

Volume 11**January 2000****Part 10****Elected**

□ Mr. M. Lokesh from Bangalore has been elected as the Chairman of Karnataka State Bar Council for the remainder of the term of the elected representatives.

□ Ms. T. N. Manjula Devi, from Bangalore has been elected as president of the All India women Lawyers Federation in its conference recently held at Bangalore

Campus Watch

□ On 9.1.2000 Society of mooters, university law college, Bangalore conducted finals of the IV All India Moot Court Competition in the college premises. The team from Govt. law college, Mumbai, comprising Mr. Siddarth S. Mehta, Mr. Ashish Shah and Mr. Vihang Virkar (Researcher) Secured first prize. Team from university law college, Bangalore comprising Mr. Vinay Aditya, Mr. S. Rajesh and Mr. J. A. Mithun (Researcher) obtained second prize, Mr. Siddarth S. Mehta, GLC, Mumbai was declared best student advocate and best gentleman advocate, Ms. Bondas Madhumita, SDM Law College, Mangalore was declared the best lady advocate of the meet. Best memorial award went to ULC, Bangalore.

□ Justice N. Santhosh Hegde, Judge, Supreme Court of India inaugurated a symposium on the 50th year of Indian constitution organised by university law college, Bangalore on 22.1.2000. Mr. Justice Y. Bhaskar Rao, Chief Justice, High Court of Karnataka, Presided over. Mr. Justice P. Vishwanatha Shetty, Judge, High Court of Karnataka and President, Karnataka Judicial Academy was the guest of honour at the function.

□ National law school of India university, Bangalore won the 16th annual court competition conducted by the Bar council of India recently concluded at the National Academy for legal studies and research, Hyderabad. The team consisting of Ashim Sood, Vinay Reddy and H. R. Savi Prasad represented the law school.

Pak CJ Sacked

Pakistan's Military administration sacked its Chief Justice Saeeduzaman Siddiqui alongwith 15 other judges of higher judiciary consequent upon their refusal to take fresh oath under the provisional constitutional order promulgated on October 14th, 1999 by Gen. Pervez Musharraf. Out of these six judges are from the supreme court. On the same day i.e. 26th January 2000 Justice Ershad Hasan Khan was sworn in as the new Chief Justice. It is pertinent to state that justice Saeeduzaman Siddiqui was appointed by the ousted prime minister Nawaz Sharif as the chief justice of the Pakistan supreme court after sacking the then chief justice Sajjad Alishah.

The military regime restrained justice Saeeduzaman Siddiqui on 26.1.2000 from leaving his official residence anticipating that he may influence his brother judges. It is noteworthy that about 90 judges of the higher judiciary did take oath under the provisional constitutional order designed to protect the military against legal action. As a retaliatory measure the Bar Council of Punjab province gave a call urging the advocates community from attending the Supreme Court and the High Courts on 26.1.2000. Interestingly the military rulers have also taken steps to implicate justice Saeeduzaman Siddiqui on charges of corruption and political favouritism.

News Panorama

□ WWW.Lexsite.com is an online service on Indian law and corporate matters. It focusses on the creation of content, community services on the web for legal and accounting professionals and corporate users. Lexsite currently hosts 3 lakh pages, 34, 243 cases, 842 circulars, 155 forms and 67 tax treatise. It is expected that this portal will be a dominant player by March 2002 with over 40% share in the targeted segment of help a million lawyers and accountants.

State Bar Council

□ During the first week of January 2000 Sri S. S. Kumman, Chairman of the Karnataka State Bar Council has appealed to the members of the Advocates' Associations not to go on Strike protesting against the proposed amendment to the Advocates Act regarding renewal of their Membership in the bar council once in five years. He has, However, suggested that they are liberty to write to law commission or Bar council of India. He has pointed out that the law commission has only suggested the proposed amendment with an intention to maintain the roll of advocates upto date.

□ In a pressnote dated 11.1.2000 Mr. M. Lokesh, Chairman, State Bar Council has notified that the Karnataka State Bar Council at its meeting held on 9th January 2000 considered at length the proposal made by the Law commission of India for renewing the Advocates Sanad once in every five years and passed a resolution unanimously opposing such a move. Therefore it is requested that Advocate Community need not go on with strikes and boycotts, and the state Bar council will fully protect and uphold their rights and interest and will stand by them at all events.

