] while examining the powers of disposal of cases by the Lok Adalat held that "if no compromise or settlement is or could be arrived at, no order can be passed by the Lok Adalat". Observing that "a compromise is always bilateral and means

mutual adjustment” while “settlement” is termination of legal proceedings by mutual consent, the Bench held that inasmuch as “the case at hand did not involve compromise or settlement”, it “could not have been disposed of by Lok Adalat.”

10. On 13th September, 2006, a two Judge Bench in *Noble Resources Ltd. vs State of Orissa & Anr.* [Civil Appeal No.4108 of 2006] while examining the issue of maintainability of writ petition in a contractual matter held that “contractual matters are not beyond the realm of judicial review. Its application may, however, be limited.”

The Bench held “ordinarily, a specific performance of contract would not be enforced by issuing a writ of or in the nature of mandamus, particularly when keeping in view the provisions of the Specific Relief Act, 1963 damages may be an adequate remedy for breach of contract”. It further held that “where serious disputed questions of fact are raised requiring appreciation of evidence, and, thus, for determination thereof, examination of witnesses would be necessary; it may not be convenient to decide the dispute in a proceeding under Article 226 of the Constitution.”

11. On 22nd September, 2006, a three Judge Bench in *Prakash Singh & Ors vs Union of India and Ors.* [Writ Petition (Civil) No.310 of 1996] with the aim of reforming the police set-up in the country issued the following directions to the Central Government, State Governments and Union Territories for compliance till framing of appropriate legislations.

a. *State Security Commission*: “The State Governments are directed to constitute a State Security Commission in every State to ensure that the State Government does not exercise unwarranted influence or pressure on the State police and for laying down the broad policy guidelines so that the State police always acts according to the laws of the land and the Constitution of the country. This watchdog body shall be headed by the Chief Minister or Home Minister as Chairman and have the DGP of the State as its ex-officio Secretary.”

b. *Selection and Minimum tenure of DGP*: “The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation.

The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.”

- c. *Minimum Tenure of I.G. of Police & other officers:* “Police Officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge district and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities.”
- d. *Separation of Investigation:* “The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. It must, however, be ensured that there is full coordination between the two wings.”
- e. *Police Establishment Board:* “There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. The Establishment Board shall be a departmental body comprising the Director General of Police and four other senior officers of the Department. The State Government may interfere with decision of the Board in exceptional cases only after recording its reasons for doing so.”
- f. *Police Complaints Authority:* “There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above.”
- g. *National Security Commission:* “The Central Government shall also set up a National

Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPO), who should also be given a minimum tenure of two years.” “The National Security Commission could be headed by the Union Home Minister and comprise heads of the CPOs and a couple of security experts as members with the Union Home Secretary as its Secretary.”

12. On 25th September, 2006, a two Judge Bench in *Commissioner of Income Tax, Mumbai vs M/s General Insurance Corporation* [Civil Appeal No. 4422 of 2001] held that the expenditure incurred in connection with the issuance of bonus shares is in the nature of revenue expenditure. The Bench said “the issue of bonus shares by capitalization of reserves is merely a reallocation of company’s funds. There is no inflow of fresh funds or increase in the capital employed, which remains the same. If that be so, then it cannot be held that the Company has acquired a benefit or advantage of enduring nature. The total funds available with the company will remain the same and the issue of bonus shares will not result in any change in the capital structure of the company. Issue of bonus shares does not result in the expansion of capital base of the company.”

MAJOR INITIATIVES

1. **E-filing:** Commencing 2nd October, 2006, Advocates-on-Record and Petitioners-in-Person have been given the facility of filing their matters in Supreme Court through internet thereby obviating need to visit the Court for Purchasing Court Fee, Filing the Case, finding out the Filing Defects, if any, and removing them. This is for the first time that E-Filing is made available by any Court in the country.

Salient features of the E-filing facility are as follows:-

- a. The prescribed court fee and the prescribed printing charges can be paid through any Visa/Master credit/debit card. No additional court fee or processing fee is required for E-Filing.
 - b. Every Advocate-on-Record is being given a password by the Registry. He can change the password by accessing the website. Petitioners-in-person, however, have to submit proof of their identity such as Ration Card/PAN Card/Identity Card/Driving Lincence/Voter I.Card, by scanning the document.
 - c. The text can be typed on the computer whereas documents including affidavits and vakalatnamas can be submitted by scanning them. Counter/Rejoinder/Fresh Applications/Caveat/Additional Documents can also be filed through internet.
 - d. Every matter will be scrutinized to identify the filing defects, if any. The defects will be communicated to the Petitioner-in-Person/Advocate-on-Record, as the case may be, through E-mail, who can remove the defects by accessing his matter through internet, using the reference No. given to him by the system. The matter will have to be in conformity with the Supreme Court Rules and free from filing defects, before it can be registered by the system. Date of listing will also be communicated through the system.
 - e. The notices/communications to the parties will be sent through E-Mail wherever E-Mail I.D. is provided.
2. **Second Court of the Registrar:** From 1st September, 2006, a second Court of the Registrar has started functioning in Supreme Court.

