

Communique

NEWS LETTER FOR PRIVATE CIRCULATION AMONG THE LEGAL FRATERNITY

Volume 7

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Part 9

Justice Pendse Acting Governor

On 1-12-95 Chief Justice Madhav Laxman pendse assumed as the Acting Governor of Karnataka in place of Mr. Khurshed Alam Khan, the Governor, who has proceeded on leave for a period of three weeks. Consequently Justice S. A. Hakeem assumed the charge of Acting Chief Justice.

Ugrappa made MLC

Mr. V. S. Ugrappa, an Advocate, has been nominated to the Karnataka Legislative Council for a period of six years. Presently he has been functioning as one of the General Secretaries of the Janatha Dal in Karnataka.

Forum Welcomes Uniform Code

A symposium of the Forum of Christian Advocates of Bangalore held recently at Bangalore welcomed the concept of enactment of a Uniform Civil Code. It felt that while the implementation of such Uniform Code should be gradual and that it should not in any way infringe upon the Fundamental Rights guaranteed to citizens under our Constitution. Terming the move as a step in the right direction the symposium felt that in the first instance a Uniform Christian Code be enacted.

The Arch Bishop of Bangalore Dr. Alphonsus Mathias and Justice M. F. Saldanha introduced the subject for discussion. Members of the Forum freely expressed their views.

Threat of Dis-affiliation of Law Colleges

Show cause notices have been issued to 54 Law Colleges in the country asking them to explain why affiliation granted to them should not be withdrawn in view of non-adherence to prescribed norms. The Law Colleges in question are in Bihar (42), Andhra Pradesh (11) and Assam (1). Disclosing this to media persons on 28-11-95 in New Delhi the Union Law Secretary Dr. P. C. Rao stated that in the light of the deteriorating standard of legal education and in the light of suggestions made by the recently concluded Law Ministers' Conference in Hyderabad this drastic step has been taken.

Elaborating the outcome of the Law Ministers' Conference Dr. Rao pointed out that efforts are on to make provision for compulsory five year Law Course, one year's apprenticeship under a Senior Advocate or an Advocate with at least fifteen years of practice followed by an examination on procedural subjects organised on a six months basis by State Bar Councils and the discontinuation of practice of granting temporary approval to Law Colleges. He also hinted that stricter admission norms and change in management pattern of Law Colleges were among some other measures recommended for improving the standard of legal education.

Dr. Rao also elaborated on several other issues concerning the legal profession and judiciary. He stated that Justice K. Ramaswamy of the

Supreme Court has been appointed as Executive Chairman of the National Legal Services Authority which is likely to consider statutory sanction to the institution of Lok Adalats. He also stated that of the total sanctioned strength of 539 High Court Judges in the Country only 449 posts have been filled up and that action has been initiated to fill in 57 of 90 vacancies. Since there is a consensus on developing specific courses on Alternative Dispute Resolution (ADR) mechanism the government was hopeful of getting the Arbitration Conciliation Bill enacted during the winter session of Parliament, Dr. Rao stated.

Office Bearers

In the general body of the Karnataka Commission of Jurists held on 10-12-95 the following were elected as the office bearers:

President: Mr. Justice P. P. Bopanna; **Vice Presidents** Mr. S. S. Naganand and Mr. A. N. Jayaram; **Secretaries:** Ms. P. G. Gouri Kuranga and Ms. Hemalatha Mahishi; **Treasurer:** Mr. R. I. D'Sa; **Members** Mr. Justice K. H. N. Kuranga, Mr. Justice H. G. Balakrishna, Mr. K. P. Kumar, Mr. M. P. Eshwarappa, Mr. S. N. Hatti, Mr. Padubidri Raghavendra Rao, Mr. A. M. Farooq, Mr. P. G. C. Chengappa and Mr. V. Sudhish Pai.

Memorial Lecture

Judicial review in India is no more a luxury but a necessity for maintaining rule of law and Constitution governance. It is a basic feature of our Constitution and it has become part of our lives. It is noteworthy that the Constitution framers trusted the Judges to protect the fundamental rights of the people. Thanks to the judicial review and public interest litigation, fundamental rights have been made living realities. These were the views expressed by the eminent Lawyer and Former Attorney General of India Mr. Soli J. Sorabjee. He was delivering the Second Memorial Lecture organised by the NLSIU, in the name of Justice N. D. Krishna Rao, in Bangalore on 2, December 1995. The topic of the lecture was "The legitimacy and limits of judicial review."

