

## Ensure Women's Rights - Supreme Court

Using its extra-ordinary power to make laws and enforce fundamental rights the Supreme Court directed the governments and other public bodies to provide appropriate penalties against sexual harassment of women at work places. This direction will be binding and enforceable in law until suitable legislation is enacted, the Court said in its twenty four page judgment delivered on August 13, 1997. The Bench comprising Chief Justice J.S. Verma, Justice Sujatha V. Manohar and Justice B.N. Kirpal gave this direction on a writ petition seeking enforcement of the fundamental rights of working women brought as a class action by Social Activists and NGOs in the case of alleged brutal gang rape of a social worker in Rajasthan.

The Apex Court has defined sexual harassment which amongst other things include such unwelcome sexually determined behaviour [whether directly or by implication] as physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography and any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The Court directed that Rules/Regulations of government and public sector bodies relating to conduct and discipline should include Rules and Regulations prohibiting sexual harassment and provide for appropriate penalties against the

offenders. The Court also directed that all private employers should take immediate steps to include the prohibitions in the standing order, under the Industrial Employment (Standing Orders) Act, 1946.

The Court held that where such conduct amounts to a specific offence under IPC or under any other law the employer shall initiate appropriate action in accordance with law by making a complaint to the appropriate authority. The Court observed that "In particular, it should ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek the transfer of the perpetrator or their own transfer."

The judgment also directed the creation of an appropriate complaint mechanism in the employer's organisation to find out whether or not such conduct constitutes an offence under law or breach of Service Rules and to provide redress to the victim besides ensuring time bound treatment of the complaints. There is also a direction that the Committees constituted to consider the complaints of sexual harassment should be headed by a woman and not less than half its members should be women. The Committee must also include a third party representing NGO or other bodies familiar with the issue of sexual harassment.



Noted Journalist Mr. S.V. Jayasheela Rao releasing the 100th issue of "Communique" at a simple ceremony.

## Pay Panel Obtains Assistance

The First National Judicial Pay Commission for the Subordinate Judiciary has obtained assistance of three premier organisations in its task. Interacting with the press the Chairman of the Commission Justice K. Jagannatha Shetty said that the three organisations have been appointed as consultants to make the report more scientific. Justice Shetty also said that "We want the report to be accepted with a smile by the Judicial Officers."

The Indian Institute of Public Administration, Delhi has been engaged to rationalise the pay structure of the Subordinate Judiciary. Indian Institute of Management, Bangalore, will advice the Commission on Court Management. National Law School of India University, Bangalore, has been asked to prepare the syllabi for training Judicial Officers.

## Take up Environmental Issues

Forming an important segment of our society Lawyers have played vital rôle in our country. Now the time has come for the Lawyers to take up environmental issues and protect the people from the environmental holocaust said Mr. S.V. Jayasheela Rao, the noted Journalist, while addressing the Lawyers in the AAB Auditorium on 6-8-97.

Mr. Jayasheela Rao was speaking under the auspices of Lahari Advocates Forum after releasing the 100th issue of its newsletter "Communique". Lauding the efforts of the Forum in disseminating knowledge amongst the Lawyers Mr. Jayasheela Rao made a special mention of the item Humour In Courts. Reminding that the Lawyers pass through anxious and tense moments in their every day life humour would lighten their burden said Mr. Jayasheela Rao.



*The function of freedom is to free somebody else.*

*-Toni Morrison.*

## Saga of Indian Judiciary

Saga of Indian Judiciary during the past five decades is not fully praiseworthy and it reflects only a picture of modest achievements. The year of Golden Jubilee of India's Independence as well as Independent Indian Judiciary provide an opportunity to take stock of its achievements and failures. While the Judiciary can be legitimately proud of its achievements it cannot remain complacent with regard to the drawbacks in the system.

