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Hierarchy of Courts and Justice System in India

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Introduction

India, being one of the biggest countries in the world with a fabulous population has a very strong judiciary system which is inherent with the structure of the courts and its hierarchy and the judicial system. This system provides livelihood to huge number of professionals attached with the system of judiciary in different forms and thus serve the nation with the service. In this essay, the structural pattern of judiciary system will be narrated with the hierarchical type of courts effectively take part in the judiciary system and the different personalities engaged in this profession to play different roles assigned to them.

Because of the size of the country, the judiciary system is planned as per the requirement of the citizen of India with the location of courts as per status to serve the community of India with efficiency. India has a rich tradition of providing justice to the affected and the courts in various levels are there to serve the purpose of extending highest level of efficient juridical system all over the country²

The court structure is set as per the judiciary system prevailing in India with differentiation of applicability as per the merit of the case. The normal trend of the judiciary system is to start any general dispute in the lower court which is being escalated as per the satisfaction of the parties to the higher courts.

The hierarchical structure of court is being endorsed by the Constituency of India with the level of power exercised by the different level of courts. The judgments can be challenged in the higher courts if the parties to the cases are not satisfied. The process of escalation is systematic and thus the system of providing maximum level of satisfaction to the parties is sincerely tried by the judiciary system.

Hierarchy of Indian Courts:

The feature Indian judiciary system is its hierarchical structure of courts. There are different levels of judiciary system in India empowered with distinct type of courts. The courts are structured with very strong judiciary and hierarchical system as per the powers bestowed upon

¹ The author is a student at Lloyd Law College, Noida.

² Alok Prasanna Kumar, *How many judges does India really need?*, 2016.

them. This system is strong enough to make limitation of court with its jurisdiction and exercise of the power. The Supreme Court of India is placed at the top of the hierarchical position followed by High Courts in the regional level and lower courts at micro level with the assignment of power and exercising of the same for the people of India.³

Supreme Court of India

Supreme Court of India is the highest level of court of Indian juridical system which was established as per Part V, Chapter IV of the Constitution of India which endorses the concept of Supreme Court as the Federal Court to play the role of the guardian of the esteemed constitution of India with the status of the highest level of court in the status of appeal cases.⁴

Constitution Regulation :-

As conferred by Articles 124 to 147 of Indian Constituency, the jurisdiction and composition of the Supreme Court is being fixed. This court is primarily of the status of appellate court. This court is accepting the appeals of cases which are being heard in the High courts situated in different states and union territories with dissatisfaction of related parties. This court also accepts writ petitions with the suspected occurrence of activities which may infer about violation of human rights and subsequent petitions are accepted to hear and judge the consequences of such happenings. These types of petitions are accepted under Article 32 of Indian constitution. This article confers the right to ensure remedies through constitution. This court also hears about such serious issues which need to be attended with immediate attention.

History:-

This court has started its operation since 28th January 1950 with the inaugural sitting, the day since when the constitution of independent India had been effectively applicable. The court had already taken care of more than 24,000 judgments as per report of the Supreme Court.

Structure and Application:-

This court is comprised of the Chief Justice along with 30 other judges to carry on the operation of the court. The proceeding of the Supreme Court is being heard only in the language of English. The Supreme Court is governed by the Supreme Court Rules which was published in the year 1966.

³ Ssrana, *Indian Court Structure*, 2015.

⁴ Gktoday, , *Supreme Court of India* 2016.

The same had been fixed under the Article number 145 of the Constitution of India to ensure the regulation of procedures and practices of the Supreme Court. This article is passing through the process of upgrading with the presently enforced Article as per the Supreme Court Rules, 2013.⁵

High Court of India

Constitution:-

High Courts are second Courts of Importance of the democracy of India. They are run by Article 141 of the Constitution of India. They are governed by the bindings conferred by the Supreme Court of India so far judgments and orders are concerned. The Supreme Court of India is the highest level of courts and is responsible for fixing the guidance to the High Courts set by precedence.

