

Volume 9

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Part 2

Call to Revive Transfer Policy

Sri.K.N.Subba Reddy, President of the Advocates Association, Bangalore, has written to the Chief Justice of India seeking to revive the policy of transferring High Court Judges "in the interest of fair administration of Justice in the Country". Mr Reddy has stated that the transfer of Judges effected during the tenure of Chief Justice M.N.Venkatachalaiah had a salutary effect on the working of the judiciary. He has lamented that subsequently the transfer policy has been kept in cold storage.

Immunity Denied to Mr.Clinton

In a landmark judgment delivered on 27.5.97 the US Supreme Court ruled unanimously that the President is not entitled for immunity against an ordinary law claim. The Judges held that they are not persuaded to accept the arguments of

Mr.Clinton's counsel.

It is pertinent to state here that Ms.Paula Jones has filed a suit claiming damages from Mr.Clinton for his alleged sexual harassment of her while he was the Governor of Arkansas. Mr.Clinton's Lawyers argued that since Mr.Clinton is holding the office of President of US the suit cannot proceed as it would interfere with his official duties. It was also contended that permitting the plaintiff to proceed with the suit would open the way to an avalanche of law suits against sitting Presidents. While rejecting these contentions the Apex Court held that "Like every other citizen who properly invokes court's jurisdiction Jones has a right to an orderly disposition of her claims".

For Latest News
READ

Communique

We cannot allow Govt. be run by the Courts: Gujral

Prime Minister Inder Kumar Gujral wanted a debate initiated in Parliament and outside as to whether the current phenomenon of filing public interest litigation (PIL) has not gone out of hand. He feared that "Some remedies are more dangerous than the disease". Mr. Gujral was giving an exclusive interview to a reputed English daily on May 10, at New Delhi. He was of the view that while the concern for fighting corruption may be justifiable but it should not result in creation of 'Institutions which can be super judicial bodies'. Mr.Gujral maintained that the need was for rationality.

Elaborating his views Mr.Gujral said "If somebody wanted to destabilise a govt. whose policies he disagrees with it is a simple matter to get

someone file five cases or reinstate St.Kitt's so that your Prime Minister is vulnerable. We should not reach such a stage that the govt. is run by the courts and not by the people"

New IT Tribunals

Fifteen new Income Tax Appellate Tribunals would be set up in the country shortly. Announcing this in Chandigarh on 17.5.97 the Union Law Minister Mr.R.D.Khalap said that the constitution of new Benches are necessitated for the speedy disposal of pending IT cases. He also said that all these Tribunals could be interconnected through Computer Network and the decisions of the Supreme Court and various High Courts will be made available to these Tribunal through internet. He also said that a bill will be introduced in the Parliament to provide for prescribing of IT cases with the prescribed time scale of one year.



Mr.K.N.Subba Reddy lighting the lamp at the inaugural function of the Orientation Course for Munsiff's Examinees Justice B.N.Mallikarjuna,who inaugurated the course is seen to the right of Mr.Reddy.

Judge to go on Fast ?

It has been reported that Mr.K.Sivashanmugam,Addl.

Munsiff of Thirukovilur in Villupuram District in Tamil Nadu has written a letter to the State Law Minister Aladi Aruna intimating him that he along with his family members will go on fast before the Secretariat if his demand for appointment of a Stenographer and two office assistants apart from providing typewriter and residential accommodation are not met with before June 15th. The judicial Officer has also contended that his hand has been benumbed as he is forced to write judgments and orders in the absence of the stenographer and the typewriter.

New Judges

It is learnt that the names of Mr.H.Rangavittalachar, Mr.S.R. Bannur Math and Mr.V.Gopala Gowda, have been approved to be appointed as Additional Judges of the High Court of Karnataka.

