



CONSCIOUS CITIZEN FORUM

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Date : 8th February 2014

To

1) Hon'ble Chief Justice
Supreme Court of India
New Delhi - 110 001.

2) Hon'ble Chief Justice
Bombay High Court,
Mumbai .

Subject : Need to reform judiciary in India and humble request to invent smooth & simple method while giving justice to common masses for protecting human rights.

Respected Sir,

With all respect to Goddess of Justice i.e. Court we would like to submit following few lines before Your Kind Honour.

In the present scenario of corrupt police officials, corrupt beurocrates, corrupt political leaders of country, corrupt Govt. Machinery of many departments and corrupt Govt. Officers, common people only believe upon only and only the **judiciary**.

Judiciary in India is a pillar of democracy and importance of judiciary is realised to entire world when MPs and Central Ministers were sentenced to jail in 2G spectrum scam. Judiciary in India is quite brave and impartial, it gave justice to George Fernandes and Jaiprakash Narayan when they were behind bar in emergency period and it gave lesson to culprits in Adarsh Scam and Coal Gate scam.

We have every respect for judiciary in India, nevertheless we feel that the lower middle class and poor people like BPL are still afraid of the Court and they fear to approach the Court because of lingering trend of on going cases and exorbitant fees being charged by the Advocates. They are tolerating injustice for the years together. Rarely some of them approach to NGOs and we dare to putforth above observation because we work at ground level. We being NGO work for the down trodden section of society. So many people who are suffering from injustice caused to them by established section of Society are approaching us for help to get justice. Many

people who are affected due to big 3MP section of Society i.e. Money power, Muscle power and Manipulation power are approaching us against exploitation by the big 3 MP section of Society. We did study on this point why they are approaching to NGO instead of political parties instead of Police and instead of Court and the conclusion we put forth before your honour may kindly be perused which will compel you to think positively about our proposal to reform the judiciary. The intention behind writing this letter is to bring the judiciary within the capacity of common man who trust democracy, who obey rules and respect judiciary.

The poor/ weaker people and lower middle class people who approach us are expressing their views that they want reform in judiciary whereby they can easily approach to Judge for getting justice. This lower middle class people are afraid of exorbitant fees of Advocates. Many times this class people are desirous to stand in the Court on their own as Petitioner without the help of Advocates. But the strong lobby of Advocates are restraining common people to do so by misguiding them that engaging Advocate is a compulsory procedure of judiciary. The lower middle class people expressed their views about the Govt. Advocates being provided to weaker section people free of cost. The people do not have faith on these Govt. Advocates. The judiciary should evaluate the spirit of case and see whether the weaker section petitioner shall get justice or otherwise through these Govt. Advocates.

But every time NGO cannot bear legal fees of Advocates. When there are matters which are remained in Court of Law for prolong period, the NGO has become helpless due to want of funds to bear the exorbitant legal charges of Advocates. Especially when the NGO file PIL / Writ in Hon. High court for any burning public issue, the Advocates are charging fees round about Rs.1 lakh. Every time NGO cannot afford to pay so high expenses towards advocate's fees. This is not a mere question of affording fees to NGOs but this is a common question for 70 % common masses of India who are in need of justice but afraid of the fees of Advocates and tolerating the injustice from years together. This tendency of tolerating injustice for years together one day may convert into revolt against the system. In light of this, we would like to suggest following reforms in judiciary which may kindly be perused and considered sympathetically.

- 1 There should be schedule of fees to be invented by law experts for Advocates. A regulatory body to be established like TRAI.
- 2 Efficiency and trustworthiness of Govt. Advocates being provided to weaker section people free of cost should be checked and observed by the judiciary governing body. There should be some regulatory board to check the percentage of proper disposal of case of weaker section people and evaluate the performance of Govt. Advocates provided to weaker section free of cost.
- 3 Judiciary may impose bindings upon the Advocates to give receipt to the client for the fees they receive for running the matter in Court. While filing Petition in the Court, copy of fee receipt and payment schedule of legal fees must have to be attached with Vakalatnama and Petition.
- 4 Judiciary must avoid to give maximum dates in peculiar type of litigation viz. Rape case and exploitation of women. Fast trial may be given to sensitive issues.
- 5 Specific fees limit be fixed to advocates for pleading litigation for EPL/ senior citizens. and fast track court facility be provided to them.
- 6 Property Tax, Service Tax, Professional Tax, Income Tax, Property returns be get filled in