Mr. Sorabjee pointed out that the limits of judicial review should be positively construed and the judiciary should not effect transfer of the decision making Power of the Legislature, the Cabinet or the Civil Servants in respect of policy matters. Acting Chief Justice of Karnataka High Court Justice S. A. Hakeem presided over the function. Director of the Law School Dr. N. R. Madhav Menon welcomed the gathering. Ms. Sudha V. Reddy presented a report of the Justice N. D. Krishna Rao Memorial Trust.

Merry X' Mas

**Cultivate
Communique**

Our Deeds Determine us, As much As we Determine Our Deeds.

—George Eliot

Articulation or Agitation ?

The recent High Court circular discontinuing the procedure of returning to the Party/Advocate the case papers to rectify the defects sparked off strong protest from the Lawyers. In fact it resulted in the Lawyers staying away from the First Court for two days.

The genesis for changing the procedure mentioned in the High Court Circular is traceable to a Judicial Order passed by One of the learned Judges in a Regular First Appeal which in fact was intended to save embarrassment to the Lawyers who were per force required to file applications seeking condonation of delay in resubmitting the case papers after rectifying the defects. The Full Court in its meeting after having considered the observations made by the learned Judge and also the office note thereon resolved to discontinue the prevailing procedure and introduced the revised procedure. In giving effect to the revised procedure the Lawyers have been subjected to a lot of inconvenience and discomfiture resulting in spontaneous protest.

It remains uncertain whether there was any consultation between the Bar and the Bench before giving effect to the revised procedure. However, it is learnt that the efforts made by the representatives of the Bar seeking discussion on the issue, after the new procedure was introduced, was not reciprocated. Perhaps this resulted in large scale resentment among the members of the Bar. It is in the best interest of the Bar, the Bench and more than all the litigants to sort out the problem without adopting rigid postures. After all the majesty of Law

should be upheld at all costs. The procedure cannot be allowed to overtake the legal remedies.

Then the question would be that whether agitationist or confrontationist methods should be adopted as a weapon to tackle such situations. Even if the answer is in the affirmative still we have to ponder as to whether we should resort to such approach even before exhausting other courses of action. Discussion, deliberation and articulation of each others point of view cannot be relegated to a backstage and we cannot assume that always the agitationist approach would pay the necessary dividends.

Above all the Bench and the Bar try in their own way to dispense justice. Ultimately the litigants who are in need of speedy justice cannot be wished away nor their interest could be allowed to suffer on account of any confrontation between the two most important wings of the judicial system. Nor there can be any kind of hostility between these two wings in as much as both the wings are entrusted with upholding the rule of law and dispensing justice. There can be more than one view with regard to the desirability of adopting agitationist approach in bringing solution to the vexed issues. As an enlightened section of the society we cannot afford to lose our discretion regarding such a vital issue.

Retired

□ On 30-11-95 Mr. K. L. Anantharaman, retired as the District Judge. He was working as Addl. Judge in Bangalore City Civil Court (CCH No. 19) at the time of his retirement.

A Constitutional Faux Pas ?

C. B. Srinivasan, Advocate

(continued from last issue)

or If a right to be prosecuted under a proper law is a fundamental right? Can a non-accused be punished sans complaint, sans trial, sans defence and sans sanction?

4. Is justice worth anything if it is untempered with mercy? or can the sentencing in a Contempt of Court proceeding be aggravated with an additional sentence not referable to the contempt action?

The Ideal Solution :

A constitutional protest against the judgment is one method of indicating a public outcry. The address of the rhetoric question to the Supreme Court by each and every member of fraternity is a measure of expressing public dissatisfaction.

Mr. Nariman arguing the case in Delhi Judicial Service Association - V/s. - State of Gujrat urged that under Entry 77 of List I of the VII Schedule the Parliament has legislative competence to make law curtailing the jurisdiction of Supreme Court. The Entry reads as follows :

"Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such court), and the fees taken therein;....."