Office Bearers

In the General Body Meeting of the Kunigal Bar Association convened on 28.5.97 the following Advocates were

unanimously elected as Office Bearers of the Association for the year 1997-98. President : Mr.N.B.Lingadevaru, Secretary : Mr.K.H.Dayananda, and Treasurer : Mr.Krishna Raj,

Transfers/Postings

The following Judicial Transfers and Posting have taken place in Kolar District w.e.f.26.5.97: Mr. Shambu lingappa has taken over as the I Addl. D.J. Kolar Vice Mr.C.R. Kumaraswamy; Mr. G.V. Hegde has taken over as II Addl D.J. Vice Mr.K.N.Keshava Narayan; Mr N.Subba Rao has taken over as Civil Judge (Junior Division) and JMFC,KGF, Mr.Mallappa Biradar has taken over as Principal Munsiff, Kolar Vice Mr. Chandrashekar Patil, Ms.Sridevi, has taken over as Addl. Munsiff and JMFC, Kolar Vice Mr.Mallappa Biradar, Mr.N.S.Dage has taken over as Munsiff and JMFC, Mulbagal, Vice Mr.Kalaskar K.Dutt; Mr.M.C.Sachidananda has taken over al Munsiff and JMFC, Malur.

Change just for the sake of change is not necessarily good. But, change to adapt to the situation is survival.

— Ohio State Bar Association Report.

Judicial Postings

Consequent upon promotions and transfers of Judicial Officers the following postings in Courts of Bangalore will take effect from 26.5.1997.

City Civil Courts

CCH-1 -K.R.Prasad Rao
CCH-2- D.Krishnappa
CCH-3- J.C.Neeralagi
CCH-4- K.Radhakrishna Holla
CCH-5- Kazia Md.Muzzammil
CCH-6- S.V.Patil
CCH-7- C.Y.Illur
CCH-8- Basavantharay Patil
CCH-9- K. R. Bhat
CCH-10-Chowdapurkar Arun
CCH-11-M.S.Evani
CCH-12-Vacant
CCH-13-M.G.Hiremath
CCH-14-Veeranna G.Thigadi
CCH-15-A.Krishnappa
CCH-16-B. R. Budihal

CCH-17-A.V.Chandrashekar
CCH-18-S.Mariyappa
CCH-19-K. B. Lenkannavar
CCH-20-K.H.Mallesappa
CCH-21-V.V.Angadi
CCH-22-Shetkar Subhash
CCH-23-G.T.Veerabdrappa
CCH-24-T.Nanjappa
Registrar- J. V. A. Hiremath

Small Causes Courts

SCCH-1- D.R.Sundaresha
SCCH-2- M.K.Purohit
SCCH-3- D.R.Venkatasudarshan
SCCH-4- S.N.Vadnikop
SCCH-5- S.N.Navalgund
SCCH-6- Ashok S.Gadag
SCCH-7- Syed Ameen Ali
SCCH-8- K.D.Deshpande
SCCH-9- C.R.Javeed Pasha
SCCH-10-B.Balakrishna
SCCH-11-S.G.Pallad
SCCH-12-A.S.Bellunke
SCCH-13-T.H.Narayana Gowda
SCCH-14-P.A.Shivaprasad
SCCH-15-B.C.Pattar
SCCH-16-R.M.Shettar
SCCH-17-S.S.Nagarale
SCCH-18-K.Ninge Gowda
SCCH-19-M.M.Khan

SCCH-20-C. C. Gowda
SCCH-21-S.Nagesh
Registrar K.H.Mallappa

Rural Courts

PrI.D.J.- K.Sreedhara Rao
I A.D.J.- Jawad Rahim
II A.D.J.-H.V.Ramachandra Rao
PrI.C.J.- N.S.Patil
I A.C.J.- M.Raju
II A.C.J.- A.S.Basappa
PrI.II.M. P.S.Hiremath
Addl.II.M. M.Shoba

