The Review of Contemporary Scientific and Academic Studies
An International Multidisciplinary Online Journal
ISSN: 2583-1380 Vol. 1 | Issue 1 | December 2021 www.thercsas.com

Need of Judicial Democracy in India - A Brief Study

Dr. N.S.R. Murthy (nsrmurthy1948@gmail.com)
Former Professor, Nava Bharathi College of P G Studies, Secunderabad, India

Abstract

CJI N.V. Ramana is initiating several reformative measures for setting right most of the judicial delays. He proposed International Arbitration and mediation centre in Hyderabad, capital of Telangana state in India. Flagging "communal content" in media is another land mark reformation event. The breakdown of law enforcement organizations entire the world as well as in India is an upsetting element. Present democratic functioning system in India is deriding from adulation to abasing due to subversion of basic principles of constitution. A new phrase "JUDICIAL DEMOCRACY" is needed to be coined to refurbish the constitutional and legal provisions.

Keywords: Arbitration, Expectations of Litigants, Judicial Democracy, Encomiums

Introduction

After assuming charge as Chief Justice of India on April 24, 2021, Justice N.V. Ramana is initiating several reformative measures for setting right most of the judicial delays like disposal of cases, settlement of cases through arbitration, filling of vacant posts in Supreme Court and High Courts, maintaining cordial relations with collegium and other judicial officers, government officials and general public through his thought provoking speeches and suggestions for a social change from dogmatic beliefs to the appreciation of people of all walks of life. This kind of trend from judiciary was never seen before. He attained as a figure of noncontroversial in nature. Today people, especially litigants are reposing utmost confidence on judicial system that decades' old pending cases will be resolved judiciously within a time frame. He expressed that the age old maxim "justice delayed is justice denied" should be done away with. No case should take more than three years for its disposal gained a momentum in the country. Now innumerable depressed, distressed, distrusted, dejected, demoralized and disappointed clients are clinging happiness hoping their court matters will be resolved without abnormal delay.

Judiciary is one of the main pillars of the constitution while others are Executive and Parliament. It was set down in the constitution that there will be Supreme Court comprising of a Chief Justice and until parliament by law endorses countless not in excess of seven additional or other judges. Vide Act 22 of 1986, Section-2, the number of judges had risen to 25 and now with the induction of 9 new judges in September, 2021, the total goes to 33 against 34. The sole criterion of maintaining full strength is to dispose of all decades' old pending cases within a timeline. 'High Court' means a High Court which exercises or which at any time before the commencement of the constitution exercised jurisdiction in and part of the territory of India. There are district courts, magistrate courts, and family courts, DRTs and other Tribunals, Consumer Forums etc., to render speedy justice. Contempt of court orders are viewed seriously and concerned officials howsoever high in position they are, will be punished according to law. This is in a nut shell the affairs of courts.

Encouragement of Arbitration

Justice N.V. Ramana, after assuming apex Court as Chief Justice, he is initiating numerous novice reforms to render social justice. A few are: encouraging "arbitration" the system was widely prevalent before emerging written legal texts during the periods of yore by the village jurists on common platforms earmarked. Arbitration process analyses the bargaining situation, listens to both the parties to the dispute, gathers the information, identifies the causes of dispute and recommends the actions that are acceptable and amicable and bind the parties. As CJI rightly stressed that litigation is very costly and time consuming, he emphasized the importance of arbitration, mediation and conciliation in the resolution of disputes. He also proposed International Arbitration and mediation centre in

Hyderabad, capital of Telangana state in India. His personal intervention in arbitration averted a divorce case of a couple and helped restoration of their conjugal relations.

Communal Content

Flagging communal content in media is another land mark reformation event. CJI says there is a lack of accountability in social media platforms and points out the problem is everything in this country is shown with a communal angle by a section of media.....The country is going to get a bad name ultimately.

Web Channels to be Regulated

As Chief Justice of India NV Ramana very rightly and timely points out, the country gets a bad name because of unbridled web channels, Twitter, Facebook, YouTube, villainous TV serials, movies etc. Since there is no administrative instrument instead of these sites, not just present day youth is falling back on unsocial and unethical exercises yet additionally ruining their professional development and family relations. Tragically some matured people are also dependent on internet-bases sites. It is the starry-eyed rundown of individuals given the courts are presently in the changing situation to start solid and stern strides on contempt of court orders as governments have opposed numerous decisions in the past in which working gatherings lost their lawful rights. Last but not least, during the tenure of Justice N.V. Ramana as CJI, a sea change is expected in the judiciary which should not reverse its judgments on the pretext of judicial review though this provision is enshrined in the mechanism of law, but destructing authenticity of the cases.

It is downcast to go through a recent statement of the CJI that the government is not obeying court orders, is unprecedented in a constitutional democracy. The breakdown of law enforcement organizations entire the world as well as in India is an upsetting element. And also he opines that the strength of the judiciary is people's faith in it. It has to be earned, CJI said.

