

CHAPTER 6

DELAY REDUCATION PROGRAMS : CRITICAL ASSESMENT OF PAST EFFORTS

About half a century of the Constitution at work has tossed up many issues of the working of the judiciary: from the difficult problems of appointments to the superior judiciary to the problems of court clogging and judicial delays. A wide variety of issues have arisen. Who should appoint judges? Should they be “judge’s judges” or “people’s judges”? Should the composition of the judiciary reflect the pluralism of the society? Particularly disturbing has been the chronic and recurrent theme of the near collapse of the judicial trial-system, its delays and the mounting costs. The glorious uncertainties of the law have frustrated the aspirations for an equal, predictable and affordable justice.¹

The question of judicial arrears has engaged the attention of successive Governments and Law Commissions. Various proposals such as establishing specialised tribunals to take over the workload of the High Courts, increasing the manpower of the Judiciary and the number of courts, simplifying procedures and cutting down appeals have been suggested as possible remedies. Some of them have been tried but the problem remains. Failure to solve this problem raises the question whether we are bereft of innovative ideas or lacking the will².

It has been seen in the previous chapters that despite several studies and large number of

¹ Report of the National Commission to Review the Working of the Constitution at para 2.22.5 at page 42

suggestions made, it is found that particularly in the sub-ordinate courts in India, delay in disposal of cases has been continuously widening resulting in docket over loading with no signs of reversal.

Another important aspect which is to be noticed is that most of the studies so far made are either based on opinions, interviews or samples or just analytical derivatives of the previous reports and opinions. No practical, clinical or participatory research involving players of the judicial system in actual working environments of the subordinate courts have been undertaken to find out patent, and more importantly the latent reasons with supporting evidence causing delays.

The Law Commission of India, back in 1958, had said that “delays in the disposal of cases and accumulation of arrears are in a great measure due to the inability of the judicial officers to arrange their work methodically and to appreciate and apply the provisions of the Procedural Codes”³.

In order to ascertain the true reasons may be latent or patent, it is desirable to first understand organisational structure of the Indian Judicial System, its way of working and then to find out the lackings in the system causing delays in disposal of cases.

² Tackling judicial arrears by T.K. Viswanathan appeared in The Hindu, dt. April 19, 2002

³ 14th Report of the Law Commission of India at page 161