



## Justice Anand appointed CJ

President K.R. Narayanan has appointed Mr. Justice Adarsh Sein Anand as the new Chief Justice of India. Justice Anand will assume office on October 10, 1998 on account of the vacancy caused due to retirement of the present Chief Justice Mr. Justice M.M. Punchhi who retires on October 9, 1998. Justice A.S. Anand is the seniormost judge of the Apex Court. Before his elevation as a Judge of the Supreme Court, Justice Anand functioned as the Chief Justice of J and K High Court.

Born on November 1936 Justice Anand started his legal career in 1964 when he joined Inns of Court as a Barrister from the society of Inner Temple, London. Later he shifted to India and started practicing in Jammu and Kashmir. In 1975 he was appointed as an Addl. Judge of the J and K High Court and made a permanent Judge of the same court in 1976. He was elevated to the Supreme Court in 1991.

## SC notice to HC

The Supreme Court has ordered issue of notices to the Karnataka High Court and others of a writ petition challenging the High Court's notification of selection of District Judges and the consequent appointments of eight District Judges on June 16, 1998. A division bench of the court headed by the Chief Justice Mr. Justice M.M. Punchhi, during August 98, ordered issue of notices.

Petitioners R. Jagannatha and Hemasuda Reddy of Tumkur who are unsuccessful applicants have contended that the notification issued by the High Court on December 19, 1996 inviting applications for recruitment to ten posts of District Judges from amongst the Advocates did not specify the number of posts reserved for various castes as per the prevailing rules. They have also contended that the conducting of the written test before the vivo voce was an afterthought since it was not mentioned in the notification calling for application from eligible candidates.

## HC frowns on Ex-Judges in lucrative jobs

A single judge of the Kerala High Court Mr. Justice K. Narayana Kurup in a recent judgment has disapproved the practice of the retired judges running after the offices of profit, seeking lucrative assignments or joining a political bandwagon on the ground that it would erode the confidence of the people reposed in the judiciary. The phenomenon of judges going in for such options "is a matter of natural concern which needs to be addressed" by the central government and the issue needs "urgent and careful deliberation by a competent body in the interest of the nation and the judiciary the judge observed.

The observations were a part of the judgment while dismissing a writ petition challenging the candidature of Mr. U.P. Singh, former Chief Justice of Kerala, from a parliamentary constituency in Bihar on a Rashtriya Janata Dal ticket. The Judge was unsuccessful in the election. The Petitioner had sought for declaration of Mr. Justice. Singh's candidature as null and void and for issue of a directive to the central government to adopt measures to restrain retired High Court and Supreme Court Judges from contesting elections for atleast ten years after retirement.

The judiciary must not only be independent but must also appear to be so, the judge observed. The people see in the judiciary the institution that can effectively act against corruption and nepotism in high places and any act that can affect the "exalted position" of the judiciary as "saviour of democracy" will weaken democracy, the judge said.

To safe guard democracy the judiciary has to be independent from the executive, ie., from interference by the bureaucracy and politicians and any other type of influence. Fundamental to freedom from such influence and pressures on the judiciary is to eschew active politics and acceptance of position by judges after retirement" he opined.

Even after retirement judges have to conduct themselves by the "time honoured standards of a

restraining nature" and they must not give rise to a legitimate doubt about their judicial detachment, the judge said.

## At times judiciary over steps-Vajpayee

Expressing concern over some judgments the Prime Minister Mr. Atal Bihari Vajpayee said that at times the judiciary over steps its limits creating problems for the executive. Mr. Vajpayee expressed the above said views while inaugurating the fund raising programme of the National Reconstruction on the occasion of the birth anniversary of Padit Deen Dayal Upadhyay the founder of Bharatiya Jan Sangh, in New Delhi on September 18th 1998. Mr. Vajpayee felt that Judiciary in India is independent and doing a good job. Nevertheless some judgments are in the nature of over stepping the realm of the executive because of which problems are created. Mr. Vajpayee's statement assumes greater significance since it was made in the light of the adverse remarks by the Apex Court in Enforcement Director Bezbaruah's case.