Though not based on the American model the Indian Constitution has ensured substantial independence to Judicial system and apart from being the ultimate arbiter of all disputes Indian Judiciary enjoys a special status with regard to its power of review. In this sense the framers of the Constitution have ensured sufficient checks and balances with regard to the Legislative and Executive functions of the States by attaching due importance to the Judiciary. Public Interest Litigation has been found to be an important redress mechanism against the arbitrary functioning of the States and resort to PIL has undoubtedly increased. However, the excessive entertainment of PIL by the Courts has caused raising of eyebrows from a large section of the society particularly the politicians. It is for the Judiciary to be balanced in its approach with regard to the consideration of PIL lest this important mechanism shall not act self destructively.

The Apex Court and the various High Courts have pronounced land mark judgments which have received proper attention and acclaim the world over. The Indian Judiciary can be really proud of this achievement. At the same time the overall quality of the judgments delivered by the higher Judiciary has come down and certainly it is not a good augury. Perhaps this is the direct result of reduced efficacy of persons entering Judiciary. It is no secret that merit alone is not the consideration in the appointment of

Judges and Judicial Officers.

Though efforts are being made from time to time to reduce the pendency of litigations not much progress has been achieved in this regard. Perhaps to avert the crumbling of the system efforts are on to find alternate grievance redressal systems like the constitution of Tribunals. Arbitration mechanisms and Lok Adalats. Is it in other words an admission on the system about its receding efficacy? Alternate grievance redressal mechanisms cannot be substitutes to a well defined legal redress mechanism. Obviously the alternate remedies can only be supplementary and not otherwise. Introduction of computers, block disposal of cases and other similar innovations adopted from time to time has not helped in improving the situation since the lethargic approach in filling up the vacancies of Judges and Judicial Officers has definitely off set the marginal achievement that might have been achieved by the introduction of new systems.

Consequent upon the failures to increase the standards of legal education particularly the failure to introduce uniform law course and revising the syllabi so as to bring it on par with advanced legal education systems of the world, the legal profession is unable to attract highly qualified and efficient persons into its fold. Naturally the quality of persons accepting judicial responsibilities has suffered.

Every time inadequacies in the system are pointed out fingers are shown against the procedural delays and cumbersome methods of disposal of litigation apart from the number of appeals / revisions provided to the litigants. Recommendation of various Law Commissions have hardly helped to improve the situation.

Without the economic improvement of the Judicial Officers not much can be expected of them with regard to the increased work turn out. It is in this context the setting up of the First Judicial Pay Commission for Subordinate Judiciary is a welcome step.

It is no longer a secret that when politicians and political parties are parties before the Courts the higher Judiciary has given those case precedence over other pending cases. This is not a healthy sign. Common man should feel that he is treated equally with regard to the time involved in finding redress to his grievance vis-a-vis the politician.

As regards the settlement of Inter-State disputes like the sharing of river water, boundary disputes and other similar matters the Apex Court should have done better to handle the matters with greater alacrity instead of requiring the governments to find solutions. There can be no hesitation to find solutions to such long pending issues except to the detriment of the interests of the parties concerned.

Overall the achievements are not meagre though fraught with deficiencies. In this context it is for all the concerned to apply their minds unitedly to find solution to the problem so that the Judiciary can stand up to the situation and prove its efficiency.

## Take up Environmental Issues

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Mr. K.N. Subba Reddy, President of AAB who was the Chief Guest at the function hailed the efforts of Lahari Advocates Forum in regularly publishing the newsletter. He wished Communique a long and eventful life. Mr. Reddy also suggested that the newsletter must publish more and more about the Court proceedings and items concerning elections to the Advocates Bodies. S/s S.V. Jayasheela Rao, K.N. Subba Reddy and K. Suryanarayana Rao were felicitated on the occasion of the completion of 50 years of Journalistic achievements, 6th consecutive win in the AAB presidential election and the Editorial stint of Communique respectively.

Mr. N.S. Satyanarayana Gupta, President of Lahari Advocates Forum, welcomed the participants. Mr. P.H. Ramalingam, Secretary, introduced Mr. S.V. Jayasheela Rao. At the end Mr. K.R. Dinakar, member of the Executive Committee of the Forum, proposed Vote of Thanks.

## Point Blank

♦ He is fit enough to be a Minister, you mean to say that age is to be taken into consideration while giving bail but is not taken into consideration while becoming a Minister.