Family Courts

PrI.F.C. Indrakala
I.A.F.C. P.Seetha Ramaiah
II.A.F.C. Rathnakala

Magistrate Courts

CMM	H.M.Bhajantri
CJM	Kenche Gowda
ACJM	Iqbal Patil
IACMM	Parsi
IIACMM	R.M.Sindagi
III ACMM	Malagi
IV ACMM	P.V.Singri
V ACMM	D.Visweswara Bhat
VI ACMM	S.Y.Kumbar
VII ACMM	Prahalada Rao
VIII ACMM	V.N.Ravindra
IX ACMM	Shivanna
X ACMM	S.S.Kumbar
XI ACMM	Kashinath
Traffic Court I - K.N.Hadimani	
Traffic Court II - Subbannachar	
Traffic Court III - K.B.Asude	

Lahari Foundation An Appeal

Lahari Foundation, Bangalore, seeks donations for augmenting its financial base. This foundation is providing assistance to lawyers for health reasons. The donations you make now will be of immense help to some one who needs it.

— Trustee

The Ultimate Saving Factor

Sri.D.B.Thengadi

from the last issue

And again "The difficulties are further compounded, because the basic law where the provisions of equality in the part of fundamental rights are at variance with those in the Directive Principles of State Policy is itself riddled with contradictions. The contradictions are at least partly the result of the scarcity of resources which prevents the State from matching the abolition of disabilities, with the erection of abilities without which the directive principles merely mock at the very poor. There is no way in which the jobless can secure their rights to work or the destitute obtain justice in the absence of provision for free legal aid".

Shri.H.Venkatasubbaiah has expressed the view that "certain Directive Principles of State Policy were added to the Constitution on the plea that they give expression to the leftist convictions of the people and because it was thought to be desirable to add these revolutionary desiderata to something which otherwise so much resembled the instrument of the defunct British Raj".

It is true that, as Sri.T.K.Oommen explains: "The social milieu in the Indian context is constituted by (a) the persistent values of the old social order, (b) the aspired values of the evolving new society, (c) the incongruity or mismatch between these two and (d) law as a system and/or change-promoting instrument in society", and that "the important elements of legal milieu are (a) the process of law-making (b) the style of law implementation in disputes (the attitude and behaviour of litigants to the legal institution) and (e) the personnel in interaction in dispute processing - judges, lawyers, court officials, police and para professionals (e.g. lawyers' clerk).

Of course, a common man is not expected to be conversant with all the intricacies, niceties and subtleties of law and the constitution, but his common sense often enables him to perceive instinctively some of the

facets of reality that often escape the notice of learned experts. He fails to understand, for example, why a number of Conventions of the International Labour Organisation (ILO) are not yet ratified and implemented; why in keeping with the letter and the spirit of Article 370 introduced initially as a temporary measure, it is being recognised as a permanent feature and an integral part of the Constitution; why Articles 29 and 30 are not being interpreted in a manner so as not to encourage separatist tendencies and 'minorityism', why steps are not taken in pursuance of Article 48, for preserving and improving the breeds and prohibiting the slaughter, of cows and calves and other milch and draught cattle; why number of courts are not being increased - on the slippery plea of lack of funds - when the unprecedented arrears of cases are an obvious fact, and justice has not yet become cheap and expeditious - a fact resulting inevitably in the denial of justice to an unprecedented extent, since justice delayed is justice denied; why power of judicial review which was intended to be a curb on arbitrariness of the executive, is being allowed to be misused, why universally accepted criterion for the appointment of judges is being ignored in a number of cases; or objective assessment of the need for the review of law and the judicial reforms is not yet being undertaken.

In this land, Dharma has been always considered as an absolute point of reference in all matters. Our progressive critics would be surprised to learn what Pt. Nehru wrote in his Foreword, to a book by Sri Man Narayan on May 25, 1964 from the Circuit House, Dehra Dun: "In India it is important for us to profit by modern technical process and increase our production both in agriculture and industry. But in doing so, we must not forget that the essential objective to be aimed at is the quality of the individual and the concept of dharma undertaking it".