Birthday Celebrated

□ On 12.1.2000 Bharatiya Vidya Bhavan had organised a function in its ESV Hall to Celebrate 88th birthday of Sri C. N. Ramaswamy Shastri, Advocate. Former Chief Justice of Mysore high court Mr. Justice Nittoor Srinivasa Rao was Chief guest at the function which was presided over by Sri N. Ramanuja, Chairman of the bhavan. A series of short talks on humour in legal profession from Sri K. G. Raghavan and Sri G. L. Viswanath, advocates and Sri T. V. Venkataramanaiah, Editor, Humour Series was highlight of the function.

Workshop for Advocates

A fruitful workshop for the benefit of young advocates had been organised at Bangalore from 21st to 24th December 99 under the joint auspicious of the All India Bar Council, State Bar Council, NLSIV and Karnataka Judicial Academy. The workshop attracted 97 advocates from various parts of the State. Mr. Justice (Retd.) B. N. Krishnan spoke on pleadings. Prof. B. Venkatakrishnappa spoke about the powers and duties of an executor of a will. Prof. M. K. Ramesh of NLSIV spoke on the services of an advocate vis-a-vis Consumer Protection Act. Sri C. B. Srinivasan talked about the salient features of specific Relief Act. Prof. Joga Rao of NLSIV spoke about the importance of Evidence Act in civil and criminal cases. Senior Advocate, Mr. M. V. Devaraju apprised the participants of the criminal law. Justice B. N. Krishnan spoke about criminal trials. Prof. Shankar Reddy of NLSIV taught about the concept of guardian, comprising of cases, details of vakalathnama and execution cases. Prof. Sundar of NLSIV spoke about Law Counselling and professional ethics.

The workshop was inaugurated on 21st December by Chief Justice Mr. Y. Bhaskar Rao who called for upholding of constitutional Values by the advocates. Mr. Justice P. Viswanatha Shetty, Chairman of Karnataka Judicial Academy, Prof. N. L. Mitra, director, NLSIV, Mr. V. R. Reddy, member BCI also participated in the function which was presided over by Mr. Karvendhan, Chairman of BCI. The Validictory function was held on 24th December with an address by Mr. A. N. Jayaram, Advocate General. Mr. Justice S. Rajendra Babu, Judge of the Supreme Court, Chief guest of the function Stressed the importance of developments in information technology and multimedia, Sri K. G. Sreepada Rao and Sri Chande Gowda, to Participants of the workshop, narrated their experience during the workshop.

Report : K. G. Sreepada Rao, Advocate

Code of Civil procedure (Amendment) Act, 1999.

A summary of the amendment act is furnished below in a tabular form which should serve as a ready reference as to the effect of the amendment. It may be noted that the amendment act would come into force from a date to be notified in this regard-Editor.

Section	Nature of amendment	Effect of amendment
26	Existing Section 26 renumbered as sub-section(1) and sub-section (2) inserted.	In section 26 of the Code, a suit is instituted by presentation of a plaint or in such other manner as may be prescribed by rules made by High Court. Since these rules are different with different High Courts, the requirements for institution of suit are not uniform. The rules made by some High Courts require plaint to be supported by an affidavit stating the genuineness of the claim of the plaintiff and of the documents on which he relies upon while no such affidavit is required under the rules made by some High Courts. With a view to bring uniformity and lay down simple procedure to complete the pleadings, section 26 is amended to provide that facts must be proved by affidavit in every plaint.
27	Certain words inserted	Section 27 is amended with a view to lay down a fixed time frame to send summons to defendants. It provides 30 days from the institution of suit within which summons should be sent to defendants.
32(c)	Certain words substituted	In clause (c) of section 32, the court is empowered to impose a fine not exceeding five hundred rupees for the purpose of compelling the attendance of any person in the court. Words "five thousand rupees" is substituted in place "five hundred rupees" in the said section for the reason of decrease in the value of money since the time provision was made.
58	Certain words substituted in clause (a) of sub-section (1); clause (b) of sub-section(1) substituted and certain words substituted in sub-section (1A)	Section 58 provides for the detention and release of a person from civil prison in execution of a decree. Since the time provisions of section 58 were made the value of money has decreases considerably, section 58 is amended to substitute for the words "one thousand rupees" and "five hundred rupees" the words "five thousand rupees" and "two thousand rupees" respectively.
60(1), first proviso, clause (i)	Certain words substituted	Section 60 provides for attachment and sale of properties in execution of a decree. Section 60 is amended by substituting "one thousand rupees" in place of "four hundred rupees" for

See Page 3

Indian Democracy - Electoral Reforms

Justice Ashok Bhan

From the Last issue

It is unfortunate that the educated and the rich people think in these terms. As the enlightened citizens of the country they should take the lead and cast their votes. They have to share the blame for this. If they do not come forward to join politics and lead the country then only undeserving people would come to power. The country gets a government which it deserves.