-The Supreme Court Bench while rejecting the bail plea of the Former Bihar Minister Bholaram Toofani.

♦ Politicians have joined together to decide how to share power and how to misuse authority for their benefit.

-Former Chief Justice of India Mr. Justice E.S. Venkataramaiah in a public function at Bangalore while referring to the AICC plenary session in progress at Calcutta.

♦ Bihar is a fit case for the President's Rule, it is not only the Governor who can send his report to the President under this Article but the High Court can also send its report to the President about the situation in the State.

-The remark of a Division Bench of the Patna High Court in a Public Interest Litigation complaining about the misuse of funds earmarked for Rural Employment Scheme.

## Lawyer Charge Sheeted

The CBI has filed a chargesheet on 14-8-97 before the designated Judge Mr. S.K. Lal in Patna against a Lawyer of the Patna High Court alongwith eight other Accused for obtaining bails to some of the Fodder Scam tainted Accused from the Patna High Court on the basis of mis-representations. The Chargesheet has been filed by the CBI on the directions of the Patna High Court.

## Chairman Appointed

Justice R.V. Vasantha Kumar has been appointed as the Chairman of the Karnataka Administrative Tribunal. He was there as Vice-Chairman before his appointment. He took over the charge of Chairman on 22-8-97. The vacancy had been caused due to the resignation of Justice K. Shivashankara Bhat.



## Readers' Reactions



India is celebrating the Golden Jubilee year of its Independence during this month. In this connection a cross section of our readers have expressed their reactions. Abridged versions of such reactions are. -Editor.

- Plans are afoot to celebrate the Fifty Years of our Independence in a big way. Let us ask ourselves and our leaders as to what have we achieved in the last Fifty years.

As a senior citizen when I look back through these Fifty years it makes me sad and agitated. Some of our Pre-Independence leaders who had education in England became greedy for power and connived with the British for partitioning the country. Behind the curtain the British played their game well. Gandhi, Nehru and Jinnah fell prey to this machination. "Tribal Invasion" of Kashmir in October 1947 and the creation of actual line of control in 1948 left the J & K divided. The Indo-Pak wars of 1965 and 1971 increased hostilities between the neighbours. The Terrorist activities of Punjab and Kashmir Militants has a nexus to the support received from across the border. Huge amounts of foreign exchange is regularly spent by both the countries for buying arms and ammunition. The only ray of hope in this context is the on going dialogue between the Foreign Secretaries of both the countries.

The socio-economic system of our country is plagued with scams, rackets, scandals and the politicians are deeply involved in corruption. People have been divided on communal lines, on linguistic basis, the filthy rich and the absolute poor. The country has been unable to adopt a common link language and achieve complete literacy.

Do we celebrate Independence Day on 15th August as the day when we took the pledge that we will make India free from evils inherited from British or do we infact celebrate a date linked to Mount Batten's triumphant victory and unconditional surrender of Japanese Army. The day has been known to be cursed by the stars and India has since been ruled by people having hearts in London, money in Swiss Banks and their children settled in America.

Let us not remind our children and ourselves each year on 15th August and more so on the 50th year of Independence that we were slaves under the British. The fact is that our own characterless existence, selfishness and follies were the cause for the British rule. Since the British have left 50 years ago forget about them and take a vow that we shall all strive hard to rid India of basic evils and arise, awake and stop not till the goal is reached. Let the Golden Jubilee year of Independence be the year of soul searching by the leaders. We need not go for any celebrations by forcing school children to assemble in functions and rallies. We must not remind our children of slavery, massacre of six lakh innocent people and the history's worst migration of more than fourteen million people. Jai Hind. -A.L. Lamba

- After a non-violent struggle the nation achieved freedom. At the Golden Jubilee year of India's Freedom the time has come for us to take stock of our achievements and failures. How far we have achieved Pt. Nehru's vision of 'tryst with destiny' to feel proud of our achievements? Undoubtedly the country can boast of great achievements in various fields. A strong democratic and constitutional structure, a large economic base, good military might and advancement made in the fields of science, technology and research are some of the achievements made during the past half century. The country can be proud of these achievements while comparing itself with several other countries who gained independence during this period.