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The Ultimate Saving Factor

Sri.D.B.Thengadi

From page 2

Sanatan Dharma is our absolute referrant. For the convenience of understanding, it may be divided in two parts: (1) the eternal, unchangeable Universal Laws; and (2) the everchanging socio-economic order to be restructured from time to time in the light of the everchanging challenges before the society and the unchanging Universal Laws. The instruments for such restructuring are the Constitution and the Laws. These together constitute the 'Yugadharma' of the period. Constitution and enacted laws, when appropriate, become part and parcel of the 'Yugadharma'. The criterion for determining whether any enacted law is appropriate, and fit to become part and parcel of 'Yugadharma' is whether it is in consonance with the spirit of the Universal Law, of which natural justice and equity are some of the main attributes, natural justice, natural law, eternal law, equity, reasonableness, rationality, intelligibility, scientific character, etc.

What can be termed as 'Appropriate Law' in consonance with the Universal Law or equity or natural justice? A few observations by eminent authorities on the point would help clarifying the position.

In A.K.Gopalan Vs The State, Judge Fazi Ali says: "The word 'Law' may be used in an abstract or concrete sense. Sometimes it is preceded by an article such as 'a' or 'the' or by such words as 'any' 'all' etc., and sometimes it is used without any such prefix. But, generally the word law has a wider meaning when used in the abstract sense without being preceded by an article. The question to be decided is whether the word 'law' means nothing more than statute law.

Now whatever may be the meaning of the expression 'due process of law', the word 'law' is common to that expression as well as 'procedure established by law' and though we are not bound to adopt the construction put on

"law" or "due process of law" in America, yet since a number of eminent American judges have devoted much thought to the subject, I am not prepared to hold that we can derive no help from their opinions and we should completely ignore them. I will therefore in the first instance set out certain quotations from a few of the decisions of the American Supreme Court construing the word 'law' as used in the expression 'due process of law', insofar it bears on the question of legal procedure.

(1) "Although the legislature may at its pleasure provide new remedies or change old ones, the power is nevertheless subject to the condition that it cannot remove certain ancient landmarks, or take away certain fundamental rights which have been always recognized and observed in judicial procedures." *Bardwell Vs. Collin.* (2) By the law of the land is most clearly intended the general law: a law

which hears before it condemns, which proceeds upon inquiry and renders judgments only after trial. The meaning is that every citizen shall hold his life, liberty and property, and immunities under the protection of the general rules which govern society, "*Dartmouth College Case*". (3) "an it be doubted that due process of law signifies a right to be heard in one's defence? If the legislative department of the government were to enact a statute conferring the right to condemn the citizen without any opportunity whatever of being heard, would it be pretended that such an enactment would not be violative of the Constitution? If this be true, as it undoubtedly is, how can it be said that the judicial department, the source and fountain of justice itself, has yet the authority to render lawful that which if done under express legislative sanction would be violative of the Constitution? If such power obtains, then the judicial department of the government sitting to uphold and enforce the Constitution is the only one possessing a power to disregard it.

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Workshop Inaugurated

Law and Parliamentary Affairs Minister M.C.Nanaiah inaugurated a six days workshop on 'Constitutional Litigation' at Bangalore on May 10, 1997. In his inaugural speech he stressed the need for educational programmes for Lawyers and Judicial Officers for updating their legal knowledge. He also assured financial assistance from the government if the Bar Council took up the initiative for setting up training institutions for the Lawyers and the Judicial Officers. The workshop was well attended by the participants who were addressed by the retired Judges, Jurists, eminent Advocates and Academicians.

Seminar on Judiciary and Public Interest

The Judiciary is discharging its patriotic duty for the country in the form of judicial activism, declared Former Supreme Court Judge Justice V. R. Krishna Iyer. Justice Krishna Iyer was speaking at a Seminar in Bangalore on May

15th. His Lordship observed that the judiciary is accountable to the Constitution alone. He further said that the judiciary is only protecting the people's interest against the onslaught of MNCs and business houses which have entered India in the background of the liberalised economy.