## Around the Courts

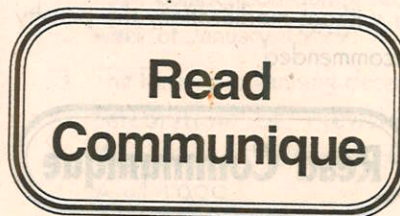
### Section 110-B of Motor Vehicles Act, 1939, insurance money not deductible from the relief:

In a recent ruling a division bench of the Supreme Court comprising Mr. Justice K. Venkataswami and Mr. Justice A.P. Misra, has held that the life insurance money received by the kin of a person killed in an accident is not deductible from the compensation awarded under the Motor Vehicles Act, 1939. The bench in its 43 page judgment said that the deduction of life insurance money would result in gain to the wrong doer.

"These [high] courts by giving restrictive interpretation in computation of compensation based on the limitation of the language of the Fatal Accidents Act, 1855, fell into error, as it did not take into account the change of language in the 1939 Act and did not consider the widening of discretion of the [Motor Vehicle Accident Claims] Tribunal", the bench said. "Thus we have no hesitation in concluding that the tribunal, while computing the compensation under section 110-B of the 1939 Act has a wider discretion than what it had under the 1855 Act", it said.

The court said it was very clear that the 1939 Act delivers compensation to the claimant only on account of accidental injury or death, not on account of any other death. The compensation payable under MVA was on account of the pecuniary loss to the claimant by accidental injury or death and not other forms of death, the court said. This calculation of compensation has no relation as to how rich the person was or how much wealth he had as by such interpretation the person, in spite of his wrongful act or negligence, which contributed to the death, would have in many cases no liability or meagre liability.

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## Chairman Appointed

The union government appointed on September 1, 1998, Mr. N. Vittal as the chairman of the Central Vigilance Commission. Earlier he was functioning as the chairman of the Public Sector Enterprises Selection Board. The new appointment is for a term of four years. The multi member body comprises three Commissioners and a Secretary [personnel] who is to be the ex-officio member under the guidelines of the Supreme Court issued on December 18, 1997, the Chairman of the commission is vested with enormous powers with a definite say on the appointments of heads of Central Intelligence Agencies along with the power to directly monitor their functioning. Interestingly the Supreme Court has entertained a PIL challenging the appointment of Mr. N. Vittal as the Chairman of the Commission.

## Dead or Alive?

A division bench of the Karnataka High Court has recently ordered directing the Principal City Civil and Sessions Judge, Bangalore, to conduct an enquiry as to whether one Thayappa is alive or dead. In this interesting case one Gowamma, claiming to be the land owner, has challenged the order of the land tribunal granting 1.8 acres of land in kodihalli to Thayappa of Doopanahalli, said to be a deceased person. However, a counsel filed Vakalathnama on behalf of Thayappa and also kept a person claiming to be Thayappa present before the court. Counsel for Gowamma disputed the identity of the person as Thayappa and submitted that he had died long back. The order of the High Court has reserved liberty to both the parties to adduce evidence before the Civil Court concerning the fact to enable the court to submit its report.

## Lahari Advocates Forum

On 15-9-98 Dr. C. Veerappa, a renowned cardiologist from California, delivered a lecture on the topic "Law and Medicine".

## Your Attention Please

Unsavory and sexist remarks, innuendoes, forcible physical touching and jokes likely to cause embarrassment are all forms of sexual harassment at the workplace, the National Commission for Women has ruled. Releasing a code of conduct in New Delhi on September 15, 1998, in line with last year's Supreme Court Judgment directing the formulation of such a code, the NCW said that the code was binding upon all organisations-government or private. The commission has also directed all the establishments employing women to set up complaints committees to investigate charges of sexual harassments. Such committees are mandatorily required to be headed by a woman with at least half the members being female. Non Government Organisations [NGOs] should also be represented on the committee to prevent undue pressure on the committee from the management.

