

All India Judges Association & Ors Vs Union Of India & Ors

Court: Supreme Court Of India

Date of Decision: Aug. 2, 2018

Acts Referred: Constitution of India, 1950 & Article 21, 39A

Citation: (2018) 5 AWC 5122 : (2018) 9 Scale 393 : (2018) 9 SCR 419 : (2018) 17 SCC 555

Hon'ble Judges: Dipak Misra, CJ; A.M. Khanwilkar, J; D Y Chandrachud, J

Bench: Full Bench

Advocate: A.T.M. Sampath, Bharat Sangal, S.N. Bhat, Amita Gupta, Pravir Kumar Jain, Abhijit Sengupta, A. Venayagam Balan, Rakesh Dahiya, S. Wasim A. Qadri, T.A. Khan, A.K. Sharma, Anil Katiyar

Judgement

1. This interlocutory application basically relates to infrastructure of the courts especially in subordinate courts. A detailed order was passed on

24.01.2011 which pertained to various projects of court buildings, residential quarters and all other aspects. On 04.04.2011, the following order came to

be passed: "We

By our Order dated 21st February, 2011, we had directed States of Maharashtra, Gujarat and Uttarakhand to answer five questions, which, for the

sake of brevity, are reiterated hereinbelow:

[1] Since when Proposals/Projects are pending and reasons why they have not been cleared till today?

[2] For how long and why Proposals pending for acquisition of land have not been cleared by the Collectors?

[3] Why Government lands, which are available, are not being urgently made available for Court Buildings and Residential Quarters?

[4] What steps are being taken to expeditiously complete Projects which are under construction?

[5] How many pending Proposals would receive administrative and financial sanction during the next Financial Year?

States of Gujarat and Maharashtra have sought time to put in their response. Request is granted. Hence, four weeks' time is granted. No further

adjournment will be granted.

As far as State of Uttarakhand is concerned, we have examined the affidavits filed on 1st April, 2011. The affidavits are vague. The State of

Uttarakhand was required to answer each of the above five questions project-wise and format-wise but they have not done so.

In the circumstances, we direct the State of Uttarakhand to file a proper detailed and accurate affidavit to the questions posed. In addition, we direct

the State to answer those questions project-wise and format-wise.

We may further add that vide Order dated 24th January, 2011, we had requested various States, including States of Gujarat, Maharashtra and

Uttarakhand, to furnish details of the nature of the work, the place at which the project is located as well as the amount to be spent in respect of each

of the project. Pursuant to the said order, we had also forwarded the requisite format in the form of Annexures I and II to all the three States. Since

we are adjourning the matter by four weeks, we also direct the States of Uttarakhand, Gujarat and Maharashtra to give details duly filled in the

formats Annexures I and II.

Place the matter on 9th May, 2011.

2. Thereafter, the matter was listed on many an occasion but it stood adjourned. In the meantime, it has been brought to the notice of the Court that

there has been progress in the field of infrastructure inasmuch as the court projects (court rooms) have been constructed and other steps have been

taken. But there are certain other spheres where immediate attention is required so that things are set right.

3. A sound infrastructure is the linchpin of a strong and stable judicial system. The responsibility for securing justice to the citizenry of our country

rests upon the judiciary which makes it imperative upon the State to provide the judicial wing the requisite infrastructure commensurate with the

constitutional obligation of the judiciary. It needs to be understood that without a robust infrastructure, the judiciary would not be able to function at its

optimum level and, in turn, would fail to deliver the desired results. While emphasizing the importance of judicial infrastructure, the Court in All India

Judges Association and others v. Union of India and others (2010) 14 SCC 705 has observed: "The

Justice Delivery System is the bedrock of the rule of law, which is held to be the basic structure of the Constitution and it is our view that, in the

absence of adequate judicial infrastructure, particularly for the subordinate Courts, it would not be possible to sustain rule of law in this Country. It is

true that Courts do not generally issue directions in financial matters, however, we are of the view that Court fees, costs and fines constitute what is

called "Measure" of what is spent on judicial infrastructure. This would be in consonance of doctrine of Reasonableness under the Constitution. Rule

of Law assures the citizen of an effective civil and criminal justice system and judicial infrastructure is the cornerstone of justice delivery system

without which Rule of law in this Court would fail.

[Emphasis supplied]

4. In Brij Mohan Lal v. Union of India and others (2012) 6 SCC 502 the Court, while highlighting the infrastructural needs, has said: "The

Article 21 of the Constitution of India takes in its sweep the right to expeditious and fair trial. Even Article 39A of the Constitution recognizes the

right of citizens to equal justice and free legal aid. To put it simply, it is the constitutional duty of the Government to provide the citizens of the country

with such judicial infrastructure and means of access to Justice so that every person is able to receive an expeditious, inexpensive and fair trial. The

plea of financial limitations or constraints can hardly be justified as a valid excuse to avoid performance of the constitutional duty of the Government,

more particularly, when such rights are accepted as basic and fundamental to the human rights of citizens.