Criminalisation of the Indian politics is another aspect which has to be given a serious thought. It is unfortunate that the political parties in spite of knowing the criminal background of some persons make them their candidates and end up putting them in positions of power. In some of the states it is seen that criminal chieftains turn into political chieftains which has largely contributed to the people losing their faith in the entire political class. A person with a criminal background should be disqualified from contesting the election. A person who is undergoing trial on a charge of serious offence or a person who has been sentenced for more than two years of imprisonment should not be allowed to contest the elections. Even after undergoing the sentence he should be debarred for a particular number of years from contesting the elections. Further they should also be debarred from holding any office of responsibility in the party or in the government.

Election expenses incurred by an individual or a political party also deserves to be given a hard look. Although a ceiling on the amount to be spent by a candidate for an assembly or parliament seat has been put in actual practice it can be seen that an amount which is 100% over and above the limit prescribed for expenditure is being spent by the candidates. The better part of this money is utilised in bribing the voters. Bribe is given either in cash or in kind like supply of free liquor. This corrupts the whole structure of society and corruption ends up becoming a way of life. Instances where voters are bribed to cast their votes in favour of

a particular candidate are well known. Similarly there have been instances where voters have been bribed for making them not cast their votes. Ways and mean have to be devised to eliminate such practices.

A ceiling on the election expenditure should apart from the candidate be put on the political parties as well. The funding of the parties and the candidate should be transparent. Most of the money which is given to the candidate or to the parties is the black money which is generated through illegal means. Use of black money in the election leads to the criminalisation of politics. The underserving people who earn their money by illegal means finance the candidates or even the political parties, to further their personal interests. The election commission at one point of time had appointed election expenditure observers to check the use of money power in elections. Appointment of election expenditure observers can curb the vitiating impact of money power in elections. Existing provisions of law with regard to election expenditure are more permissive than restrictive. The existing law does not measure up to the realities. The ceiling on the expenditure to be incurred by the candidate is not good enough as the expenditure incurred by the party or anyone else in the election campaign is safely outside the net of the legal sanction. The spirit of these provisions suffers violation through the escape route. The law should be amended and every party registered should submit its audited accounts annually to the election commission disclosing its source of funding.

Booth capturing and intimidation of the voters and preventing them from casting their vote is another major illness from which our electoral system is suffering. This may not be so in south india. But in some of the states in central india, weaker sections of the society, belonging to socially or economically backward classes are not permitted to cast their vote.

to be continued

From Page 2

89 Inserted

the reason of decrease in the value of money since the time provisions were made.

Section 89 is inserted to provide for the settlement of disputes outside the court. The provisions of section 89 are based on the recommendations made by Law Commission of India and Malimath Committee. It was suggested by Law Commission of India that the Court may require attendance of any party to the suit or proceedings to appear in person with a view to arriving at an amicable settlement of dispute between the parties and make an attempt to settle the dispute between the parties amicably. Malimath Committee recommended to make it obligatory for the court to refer the dispute, after issues are framed for settlement either by way of arbitration, conciliation, mediation, judicial settlement or through Lok Adalat. It is only when the parties fail to have their disputes settled through any of the alternate dispute resolution method that the suit could proceed further. In view of the above, a new section 89 is inserted in the Code to provide for an alternate dispute resolution.

95 (1) Certain words substituted

In Section 95, the court may award compensation not exceeding one thousand rupees in case it appears to the court that an arrest, attachment or injunction has been effected and such arrest, attachment or injunction was applied for insufficient ground or that there was no reasonable ground for instituting the suit. Sub-section(2) of the said section bars a suit for compensation in respect of such arrest, attachment or injunction if an order has been passed by the court on an application for compensation under sub-section(1). In this circumstance, sub-section (1) is amended to substitute "fifty thousand rupees" in place of "one thousand rupees".

96(4) Certain words substituted

Section 96 provides for an appeal from original decree. Since the time provisions were made the value of money has considerably decreased and the pecuniary limits of "three thousand rupees" require to be revised, section 96 is amended to substitute "twenty-five thousand rupees" in place of "three thousand ruppes."

100(A) Substituted

Justice Malimath Committee examined the issue of further appeal against the judgement of Single Judge exercising even a first appellate jurisdiction. The

102 Substituted

Committee recommended for suitable amendments section 100A of the Code with a view to provide that further appeal in this regard shall not lie. The Committee also recommended for suitable enactment by Parliament for abolition of appeal to a Division Bench against the decision and order rendered by a Single Judge of the High Court in a proceeding under articles 226 or 227 of the Constitution. A new section 100A is substituted with a view to provide for no further appeal in the above cases.

