

RECOMMENDATIONS OF THIRTEENTH FINANCE COMMISSION REGARDING IMPROVING JUSTICE DELIVERY SYSTEM IN THE COUNTRY

Improving Justice Delivery

The improvement of justice delivery is a critical component of the initiative to ensure better outputs and outcomes. This can be done by supporting the judiciary, while simultaneously strengthening the capacity of the law enforcement arm. We discuss here the support required to improve judicial outcomes. There are over 3 crore cases pending in various courts in the country today. At the very least, current filings need to be disposed off, to prevent accumulation of arrears. The enormous delay in disposal of cases results not only in immense hardship, including those borne by the large number of under-trials, but also hinders economic development.

The Department of Justice has identified a number of initiatives which are part of this action plan and need support. The first is increasing the number of court working hours using the existing infrastructure by holding morning/evening/shift courts. The second entails enhancing support to Lok Adalats to reduce the pressure on regular courts. The third initiative involves providing additional funding to State Legal Services Authorities to enable them to enhance legal aid to the marginalised and empower them to access justice. The fourth is promoting the Alternate Dispute Resolution (ADR) mechanism to resolve part of the disputes outside the court system. The fifth is enhancing capacity of judicial officers and public prosecutors through training programmes. The sixth relates to supporting creation of a judicial academy in every state to facilitate such training.

The department has also proposed creation of the post of Court Managers in every judicial district to assist the judiciary in their administrative functions. A number of courts in each state are housed in heritage buildings, which reflect the cultural heritage of the areas. It is proposed that a grant be provided for maintaining these buildings.

The Commission, after careful consideration has agreed to support the proposals made by the Department of Justice by approving a grant of Rs. 5000 crore to be allocated as describe below. These allocations may be released in two annual instalments subject to accounts being maintained and Utilisation Certificates (UCs)/Statements of Expenditure (SOEs) provided as per General Financial Rules (GFR 2005).

Operation of morning/evening/special judicial-metropolitan magistrate/ shift courts: The present 14,000 district and subordinate courts in the country are disposing off both important as well as petty cases. The pressure on judicial time on account of the petty cases can be relieved by allotting them to morning/evening courts/courts of special judicial/metropolitan magistrates. These courts will be staffed either by the regular judiciary on payment of additional compensation, or by retired officers. The morning courts in Andhra Pradesh and the evening courts in Gujarat have demonstrated the feasibility of such models. It is expected that about 14,825 such courts can dispose off 225

lakh pending as well as freshly filed cases of a minor nature within a year. This aggregates to 1125 lakh cases over the period 2010-15. An amount of Rs. 2500 crore is being provided to facilitate setting up of such courts, which has been allocated to each state in accordance with the number of sanctioned courts.

Establishing ADR centres and training of mediators/conciliators: Section 89 of the Civil Procedure Code provides for settlement of disputes outside courts through mediation, conciliation, arbitration or through Lok Adalats. We feel that the scope of this section needs to be tapped fully to reduce the pressure on the courts system. At present, mediation and conciliation centres are being set up at the High Court level, but there are few centres at the district level. Apart from investment in physical infrastructure, judges and advocates need to be trained as mediators/conciliators in each judicial district. The Justice Department has proposed that one ADR Centre be set up in each judicial district of the country at an estimated cost of Rs. 1 crore per district. It has also proposed that 100 judicial officers and advocates be trained in each district over a period of five years to act as mediators/conciliators to provide the necessary services to the litigants at an estimated cost of Rs. 0.25 lakh per person. This scheme would require an estimated amount of Rs. 600 crore for setting up of ADR centres and Rs. 150 crore for providing training over a period of five years. These amounts have been allocated to the states in proportion to the number of judicial districts within their jurisdiction.

Lok Adalats: We are providing a grant of Rs. 20 crore per year as support to hold about 10 mega Lok Adalats per High Court per year and about five Lok Adalats for each of the 1500 court locations per year. It is expected that this would enable about 15 lakh cases to be disposed off per year – a total of 75 lakh cases for the five-year period 2010-15. The total grant of Rs. 100 crore has been allocated amongst State Governments based upon the number of courts.

Legal aid: Provision of legal aid is an important measure to assist the marginalised sections of the populace in accessing the justice system. The National Legal Services Authority (NALSA) and State Legal Services Authorities (SALSAs) have the responsibility to provide legal services to eligible persons. However, their present resources do not match up to the requirements. To strengthen their efforts, we propose that Rs. 200 crore may be earmarked for providing legal aid over five years. The amount has been allocated to the states in proportion to the number of courts in their jurisdiction. With this, we expect a decline in the number of under-trials in the courts.

