

Leverage of Technological Advancement To The Indian Judiciary

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Abstract

The Outbreak of Covid-19 stirs up the entire world by all the ways. Everyone was trying to live better and safe. The government was also putting the efforts to pacify the condition by way various policies, counseling, etc still it has been made the scars of misery and struggle of mankind to survive and protect their families and society. Judiciary being most important organ of the government was stuck up in between the corona outbreak and societal need to urgent disposal of legal matter. The Indian legal system has also disturbed and affected by this pandemic but with the help technological advancement in the judicial system this tuff time was conquer by judiciary. Considering this is as a urgent note of situation, Hon'ble supreme court of India issued a notice regarding functioning of courts via video conferencing only for the matters of extreme important through the suo moto cognizance. There were many changes has been made in the administration of justice system and technological advancement was a boon for judiciary to successfully overcome the harden situation during lockdown. The leverage of technological advancement was catch up by the judiciary to resolve most important cases by way of virtual courts. The present research paper highlights and explain that how the changes has been brought in the Indian judicial system after covid 19 pandemic that helps them to bring back the system on a standard arrangements. To reach up to the conclusion the researchers have adopted secondary research method and referred books, articles, published research papers and websites.

Keywords:- E-Courts, Judicial Efficiency, Legal System, Pandemic, Technological advancement,

Introduction

The Covid-19 pandamic created the scars of misery and struggle of mankind to survive and protect the families and society. The collective efforts of everyone made a huge difference. Though the restrictions are being lifted in some places, Covid-19 isn't gone yet. The technological advancement during this period helps every individual to survive with their normal life. The Indian legal system has also disturbed and affected by this pandemic but with the help of technological advancement in the judicial system this tuff time was defeated by the judiciary. Considering this is as a urgent note of situation, Hon'ble supreme court of India issued a notice regarding functioning of courts via video conferencing only for the matters of extreme important through the suo moto cognizance. Judiciary is the most important pillar of democracy. The primary objective of this digitalization is to leverage of technological advancement to improve the access to justice and enhance the competence and effectiveness of the Indian Judiciary. The present research paper highlights and explain that how the changes has been brought in the Indian judicial system after covid 19 pandemic that helps them to bring back the system on a standard arrangements. To reach up to the conclusion the researchers have adopted secondary research method and referred books, articles, published research papers and websites.

Research Objectives

- 1) This study is undertaken to gain insight about the procedural changes in administration of Justice.
- 2) To understand that how the technological advancement leverage the Indian Judiciary.

Research Methodology:-

To reach up to the conclusion the researchers have adopted secondary research method and referred various books, articles, published research papers and websites.

Impact of Covid-19 on Indian Judiciary:-

It was never expect before that out of three, two organs of government were stuck up during the period of Covid -19 Pandemic. Suddenly many changes faced by judiciary in the procedural aspects of administration of justice. Pointlessly to say, that the outbreak of covid kept its impact on administration of Justice in various way. As per the instruction and guidelines by Hon'ble Supreme Court regarding the functioning of court procedure, such as hearing only urgent cases and mandatory electronic filing, restraining hearing only critical cases and conducting them through video conference. The impact of Covid on Indian Judiciary is listed below-

1. Augment of Pending Cases:-

With the largest backlog of the pendency of legal cases, it was a big issue in front of judiciary to overcome it during the covid period and also due to closure of courts during the covid , this ratio was increasing day by day.

According a report published in National Judicial Date Grid states that overall pendency of cases has increased significantly at every level of the judicial hierarchy in the last decade. From, 2006 till now, there has been an overall increase by 22% in the pendency of cases across all courts. As of August 2019, there are over 3.5 crore cases pending across the Supreme Court, the High Courts, and the subordinate courts. Of these, subordinate courts account for over 87.3% pendency of cases, followed by 12.5% pendency before the 24 High Courts. The remaining 0.2% of cases are pending with the Supreme Court. i This number is continuously increasing and thus itself shows the inadequacy of the legal system. Now the challenge before the Indian Judiciary is to adjudicate upon the pending cases seems to be more difficult amidst the outbreak of COVID-19.