Describing sexual harassment as a serious crime that could destroy human dignity and freedom the commission said that it would be the employer's duty to prevent or deter the incidence of any sexual harassment at the work place. As regards the procedure to be adopted involving complaints of sexual harassment the commission has laid down the guidelines according to which the complaint should contain all the material and relevant details about the alleged behaviour including the name of the contravenor and the complaint should be filed before the committee at the earliest and in any case within a fortnight from the date of occurrence of the alleged incidence. The committee is under an obligation to hold an inquiry and submit its recommendations to the head of the organisation and also the suggestion of penalty to be imposed on the contravenor. After giving the contravenor an opportunity of being heard the head of the organisation is to submit the case with the committee's recommendation to the management. The management shall confirm, with or without modification, the penalty recommended.

## Social justice at what cost?

R.B. Guttal, Advocate

Socialism is one of the basic structures of our constitution. Supreme court has stated this in a number of cases. Yet, we find very little regard for the development of the downtrodden masses of our country. The man is so degraded that we feel whether there is humanity in the once most civilised nation of the globe. Why this kind of deterioration and demoralisation has taken place in our country is a million-dollar question which requires to be tackled by every educated person of this country.

In the first place, a few words about socialism and what it contains. Socialism stands for equality in all matters, political, social and economical. Of course, there may not be absolute economic equality and it never happens and it will not happen in any developed or undeveloped country, but there should not be extreme inequality with its unethical and cruel treatment of the masses. In the second place, socialism stands for justice, in the sense that minimum human welfare measures are implemented in the interest of the happiness of the masses. This is totally neglected in our country, because most of the time our politicians are involved in power-politics. Everywhere, we hear of the politicians speaking about the interest of his party and how to come to power and very rarely we come across statements in regard to human welfare measures. The only method known for our politicians to uplift the down-trodden is by giving reservation to this or that community. There is a hue and cry all over the country for getting some benefit or the other through the policy of reservation. The basic drawback in this reservation policy is that they want to sacrifice merit and hardwork for the sake of giving protection to some or other communities. This is the product of a corrupt mind and it is not based upon a genuine attempt to improve the conditions of the down-trodden. If the government wants to improve the

conditions of the down trodden, they could do so by adopting some honest policy of giving proper wages for their labour. In our country there are about 30 crores of people working in an unorganised sector. Most of them are agricultural labourers and they belong to economically backward communities. If at all the government wants to improve their conditions it can enforce the law relating to minimum wages and avoid the legacy of "laissez faire". The government is not ready to take this troublesome job of rendering real service to the people, but its want to pay only lip service by giving some form of the reservation to make the people lazy and thereby burden the nation.

The fundamental principle is that the nation can make progress only if there is sufficient production leading to increased work. In our country, corruption, casteism and reservation policy have come in the way of merit and hardwork. It is too late for our politicians to realise this fundamental mistake, which they are perpetuating. In the beginning it was the understanding of the framers of our constitution, that the reservation can remain only for a limited period. Now it is firmly established that reservation should continue, so long as the caste system continues. In our country caste is a permanent feature and as such reservation continues alongwith corruption. Thus, these three enemies i.e., corruption, casteism and reservation have ruined the nation.

Therefore, if at all there is any awakening in our people, first they must oppose reservation in any form. Then only, the severe effect of fissifarious tendencies of the caste system will be reduced and we may feel like belonging to one nation. In such atmosphere, corruption can be eradicated easily and human welfare measures can be implemented without any difficulty. Then only the country can hold its flag high in the world of civilised nations.

Read Communique



## Permanent Lok Adalats are needed -Justice Anand

Permanent and continuous lok adalats are required in every state to deliver speedy redressal of the grievances of the litigants, said the Chief Justice of India designate Justice A.S. Anand. He wanted separate centres to be set up in all the districts and high courts for this purpose. Justice Anand also appealed to the senior advocates and retired judges to work out a plan to set up such centres in Karnataka and to volunteer themselves to help dispose off cases referred to lok adalats. "It is time sitting judges come out of their chambers and reach out to the people and offer them a helping hand in redressing their grievances" he said.