5. The aforesaid two verdicts, as is noticeable, lay stress on infrastructure in the context of Rule of Law, effective civil and criminal justice system and

the constitutional duty of the Government to provide the same and the principle of access to justice that does not accept the excuse of the Government

as regards financial limitation.

6. It has to be firmly borne in mind and accepted as a reality that raising the infrastructure standards in the court complexes is the need of the hour as

it is the basic requirement for the courts in the twenty-first century. We are absolutely clear that when people are aware of their rights, their desire to

get the rights realised is enhanced and they would like to knock at the doors of the Court to shape their aspiration into reality. It is a welcome

phenomenon and conceptually, Rule of Law nourishes and garners the said idea. The idea of speedy and quality justice dispensation system cannot be

treated with status quo approach, for the definition of infrastructure and the understanding of the same in all associated contexts changes with the

passage of time and introduction of modern technology in many a sphere of life. The consumers of justice expect prompt and effective delivery of

justice in an atmosphere that is acceptable. Therefore, infrastructure enhancement will go a long way in strengthening functioning of the court and

would improve the productivity in the justice delivery system.

7. Be it noted, a court complex is not just a building. It is the building of justice which breathes and infuses life into the exalted and sublime ideals of

justice. The widening gap between the ideal and the real and between the vision and the pragmatic realization of justice has to be bridged by proper

access to justice for all.

8. It brings us to the focal point, i.e., judicial infrastructure which has been given relatively low importance, if not long neglected. That needs an

overhaul. Apart from the metropolitan cities and State capitals, infrastructure in Courts, especially in the interior parts of the country, is dying out. It

would not be wrong to say that some of them are just on the ventilator. A decrepit or crumbling court infrastructure inevitably results in causing

impediment in access to justice. Undeniably, access to justice and rule of law is intrinsically linked. No democracy can afford to undermine the core

values of rule of law. Thus, strengthening of court infrastructure requires immediate attention in the form of planning, enhanced budgeting and

structured implementation or execution of the plans. Presently, most of the States are making budgetary provision as low as less than 1% of their total

budget for the judiciary.

9. In view of the above, we deem it extremely necessary to declare that it is essential to provide basic infrastructural facilities, amenities, utilities and

access oriented features in all Court complexes around the country as it is axiomatic that infrastructure forms the core for efficient and efficacious

dispensation of speedy and qualitative justice.

10. The court development plan should comprise of three components – a short term (or annual plan); a medium term plan (or a five year plan); and a

long term plan (ten year plan). The annual plans so prepared shall be incorporated into the five year plan which, in turn, rolls into the ten year plan.

While focussing on judicial infrastructure, due regard has to be given to adequate and model court building, furniture, fixture, judges chamber,

record/file storage, adequate sitting and recreation arrangement for staff and officers, sitting/waiting room for litigants and bar members, latest gadgets

and technology. In other words, the core factors in the design of a court complex must reckon – a) optimum working conditions facilitating increased

efficiency of judicial officers and the administrative staff; b) easy access to justice to all and particularly to the underprivileged, persons with disability,

women and senior citizens; c) safety and security of judges, administrative staff, litigants, witnesses and under-trial prisoners. The court complex

must consist of: –

I. COURT BUILDING Court rooms Judges' chambers Judges' residential complex Litigants' waiting area Administrative offices Conference

Hall/Meeting Room Video conferencing rooms Mediation centre/Legal Services Authority Common rooms for male/female staff Staff canteen De-
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stress rooms for male /female staff Office space for Government pleader/Public prosecutor/ Advocate General/Standing Counsel for Union of India

with separate cubicles for conducting conferences and including space for accommodating their Secretarial staff and files Support facilities like ramp,

crèche, etc.

II. SPACE FOR LAWYERS/LITIGANTS Bar rooms for ladies and gents Consultation rooms and cubicles Stamp vendors and notary public/oath

commissioner/typist/photocopy/business centre Library Canteen for lawyers and litigants Facilitation counter for litigants/visitors Support facilities

III.FACILITY CENTRE providing for common facilities for functioning of the complex unrelated to courts such as bank, post office, medical facility,

disaster management, etc.

IV.UTILITY BLOCK for accommodating the utility services such as A.C. plant, electrical substation, DG set/Solar panel, STP, Repair workshop,

storage, garage, etc.

V. JUDICIAL LOCKER&UPS.

VI.STRONG ROOM FOR RECORD PRESERVATION.

VII.ADEQUATE PARKING SPACE for judges, lawyers, litigants and other visitors.

VIII.IT INFRASTRUCTURE FOR COMPUTERISATION AND eCOURTS

11. The finance needed for court infrastructure should be ideally placed under the head of planned expenditure which will be more specific, better

managed and obviate any cut by the Governments. The budgeting must be from the demand side and cannot be from the supply side.

12. Apart from what we have stated above, we think it appropriate to issue the following directions which are the most fundamental and vital features

to be provided at the earliest in all court complexes:

(i) Basic amenities such as adequate seating space for litigant public as well as lawyers, sufficient waiting area with seating arrangements, proper

lighting and electricity, functional airconditioning/aircooling/ heating, accessible clean drinking water with Reverse Osmosis (RO) facility, clean and

hygienic washrooms separate for men, women, transgenders and physically handicapped persons, kiosk and functional canteens selling beverages and

eatables at nominal rates, preferably managed by court staff are some amenities and facilities which ought to be ensured at court complexes

throughout the country. If these are missing in our court complexes, it would be an appalling situation which requires immediate rectification.