High courts are the types of courts which are instituted as the courts powered by constitution with the effect of Article 214 Part IV Chapter V of the Indian Constitution. There are 24 high courts in India taking care of the regional juridical system of India out of which Kolkata High Court is the oldest.

Jurisdiction:-

These courts are mainly confined to the jurisdiction of state, group of states or Union Territory. They are being empowered to govern the jurisdiction of lower courts like family, civil and criminal courts with other different courts of the districts. These courts are of the statute of principal civil courts so far originality of jurisdiction is concerned in the related domain of the states and the other district courts.

These courts are treated as subordinate to High Courts by status. But High Courts are mainly exercising their jurisdiction related to civil or criminal domain if the lower courts are proved incapable of exercising their power as per authorization extended by law. These situations may be generated through the inability of financial or territorial jurisdiction. There are specific areas in which only High Courts can exercise the right for hearing like cases related to Company Law as it is designated specially in a state or federal law.

But normally the high courts are involved in the appeals raised in the cases of lower courts with the writ petitions as conferred in Article 226 of the Constitution of India. The area of writ

⁵ *Sinjini, Advisory Jurisdiction (Article 143), 2015.*

petitions is also the sole jurisdiction of high courts. The jurisdiction of High Court is varying so far territorial jurisdiction is considered

Official structure and application:-

The appointment of the judges of High Courts are being executed by the President of India with the consultation of the Chief Justice of India, the Chief Justice of High Court and the Governor of the state or union territory.

Decision on the number of judges in High Court is mainly dictated considering the higher number of either the average of organization of main cases for the last years as per the average nationally calculated or the average rate of main cases disposed per judge per year in the respective high court.

The high courts with handling of most of the cases of a particular area are provided with the facility of permanent benches or branches of the court situated there only. To serve the complainants of remote regions the establishment of circuit benches had been made to facilitate the service with the schedule of operation as per the occurrence of visit of the judge.⁶

Lower Courts of India

District Courts

Constitution:-

The basis of structuring of district courts in India is mainly depending upon the discretion of the state governments or the union territories. The structure of those courts are mainly made considering several factors like the number of cases, distribution of population, etc. Depending upon those factors the state government takes the decision of numbers of District Courts to be in operation for single district or clubbing together different adjacent districts.

Normally these types of courts exercise their power of juridical service in district level. These courts are covered by the administrative power of the High Courts under which the district courts are covered. The judgments of the district courts are subject to review to the appellate jurisdiction of the respective high court

Structure and Jurisdiction:-

⁶ Subramani, *President clears 15 new judges for Madras high court 2016.*

The district courts are mainly run by the state government appointed district judges. There are additional district judges and assistant district judges who are there to share the additional load of the proceedings of District Courts. These additional district judges have equal power like the district judges for the jurisdiction area of any city which has got the status of metropolitan area as conferred by the state government. These district courts have the additional jurisdictional authority of appeal handling over the subordinate courts which are there in the same district specifically in the domain of civil and criminal affairs.

The subordinate courts covering the civil cases, in this aspect are considered as Junior Civil Judge Court, Principal Junior and Senior Civil Judge Court, which are also known as Sub Courts, Subordinate Courts. All these courts are treated with ascending orders. The subordinate courts covering the criminal cases are Second Class Judicial Magistrate Court, First Class Judicial Magistrate Court, and Chief Judicial Magistrate Court along with family courts which are founded to deal with the issues related to disputes of matrimonial issues only. The status of Principal Judge of family court is at par with the District Judge⁷

There are in total 351 district courts in operation out of which 342 are of states while 9 are of union territories.

Village Courts

Constitution Structures and Features:-

The village courts are named as Lok Adalat or Nyaya Panchyat which means the service of justice extended to the villagers of India. This is the system for resolving disputes in micro level. The need of these courts is justified though the Madras Village Court Act of 1888⁸. This act is followed by the development post 1935 in different provinces, which are re-termed as different states after the independence of 1947.