It was contended that Parliament is competent to enact a law relating to the powers of the Supreme Court. It may prescribe a procedure to be followed. It may prescribe the maximum punishment which could be awarded. It may

provide for appeal and other matters. If it could be urged before Parliament that such a law has now become necessary, that would be another form of constitutional protest against the inequity of the Supreme Court's option

All things considered, Vinay Chandra Mishra has set a tone of an employment by the Supreme Court of its power to aggravate the malady and also prevent the remedy.

(concluded)

Book Released

On 21-11-95 Mr. K. N. Subba Reddy, President of AAB released a book compiled by Prof. V. Narayana Swamy, Advocate, titled "Commentary and Case Laws on the Karnataka Co-operative Societies Act, 1959 with Rules" for the period from 1950-95 (September) with the Supreme Court Judgments on Co-operative matters. The Book with 516 Pages is priced Rs. 300/-.

Humour In Courts

Lawyer : "I have succeeded in making a settlement with your husband that's completely fair to both of you."

Client : "Fair to both of us! I could have done that myself. What do you think I hired a Lawyer for ?

- K. R. Dinakar, Advocate

Vacancy Available

Young colleague is needed in an Advocate's Office. Interested Lawyers, preferably put up in or around Jayanagar, may apply to :

P. O. Box No. 9937,
Bangalore-560 009

"The Judicial System In U. S. A."

B. S. Narayan, Advocate

Mr. B. S. Narayan, Advocate and Arbitrator of Co-operative Societies having visited the U. S. on couple of occasions has made a thorough study of the working of judicial system in that country and on the basis of such study he has prepared this article. Considering the usefulness of the article the same is published for the benefit of our readers.

-Editor.

United States of America is one of the countries which is famed for the existing Judicial System in that Country. It inherited the best traditions and practices followed by England and incorporated them in its Judicial System.

The Courts in U. S. A. are broadly classified into two types namely Federal and State Courts. The Federal Courts are established by the U. S. Government to decide disputes concerning the Federal Constitution and laws passed by Congress called Statutes. The State Courts are established by a State or by a City within the State. Although State Courts must enforce the Federal Constitution and laws, most of the cases they decide involve the Constitution and laws of the particular State.

There are different kinds of Federal Courts. The Congress has divided the Country into 94 Federal Judicial Districts and in each District, there is a federal district Court. The U. S. District Courts are the Federal Trial Courts. Congress placed each of 94 Districts in one of 12 Regional Circuits and each Circuit has a Court of Appeal. If one loses a trial

in a District Court he can go to the Court of Appeals seeking review of the Case. The Supreme Court of the United States in Washington D. C. is the most famous Federal Court. If one loses in the Court of Appeals he can appeal to the Supreme Court of the Country.

Usually State Courts handle the cases like robberies, assaults and traffic violations. Jurisdiction refers to the kinds of cases a Court is authorised to hear. On the other hand Federal Courts do not have the same broad jurisdiction that State Courts have. Federal Courts hear cases in which the United States is a party, Cases involving foreign diplomats and some special kinds of cases such as Bankruptcy and cases concerning incidents at Sea and Cases based on the State Laws which involve different States.

Most Cases in Federal Courts are Civil rather than Criminal in nature. Although the Federal Courts hear significantly fewer cases than the State Courts, the Cases they do hear tend more often to be of national importance because of the Federal Laws they enforce and the Federal rights they protect.

The Constitution of U.S.A. has provided the Jury System and it guarantees the option of a Jury trial to every criminal defendant and to the parties in most Civil Cases. There are two kinds of Jury. A grand Jury is different from a trial Jury also called the Petit Jury (Small). A Grand Jury determines whether there should be a trial. For Federal Criminal Cases. There are usually 12 Juries and for Federal Civil Cases there are Jurors between 6 to 12.

(to be continued)

Judiciary and Speedy Justice

Justice M. F. Saldanha

(continued from last issue)

The long term effects would mean that the best talent from the Bar will no longer be available for the Bench and instead of aiming at excellence one would have to settle or mediocrity. More importantly, the damage is very far reaching in another field, namely Constitutional law, which is the backbone of the legal system of this country. This is a branch of law with which promotees from the lower judiciary are completely unfamiliar with and would, therefore, have natural limitations. When the history of the Indian judiciary comes to be written, the year 1994 will inevitably represent its saddest and most unfortunate Chapter.