We have failed miserably in achieving the targets set forth for economic development, containment of population growth, controlling caste and communal strife, eliminating corruption and last but not the least in providing an efficient judicial system. Prosperity will have to pay heavy price for this. Unless we are able to remedy the situation urgently the Twenty First Century would not be happier for us. -B.M. Baliga

- "Independence" gave some psychological satisfaction to feel that I am the citizen of a free nation.

Comparatively a pre-independent India was more safe, comfortable and happy place to dwell. The masses were content and honest. As a matter of fact the rural India never felt that it was under a foreign yoke. There was plenty of food, fresh air, unpolluted drinking water and the people attached little importance to pleasure.

Even though independence gave strength to the people to hold their heads high the rulers became selfish, reckless and dishonest as a result of which the benefits of economic development did not reach the masses. Due to the failure of the State, people are compelled to look to Judiciary for relief.

The rulers have completed five decades of self rule and created history of sorts. It is easy for them to blame the British rule for all the miseries the country faced. After the lapse of five decades of Independent India who are they going to blame now? The time has come for the people to think as to whether we should remain silent spectators witnessing the mockery of Democracy or should we do something more to relieve the country from the clutches of the dishonest politicians. If the answer is in the negative 15th of August each year would only remain as another date in the march of the nation. -H.S. Shankaranarayana

- Even after Fifty years of Independence legal education in India remains at cross roads. The British introduced several laws in India to suit their convenience and help the administration to maintain law and order in the country. As we struggled to achieve freedom attention could not be paid to introduce good laws and to lay a good foundation for providing good legal education.

Except some cosmetic changes the format of legal education in India has remained substantially the same. This stagnation coupled with the failure of the Judiciary to keep pace with the increasing litigations the country has failed to find solutions to the socio-economic tensions faced by the people.

The Law Colleges in India have felt the existence of the Bar Council of India only in 1997 because of its role to maintain higher standards of legal education. This is a healthy sign. BCI must assert to command things to be done strictly according to its guidelines and compel the law colleges to follow suit. By doing this the Bar Council could ensure better standards in legal education. -V. Narayana Swamy.

## Trainee Advocates Submit Memorandum

The Trainee Advocates Action Committee of Karnataka recently submitted a memorandum to Mr. Chawla, member of the All India Bar Council setting forth their grievances and seeking immediate solutions. Mr. Chawla reportedly assured the members of the Action Committee that the All India Bar Council would remedy the disparities and anomalies with regard to the enrolment of Advocates. With regard to the other demands such as the right of representation before the Courts, payment of stipend during the training period and limiting the training period to 225 days would be placed before the Legal Committee of BCI according to the press note released by the Action Committee.

## Notary Fees Enhanced

With the latest amendment to the Notaries Rules, 1956 the Union Government has enhanced the fee structure to be collected by the Notaries. Details of the amendment are published in the Extra-Ordinary Gazette of India dated July 7, 1997 and the same has come into force with immediate effect.

The Vice-president of All India Notaries Association and the Secretary of the Association of Notaries, Karnataka State, Mr. H.S. Renuka Prasad has thanked Hon'ble Prime Minister Sri I.K. Gujral and Hon'ble Union Minister for Law and Justice Sri Ramakant D. Khalsa for this amendment.

## Minor Can Be Transferee of Units

In a clarification letter dated July 29, 97 the Unit Trust of India has intimated the Bombay Stock Exchange that even a minor can be the transferee of a Unit Trust of India Scheme if the minor is represented by the natural guardian. However, in case of a Court guardian the Court Order appointing the guardian is also required to be attached to the transfer deed. This clarification was issued in modification of the earlier guidelines so as to bring it in line with the SEBI guidelines on good and bad delivery.



## Miscellany

◆ The International Association of Lions Clubs, Illinois, USA, has sent its certificate of appreciation to Lion N.S. Satyanarayana Gupta, Immediate past District Governor, 324-D1 in recognition of his yeomen service as the District Governor during 1995-96 Lionist year and his contributions to the furtherance of Lionism.

