

Judges Sore

Members of the subordinate judiciary throughout the country are sore after the Fifth Pay Commission enabled the court staff to draw higher salaries than the Judges. It is learnt that the First National Judicial Commission constituted in March 1996 to examine the structure of emoluments and conditions of services of judicial officers has been handicapped is not being able to award any interim relief to the Judges as the terms of reference of the Commission does not empower to make any such recommendation.

Govt. To Repeal Land Ceiling Act

The Union Cabinet which met on 13-11-97 decided to repeal the Urban Land [Ceiling and Regulation] Act, 1976 setting the stage for a sharp fall in land prices across the country and faster growth in construction activities in 64 cities which come under the purview of the Act.

SC Hearing

Writ petition presented under Article 32 of the Constitution of India and the connected special leave petitions challenging the validity of the rule prescribing pre-enrolment apprenticeship for law graduates is scheduled to be heard by the Supreme Court on 9-12-97.

Vacations - 98

Through a Notification dated 22-11-97 the Karnataka High Court has notified that the Civil Courts in the State will be closed for vacations as specified below during the year 1998.

Summer Vacation:

20-4-98 to 24-5-98 b.d.i.

Dasara Vacation :

28-9-98 & 29-9-98

Winter Vacation :

21-12-98 to 1-1-99 b.d.i.

SC cannot probe its Judges Misconduct

The Supreme Court has no parallel jurisdiction to that of parliament to probe charges against its own Judge. The reported action of the Chief Justice of India in appointing a Judges' Committee to inquire into allegations against Justice M.M. Punchhi was Unconstitutional, says the Bar Association of the Supreme Court. The Association adopted a near unanimous resolution to this effect at its general body meeting held on 10-11-97. The Association said that "The only option at this stage will be to leave it to constitutional procedure applicable in matters of this nature as reflected in Article 124 [4] and [5] of the Constitution of India. Any other procedure evolved either through in-house proceeding or otherwise is unconstitutional". Significantly the resolution also said that a perusal of the allegations made by the Committee on Judicial Accountability against Justice Punchhi, tipped to take over as the next Chief Justice are ex-facie frivolous, untimely merit no consideration and have the appearance of being motivated.

Police Unaware of Copy Right Act - Ribeiro

Most of the police personnel are unaware of laws concerning intellectual property rights and therefore the Copy Right Act was not being properly implemented said Mr. J.F. Ribeiro, the former Punjab Director General of Police. He was speaking to media persons at Bangalore on 7-11-97. Mr. Ribeiro said that wars in 21st century will be fought over economic issues and intellectual property rights and if the police are not geared to tackle such white collar crimes developing nations like ours would suffer. Regarding IPR violations in the music industry he said the industry would be killed if pirates take over. He also pointed out that the Rs. 900 crore market in the country with regard to audio cassettes is hit by the pirated cassettes to an extent of 40 percent.

Around the Courts

The Haryana Panchayati Raj Act - Right to contest election to the post of Panch or Sarpanch is not fundamental right :

A Division Bench of the Punjab and Haryana High Court comprising Justices Amarjit Chaudhary and V.C. Aggarwal upheld the provisions of the Haryana Panchayati Raj Act which bars a person from holding the office of Panch or Sarpanch if he or she has more than two children. The judgment delivered on 11-11-97 has held that the right to election is not a fundamental right and reasonable restrictions based on economic and social factors may be imposed.

The writ petition challenging the provisions of the Act had been based on the ground that (a) there is no such restriction in the Representation of Peoples Act (b) that it was opposed to Muslim personal law. While holding that the legislation did not interfere in the personal right of Muslims to practice or propagate their religion it had been brought by the state as a special law and it applies to all persons irrespective of their caste or religion.

The Bench observed "The Government, in order to check the population growth, has introduced various projects to implement family planning which have been entrusted to various agencies, one of which is the gram panchayat. It is expected from the panchs and sarpanchs to set good example and they are supposed to maintain the norm of two children. If they themselves violate the same, what examples can they set before the public?"

The Armed Forces (Special Powers) Act, 1958 - Constitutional validity upheld :

A Five Judge Constitution bench of the Supreme Court comprising the Chief Justice J.S. Verma, Justices M.M. Punchhi, S.C. Agarwal, A.S. Anand and S.P. Bharucha upheld the

Constitutional validity of the Armed Forces [Special Powers] Act, 1958 but emphasised that the list of "do's and don't's" given by the Attorney General should be treated as "binding instructions which are required to be followed by the members of the armed forces in exercising powers under the Act." The Court held that a) declaration has to be for a limited duration and; b) there should be a periodic review of the declaration before the expiry of six months.