The real thrust of all criticism against the system stems from the total lack of speed or rather the inertia that has become characteristic with court proceedings. Much has been said about the reasons for it and I have had occasions to point out that the present transfer policy has virtually compounded this problem. I do believe, however, that there are a few areas in which Judges are required to apply themselves and I can say with confidence that if this is done, the working of the courts can be revolutionised. In this regard, I would suggest that every judicial officer should be inculcated with specialised training in the field of time management. The present system whereby proceedings are allowed to drift in whatever direction they desire to go, is principally responsible for multiple hearings and inordinate delays. By time management I mean two things; firstly, a degree of self-application and self-discipline on the part of the judicial officer whereby he does his homework which would result in his being acquainted with the facts

of the case and the special aspects of that particular matter. This eliminates the need to waste precious judicial time resulting in the lawyer narrating the history of the dispute and the background of the litigation. Also, if the Judge knows what is the point at issue he can limit the submissions in the courtroom to strictly dealing with that aspect of the matter alone. In this regard, apart from the additional labour that is required to be put in by the Judge he will also have to be put in by the Judge he will also have to be extremely firm about not permitting any unnecessary or irrelevant talk or discussion in the courtroom and insisting on brevity. In this regard, Judges can and must insist that a case will not be taken up for hearing unless a chronology of dates and events is filed along with the proceeding and secondly that a synopsis accompanies it. This reduces the time that the Judge has to spend in making notes for purposes of the order of the judgment. This procedure has been very successfully applied by us in the Bombay High Court where between the years 1990-93 until the transfer policy completely disrupted the position, the disposal rate had climbed to 20 times of what it was earlier. In this regard, it is equally necessary that the Judge should insist on the respective lawyers producing xerox copies of the relevant provisions of law that they desire to rely on along with xerox copies of the decisions. By doing this, almost 40% of the court time is saved as it is unnecessary to send for books and start searching for the relevant pages till then.

(to be continued)

Read Communiqué for Latest News

ಕನ್ನಡ ರಾಜ್ಯೋತ್ಸವ

ಬೆಂಗಳೂರು ವಕೀಲರ ಸಂಘ, ಬೆಂಗಳೂರು ಲಿಟರರಿ ಯೂನಿಯನ್ ಮತ್ತು ವಕೀಲರ ಸಹಕಾರ ಸಂಘದ ಸಂಯುಕ್ತ ಆಶ್ರಯದಲ್ಲಿ ದಿನಾಂಕ 29-11-95 ಮತ್ತು 30-11-95ರಂದು ಕನ್ನಡ ರಾಜ್ಯೋತ್ಸವವನ್ನು ಆಚರಿಸಲಾಯಿತು. ತಾ|| 29-11-95ರಂದು ನಡೆದ ಉದ್ಘಾಟನಾ ಸಮಾರಂಭದ ಅಧ್ಯಕ್ಷತೆಯನ್ನು ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರಾಗಾರ ಇಲಾಖೆಯ ನಿರ್ದೇಶಕರಾದ ಡಾ|| ಆರ್. ಮನಿಸ್ವಾಮಿಯವರು ವಹಿಸಿದ್ದರು. ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ನ್ಯಾಯಮೂರ್ತಿಗಳಾದ ಶ್ರೀ ಎಸ್. ವೆಂಕಟರಾಮನ್‌ರವರು ಬಹುಮಾನ ವಿತರಣೆ ಮಾಡಿದರು. ಬೆಂಗಳೂರು ವಕೀಲರ ಸಂಘದ ಅಧ್ಯಕ್ಷರಾದ ಶ್ರೀ ಕೆ. ಎನ್. ಸುಬ್ಬಾರ್ಡಿಯವರು ಮುಖ್ಯ ಅತಿಥಿಗಳಾಗಿದ್ದರು. ತಾ|| 30-11-95ರಂದು ನಡೆದ ಸಮಾರೋಪ ಸಮಾರಂಭದ ಅಧ್ಯಕ್ಷತೆಯನ್ನು ಕನ್ನಡ ಮತ್ತು ಸಂಸ್ಕೃತಿ ಇಲಾಖೆಯ ಕಾರ್ಯದರ್ಶಿಗಳಾದ ಶ್ರೀ ಆ. ರಾ. ಚಂದ್ರಹಾಸಗುಪ್ತರವರು ವಹಿಸಿದ್ದರು. ಸಮಾರಂಭದ ಮುಖ್ಯ ಅತಿಥಿಗಳಾಗಿ ಬೆಂಗಳೂರು ವಕೀಲರ ಸಹಕಾರ ಸಂಘದ ಕಾರ್ಯದರ್ಶಿಗಳಾದ ಶ್ರೀ ಕೆ. ಎಲ್. ವಂಜುನಾಥ್‌ರವರು ಆಗಮಿಸಿದ್ದರು. ಅದೇ ದಿನ ಬೆಂಗಳೂರು ಯುವ ನಿಕಾ ತಂಡದವರಿಂದ "ಗಂಡು ಗೋಡಲಿ" ನಾಟಕದ ಅಭಿನಯದೊಂದಿಗೆ ಸಮಾರಂಭ ಮುಕ್ತಾಯಗೊಂಡಿತು.