This conceptual model had been started to be sued from the state of Gujarat consisting of a judge and two assessors since 1970s. The Law Commission had recommended in 1984 to form the Nyaya Panchayats in the rural areas with the people of educational attainment. The latest development had been observed in 2008 through initiation of Gram Nyaylayas Act which had sponsored the concept of installation of 5000 mobile courts throughout the country. These

⁷ *Ecourts, District Courts of India, 2015.*

courts are assigned to judge the petty cases related to civil and criminal offence which can generate the penalty of up to 2 years imprisonment.

So far the available statistics of 2012 there are only 151 Gram Nyaylayas which are functional in this big country which is far below the targeted figures of 5000 mobile courts. While trying to find the basic reasons for this non achievement, it was found as financial constraints followed by shown reluctance by the lawyers, respective government officials and police.⁹

Judicial System of India

The present judicial system of India is being made effective through the Constitution of India. The judicial system of India is mainly consisting of three types of courts- the Supreme Court, The High Courts and the subordinate courts. The effective rules and regulations are made of the Constitution and other laws and regulation structured mainly upon the basis of British Law with the improvised version suitable for India.

These rules and regulation along with the Constitution are elementary in fixing the composition, jurisdiction and power of the respective courts. The below discussion will highlight the features and the roles of the three types of courts so far the judicial system of India is concerned.¹⁰

Supreme Court- Its role in the judicial system

This court is with the status of the highest level of courts as per Chapter IV of Part V of the Indian Constitution. This court is situated in the capital of India, New Delhi. The panel of judges is comprised of Chief Justice and twenty other Judges.

Appointment of Judges

The judges of Supreme Court are being appointed by the President of India. The system is to send the panel of probable judges by the Chief Justice of Supreme Court through collegiums to the President of India with the approval of the Central Government.

The qualifications and the conditions of the judges so far appointment and the tenure of service are fixed as per below:

⁹ Kurien, Structure of Indian judiciary, 2014.

¹⁰ Rana Kamal, Judicial System in India, 2014.

He should be the citizen of India.

He should have the experience of serving as the Judge of High Court for a minimum period of at least five years or he should be an advocate of High Court for at least ten years or he should be considered by the President as a distinctive jurist.

The Judge of the Supreme Court is eligible for performing his duties by holding office up to the age of sixty five year if he has not resigned or disqualified on the basis of any act of misbehaviour or proving incapable of holding his duties

Jurisdiction of Supreme Court

The jurisdiction of Supreme Court is classified under different types:

Original jurisdiction: The Supreme Court exercises original jurisdiction exclusively to hear the cases of disputes between the Central Government and the State Governments or the interest of the States. The Supreme Court has original but not exclusive jurisdiction for enforcement of Fundamental Rights as per the provision of Constitution of India through the way of writs.

Appellate Jurisdiction: The Supreme Court has the jurisdiction of hearing the appeal raised against the judgment of all High Courts of India provided the respective High Court grants the certificate related to the query about the interpretation of the Constitution of India. In case of any civil dispute, if the High Court thinks that the intervention of Supreme Court is required to resolve substantial query of law regarding importance in general is there and the High Court infers that the specific query is to be decided by the Supreme Court.

In case of any criminal dispute, if the High Court thinks that the same is to be heard by the Supreme Court. It is the discretionary power of the Supreme Court to hear any criminal case without the certificate of High Court against the judgment conferred by High Court through which any verdict of death sentence is being pronounced while reversing the original judgment of the lower court of release order to the accused or in case of withdrawal of case from the lower court.

Supreme Court has the power to exercise extra ordinary jurisdiction to hear any appeal related to any matter for which any court or tribunal had decided with judgment through the option of special leave petition except the case of tribunal related to armed Ffrces. Supreme Court has the power to withdraw or transfer any case from any High Court. The Supreme Court has the

authority to review any verdict ordered. The law of Supreme Court is put the binding on all courts across India. Even the Supreme Court has the authority to create any rule of government with the approval from the President of India. Supreme Court is defined as the Court of record with the right to make punishment for the contempt of court.¹¹

Advisory jurisdiction: The Supreme Court has the option to report its opinion to the President about any questions raised of public importance referred by the President.