Justice Jeevan Reddy, another retired Judge of the Supreme Court high lighted the menace of polluting industries which flouted all environmental norms. He called for stricter enforcement of the environmental laws in public interest. The seminar was jointly organised by the Environment Support Group, National Alliance of Peoples Movement and the Indian Council for Enviro-Legal Action.

Campus Watch

★ On 19-2-97 the Bangalore University Prasaraanga had arranged a lecture at Vidyodaya Law College, Tumkur, on "Constitutional Law". Prof. V. Narayanaswamy, Principal, BMS Law College, Bangalore, was the Guest Speaker. Sri Manchigaiah, Retired Secretary, Department of Education, presided over. Prof. H.S.Seshadri, Trustee and Sri. H.R.Dase Gowda, Director of Vidyodaya Foundation, were also present on the occasion.

Humour in Courts

✱ Two attorneys, one decidedly glum of Countenance, met on the street.

"Well, how's business?" the first asked of the dismal one.

"Rotten!" the pessimist replied. "I just chased an ambulance twelve miles, and found a lawyer in it."

✱ They had reached a juncture in the trial when the court advised the attorney to withdraw with his client and give him the benefit of best advice he could think of. After fifteen minutes the Attorney returned to the court room without his client.

"Where's the prisoner at the bar?" asked the judge.

"He skipped," replied the lawyer. "That was the best advice I could give him."

✱ Judge (during an enquiry into a case of alleged bribery): "You say you received Rs.200/- to vote for 'C' party and received the same amount to vote for 'B' party?"

Witness: "Yes, my lord."

Judge: "And whom did you vote?"

Witness (indignantly): "I voted, my lord, according to my conscience."

Cultural Events

The following Advocates secured prizes in the cultural events conducted by the Advocates Association, Bangalore, in April 1997:

Film Songs: Bharathi Bhat-I, Divakar Maddur-II and Krishnamurthy-III.

Mimicry: Shivaram I, Basavaraj II and V.S.Hegde-III.

Prathamakshari - Kannada: Rekha Naik-I, Honnuswamy-II and Latha Murthy-III.

Prathamakshari - Hindi: Pradeep Kumar Sethe-I, Nagarathana-II and Rekha Naik-III.

Pick and Speak: S. Gopal-I, D.H.Mokshi-II and C.G.Gopala Swamy III.

Revolutionary Songs: Siddaraju-I, Krishna Murthy-II and Divakar Maddur-III.

Bhavageethe: Bharathi Bhat-I, B.P.Radha-II and Hamsaveni-III.

Folk Songs: Divakar Maddur-I, Bharathi Bhat-II and B.P.Radha-III.

Patriotic Songs: Bharathi Bhat-I, K.V.Sateesha-II and Hamsaveni-III.

Mono Acting: D.H.Mokhashi & Shivaram I, Latha Murthy-II and Vishnu Murthy-III.

Miscellany

♦ On 21.3.97 Mr.M.Harish, Advocate, opened his law-chamber at No.185, I Floor, Arya Vidya Sangha Building, Geshadripuram, Bangalore-560 020, Ph No:3314631.

♦ With effect from 1.4.97 Mr.S.A.Khuddus, Advocate, has shifted his Chamber to No.2 H.B.Road, Munirayanapalya, RT Nagar P.O Bangalore-560 032.

♦ On 23.4.97 Karnataka Minister Mr.M.P.Prakash inaugurated "Mahamane" a free hostel for poor students at Gadag. Mr.Mahanthesh Hosmath, an Advocate from Bangalore, was felicitated on the occasion for taking initiative and donating funds for the commencement of the hostel.

♦ On May 5th Mr.Ramachar (76) a retired High Court Assistant Registrar was stabbed by an unidentified person near Ramamandira in Rajajinagar. The victim died on the way to hospital.