MAJOR EVENTS

- I. **ALLOTMENT OF ADDITIONAL LAND TO SUPREME COURT:** The Ministry of Urban Development, Government of India vide its letter dated 27th October, 2006 has conveyed sanction of the President of India to the resumption of land measuring 12.19 acres from ITPO at Pragati Maidan and placing the same with CPWD with usual terms and conditions, exclusively for the purpose of additional requirement of Supreme Court of India for storage of records, office complex, auditorium, Litigants Hall and parking space etc.

- II. **MAJOR ACTIVITIES OF NATIONAL LEGAL SERVICES AUTHORITY**
 - A. **National Level Joint Consultative Committee Meet of Members of Multi Sectoral Parliamentary Standing Committees:** The National Legal Services Authority organized a National Level Consultative Meet of Chairmen/Members of Multi Sectoral Parliamentary Standing Committees on the Sensitization and Awareness of Members of Judiciary regarding Prevention of Girlchild Trafficking and HIV/AIDS from 7th July to 10th July, 2006 at Kovalam, Kerala. Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India and Executive Chairman, NALSA inaugurated the Meet. The Committees strongly recommended that a multi-sectoral/multi-disciplinary approach is required to prevent Trafficking & HIV/AIDS.

 - B. **All India Inter-Departmental Co-Operation Dialogue & Meeting (ICDM) on Social Justice:** The Authority organized the All India Interdepartmental Cooperation Dialogue and Meeting (ICDM) on Social Justice from 18th August to 20th August, 2006 at Vigyan Bhavan, New Delhi mandating Equality and Right of Justice to Survivors of various Social Atrocities and Discrimination including Gender Violence, Trafficking and HIV/AIDS. The Meet was inaugurated by Dr. Manmohan Singh, Hon'ble Prime Minister of India and presided over by Hon'ble Mr. Justice Y.K. Sabharwal, Chief Justice of India in the august presence of Sh. H.R. Bhardwaj, Hon'ble Union Minister for Law & Justice, Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India and Executive Chairman, NALSA, Hon'ble Mr. Justice B.N. Agrawal, Judge, Supreme Court of India and Chairman, Supreme Court Legal Services Committee and other Hon'ble Judges of Supreme Court. The objective of the Meeting was to secure participation of various Agencies of Judiciary, Executive and Legislature towards the protection of the Rights

of the Vulnerable and Marginalized Communities such as women, children, labour, elderly citizens, SC/ST, Minorities, Dalits and other Backward classes affected by newer challenges including Trafficking and HIV/AIDS.

C. Workshop On Social Justice- Trafficking & HIV/AIDS, Empowerment: NALSA organized a Regional Workshop of Paralegals for the Welfare of Victims of Trafficking & HIV/AIDS and a National Initiative on Development of State Policy for Access to Justice at Hyderabad on 9th September 2006 in association with Andhra Pradesh State Legal Services Authority. The Authority also organized a State Level Interdepartmental Cooperation Dialogue & Meeting (SICDM) in association with Andhra Pradesh Police Academy with special reference to Sensitization and Awareness of Judiciary, Public Prosecutors, CBI, State Police, IB & Law Enforcement Agencies for Prevention of Trafficking. Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Executive Chairman, NALSA and Dr. H.R. Bhardwaj, Hon'ble Union Minister of Law & Justice participated in the initiatives.

D. State Level Inter-departmental Co-operation Dialogue Meeting (SICDM) on development of State Policy for access to social justice for victims/survivors of Trafficking and HIV/AIDS

National Legal Services Authority, in collaboration with Tamil Nadu and Union Territory of Pondicherry State Legal Services Authority and Tamil Nadu State Judicial Academy organized a State Level Interdepartmental Cooperation Dialogue Meeting (SICDM) on Development of State Policy for Access to Social Justice for Victims of Trafficking and HIV/AIDS on 16th September 2006 at Egmore, Chennai. The SICDM was inaugurated by Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Executive Chairman, NALSA.

NALSA set up a Legal Aid Clinic for Study, Research and Community Support and organized a Workshop for Training and Legal Empowerment of Barefoot Lawyers on Prevention of Trafficking and HIV/AIDS on 24th September 2006 at Matrisangha Janakalyan Ashram, Chakraberia Road , Kolkata. Hon'ble Mr. K.G. Balakrishnan, Judge, Supreme Court of India & Executive Chairman, NALSA inaugurated the Legal Aid Clinic and Workshop in the august presence of Hon'ble Mr. Justice Arijit Pasayat, & Hon'ble Mr. Justice C.K. Thakker, Judges, Supreme Court of India.