The judgment dated 27-11-97 rejected a petition filed by the Naga Peoples' Movement of Human Rights which had challenged the Act. The Court ruled that the powers given to the armed forces under the Act were not "unreasonable or arbitrary."

Appointment of Addl. Advocate General - Is a Brahmin not entitled:

In a judgment dated 12-11-97 Justice E. Padmanabhan of Madras High Court held that there can be no bar for appointment of a Brahmin as Addl. Advocate General of Tamil Nadu. While dismissing a writ petition filed by the president of Periyar Dravidar Kazhagam challenging the appointment of T.R. Rajagopalan to the post of Addl. Advocate General. The Court held that there cannot be a bar for appointment of a Brahmin to the constitutional post. The petitioner had contended that the ruling DMK pursuing the ideals of rationalist leader Periyar E.V. Ramaswamy Nayagar, could not have appointed a Brahmin to the said post. The Judge pointed out that no material had been placed to show that the DMK had proclaimed that it was against and it would never appoint a Brahmin to any post or office. The Judge also pointed out that even if the petitioner's contention could be assumed to be correct it cannot stand the test of law without violating the constitutional provisions. Any such restriction will be per se unenforceable.

Our deeds determine us as much as we determine our deeds
-George Eliot

Snap Strike

Judicial officers in Bihar went on a strike on 19-11-97 protesting against the attack on the additional Sessions Judge, Bhagalpur, by the local police. The police present in the court assaulted the Judge besides ransacking the court hall. They were enraged by the order of the Judge sentencing a Sub Inspector of Police to undergo jail term in a contempt case. On 21-11-97 about 47,000 lawyers in Bihar went on strike demanding stern action against the police.

Book Released

The Chief Justice of Kerala High Court Mr. Justice Udaiprathap Singh released the book on "Law of Environment Protection" compiled by Mr. P.B. Sahasranaman at Ernakulam on 6-11-97. President of the Kerala High Court Advocates Association Mr. S. Parameswaran, presided over the function.

Views and Vignettes

- Mr. A.L. Lamba, Advocate, suggests that Advocates in Bangalore must have an exclusive club of their own which could serve as recreation centre.
- Mr. J. Subramaniam, Advocate, has suggested to amend section 125, Cr.P.C. to enhance the ceiling of maintenance from the current level of Rs. 500/- p.m. to a suitable figure by taking into account the increase in the cost of living. He has sounded the Union Minister of State for Law and Justice and also the Minister for Parliamentary Affairs and Tourism in this regard.

Memorial Meeting

A memorial meeting was held at NGO Auditorium, Cubbon Park, Bangalore on 13-11-97 in honour of late Prof. M.R. Janardana. Former Advocate General and Senior Counsel Prof. Janardana, who was also a popular teacher, died on 13-10-97. Former Judge of the Supreme Court of India Mr. Justice K. Jagannatha Shetty presided over the meeting. Judges of the Karnataka High Court Mr. Justice A.J. Sadashiva, Mr. Justice H. Rangavittalachar, Advocate General Mr. S. Vijayashankar, Member of Parliament Mr. B.L. Shankar, Chairman of the Karnataka State Bar Council Mr. K. Shaik Kasim and a large number of Advocates remembered Prof. Janardana and his contribution to the legal fraternity.

Rajyotsava Celebrated

On 29-11-97 Judicial Department Employees Kannada Sangha celebrated the 42nd Kannada Rajyotsava. Sri K.R. Prasad Rao, principal City Civil and Sessions Judge, Bangalore, presided over the function. Mr. Justice A.J. Sadashiva, Dr. H. Narasimhaiah, Sri T.S. Naghabharana and Smt. M. Leelavathi were the Chief guests.

Communique Classifieds

For sale :

118 NE, single owner, non A/c. 12,000 KMS run, immaculately maintained.

Contact :

Mr. Aravind Kumar,
Advocate,

Phone : 2202843,
2254180

between 6-00 & 8-30 p.m.
on weekdays.