- by Advocates every year and specific directives; to them should be given by judiciary.
- 7 There should a separate cell to be established in judiciary for the clients who are being exploited by the Advocates for years together.
 - 8 If any client is poor and not able to pay fees of Advocate, he may be allowed to plead his case in the Court of Law if the said client desire to stand in the Court without Advocate.
 - 9 Junior advocates or student in Law college who willingly stand for pleading on behalf of BPL or poor person in Court of Law without charging any fees, he/ she may be encouraged and allowed to do so.
 - 10 There is misunderstanding amongst the member of public that a common man if wants to approach Court, he must go through Advocate and engaging Advocate is binding. Judiciary may take initiative to educate the people that a common man if desire, he can plead his matter without taking the help of Advocate.
 - 11 Directives may be issued to judges that they should ask to the Petitioner at the first hearing that whether the Petitioner wants to present before the Court and desire to plead his case on his own. If the petitioner is desirous and having sufficient knowledge to plead his case himself, he may be given first opportunity prior to his Advocate to start with the proceedings on his own and Advocate should help him.
 - 12 Few Advocates have spread menace about judiciary and displayed a picture of judiciary as a very difficult task in the eyes of common man. These type of Advocates have made their monopoly and kept sustained their high rates of fees for ever. Due to this attitude of Advocates, common people do not dare to produce themselves before the judiciary and deprive off to avail benefits of judiciary for getting justice.
 - 13 Common people are having fear about judge and judiciary.
 - 14 Petition filing system should be made simplified. Complications and heavy procedure should be curtailed while admitting the matter of common people.
 - 15 There should be audio and video recording of in house proceedings of Court as well as lower court proceedings, to maintain transparency of judicial system.
 - 16 There is heavy pendency of investigation report / final form in the police stations. Stipulated time span should be enforced to submit investigation report. If there is a genuine difficulty in that case progress report of investigation may be submitted to Court from time to time and it should be made mandatory upon the Police for maintaining transparency in police investigation system.
 - 17 In order to liquidate the heavy pendency of matters in Courts/other Investigation Agencies, Day and Night courts should be established on the line of foreign countries practice where day and night courts are functioning. (If the person found innocent, he should not be kept behind the bar more than a second and culprit should not roam in society freely for more than one second). In order to achieve speedy justice, practice of day and night Courts must be brought in India.
 - 18 There must be provision of Procedural Guidance Cell / PRO to guide people at each and every Court for such person who is common man and desire to stand at his own as a Petitioner before the Judge without the help of Advocate. To get justice to common people such type of easier and simplified procedure must be adopted by judiciary.

Suggestions for NGOs.

When the NGO wants to file PIL as per public demand, NGO may be appreciated and allowed to plead without advocate. If the NGO is a knowledgeable entity and possessing sufficient knowledge of rules and law and if he / she desire to plead the

proceedings of Court without taking help of Advocate, it may be encouraged and allowed to proceed on in the court of law without Advocate whereby the pendency of court cases with judiciary shall be reduced to some extent.

The Law students who join NGO for doing social work and if they intends to help the NGO by standing in Court for pleading on behalf of NGO in PIL/ Writ proceedings, such law students be encouraged and allowed to stand in Court and may be given liberty to carry out the proceedings in PIL/ Writ.

Judiciary is facing shortage of judges and advocates. If such encouragement given to NGOs/ Law students who take initiative to plead the social issues like protection of human rights, the alternative solution for shortage of advocates may be envisaged. At least time being remedy can be achieved. Such law students who voluntarily plead for NGOs for social issues, can be proved as very good and ideal lawyers in future and they will surely maintain the dignity of judiciary. In addition to this we would like to put forth our suggestion that such practical way of pleading in Court for social issues may be added in their curriculum of law and special marks be given to them while passing out LLB.

Reform in procedure / rules for Under trial prisoners.

There are so many under trial prisoners in large numbers remained behind the bar. Few of them are remained in jail for 2 / 3 years. In fact there is specific time limit to keep the under trial prisoners behind the bar, but the police and judiciary are not taking care in this regard. When the under trial prisoner is poor he do not afford fees of advocate. If under trial prisoner is ignorant and is not aware of law, he remained in jail without any trial for years together. When these type of prisoners released after 2/ 3 years from jail till the time they become a hard cruor criminal as they were accompanied with the criminals in the jail and the feelings of injustice cultivate a revolutionary spirit amongst them against the system against the judiciary. It helps to increase more pollution of crime in society. Instead of purifying the Society, the inactive police and lazy judiciary join hands in enhancing crime pollution in Society. In order to avoid this negative effects of keeping under trial prisoners long time in the jail, following remedies are hereby put forth humbly before Your kind Honour.