◆ On 1-6-97 Mr. T.S. Krishna Murthy, Advocate, opened his Law Chamber at No. 64/1, DVG Road, Basavanagudi, Bangalore-560 004.

◆ Mr. J. Subramaniam, Advocate, has submitted a representation dated 25-7-97 to the Secretary of AAB requesting for convening of a Special General Body Meeting of the Association to consider the threat posed to him and his family members by certain persons.

◆ In the election to The Divya Jyothi Credit Co-operative Society (R). Jayanagar, Bangalore, held on 26-7-97 Mr. G.R. Shivakumar, Advocate, has been elected as the Executive Director for the Fifth consecutive term.

◆ Mild flutter was created in Court Hall No. 1 of the Karnataka High Court on 7-8-97 when a litigant Ronald Paul from Mangalore fainted. His mother, sister, wife and eight year old daughter were present in the Court. He had come to the Court in connection with a Habeas Corpus petition filed by him about the missing of his wife Veena Paul. The High Court Doctor was summoned immediately and the litigant was given First Aid. Later he was shifted to Bowring Hospital.

◆ Former Chief Justice of India Justice E.S. Venkataramaiah collapsed on the dais after an emotional outburst at a function organised in connection with naming of a road and a circle after Aurobindo at Bangalore on 9-8-97. He was immediately rushed to Apollo Mallya Hospital and after observation and treatment for few hours he was discharged from the Hospital.

◆ On 15-8-97 Mr. A. Gopalaiah, Advocate, opened his Chamber at No. 65, III Floor, IV Main, II Cross, Gandhinagar, Bangalore-560 009.

◆ On 15-8-97 Mr. K.N. Subba Reddy, President of AAB, inaugurated the chamber of his colleague Mr. C.H. Ramachandra Reddy at No. 65/1, II Floor, IV Main Road, Gandhinagar, Bangalore-560 009.

## News Focus

◆ On 15-8-97 High Court of Karnataka observed the Golden Jubilee year of Indian Independence. Chief Justice of the High Court Justice R.P. Sethi unfurled the National Flag.

◆ On 15-8-97 Golden Jubilee celebration of Indian Independence was celebrated at the Karnataka High Court under the joint auspices of the AAB. The Bangalore Advocates co-operative Society and the Bangalore Literary Union. Sri K.N. Subba Reddy, President of AAB unfurled the National Flag. Advocates who had participated in the National Freedom Movement were felicitated on the occasion. Advocates troop sang the patriotic and other songs as a part of cultural programme.

◆ On 22-8-97 Sri Ramakrishna Hegde inaugurated the legal cell of Lok Shakthi in NGO Auditorium, Bangalore.

◆ On 23-8-97 Justice A.S. Anand, Judge of the Supreme Court, addressed the members of AAB, High Court Unit. He called upon the legal fraternity, to take lead in restoring moral values in the society.

## Tenor of Cross-Examination

Enjoy some of the questions posed to a witness in a court at Massachusetts, USA (Courtesy : The Times of India/J.G. Chandramohan, Advocate;)

- Now doctor, isn't it true that when a person dies in his sleep, he doesn't know about it until the next morning?"
- "The youngest son, the 20 year old, how old is he?"
- "Were you alone, or by yourself?"
- "Were you present when your picture was taken?"
- "Was it you or your younger brother who was killed in the war?"
- "How far apart were the vehicles at the time of the collision?"
- "You were there until the time you left, is that true?"
- "How many times have you committed suicide?"
- "Q: "So the date of conception (of the baby), was Aug. 8?"  
A: "Yes."
- "Q: "And what were you doing at that time?"

- Q: "She had three children, right?"  
How many were boys?"  
A: "None."
- Q: "Were there any girls?"
- Q: "You say the stairs went down to the basement?"  
A: "Yes."
- Q: "And these stairs, did they go up also?"