Proud Achievements

□ Ms. Divya Prabhakar, a student of 9th Standard from Women's Peace League, Bangalore, has been adjudged second in order of merit in the National Science Seminar for School Children held at New Delhi on October 1, 1997. The seminar on "Recycling - A step towards conservation" was organised by the National Council of Science Museums. Ms. Divya is the daughter of Mr. K. Prabhakar, Advocate and Smt. Poornima Prabhakar. Ms. Divya's entry to the National Science Seminar was based on her performance at the State level Science Competition in which she secured the first prize. In December 97 Ms. Divya has the rare opportunity to participate in the National Science Congress to be held at Hyderabad. Besides Ms. Divya is a classical dancer and student of classical music. She has also participated on stage on television programmes.

□ Ms. Suman Bopaiah, a student of Sri Jaya Chamarajendra College of Engineering, Mysore, has passed eighth semester B.E. degree examination in Environmental Engineering conducted by the University of Mysore held in September/October 97 in first class with distinction. Ms. Suman is the proud daughter of the Bangalore Advocate Mr. B.K. Bopaiah.

Notaries Meet

Third All India Notaries Conference is scheduled to be held on 11-1-1998 at Ahmedabad. The Thirteenth State Notaries Conference is scheduled to be held on 13-12-1997 at Hubli as per the press note issued by Mr. H.S. Renuka Prasad, Secretary, Notaries Association of Karnataka and the Vice-President of the All India Notaries Association.

SC rejects BDAs sital value enhancement

The Supreme Court of India, by its landmark decision dismissed all the 108 Special Leave Petitions filed by B.D.A. on 13-10-1997 upholding the judgement of the Division bench of Karnataka High Court comprising Chief Justice R.P. Sethi and Justice S. Rajendra Babu and further holding that it finds no reason to interfere with the judgment and order dated 10-1-1997.

It may be recalled that B.D.A. had arbitrarily enhanced the sital value from Rs. 55,000/- to Rs. 2.52 lakhs of various sites long after the petitioners were intimated the allotment of sites, in exercise of their power under Rule 12 of B.D.A. Rules, 1984 which was challenged by the petitioners contending that the upward revision of sital value amounted to hostile discrimination, violative of Article 14 of the Constitution of India. The petitioners had further contended that B.D.A. had no power to enhance the sital value after notification and calling for applications and as such, they sought for a declaration of Rules 12 of B.D.A. Rules, 1984 invalid and questioned the legality and constitutional validity of enhanced sital value which was allotted earlier.

The High Court held that the resolution passed by the BDA under subject 235/92 on 19-12-92 and consequent notices of enhancement issued to the allottees were discriminatory and violative of constitutional guarantee. But declined to hold that Rule 12 of the BDA Rules were discriminatory or violative of Constitution.

The Court declared the notices issued to the allottees as illegal and void even while holding that the sital value fixed by the BDA was commensurate with the prevalent situation as on 8-9-1989 i.e. the date of allotments. The court directed the BDA to hand over the sites to the allottees after completing all the developmental activities strictly according to the scheme within three months positively.

-N.D.R. Ramachandra Rao

News Focus

Miscellany

News Penorama

Lecture Programme

□ On 18-10-97 *Nyayavadi Sahitya Vedike*, Bangalore, had organised a Hindustani Music Concert by Sri Nachiketi Sharma Yakkundi at Bharatiya Vidya Bhavan, Bangalore. Justice M. Ramakrishna, Chief Justice of Assam High Court inaugurated the Concert and Justice G.C. Bharuka presided.

□ On 14-11-97 Mr. J. Siddaraju and Friends presented a programme of *Saksharatha Vijnana Songs* under the auspices of AAB in the city Auditorium.

□ On 18-11-97 Mr. K.S. Lavakumar of *Bharatha Gnana Vijnana Samithi* presented a programme "Exposing the secret of Mysticism" under the auspices of AAB in the city Auditorium.

□ On 19-11-97 Justice Mr. Yerabati Bhaskara Rao was sworn in as a Judge of the Karnataka High Court. Justice Rao was transferred from Andhra Pradesh High Court.

□ On 22-11-97 Justice Mr. R.P. Sethi, Chief Justice of Karnataka High Court inaugurated the Golden Jubilee celebrations of the Court of Civil Judge [Jr. Division] and JMFC and also the Bar Association of Hosadurga in Chitradurga District. Mr. M.C. Nanaiah, Minister for Law and Parliamentary Affairs, Government of Karnataka, presided over the function. Justice N.Y. Hanumanthappa of A.P. High Court released the Souvenir.

□ On 27-11-97 Mr. M.C. Nanaiah, Minister for Law and Parliamentary Affairs, Government of Karnataka, inaugurated the office of Karnataka Pradesh Janata Dal Legal cell at Bangalore. Several Ministers, Legislators dignitaries and Advocates participated in the function.