Inaugurating the Bruhat Lok Adalat at the City Civil Court Complex, Bangalore on September 19, 1998, Justice Anand pointed out that following the 1995 amendments there were significant changes in the status of lok adalats. Considered as the Magna Carta of the Indian legal system, the institution of lok adalat has received statutory backing and any award passed by the lok adalat has the force of a decree. No appeal will be entertained against the award passed by the lok adalat besides the refund of court fee is also permitted. It serves as an additional forum to the existing law courts, Justice Anand pointed out.

Chief Justice of Karnataka High Court Mr. Justice R.P. Sethi in his speech noted that the judiciary was under attack from within and from outside. He said that the High Court of Karnataka had taken steps in disposing of a large number of cases and hoped to achieve clearance of all cases before the turn of the century. "By the time we step into the next millennium Karnataka High Court will top in clearing the arrears on its roll" he said.

Earlier Mr. Justice A.J. Sadashiva, Executive Chairman of the Karnataka State Legal Services Authority, one of the organisers of the Bruhat Lok Adalat said that the Authority along with the Bangalore

City and Rural District Legal Services Authority had conducted as many as 450 lok adalats disposing off 32,000 cases and disbursing compensation worth rupees thirty crores. Mr. Justice Y. Bhaskar Rao, Mr. Justice Ashok Bhan and Mr. Justice G.C. Bharuka also spoke on the occasion.

### PM orders enquiry

As an aftermath of the Enforcement Director Mr. Bezbaruah's case the Prime Minister Atal Bihari Vajpayee has directed the Attorney General Mr. Soli J. Sorabjee to conduct an enquiry as to the circumstances leading to the filing of "Misleading" affidavit before the Apex Court in the PIL challenging the transfer of Mr. Bezbaruah from his post. The PM has also directed the Attorney General to fix responsibility on the person/s who are involved in the filing of such affidavit. The union government was in dock due to the serious concern expressed by the judges of the Supreme Court about the contents of the affidavit.

### Clearing Backlog

The commission on review of administrative laws headed by its Chairman Mr. P.C. Jain which was constituted in May 1998 has recently recommended repeal of over 1,300 central enactments of different categories and also the review of all pre-constitution laws. It has also suggested that alternative dispute resolution systems [ADRS] such as arbitration, conciliation, lok adalats and nyaya panchayats should be effectively used for quick disposal of pending cases. The commission has observed that huge backlog of cases was giving "a poor impression about the functioning of the legal system". Other members of the committee include the social activist and director of Common Causes Mr. H.D. Shourie, retired bureaucrat Mr. S. Ramaiah and secretary in the department of administrative reforms Mr. P.S.A. Sundaram.

### Revised rates for filing IT appeals

To speed up the process of justice, the department of income tax has increased the fee payable on the appeals/proceedings w.e.f. October 1, 1998. The details are given below.

Particulars	Fee for filing the appeal before CIT (A)	Fee for filing the appeal before ITAT
Assessed total income Rs. 1 lakh or less	Rs. 250	Rs. 500
Assessed total income more than Rs. 1 lakh but not more than Rs. 2 lakhs	Rs. 500	Rs. 1,500
Appeals involving total assessed income more than Rs. 2 lakhs	Rs. 1,000	1% assessed income subject to a maximum of Rs. 10,000
Appeals under other Direct Taxes	Rs. 250	Rs. 1,000
Miscellaneous applications under Sec. 254(2)	-	Rs. 50
Stay Petitions	-	Rs. 500

### Kolar Diary

- The state government has appointed Mr. P. Seetha Ramaiah as the chairman of the Kolar District Consumer Redressal Forum. Recently Mr. P. Seetha Ramaiah retired as the I Addl. Judge, Family Court, Bangalore.
- One day district level advocates' conference was held at T. Chennayya Ranga Mandira, D.V.G. Road, Kolar on Sunday the September 27, 1998, under the joint auspices of the Karnataka State Bar Council and the Bar Associations of Kolar District. The conference was hosted by the Advocates Association, Kolar. Detailed report of the conference will appear in the next part.

### Lahari Advocates Forum

- The forum is organising a Kabaddi Tournament sometime during November 1998.
- The forum is organising a book fair in City Civil Court Complex during the third week of December 1998.
- The forum is organising a moot court competition during second week of January 1999.
- The forum is organising decennial celebration of Newsletter "Communique" sometime during April 1999.