## Munsiffs' Selection

The Munsiffs Recruitment Committee has selected the following fifty six candidates for appointment to the posts of Munsiffs [Civil Judges, Junior Division] in Karnataka :

Gurunath Virupakshappa Turamari, A.K. Naveen Kumari, B.N. Lavanya Latha, Kotrayya Mahalingaiah Hiremath, C. Rajashekar, Zahid Ahmed, K. Subramanya, K.R. Nagaraja, Meti Pompanagouda, Rajeshwari N. Hegde, Mohamed Majahidulla, Uma Shashidhar Mathad, B.V. Renuka, Kulkarni Sudheer Hanumanth Rao, B.S. Renuka, H.B. Kadripathi, B. Subhaveer, Meenaxi Mahadevappa Bavi, Deshpande Govindraj Shankar, H. Channegowda, Ningappa Parashuram Koparde, D.S. Vijaya Kumar, B. Madhusudhan, Shanthaveer Shivappa, Raveendra M. Joshi, K. Krishnamurthy, K.G. Shanthi, Muddamalliah, Savithri Venkatramana Bhatt, Vijaya Kumar Malkajappa Pawale, Krishnaji Babu Rao Patil, K.S. Narayana Karanth, M.K. Shobhavathi, K.P. Dinesh, Sunil Dutt Annappa Chikkarde, Joshi Venkatesh, Mohamed Gouse Mohiudeen Patil, N.R. Channakeshava, M. Brungesh, Usharani, G. Nanjundaiah, Maruti Bagadi, Shivaji Ananth Nalvade, K. Somashekhar, Sadananda Malleshappa kalal, A.D. Mahanthappa, D. Manjunath, Chandrashekhar Narayan Rao Sunagar, Shuklaksha Palan, H.C. Sham Prasad, G.M. Sheenappa, D.T. Puttaranga Swamy, Sirwalkar Mareppa, Donekallu Veeranna, K.B. Krishnamurthy and R. Bannikatti Hanumanthappa.

## Foreign Tours

- Ms. Hemalatha Mahishi, Advocate, returned to Bangalore on 21-5-97 after 5 weeks tour of England, France, Switzerland, Netherland, Germany and Italy.
- Mr. K.P. Kumar and Mr. R.V.S. Naik, Advocates, attended an International Conference on Arbitration held at Colombo on 25th and 26th July 1997.

- Mr. M.C. Narasimhan, Advocate, returned to Bangalore on 2-8-97 after 10 weeks tour of USA.
- Mr. K. Subba Rao, Advocate, left Bangalore on 2-8-97 for Six weeks stay in USA.
- On 18-8-97 Mr. B.K. Sridhar, Advocate, left Bangalore for two weeks visit to USA. He will be participating in the *Ati-Maharudrayaga* being held at Strautsberg Pennsylvania.
- On 24-8-97 Mr. Hari Kishore, Advocate, left Bangalore to USA. He will be doing LL.M. Course in Columbia University.

## Lahari Advocates Forum

The Forum will be conducting the Mock Court Competition on Saturday the 13-9-97. and Sunday the 14-9-97.

## Humour In Courts

- Judge : Mr. Counsel are you ready for hearing?  
Counsel : Yes, I am ready to hear your Honour!
- A Judge known for his gentleness asked the contrite and broken Accused.  
Judge : Had you ever been sentenced to imprisonment?  
Accused: No your Honour.
- Judge : Then don't cry. You are now going to be sentenced to imprisonment!  
(Courtesy : E.R. Diwakar, Advocate.)

## Literary Union

On 22-8-97 under the joint auspices of the Literary Union and the Department of Kannada and Culture a programme was organised at the Magistrates' Court Unit of AAB. Smt. Neelambike and Party provided light music. Sri M. Narayana Das provided *Gamaka Vachana*.

## Campus Watch

- Chief Justice of India Justice J.S. Verma made a strong plea to start more law schools in the country. Speaking at the prize distribution function of the Third Afro-Asian Moot Court Competition held on August 2, 97 organised by the NLSIU Justice Verma said that there was a great demand by States to start law schools.
- Chief Justice of India Justice J.S. Verma conferred Honorary Doctorate on South African Supreme Court Chief Justice Ismail Mohamed on August 3, 97 at the Fifth Convocation of NLSIU in Bangalore.