□ On 27-11-97 a Special General Body Meeting of AAB was convened at the High Court Unit to consider the Bill providing for amendment of the Code of Civil procedure.

□ On 29-11-97 Mr. Justice G.C. Bharuka inaugurated the new court premises of the Court of Civil Judge [Jr. Division] and JMFC, Hoskote. Mr. B.N. Bacche Gowda, Minister for Urban Development, Government of Karnataka, presided over the function. Mr. K. Sridhara Rao, District and Sessions Judge, Bangalore District and Mr. R.G. Venkatachalaiah, Legislator were the Chief Guests.

◆ w.e.f. 10-9-97 Mr. A. Radhakrishnan, Advocate, has shifted his chamber to 1031, I Floor, 11th Main, Next to Balaji Nursing Home, R.P.C. Layout, Bangalore-560 040. Phone : 3302610.

◆ On 5-11-97 Mr. M.N. Venkataramprasad, Advocate, opened his law chamber at No. 83, J.R. Complex, I Floor, Sunkalpet Main Road, Bangalore-560 002.

◆ On 14-11-97 a trekking expedition in Shringeri, Horanadu forest area was undertaken by Advocates from Bangalore S/s. K.B. Adhyapak, Venkatachala and Ashok Karmadi.

◆ On 18-11-97 Mr. M.T. Nanaiah, Advocate, received "India Priyadarshi Award" for Social Service at New Delhi from the former president of India Sri Shankar Dayal Sharma on the occasion of 80th birth anniversary of former Prime Minister Indira Gandhi.

◆ On 19-11-97 a ghastly bomb blast occurred in front of Ramanaidu Studio at Jubilee Hills, Hyderabad, resulting in the death of scores of persons and injuring several others including the renowned Telugu cine artist and parliament member Mr. Mohan Babu and Ananthpur MLA Mr. Paritala Ravi. Mr. P. Chandra Mohan, an Advocate from Bangalore, who is a relative of Mr. Paritala Ravi, who had gone there to attend the Muhurat of a telugu film escaped unhurt.

◆ On 23-11-97 Mr. Vasant S. Kori, Advocate, secured cash prize of Rs. 75,000/- and gold worth Rs. 25,000/- as prize in a Rummy Jackpot Tournament conducted by Banashankari Institute, Bangalore. More than 1,000 participants were in the field.

■ Ms. Mary Mcaleese, 46 year old lawyer and University Vice-Chancellor, Belfast, was elected as the president of Ireland in the election held during October 1997. She secured a record 58.7% of the votes polled.

■ Union Minister of State for Defence Mr. N.V.N. Somu who died in an air crash at Arunachal Pradesh on 14-11-97 started his career as a lawyer in Chennai.

■ Prime Minister Nawaz Sharif appeared before the Pakistani Supreme Court on 17-11-97 to face a contempt proceeding sub motu instituted by the court. He is the first PM of the country, while in office, facing such a charge.

■ On 26-11-97 two Judge Bench of the Quetta Bench of the Pakistan Supreme Court retrospectively suspended the order of appointment of Mr. Justice Sajjad Hussain Shah as the Chief Justice of the Pakistan Supreme Court. On 27-11-97 Peshwara Bench of the Supreme Court (two Judges) also passed a similar order.

■ Consequent upon storming of the Pakistan Supreme Court by the supporters of the PM Mr. Nawaz Sharif on 29-11-97 the five Judge bench hearing the contempt to court case against the latter had to abruptly adjourn hearing of the case, take shelter in the judges chambers for personal security. The Chief Justice, later, sought president Leghari to provide army's security to the Court and Judges hearing the case at their residences as well.

Indian Federation of Women Lawyers, Karnataka Branch had organised a lecture programme on "Women & Law in England and Wales" by Prof. Dr. Ann Stewart of Warwick University Law School, England on 11-11-97. Mr. Justice R.P. Sethi, Chief Justice of Karnataka High Court was the Chief Guest. In her informative lecture Dr. Ann Stewart dwelt in detail various laws of England and Wales concerning women on three aspects viz. (a) laws about violence against women; (b) laws providing for equal opportunities for women, and (c) laws concerning family matters. The learned speaker also answered a volley of questions from the participants.