Exceptional Decisions

There are a few remarkable decisions taken by the CJI:

- Presiding over a bench, he chose to look at a lot of petitions for an autonomous probe into debate encompassing the supposed use of *Pegasus Spyware* to sneak on activists, writers, legislators and associates of the judiciary - case that is probably going to put the middle on the harbor.

- While hearing a case for accelerating the trial against previous and sitting MPs and MLAs, Justice Ramana ordered not to withdraw against them without a consent or gesture from the High Court.

- In his 75th Independence Day discourse, without perusing from composed text, showed his concern over the absence of discussion in Parliament on the entry of laws. After a day, when a case came up before a bench presided by him, Justice Ramana put the Union Tribunal Reforms Act with no discussion in Parliament and with arrangements previously struck somewhere around the Apex court.

Supreme Court, an Independent Organ

Recently N V Ramana received a letter/message from some advocate of S C which indicates as:

> *"Sir, I have received this notice from the Registry with a snapshot of the Prime Minister. The same does not seem to be in order of the Supreme Court's position as an independent organ and not a part of the government. Request you to kindly take up the same with the Hon'ble Chief Justice with a note of protest if you deem appropriate," the message said.*

Ramana, as the Chief Justice of India directed the Supreme Court Registry to take necessary actions and precautions regarding the photo image of Prime Minister Narendra Modi, which was being appeared as an email footer that is not connected whatever with the functioning of the judiciary. Subsequently, National Informatics Centre (NIC) was directed by the Supreme Court to fill the gap after deleting PM's image with the image of Supreme Court and the NIC complied immediately. The Indian Constitution recognized judicial independence so that Judges can carry out their duties and responsibilities without fear or favor.

Expectations of Litigants

During the tenure as CJI, a sundry of court birds are expecting speeding up the listing of cases mostly related to Farm Laws, Citizenship Amendment Act, Uniform Civil Code, Employees' Pension Scheme-1995 etc. Supreme disappointment that Apex Court has made to EPS-95 Pensioners by adjourning number of times the long pending case. A letter addressed to Supreme Court by this author is mentioned below.

All expectations rested on Supreme Court by resigned sixty lakh Central Public Sector Employees in the nation were lost hope because of recusal of two judges for discarding twenty years old case and recommended for a superior bench most likely at the persistence of EPFO and the Central Government. The distressed retired employees almost lost their faith in the SC and GOI.

Judicial Democracy

Present democratic functioning system in India is deriding from adulation to abasing due to subversion of basic principles of constitution by the past and present political governance from "For the people, Of the people and By the people" to "Far the people, Off the people and Buy the people". This derailed trend should be brought back on right track by correcting the law makers by the law protectors. That is why a new phrase "JUDICIAL DEMOCRACY" is needed to be coined to refurbish the constitutional and legal provisions wherever necessary from time to time in view of ever changing social requirements. In this matter, an advice is put forward to GOI by this author through press.

Encomiums

All encomiums are being showered on Justice N.V. Ramana, CJI for his reformative choices being taken in the wake of sitting on the lofty position of most elevated seat of legal executive. He immovably examines saddle in the background of legal and managerial choices taken by him. He drove from the front to end the multi month stalemate in the Supreme Court collegium. Assuming control from previous CJI Justice S.A Bobde, Justice Ramana made a record of sorts by recommending nine names to appoint as judges in the Apex court, which was accepted by GOI precipitously.

Conclusion

All the significant points and statements discussed above are acceptable; but it is the strongest displeasure of public that governments are defying court judgments which are not taken into contempt of court orders there by people's faith on government as well as on judiciary is diminishing. Justice is

denied very often. These abominable maladies are to be extinguished. Democratic system of government is not only one of the best but the best as governments are formed only with the will and support of the people. Such reverential, comprehensive constitutional democracy is at stake instead of going stronger and stronger due to contaminated political environment and ever hiking kleptocracy. Veteran journalist Ramachandra Guha said in an annual celebration at NALSAR on July 27, 2019 Indian democracy is an ongoing and unfinished project. Justice Gowda said on an occasion "so far the tenure of Justice Ramana as the CJI has been very credible and excellent. His courageous decisions are reviving the lost glory, dignity, majesty and independence of the Supreme Court.

References

The Hans India, The Hindu and Deccan Harold press reports, 2021.

Murthy, N. S. R. Letters published in The Hans newspaper, 2021.

https://www.barandbench.com/news/litigation/justice-nv-ramana-sworn-in-as-the-48th-chief-justice-of-india

Bio-Data.pdf (d2r2ijn7njrktv.cloudfront.net)

https://indianexpress.com/article/india/supreme-court-narendra-modi-mails-7533076/