Establishment

The Constitution conferred that each state or more than one state should have one High Court. The Union Territories of Manipur, Goa and Tripura have the judicial Commissioner Courts. The Constitution has made provision for the other Union Territories to establish high courts.

Court of Record

All the High Courts have the power to pronounce punishment for contempt of court and thus, they will be treated as Court of Record.

Appointment of Judges

The appointment of the Judges of High Court is done by the President of India with the consultation of the Chief Justice of India, the Chief Justice of respective high Court and the Governor of the state.

- Number of Judges

The President of India has the authority to fix the number of judges of the High Court as per requirement. The basic factor for this purpose is being settled though the central executive which can decide about the number of judges in High Court which is being decided with flexible attitude.¹²

- Qualification of Judges

A person, being the citizen of India with holding the judicial office in India for 10 years or an advocate of High Court for 10 years is eligible for being the Judge of High Court.

¹¹ Sethi Anamika, Powers and Functions of High court in India 2014.

¹² Sabharwal, Role of judiciary in good governance, 2014.

- Tenure of service

The judges of the High Court have the maximum period of service up to sixty two years. Till then they can not be removed from their duties if any occurrence of misbehavior or incapability is proved and seconded by two third of members of both houses of parliament through voting.

- Salary of Judges

This is done as per prescribed declaration in the second schedule of the Constitution and can not be changed without any amendment of the Constitution.¹³

- Revenue

The old fashioned restriction since 1915 regarding revenue is being outdated on the original jurisdiction of the High Courts of Kolkata, Chennai and Mumbai.

Writ Jurisdiction and Superintendence

Except for High Courts of Kolkata, Chennai and Mumbai none has the power to issue the privileged writs. At present Article 226 of Constitution of India has given the power to the high Courts to issue different writs.

Article 227 of Indian Constitution has empowered all high courts to practice superintendence over all the courts of tribunal effective within the regional jurisdiction of the High Court.

Subordinate Courts of India

Chapter VI of Part VI of the Indian Constitution has made provisions for subordinate courts related to the judicial system. These courts are in the state level under the direct superintendence of High Court. The activities like appointment promotion and posting of judges are made by the Governor of the state by consulting respective High Court.

The criterion of eligibility of district judge is that he must be an advocate for minimum seven years with the recommendation of the respective high court. Respective High Court has the sole discretionary power related to the administrative matters like posting, promotion or leave which can be conferred by the conditions of service as per the law applicable for subordinate courts.

¹³ Archit Gupta, Judiciary System in India, 2012.

Panchyats

As per the provisions made in Part IV of the Constitutions, the directive of panchyats is fixed which endorses the concept of self governance through Article 40 of this part. The panchayats are there in the rural area to resolve the issues related to civil or criminal issues by following the simple system of informal application to enhance to scope of compromise between the parties. Article 50 had made provision separating the judiciary from the administrative executive deployed in the public services of the state.¹⁴

Conclusion

With the above essay, the hierarchy of the courts and justice system in India had been properly discussed with the emphasis given on the judicial system of the country. It is evident that the role of the Constitution of India plays a major role in this aspect with the help of other rules and laws enforced from time to time to strengthen the judiciary system of the country. It is often questioned if the three layer judicial system is at all necessary or not for the purpose of running the judicial system of the country. It is evident from the strong base and the proven utility of the courts, that a big country like India does need this existing system of judiciary process to ensure the best possible judiciary to the citizen of India.

It is to be kept in mind the numbers of human resources deployed in the system through direct or ancillary services related to judicial system and with their constant endeavor, the judiciary system proves to be efficient keeping in mind the number of disputes raised everyday and the level of response extended by the courts refer to the disputes.

¹⁴ Pediaa, What is the Judiciary System in India, 2014.