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### Around the Courts

- **Section 24 of the Hindu Marriage Act, 1955-is second wife entitled for interim maintenance...?**

Mr. Justice Shaw of the Bombay High Court, in a recent judgment, has ruled that a woman is entitled to maintenance *pendente lite* even though she is the second wife and her marriage is null and void in the eyes of law. Interpreting the provision the judge said "the object behind section 24 of the Act providing for maintenance *pendente lite* to a party in a matrimonial case is to provide financial assistance to the spouse to maintain herself or himself during the pendency of the proceedings and also to have sufficient funds to carry on the litigation."

He further observed that it would not be right for the courts to adopt a narrow pedantic approach in considering such a piece of legislation. The Act conferred wide powers on the court so as to regulate matrimonial relations between the parties and such powers should be exercised even in the case of alleged or proved bigamous marriage.

Dismissing the revision petition filed by Mr. Krishnakant Vyas, who was ordered to pay an interim maintenance of Rs. 2,500/- per month and litigation expenses of Rs. 5,000/- by the family court in favour of the Respondent Reena, the court said that the contention of the petitioner that he is not obliged to pay maintenance and litigation expenses to a second wife does not stand to reason and therefore liable to be rejected.



## News Focus

- On 5-9-98 Hon'ble Mr. Justice G.C. Bharuka, Judge, High Court of Karnataka, inaugurated the first Lok Adalat at Ramanagaram. Hon'ble Mr. Justice Chandrashekaraiyah was the chief guest. The programme was jointly organised by the Taluk Legal Aid Committee and Bar Association, Ramanagaram. Mr. N. Subbashastry, President of the Local Bar Association, presided over the function.
- Mr. Justice M.F. Saldanha appreciated the "pro-active" role of the judiciary and said there was scope for greater judicial activism. He was speaking at a seminar organised by the All India Small and Medium News Papers Federation in Bangalore on September 11, 1998, on "the role of press in the present democratic scenario."
- On 23-9-98 Mr. Justice Y. Bhaskar Rao addressed the member of AAB, Magistrates Court Unit on the topic "sentencing the convict."
- On 26-9-98 a musical programme was provided by Advocates under the auspices of AAB in the City Auditorium.

## Miscellany

- Mr. A.N. Krishna Swamy and Ms. S. Shylaja, Advocates, shifted their chamber to No 3511/26, 7th Cross, Gayathri Nagar, Bangalore-21, with effect from 13-9-98.
- Recently Mr. B.S. Virupakashappa, Advocate and his wife Smt. Premalatha, were honoured in a function organised at Vijayanagar Extension, Bangalore, jointly by Sarvagna Kala Nikethan and Samaja Sudharana Samithi. Mr. B.S. Virupakashappa's research writings in respect of saints, sharanas was recognised by these organisations.
- On 27-9-98 Mr. P.R. Ramesh, Advocate, opened his new law chamber at Shalimar Arcade, 10th Cross, Wisdom Garden, Bangalore-27.

## Action Needed

- While the Chief Justice of Karnataka High Court is happy in announcing, from various fora, reduction in pendency of cases it appears that he has no interest in arranging the granting of certified copies within a reasonable time. Thousands of applications are pending for considerable period before the copying branch in the High Court and the older copying registers have been torn and or maintained shabbily. The Advocates and litigants who are permitted to collect the ready copies find it extremely difficult to receive them during the limited hours due to heavy rush. Contrastingly certified copies are delivered the same day or the following day in the Supreme Court. One hopes that the Chief Justice of the High Court will examine the causes for the undue delay in clearing the backlog, besides ensuring prompt delivery of the certified copies within a reasonable time. He may also examine the feasibility of notifying the applicants the date on which the certified copy would be ready. Ironically there is a column in the rubber stamp impressed on the certified copy as to the date on which the applicant is asked to collect the certified copy. It is another thing that the applicants are not notified about the dates.
- Due to incessant rains rain water and ground water is entering the High Court offices located in the cellar floor of the annexe building. Urgent attention is required to shift the offices to alternate accommodation with a view to avoid damage to court records. For the same reason the lifts are also not functioning in the annexe building for considerable period. Remedial measures will have to be taken urgently.