At the beginning Ms. Nagarathna provided the invocation which was followed by the welcome address by the president of the Federation Ms. Bharathi Nagesh. In the end Secretary of the Federation Ms. Prabha Murthy proposed vote of thanks. The programme was sponsored by the Karnataka State Legal Services Authority.

Footwear Thrown at Judge

An incident of an undertrial throwing chappal at the I Adll. Sessions Judge, Raichur, on November 11, 1997 has been reported. Honnurappa, the undertrial being questioned by Sri K.G. Lakshmipathi, Addl. Sessions Judge, as to why the former was committing offences frequently, got wild and threw the footwear while shouting that there is unusual delay in conducting the trial of the case.



Justice H. Rangavittalachar releasing the book 'Humour in Courts' brought out by Lahari Advocates Forum. Noted Cartoonist Mr. G.Y. Hublikar, Mr. N.S.S. Gupta and Mr. P.H. Ramalingam look on.

Ravivarma Kumar Heads Backward Classes Panel

Mr. Ravivarma Kumar, Advocate, has been appointed as the Chairman of the First Permanent Backward classes Commission of the State Government. Apart from having good practice in the High Court Mr. Ravivarma Kumar has participated in many proceedings before the Commissions of Inquiry. He is also having good teaching experience.

Literary Union

On 8-11-97 about fifty lawyers visited Chikka Tirupati, Vakkaleri, Bangaraturupati, Mulbagal and Antharagange.

Obituary

- On 1-11-97 Munianjinappa, Trainee Advocate, passed away at Bangalore due to a road accident.
- On 1-11-97 C. Byrappa, Advocate of Kolar passed away.
- On 26-11-97 B.M. Krishnappa [54], Advocate, passed away at Bangalore.

HC Direction on Demolition

By its order dated 7-11-97 the Karnataka High Court has directed the Bangalore City Corporation to remove the shops, Banks and other structures in the basement floor of Manipal Centre on Dickenson Road, Bangalore and provide space for parking vehicles therein. While allowing the PIL filed by nine residents of Ulsoor Road and Yellappa Chetty Layout. Justice C.N. Aswathanarayana Rao, in his 236 page judgment, also directed the officials of BCC to ensure a set back area of 16 meters on all sides of the building. The Court held that the constructions in the basement of the building have been done in violation of Rule 21.1. (a) and (b) of the Bangalore Municipal Corporation Building Bye-laws. The Court granted four months time to complete the task assigned to it.

Notaries Appointed

Mr. Shimoga Subbanna, Mr. B.L. Chidambara Reddy and Mr. R. Viswanath, Advocates have been appointed as Notaries in Bangalore City.

Lahari Advocates Forum

- On 7-11-97 Justice R.P. Sethi, the Chief Justice of High Court of Karnataka, inaugurated the "Festival of Gujarat". Ms. Nandini K. Mehta and her Colleagues performed garba, dandiya raas and other folk forms of Gujarati dances.

Lahari Foundation

- The Foundation received donations of Rs. 3,000/- from Mr. U.L. Narayana Rao, Rs. 1,000/- from Mr. M.S. Mandanna. Rs. 2,000/- is provided as medical assistance to Mr. Birur Visveswaraiiah, Advocate.

Foreign Tour

Mr. M.S. Subbarayappa, Advocate and retired District Judge along with his wife left Bangalore for USA on 20-11-97. They are expected to stay there for six months.

Humour in Courts

♦ A Lawyer was arguing a bail application in a case where the accused was charged under Section 498 A, IPC.

Judge : Your client is not entitled for bail as the offence alleged against him is non-bailable.

Lawyer: "This is peculiar law your Honour" remarked the counsel. "If I assault my wife it becomes non-bailable offence. If your Honour assaults my wife it is bailable."

The Judge burst into laughter and granted bail.

♦ Judge : Where is your lawyer?

Litigant : He is engaged in ladies Court.

Judge : Which is that Court?

A lawyer who was present in the Court answered : your Honour it is the Family court!

Courtesy : Mr. Rahamathulla Shariff.

♦ Counsel : Whether it is better for man to marry or remain single?

Witness : Whichever the course the man chooses he will repent later!

♦ Judge : As the jury has found that you are not guilty of fraud I set you free. Accused: Can I keep the money involved?

Courtesy : Mr. E.R. Diwakar

*For all Suitings, Shirtings,
pant lengths at exclusive
discount rates*

Contact :

Srimali Textiles

*No. 529, Ramesh Market,
Avenue Road, Bangalore-2*

*Best quality coat material available
for Advocates.*