Section 102 bars record appeal when the amount or value of the subject-matter of the suit does not exceed one thousand rupees. Justice Malimath Committee recommended the amendments in section 102 in order to substitute a limit of twenty-five thousand rupees in place of one thousand rupees for the reasons of decrease in the value of money since the time provisions were made. Section 102 is substituted to bring in a limit of twenty-five thousand rupees to bar record appeal.

115 Proviso substituted in sub-section (1) and sub-section(3) inserted

Section 115 provides for revision by the High Court of an order or decision of any court subordinate to such High Court. The Malimath Committee noticed that often the records of the lower courts are sent to the High Court in the revisional proceedings. It is imperative that records of proceedings pending in the subordinate court should not be sent unless High Court so desires and revision should not operate as stay of proceedings before the trial court. The Committee while agreeing in principle that scope of interference against interlocutory orders should be restricted, felt that the object can be achieved more effectively without demanding the High Court of the power of revision. Section 115 is, therefore, amended to achieve the above object.

148 Certain words inserted

Section 148 provides for enlargement of time by the court. Where any period is fixed or granted by the court for any act prescribed or allowed by the Code, court has discretion to enlarge such period. Section 148 is amended to put a limit on enlargement of such period by inserting the words 'not exceeding thirty days in total' with a view to minimise the procedural delay at the instance of either party to a suit.

to be continued

Kolar Diary

□ In the generalbody meeting of Malur Bar Association held on 7.1.2000 Mr. K. Ramaiah, Advocate, has been elected as the president for the second consecutive term. Mr. D. Narayana Swamy, Advocate has been elected as the General Secretary for the second consecutive term. Mr. R. Venkatesh Naidu, Advocate, Mr. M. Muniraju, Advocate and Mr. Anand, Advocate have been elected as the vice president, Treasurer and Joint Secretary respectively.

□ In the generalbody meeting of the Advocates Association. Srinivasapura held on 7.1.2000. It was resolved to have the following office bearers for the years 2000-2001. President Mr. K. V. Narayanaswamy; Vice-president : K. Narayanaswamy; Secretary : G. N. Ashwatha Reddy; Joint-Secretary; Lakshmi Prasad; Executive Members; N. Sampath Kumar, Krishnappa, M. R. Sudhakara Reddy, K. N. Chandrashekar Reddy and T. Venkataravanappa.

□ In the General Body Meeting of Kolar Bar Association held on 8.1.200- Mr. K. N. Nagaraja, Advocate and Mr. R. Venkatachalapathi, Advocate, have been elected as the president and secretary respectively. M. G. Venkatarreddy, K. R. Dhanraj, V. Venkatachala, M. G. Chandrashekar, E. Chandrakala, B. S. Amaranath, S.N. Murthy, Subramanyam and G. Srinivasa, Advocates have been elected as Executive Committee Members.

□ With effect from 6.1.2000 advocates of Kolar District are on indefinite strike as per the resolutions of the local Bar Associations. The strike is in protect against the extension of the pilot scheme by one more year.

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Foreign Tours

□ On 2.1.2000 Mr. V. S. Prasad, Advocate, left Bangalore on three weeks tour of Australia

□ Between 16th and 27th December 1999 Mr. S. Mahesh along with his family visited singapore.

□ On the Invitation of Peter H. Watson and Associates, P. A. to conduct a joint study on the of damages applied in the united states vis-a-vis Indian Judiciary Mr. NDR Ramachandra Rao, Advocate, Left Bangalore on 12.1.2000 for Minnesota for a stay of two weeks. During his Stay Mr. Rao will be visiting the Appellate Court and Supreme Court of minnesota. Apart from addressing member of the Bar in Supreme Court Mr. Rao also expected to inter-act with the judges of the appellate court and supreme court. A function to wish bon-voyage to Mr. Rao was organised by AAB in the city unit on the eve of his departure from Bangalore.

□ Mr. K. V. Subbanna, Advocate, returned to Bangalore on 13.1.2000 after five and half months tour of USA and Canada.

Lahari Law Academy

In the third mock court competition conducted by the academy on 26.1.2000 Ms. K. N. Saraswathi from Vivekananda Law College secured the first prize. Mr. Cristopher from SJR Law College secured the second prize. Mr. K. V. Dhananjaya Kumar, a law graduate secured the third prize while Ms. Sushma from SJR Law College secured fourth prize. Mr. T. Sai Srujan from ULC and Ms. Jayanthi from SJR Law College were adjudged the best overall male and female advocates of the Competition. Mr. Justice R. V. Raveendran, Judge, High Court of Karnataka distributed the prizes. Mr. K. Sreedhar Rao, pri. city civil and session judge, Bangalore distributed certificates of participation. Mr. S. Vijaya Shankar, Trustee of the Academy, Welcomed the gathering and Mr. P.G.C. Chengappa, Director of the academy, proposed vote of thanks.