NALSA also set up a Legal Aid Research and Resource Centre for facilitating Access to Social Justice to Prisoners on 24th September 2006 at the Presidency Correctional Home, Thackerary Road , Kolkata. A Stipend and Scholarship Scheme for Educational Assistance, Mainstreaming and Social Integration of Children of Prisoners living Inside the Correctional Homes was also launched by Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Executive Chairman, NALSA.

Hon'ble Mr. Justice K.G. Balakrishnan, Judge, Supreme Court of India & Executive Chairman, NALSA inaugurated a National Colloquium for Review and Development of State Legal Aid Policy for Prisoners at the National University of Juridical Sciences, Kolkata in the august presence of Hon'ble Mr. Justice Arijit Pasayat, Judge, Supreme Court of India and Hon'ble Mr. Justice C.K. Thakker, Judge, Supreme Court of India. The basic objective behind this Colloquium was to discuss the gaps in the legal services for the prisoners in the State of West Bengal.

III. MAJOR ACTIVITIES OF NATIONAL JUDICIAL ACADEMY

- A. National Judicial Education Strategy (NJES):** National Judicial Academy has prepared a comprehensive new National Judicial Education Strategy under the guidance of a Sub-Committee headed by Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India.

The National Strategy will substantially scale up judicial education. It establishes a new and comprehensive national standard of one week's judicial education every year for all 12,700 or so judges in India. The two thrust areas for the expanded program of judicial education will be (i) reducing delay and arrears; and (ii) responding effectively to the demand for justice from main groups of justice-seekers. The overall theme of judicial education at the national level will be "*judicial education for timely justice*".

Reduction of delays and arrears will be pursued through education and training on (i) use of information and communication technology (ICT); (ii) use of modern management systems for court and case management; and (iii) strengthening core judicial knowledge and skills. The capacity of the judiciary to respond to priority areas of justice demand will be enhanced through (i) broadening judges' perspectives on justice issues in areas of greatest demand for justice and sensitizing them to the need for effective justice

delivery; and (ii) developing the ability of judges to use new and innovative approaches to effectively respond to the demand for justice delivery within the existing legal framework.

The NJES will be implemented in a phased manner over three years commencing from January 2007.

- B. National Colloquium on “Ethics in Governance – Moving from Rhetoric to Results” – 1st & 2nd September, 2006:** The National Judicial Academy in association with the Administrative Reforms Commission, Government of India, organized this two-day National Colloquium. Hon’ble Shri Y.K. Sabharwal, Chief Justice of India, presided over the Valedictory Session. Hon’ble Shri S.B. Sinha, Judge, Supreme Court, also addressed the participants. The main objective of the Colloquium was to come up with very specific and practicable recommendations which the Administrative Reforms Commission could consider in the current context while formulating their own recommendations for administrative reforms to strengthen the anti-corruption framework.

IMPORTANT VISITS AND CONFERENCES

1. Hon'ble Shri Y.K. Sabharwal, Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan, Hon'ble Mr. Justice B.N. Agrawal, Hon'ble Mr. Justice Ashok Bhan and Hon'ble Mr. Justice Arijit Pasayat, Judges, Supreme Court of India participated in the 5th Indo-US Legal Forum Meet-2006 in Washington and San Francisco from 1st to 6th October, 2006. Topics discussed during the Meet were a) Comparative Constitutional Issues: Constitutional Protections relating to Affirmative Action or Positive Discrimination; b) Working of the Supreme Court and c) Use of Foreign Constitutional Court decisions.
2. Hon'ble Shri Y.K. Sabharwal, Chief Justice of India deliberated with the Chief Justice of Singapore, at Singapore, on 11th August, 2006, on Judicial Reforms with particular reference to Computerization and E-filing.
3. Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India participated in the International Judicial Conference on the occasion of the Golden Jubilee Celebrations of the Supreme Court of Pakistan held at Islamabad from 11th to 14th August, 2006. He presided over the function in which the topic was "Courts and Culture of Tolerance". His Lordship delivered the key note address the theme of which was that India and Pakistan being multi-ethnic, cultural and religious societies, there is a need to encourage and develop culture of tolerance in the two countries. He emphasized that without the culture of equality and tolerance, the two societies cannot survive and progress.
4. Hon'ble Mr. Justice Arijit Pasayat, Judge, Supreme Court of India was invited to act as the Presiding Judge in a moot court case on Taxation Law on the International Bureau of Fiscal Documentation (IBFD) Tax day, at Amsterdam, Netherlands on 7th July, 2006.
5. Hon'ble Mr. Justice B.P. Singh, Judge, Supreme Court of India participated in 14th Triennial Conference of the Commonwealth Magistrates' and Judges' Association at Toronto, Canada from 10th to 15th September, 2006. His Lordship was nominated as a panelist for the first panel discussion on 11th September, 2006 on the subject "Religious and Cultural issues in Court". He addressed the meeting and answered questions in open house session.