(ii) We must further ensure that all our court complexes are conducive and friendly for the differentlyabled and towards this end, the Court

complexes must have certain features for the benefit of the vulnerable persons such as persons with disability or visually impaired persons. We have

to move from disabled friendly buildings to workable and implementable differentlyabled friendly court infrastructure. Ramps for such categories of

persons must be operable, feasible, tried and tested. Such ramps should definitely have steel railings and handles. The court infrastructure must also

keep in view the accessibility for visually impaired persons and, therefore, court complexes must have tactile pavements and signage in braille for the

benefit of visually impaired citizens. That apart, for ensuring easy movement of common citizens in the court complexes, there must be maps and floor

plans of the entire court complex at entry and exit points and visible signage and directional arrows with colour coding throughout the court premises.

(iii) For saving the litigant public and other citizens from running one end to the other without any guidance in the Court complexes and for assisting

them to reach their desired place, it is necessary that all court premises must establish a working and fully operational help desk at major alighting

points with trained court staff to brief and guide the citizens about the layout of the court premises.

(iv) Court premises must also have sufficient number of functional electronic case display systems for litigants and lawyers with the feature of

automatic update in every ten seconds.

(v) With the increase in motor vehicles, including cars and two-wheelers, it is imperative that court premises have sufficient and proper parking space

to ease vehicular traffic and avoid crowding. All upcoming court complexes must have provision for both sufficient underground and surface parking

facilities segregated into four broad categories "A, B, C, D" for judges, court staff, lawyers and litigants. As far as the existing court complexes are concerned,

the possibility and feasibility of constructing underground or multi level parking facilities must be explored.

(vi) The court premises must have easy access at both entry and exit points. End to end connectivity of public transport systems must be ensured for

court premises by starting feeder bus service and other dedicated transport services between major public transport points and court complexes.

Access to justice will forever remain an illusory notion if access to courts is not ensured.

(vii) Court premises must be armed with better crowd management arrangements along with adequate security measures. It has been seen, time and

again, that at the time of court proceedings of cases which are well covered by the media, the crowd management in court premises runs into utter

chaos. Measures must be taken to ensure that whenever court premises are thronged with heightened crowds, there is smooth ingress and egress of

both vehicular traffic as well as citizens in the court premises.

(viii) Creche facility at nominal rates for toddlers, falling within the age group of 6 months to 6 years, of lawyers, clerks of lawyers, bar association

staff and officers and employees of court registry must also be constructed. The said creche facility must not be just for the namesake, it has to be

both functional as well as effective with proper space and equipment such as baby proofing and other toddler-friendly provisions. That apart, the

courts should have a proper atmosphere for children and vulnerable witnesses.

(ix) Professionally qualified court managers, preferably with an MBA degree, must also be appointed to render assistance in performing the court

administration. The said post of Court managers must be created in each judicial district for assisting Principal District and Sessions Judges. Such

Court Managers would enable the District Judges to devote more time to their core work, that is, judicial functions. This, in turn, would enhance the

efficiency of the District Judicial System. These court managers would also help in identifying the weaknesses in the court management systems and

recommending workable steps under the supervision of their respective judges for rectifying the same. The services of any person already working as

a Court Manager in any district should be regularised by the State Government as we are of the considered view that their assistance is needed for a

proper administrative set up in a Court.

(x) Adequate residential accommodation for judicial officers and court staff is another infrastructural aspect which requires immediate attention. The

productivity of judicial officers and court staff who are not provided with residential quarters in and/or around the court premises gets negatively

hampered. Thus, residential accommodation in proximity of court complexes for judicial officers and court staff must also be provided.

(xi) There shall be solar power installation in each of the district court premises initially and thereafter, the same should spread to all other courts.

(xii) Keeping in view the obtaining scenario, CCTV cameras should be placed at proper locations within the court complex.

(xiii) To enhance the quality of speedy justice, video conferencing equipments and connectivity to jails shall be provided at the earliest.

(xiv) The district court complex should have a dispensary with adequate medical staff and equipments.

13. It is clear that judicial infrastructure not only needs attention and budgeting but also effective utilization of the funds towards specific and proper

ends so that the primary goal of access to justice for all is realized. Prompt measures are to be undertaken and procrastination in these matters cannot

brook delay where Rule of Law is supreme.

14. Let a copy of this order be sent to the Chief Secretaries of each of the States by the Registry requiring them to constitute a committee of which

the Secretary of the Department of Law should be a Member to formulate the development plan as per the directions issued by us and present the

status report so that further directions can be issued. The committee shall invite an officer from the High Court to be nominated by the Chief Justice

of the High Court. Copies of the order passed today be sent to the Registrar Generals of all the High Courts.

15. Let the matter be listed on August 23, 2018 for filing of the plan and the status report and for issuance of appropriate directions.