News Focus

□ On 3.1.2000 Chief Minister S. M. Krishna laid foundation stone for a library black at the Karnataka Judicial Academy in Bangalore

□ On 7.1.2000 Diabetes awareness programme was jointly organised by AAB and Lions Club international at AAB auditorium. Dr. Munichoodappa, Diabetes Specialist, was the Chief Guest of the function.

□ On 8.1.2000 Sri C. N. Ramaswamy Sastri, Advocate, inaugurated one day convention of advocates for hindu causes organised by Hindu Jagarana Vedike at Yadav Smrithi, Bangalore. About 100 advocate delegates from all over State participated in the convention. Swamiji of Belimutt, Bangalore delivered benediction speech. The convention was concluded with a validictory speech by Sri Jagadish Karanth, a renowned social worker.

□ On 21.1.2000 Karnataka Tax Consultants Association, had organised a Symposium on Uniform Sales Tax Regime and its impact on Trade and Industry at Bangalore. Sri V. Madhu, Commissioner of Commercial taxes in Karnataka, Sri Tallam Venkatesh, President, F.K. C.C.I. Sri S. Narayana, Sri E. R. Indra Kumar, Advocates and Sri D. R. Balaji Singh, Addl. Commr. Commercial Taxes were the Speakers on the occasion. Sri S. K. Nahar, President, KTCA welcomed the participants.

□ On 26.1.2000 Republic day celebrations were held at the Karnataka High Court under the joint auspices of AAB, The Bangalore Advocates Co-op. Society Ltd., and Bangalore Litarary Union. Mr. Justice Y. Bhaskar Rao, Chief Justice, Unfurled the national tricolour and addressed the gathering. A musical programme by Swara Lahari followed the event. Mr. K. Sreedhar Rao, Prl. City Civil and Sessions Judge, Bangalore Unfurled the national flag in the City Civil Court Complex and addressed the gathering.

Advocates Co-op. Society

In the meeting of the directors of Bangalore Advocates Co-operative Society held on 24.12.99 twenty four new members were admitted, loan was sanctioned to seventy nine members. Four shares each in respect of 292 share holders who had taken membership of the society prior to 28.9.94 was allotted, financial assistance of Rs. 10,000/- to the State Bar Council for conducting Workshop on continuing legal education and an additional assistance of Rs. 10,000/- to All India Women Lawyers Conference was sanctioned in the meeting.

Vacancy Available

M/s. Bhuvan & Co. has a vacancy for an Advocate. Interested persons may apply to:

Bhuvan & Co.
Advocates
406, Commerce House
Cunningham Road
Bangalore-560 052
Tel. : 2252700

Wedding

□ On 27.1.2000 Mr. N. Babu Puttanna, Advocate, S/o. Prof. V. Narayana Swamy, Advocate married Ms. A. Ramya Sudha at Bangalore.

Litarary Union

□ On 21.1.2000 Mr. Go. Ru. Chennabasappa, former president of Kannada Sahitya Parishath, inaugurated a Symposium on Vachana Sahitya under the auspices of the union. Mr. C. G. Gopala Swamy, president of the union, presided.

Applications invited

Through a notification dated 7th January 2000 the Secretary, Civil Judges (Junior Division) Selection Committee, High Court of Karnataka, Bangalore-1 has invited applications from the eligible candidates for recruitment as Civil Judges (Junior Division) in the State of Karnataka. Last date for receiving the applications is 10.2.2000. There are 43 posts to be filled up out of which 11 posts are reserved for women. Pay scale applicable to the cadre is Rs. 2375-75-2900-100-3700-125-4450.

Lahari Law Academy proposes to conduct a orientation course for the candidates proposing to appear for the recruitment test. Advocates intending to take advantage of the course may contact Mr. S. N. Prasanth Chandra, Advocate. Tel. : 3443780.

Strikes Galore

A number of Bar Associations in Karnataka Struck Work during the month opposing the recommendations of the law commission for amending Advocates' Act. Reports of such Strikes all over Karnataka have been received.

Obituary

□ On 3.1.2000 Chinnappa K. Kambeyarda, Advocate, Passed away at Bangalore.

□ On 11.1.2000 V. Markande Gowda, [63], Advocate, Passed away at Bangalore.

□ On 14.1.2000 B. T. Devoji Kumar, Advocate, Passed away at Bangalore.