Training of judicial officers: Capacity building in the judiciary is a critical need. At present, judicial officers are trained in the State Judicial Academies for one year after their induction and thereafter, in-service training programmes are organised to further build their capacity. Such programmes need to be accelerated through provision of additional support for these initiatives. A provision of Rs. 250 crore for the period 2010-15 has been made and allocated to states in proportion to the number of courts in their jurisdiction.

State Judicial Academies: The main vehicle for training judges is the State Judicial Academy. While some state judicial academies are well equipped, most have little infrastructure and few facilities. It is necessary to support the state judicial academies to enable them to operate programmes throughout the year to promptly complete the training of judges and reduce vacancies. We propose

an amount of Rs. 15 crore per High Court for the 20 High Courts, which works out to Rs. 300 crore. These funds may be utilised for creation of new academies in states where they do not exist, or for providing additional facilities where they do exist. Three High Courts cover more than one state. The release for Guwahati Judicial Academy (which covers the North-East) is proposed to be made through the Government of Assam. The release for Mumbai Judicial Academy (which covers Maharashtra and Goa) is proposed to be made through the Government of Maharashtra. The release for Chandigarh Judicial Academy (which covers Punjab and Haryana) is proposed to be made through the Government of Punjab.

Training of public prosecutors: Given the fact that the government is a major litigant, poor quality of prosecution is often one of the main reasons for delay in disposal of court cases where the Government is a party. Presently there are inadequate facilities for training of Public Prosecutors. A provision for training of 2000 Public Prosecutors in the country at an estimated cost of Rs. 1.5 lakh per Prosecutor has been made. An amount of Rs. 150 crore for the period 2010-15 has been sanctioned for this purpose, which has been allocated to states in proportion to the number of courts in their jurisdiction.

Creation of posts of court managers: Enhancing the efficiency of court management would result in improving case disposal. Providing support to judges for performing their administrative duties would allow them more time for their judicial functions. Adopting an innovative approach, the Department of Justice has proposed that professionally qualified Court Managers, with MBA degrees, be employed to assist judges. These Court Managers will also be useful in feeding the proposed National Arrears Grid that would be set up to monitor disposal of cases in all the courts. We support this innovation, the impact of which may be evaluated after 2015. The post of a Court Manager would be created in each judicial district to assist the Principal, District and Sessions judges in the administrative functioning of the courts. Similarly, posts of two Court Managers may be created for each High Court and one for each bench of the High Court. This is estimated to require Rs. 60 crore per year and works out to Rs. 300 crore for the period 2010-15. These amounts have been allocated to the states in proportion to the number of judicial districts in their jurisdiction.

Maintenance of heritage court buildings: A number of court buildings in the country have been declared as heritage buildings under the appropriate national, state, or local laws. It is proposed that 150 such buildings may be taken up for restoration and conservation, in collaboration with the Archaeological Survey of India (ASI) / Indian National Trust for Art and Cultural Heritage (INTACH) during the five year period at an estimated cost of Rs. 450 crore. We expect that preference will be accorded to larger and older buildings. Due to lack of data on heritage structures, we have allocated these funds to all states as per the number of courts in their jurisdiction.

Conditionality: The government is the single largest litigant in the country today. There are a very large number of pending cases where either a State Government or the Central Government is a party, which significantly add to the burden of arrears. It is necessary that all State Governments frame state litigation policies aimed at responsible litigation. The Central Government is planning to put in place a National Litigation Policy shortly. It is proposed that this policy will include steps for: (i) reviewing the existing cases and wherever necessary, withdrawing cases identified as frivolous and vexatious; (ii)

formulating norms for defending cases as well as for filing appeals and (iii) setting up of Empowered Committees to eliminate unnecessary litigation. States could formulate their State Litigation Policy based upon the National Litigation Policy. The grants will be provided in five equal annual instalments. The details of state-wise eligibility for these grants are placed in Annex 12.12. A state will be eligible to draw down instalments only if it puts in place a State Litigation Policy. Such a policy must be put in place by the State Government before the end of a fiscal year to be eligible to draw down the instalment for the succeeding fiscal years. This condition will not apply to the first annual instalment (2010-11) which can be drawn down without the policy in place. A state will thereafter be entitled to the grants only prospectively after framing its policy.