## Stamps Missing

In a reported incident court fee stamp worth Rs. 1.10 lakhs are missing from the copying branch of the Karnataka High Court. In a complaint filed with the Vidhana Soudha Police, Mr. Venkataranga, Senior Assistant, has stated that the stamps were kept in a box in the copying branch in April 1998, when the box was opened on September 30, 1998 in connection with Ayudha Pooja, the stamps were found to be missing. The police have taken up investigation.

## Appointments

- The government of Karnataka vide its notification LAW. 70 LAG 98 dated 16th September 98, has made the following appointments to the establishment of the Advocate General.:

S/s. A.S. Mahesh, A. Nagarajappa, A.V. Srinivasa Reddy, S. Udayashankar, V. Jayaram, Mehboob Ali Khan, S. Mahesh, M.N. Ramanjaneya Gowda, Kishore Mallya, L. Umakanthan, B.V. Pinto, S.B. Pavin and L. Krishnamurthy as Government Advocates.

S/s. Ashok N. Nayak, R.K. Hatti, M.B. Prabhakar, S.B. Viswanath, P. Veerappa, Ajay K. Patil, Chikkavenkataiah, R. Harish, M. Narayanappa, M. Nagarajan, H. Surendra, D. Viswanatha Naidu, B. Visweswaraiyah, Nilofar Akbar, Smt. S. Sujatha and Smt. V. Vidya as High Court Government pleaders.

These Appointments are for a period of two years from the date of the notification.

- The Karnataka High Court has appointed Ms. Ratnakala as the I Addl. Judge of the Family Court, Bangalore, Vice P. Seetha Ramaiah who retired recently. Hitherto she was working as the II Addl. Judge of the Family Court. Mr. T.J. Rajashekaraiyah, Civil Judge [Sr. Dn.] and JMFC, Srirangapattana has been promoted and appointed as the II Addl. Judge, Family Court, Bangalore, Vice Ms. Ratnakala.

## Vacancy Available

Mr. A. Ram Mohan, Advocate, No. 31, Linden Street, Y.G. Palya, Viveknagar Post, Bangalore-560 047, requires the services of an Advocate, Contact him personally or over Phone No. 5366230.

## Sites Available

A BDA site measuring 30'x40' at Banashankari III Stage and another society site measuring 30'x45' at padmanabhanagar, near Kidney Foundation Hospital, both within the corporation limits, are available for sale. Interested persons may contact Mr. J. Ranga Rajan, Advocate, on phone Nos. 2260988 [O], 6717694 [R], 9845026531 [Mobile].

## Vacancy Available

M/s. Agnihotri Associates, Advocates, II Floor, 50 ft. Road, Sreenagar, Bangalore-50, are in need of an Advocate. Interested persons may contact personally or on phone No. 6619805. Trainee Advocates may also apply.

## Literary Union

- In the General Body Meeting held on 6-9-98 the following persons were elected as office bearers of the Literary Union for the years 1998-2000: President-C.R. Gopalswamy; Secretary- D.H. Mokhashi; Treasurer - K.R. Dinakar; Committee Members - M. Divakar; H.R. Kumaraswamy, N.P. Amrutesh, K.P. Sumangala and K.P. Ravi Shankar.
- On 25-9-98 Devnagesh and party gave a Kannada drama performance titled "Doni".

## Foreign Tour

- Mr. C. Lakshminarayana Rao, Advocate, left Bangalore on 9-9-98 for ten weeks tour of UK and USA.

## Obituary

- On 3-9-98 A. Jayaraman [64], Advocate, passed away at Bangalore.
- On 9-9-98 Sadam Krishnappa [66], Advocate, passed away at Bangalore.
- On 10-9-98 R.C. Nagaiah [75], Advocate, passed away at Bangalore.
- On 20-9-98 C. Gopal [50], Advocate passed away at Bangalore.
- On 28-9-98 K. Hoysala Sharma [73], Advocate, passed away at Bangalore.

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