His Lordship also addressed the Seminar on Judicial Activism organized by Lal Bahadur Shastri National Academy of Administration at Mussoorie on 15th July, 2006.

6. Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India in a Workshop for District Court Judges/Magistrates, High Court Judges organized jointly by the Institute of Human Rights, Colombo and Asia Foundation at Colombo, Sri Lanka on the "Role of Judges in a changing Society" spoke on the issue of "Judicial Review in the evolving law in fundamental rights, the rights of the Industrial workers and environmental rights", on 15th July, 2006.

His Lordship also addressed the Officer Trainees of 59th Batch of Indian Revenue Service at National Academy of Direct Taxes at Nagpur, on Judicial Review, on 5th August, 2006.

He also participated in a) Workshop on Mediation organized by Judicial Officers' Training & Research Institute, High Court of Madhya Pradesh and M.P. State Legal Services Authority at Jabalpur on 8th July, 2006; b) Refresher Course on "Environmental Law & Adjudication : Role of Subordinate Judiciary in Prevention of Environmental Degradation and Controlling Public Nuisance" organized by National Judicial Academy at Bhopal from 22nd to 24th July, 2006; c) Workshop/Symposium on "Tribal Customs, Laws and Tribal Dispute Settlement by Court of Law" organized by the Jharkhand State Legal Services Authority at Ranchi from 12th to 13th August, 2006 and d) Refresher Course on "Juvenile Justice Administration" organized by National Judicial Academy at Bhopal from 26th to 28th August, 2006.

7. Hon'ble Dr. Justice AR. Lakshmanan delivered Special Lecture in the memory of Hon'ble Mr. Justice M. Hidayatullah organised by Hidayatullah National Law University at Raipur on 8th July, 2006. His Lordship delivered a lecture on "Right to Information Act" at the function organized by R. Venkataraman (Former President) Labour Law Lecture Endowment Trust & the Viswanathan & Dolia Lecture Endowment Trust at Chennai on 19th August, 2006. He also delivered Lecture on the "Role of Lawyers in achieving Socio-Economic goals" at the function organized by the Rule of Law Society, Allahabad on 16th September, 2006.
8. Hon'ble Mr. Justice S.H. Kapadia, Judge, Supreme Court of India participated in the celebrations of the 15th Anniversary of Constitutional Court of the Republic of Columbia held at Bogota from 4th to 5th July, 2006. He delivered two speeches, one on Environmental Laws and Human Rights and the other on Social Justice and History of Constitutional amendments.
9. A five member Sudanian delegation headed by Hon'ble Dr. Wahbi Mohamed Mukhta Salih, Deputy Chief Justice visited Supreme Court of India on 3rd August, 2006 and had interaction

with Hon'ble Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan and Hon'ble Mr. Justice B.N. Agrawal.

10. A four member Maldivian delegation headed by Hon'ble Mr. Mohamed Rasheed Ibrahim, Chief Justice of Maldives visited Supreme Court of India on 28th August, 2006 and had deliberations with Hon'ble the Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan and Hon'ble Mr. Justice B.N. Agrawal.
11. A nine member Kenyan Judiciary Committee for expeditious disposal of cases headed by Hon'ble Mr. Justice R.S.C. Omolo, J.A., Presiding Judge of the Court of Appeal visited Supreme Court of India on 25th September, 2006 and had discussions with Hon'ble the Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan and Hon'ble Mr. Justice B.N. Agrawal.
12. A two member Japanese delegation headed by Mr. Ryoji Nakagawa, Judge, Supreme Court of Japan visited Supreme Court of India on 27th September, 2006 and had deliberations with Hon'ble the Chief Justice of India.

LIST OF SUPREME COURT JUDGES

(As on 1st October, 2006)

S. No.	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

OTHER SUPREME COURT PUBLICATIONS



SUPREME COURT OF INDIA

PRACTICE & PROCEDURE

A HANDBOOK OF INFORMATION

FOREWORD BY

HON'BLE SHRI Y.K. SABHARWAL
CHIEF JUSTICE OF INDIA



2005

Price Rs. 20/-

SUPREME COURT OF INDIA, NEW DELHI



The Supreme Court Rules, 1966

along with

REGULATIONS REGARDING
ADVOCATES-ON-RECORD EXAMINATION

RULES TO REGULATE PROCEEDINGS
FOR CONTEMPT OF THE SUPREME COURT, 1975



2006

Price Rs. 40/-

PUBLISHED BY :
SUPREME COURT OF INDIA, NEW DELHI

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 book price and postal charges

Also available on our website : www.supremecourtfindia.nic.in