ಲಿಟರರಿ ಯೂನಿಯನ್

○ ಕನ್ನಡ ರಾಜ್ಯೋತ್ಸವದ ಅಂಗವಾಗಿ ಏರ್ಪಡಿಸಿದ್ದ ವಿವಿಧ ಸ್ಪರ್ಧೆಗಳಲ್ಲಿ ಕೆಳಕಂಡ ವಕೀಲರು ಬಹುಮಾನ ಪಡೆದರು.

ಶಾಸ್ತ್ರೀಯ ಸಂಗೀತ : 1. ಭಾರತಿ ಭಟ್
2. ನಾಗರತ್ನ, 3. ತೇಜಸ್ವಿನಿ

ರಂಗೋಲಿ : 1. ತೇಜಸ್ವಿನಿ, 2. ಬಿ.ಆರ್. ಶಶಿಕಲ, 3. ಗುಣವತಿ, (ಸಮಾಧಾನಕರು) ಟಿ. ಎಸ್. ಮಹಂತೇಷ್.

ವಕೀಲರ ಮಕ್ಕಳಿಗಾಗಿ ಏರ್ಪಡಿಸಿದ್ದ ಚಿತ್ರ ಕಲಾ ಸ್ಪರ್ಧೆ [4 ವರ್ಷದಿಂದ 8 ವರ್ಷ]
1. ಎಸ್. ವಿ. ರಮೇಶ್ ಬಾಬುರವರ ಮಗಳು ಆರ್. ಕೃತಿ, 2. ಎಂ. ಪುಟ್ಟಯ್ಯ ನವರ ಮಗ ಪಿ. ರಂಜಿತ್.

[9 ವರ್ಷದಿಂದ 16 ವರ್ಷ] : 1. ಅನಂತ ರಾಮರೆಡ್ಡಿಯವರ ಮಗಳು ಚಂದನ
2. ಎಚ್. ಬಿಲ್ಲಪ್ಪರವರ ಮಗ ಎಚ್.ಬಿ. ನಿರಂಜನಮೂರ್ತಿ.

○ ದಿ|| 27-11-95 ರಂದು ಪ್ರೊ. ವಿ. ಕೆ. ದೊರೆಸ್ವಾಮಿಯವರು "ಜೈದ್ಯೋಗಿಕ ನಗರಿ ಹನಿಗಳು" ಎಂಬ ವಿಷಯದ ಬಗ್ಗೆ ಭಾಷಣ ಮಾಡಿದರು.

○ 4-12-95ರಂದು ಶ್ರೀ ಗಣೇಶ್ ರವರು ಸಂಸ್ಕೃತ ಸಾಹಿತ್ಯದಲ್ಲಿ ಹಾಸ್ಯ ಎಂಬ ವಿಷಯದ ಬಗ್ಗೆ ಮಾತನಾಡಿದರು.