♦ On 9.5.97 N.S.Satish Chandra, R.Nataraj and A. Sampath, Advocates, opened their law chamber at No.34, II Floor, III Cross, III Main, IV Block, Kumara Park West, Bangalore-560 020, Phone No:3310284, 3445776.

♦ With effect from 9.5.97 G.Chandrashekaraiah, Advocate, shifted his chamber to No.8/1, 11th Main, Shivanagar, Bangalore-560 010.

♦ By an order dated:16.5.97 a Division Bench of the Patna High Court has directed all the District Judges in Bihar to personally inspect the jails functioning under their territorial jurisdiction and submit their reports regarding the condition of the jails.

New Focus

♦ On 28.5.97 Mr.K.S.K.Murthy, Senior General Manager, Bangalore Telecom District, participated in "Open House" programme organised by the Advocates Association, Bangalore.

The ultimate Saving Factor

From page 3

If such authority exists then in consequences of their establishment, to compel obedience to law and enforce justice, Courts possess the right to inflict the very wrongs which they were created to prevent "Hoven Vs Elliott."

(4) "It is a rule as old as the law, and never more to be respected than now, that no one shall be personally bound until he has had his say in Court, by which is meant, until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgement without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and can never be upheld where justice is justly administered." Gatpin Vs page".

Thus, in America, the world "law" does not mean merely State-made law or law enacted by the State and does not exclude certain fundamental principles of justice which are inherent in every civilized system of law and which are at the root of it. The result of the numerous decisions in America has been summed up by Professor Willis in his book on "Constitutional Law" at page 662, in the statement that the essentials of due process are: (1) notice, (2) opportunity to be heard, (3) an impartial tribunal and (4) orderly course of procedure. It is pointed out by the learned author that these essentials may assume different circumstances, and so long as they are conceded in principle, the requirement of law will be fulfilled. For example, a person cannot require any particular form or method of hearing, but all that he can require is a reasonable opportunity to be heard. Similarly, an impartial tribunal does not necessarily mean a judicial tribunal in every case.

To be continued



A scene from the Drama "Vrabhrashta Ravana" enacted during the Annual Day celebration of AAB

Retired

Justice S.Venkataraman retired as a Judge of the Karnataka High Court on 9.5.97.

Editor Appointed

With effect from 16.4.97 Mr.S.V.Tilgul has taken over as the Editor of ILR Karnataka. Consequent upon the resignation of Mr.B.M.Baliga the vacancy had been caused.

Foreign Tours

→ Mr.R.Rajagopalan, Advocate, left Bangalore on 10-5-97 on eight weeks tour of USA, Canada and London

→ Mr.S.V.Shastri, Advocate, returned to Bangalore, on 23.5.97 after four weeks stay in Australia.

Obituary

● On 23.4.97 P. Ananda Bhat (45) Advocate from Bangalore passed away at Tirupathi

● On 11.5.97 Mohd. Saifulla (62), Advocate, passed away at Bangalore.

● On 13.5.97 K.Prashanth Kumar (30), Advocate, passed away at Bangalore.

Point Bank

My father advised against my becoming a Lawyer. However, unsuccessfully I took up practice. Thereafter I decided to become a politician and entered Taluk Board.

— Mr.J.H.Patel in a public meeting held at Davanagere on May 5, 1997.

Lahari Foundation

Financial assistance of Rs. 2,000/- is provided to Mr B.Ramakrishna, Advocate, Bangalore in connection with treatment of his ailing son.

Communique Classifieds

Two/Three bed room apartments on ownership basis located at 1.5 K.Ms. from the HAL Airport readily available. Common amenities provided include swimming pool, generator, four lifts, Table Tennis and Badminton Courts, play area for children, Dish Antenna and Landscaped garden. Contact Mr.Rahamathulla Shariff, Advocate, No.10, S.K.R. Market, Bangalore-560 002, Phone : 627948.