1. Police and Judiciary should not forget a fact that under trial prisoner is yet not registered as a culprit till the Court proceedings are over and allegations are proved.
2. If the said under trial prisoner acquitted after the Court verdict, he will definitely look into law after coming out of prison that what was the specific limit to keep the under trial prisoner behind the bar and for how many extra years he was behind the bar. He will surely approach to Court against the Police and in that case the time and energy of police shall consumed in such unnecessary complications. In order to avoid such things, the instructions in this regard must have to be issued to Head Quarter of local Police and judiciary should have to take periodical review of under trial prisoners state wise and district wise.

3. The under trial prisoners who did not get bail are facing prolong time trial process due to negligence of investigation agencies and slow judicial process, in that case Court should take suo moto and fix responsibility to jail authority to inform time to time/ monthly basis to judiciary for getting justice to under trial prisoners and the same should be made mandatory to jail authorities.
4. The under trial prisoners who are granted bail but not able to furnish bail bond due to some technical reason, Court should release them by taking self bond after stipulated time (except hard core criminal involved in heinous crime).
5. The provision of getting parole to convicted prisoners can also be made applied to under trial prisoners because they are not yet proved as accused/ convicted prisoners. Principle of equity as mentioned in Constitution of India shall be maintained if under trial prisoner shall get more privilege rather than convicted prisoner. But in present scenario it is totally opposite and against the logic.
6. Till the time Court proceedings are over, the said under trial prisoner should not be treated as culprit. He may be treated as a prisoner waiting for justice. He may be treated as common people till the time he is not convicted.
7. Instead of keeping the under trial prisoner in jail, there should be provision of Detention Home / Public Ward for under trial prisoners and he/ she may be provided facility like common man till he is not declared as convicted. The place where under trial prisoners are kept may not be called as Jail in order to maintain the principle of Human Dignity under article 21. If such under trial prisoner acquitted without imposing any charge, people should not say that this innocent person came back from jail. In primary stage of investigation there should not be binding of putting the person behind bar. There are chances that he can be proved as innocent person. Therefore, instead of Jail, he may be kept in Detention Home till he is declared as convicted. And after conviction, he may be transferred to jail. In this way a innocent person can be saved from black spot on his image.
8. Only on the basis of allegation a person should not be sent in jail and it is not justified. Therefore a concept of Detention Home should be implemented where there shall be all amenities and liberty which are being provided to common man in day to day life and the shall must be provided to under trial prisoners. The climate surrounding to such under trial prisoner may be kept hygienic and tense free as far as possible whereby the under trial prisoner should not develop feeling in his mind to be a real criminal after releasing from jail. Providing welfare facilities to under trial prisoner shall not be called as luxury, but it should be called as shock absorber which shall curb to create one more criminal in jail.
9. It is so many time seen that when there are allegations framed on husband and wife, the children are being sent at Remand Home, wife is being sent to Ladies Jail and Husband is being shifted to mail ward. It can be treated as cruelty on human being and serious violation of basic human rights. Based on only allegation, a family should not be suffered.
10. In Taloja Jail (Navi Mumbai Maharashtra) and other jails under trial prisoners have done suicides in the recent past. On this count there must be psychological cell be formed in jail and the psychiatrist doctor will help such depressed under trial prisoners to come out from depression. The Jail Superintendent shall be made accountable and responsible if any under trial prisoner is doing suicide.

- ✓ 11. In order to observe the attitude of jailer and jail staff with prisoners, C.C. T.V. must be installed in the jail whereby the administration/ govt. can get the exact reason and background of untoward incidents, in light of recent incidence of firing in Taloja Jail campus (Navi Mumbai Maharashtra).
- ✓ 12. There should be water purifier machine installed in each and every jail/ barrack / ward of the jail for drinking water.
- ✓ 13. There should be entertainment programmes and cultural activities for under trial prisoners, sports activities like foot ball, wholly ball and other sports activities be provided to the under trial prisoners because they are in jail for time being, that too till the time decision on the allegations framed against them is taken by the judiciary.


The Undersigned shall be ever grateful to Your Honour if you consider the above points and take initiative to do reform in judiciary in this Nation.

Our NGO shall submit suggestions to protect human rights in future too which may kindly be considered as a part of reform of judiciary. If above suggestions for reform are implemented in India, India shall be called proudly as the country who honour Human Rights scrupulously throughout the universe.

With regards

Thanking you,

Yours Sincerely,


(K. Kumar)