Miscellany

□ 3-11-95 there was theft of a car owned by Mr Satyaraj, Advocate in the City Civil Court Complex.

□ With effect from June 1995 Mr. Chandrasekhara Babu, Advocate has become the Government of India Notary in Bangalore.

□ With effect from 8-12-95 Mr. K. Ramanjulu and Mr. K.R. Dinakar, Advocates and Tax Consultants have shifted their chambers to No. 51/7, Mallikarjuna Temple Street, D.V.G. Road Cross, Basavanagudi, Bangalore-04. Phone:6616718

□ M/s King and Partridge, Advocates and Solicitors Firm of Bangalore, was felicitated on 4-12-95 in a function organised by the Department of Income Taxes(Karnataka and Goa) as the best tax paying Firm in the region The Firm paid income tax of Rs. 8.2 Crores for the assessment year 1994-95.

□ On 16-12-95 Justice S. Venkataraman laid the foundation stone of the proposed construction of the first floor of the Court Complex in Virajpet The Law, Parliamentary Affairs and Publicity Minister Mr. M. C. Nanaiah was the Chief Guest of the function.

Registrar General

Mr. V. G. Sabhahit has taken over as the New Registrar General of the High Court of Karnataka consequent upon the elevation of Mr. M. P. Chinnappa as additional Judge of the High Court.

News Focus

□ On 16-11-95 students of Symbiosis Society's Law College, Pune visited AAB, City Unit. Mr. M. C. Narasimhan and Mr. S. N. Murthy, Advocates of Bangalore addressed the students.

□ On 20-11-95 Notaries of Bangalore suspended their work in protest against the alleged harassment caused to Mr. K. M. Manamohan by the Police.

□ On 24th and 27th November 95 Advocates boycotted Court Hall No. 1 in the High Court pursuant to the resolution of AAB.

Humour in Courts

Lawyer : I can't help it NBW is ordered against the Accused.

Relative : You need not worry Sir since NRW
Accused : has already been executed.

Lawyer : What?

Relative : Non Returnable
of the Warrant from the
Accused : heaven !

Campus Watch

University Law College Bangalore had sponsored the Second South India Inter-Collegiate Moot Court Competition between 14th to 16th December 1995 at Bangalore. Hon'ble Mr. Justice S. A. Hakeem, the Acting Chief Justice of High Court of Karnataka inaugurated the competition. Hon'ble Mr. Justice Krishnamoorthy, Judge, Karnataka High Court presided over the Valedictory Function. Hon'ble Mr. Justice Harinath Tilhari and Hon'ble Mr. Justice R. V. Raveendran were felicitated and prizes were distributed on the occasion.

Judges Appointed

The president has appointed Mr. P. Vishwantha Shetty. Mr. A. M. Farooq, Mr. Chandrashekaraiah, Mr. Chidananda Ullal, Mr. H. L. Dattu and Mr. B. K. Sangalada as Judges and Mr. M. P. Chinnappa, Mr. Mohamad Anwar and Mr. B. N. Mallikarjun as Additional Judges of the Karnataka High Court. In a function held on 18-12-95 the Acting Chief Justice Mr. Justice S. A. Hakeem administered the oath of office to the new Judges. Chairman of the Karnataka State Bar Council Mr. Mohan Shantana Goudar read the welcome address. With these additions the present strength of High Court has risen to 34.

Women Lawyers Protest

On the call of the Indian Women Lawyers Federation, Karnataka branch, Women Lawyers boycotted the swearing in ceremony. They also held a protest demonstration in front of the High Court as no representation was given to Women Lawyers in the selection of High Court Judges. It is learnt that there are 400 Women Lawyers in Karnataka with 10 years practice.

Notaries Meet

The Association of Notaries, Karnataka State, has decided to host an All India Notaries Meet and the Twelveth Karnataka Notaries Conference on Sunday the 24-12-95 at Bangalore

Obituary

□ On 28 - 11 - 95 T. Ananth (77) Advocate, passed away at Bangalore.

□ On 7-12-95 Mr. M. R. Lakshmikantharaj Urs, (47) Advocate, of M/s. Law Associates, passed away at Bangalore.