2. Hindrance in Judicial appointments:

The major impact of covid lockdown was on the appointment of Judges. Even before Covid-19, over 35 per cent posts in high courts were vacant — out of 1,079 sanctioned posts, 201 permanent ones and 184 additional judges' positions were yet to be filled. But now, the appointment of over 120 high court judges is pending with the Supreme Court Collegium. In July, the then Chief Justice of India Ranjan Gogoi,, had written to Union law minister Shri Shankar Prasad, asking him to urgently expedite the appointment of 43 judges,Saying that, whose names were already approved by the SC collegium but were pending before the government. He had also pointed out that there was already 37% shortage of judges in high courts and this number should increase with 5-6 judges retiring on an average every month. But impact of covid 19 has led to stalled the appointment of judges and this is the one reason in pendency of cases.

3.Quasi-judicial authorities stuck up and closed:-

Due to lockdown the tribunal proceedings were stop totally. As tribunals were not equipped with video conferencing infrastructure, all the pending cases were at stay in the tribunal. for instance, The central zonal bench of the National Green Tribunal had been hearing matters through video conferencing for nearly two years but stopped functioning since the lockdown.

4. Difficulties created for Under trials due to closure of Courts:-

As per the guidelines of the Hon'ble Supreme Court only urgent matters were taken up by the court at their discretion. Right to a speedy trial is an integral part of the principles of fair trial and is

fundamental to the international human rights discourse which has been infringed during the period of lockdown. Till the final disposal of matter with the judgments they all were stuck up in the jail and that create hardship to them.

Changes in Indian Legal System:-

E-courts were acted as curator during the Covid days. It has been brought many changes in the pattern of the functioning of the courts at all the levels. The traditional legal system has been changed drastically and that only helps the Indian judiciary to come up with the new ideas to overcome the crucial period and to complete the task. It reforms the entire legal system by introducing the digitalization that maintains trust of society on the judicial system. All the below mentioned changes has been carried out and helps in the process of speedy trial even in the vital period.

- 1) The court proceeding start from filing of cases to court judgment were on virtual mode. Even the submission of evidences, examination of witnesses etc.
- 2) All the required documents, annexure, petition, affidavits were submitted, produced and recoded through electronic form.
- 3) Online portal were updated with the status of the cases and all relevant details which could easily access the general public.
- 4) Also it helps to the prisoners in the jail to be in connection their relatives via video conferencing.
- 5) The system of e-courts helps the people to file the litigants to file complaints from any place where they have stuck with during the covid period.
- 6) To avoid overcrowded prisons, they were getting interim bail by the video conferencing.
- 7) It was easy for general public to keep track of any case on court website.
- 8) Prisoners were produced on virtual platforms where they were witnessed and examined.

Implementation of Supreme Court Guidelines:- Effective measures taken up by Judiciary-

Judiciary has adopted the measures for the smooth functioning of courts even during the period of Lockdown. Article 142- Provides discretionary power to the Supreme Court as it states that the SC in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it. While exercising this power SC said that all the measures which shall be taken by the courts to reduce physical presence of stakeholders within its premises "shall be deemed to be lawful".

A bench headed by Chief Justice SA Bobde said, "consistent with the peculiarities of the judicial system in every state and the dynamically developing public health situation", every high court would be authorized to determine the modalities suitable to the temporary transition to the use of video conferencing technologies' Directions passed by the Supreme court on 6 April 2020, for the conduct of court proceedings across the country via video conferencing (VC), during the period of the outbreak of the COVID-19 pandemic are a welcome step. Broadly, the

Directives of Hon,ble Supreme Court:-

Immediately after receiving guidelines by Hon'ble Supreme Court all the High Courts shall ensure their functions by using Video conferencing. Even after this all the district court in state started using Video Conferencing prescribed by High court and where it was not available that has been made available by the High Court and directed to use it till the further directives either from High courts or Hon'ble Supreme Court.

Virtual Court Rooms:-

Sudden outbreak of Covid 19 everywhere has compelled everyone to go for virtual mode. Similarly Indian Judiciary has started with the Virtual court rooms to make it smooth line the administration of Justice and compelled to go for E-Filing of cases, updating of the case status, taking of evidence, recording the expert evidence, etc. E-courts are a unique contribution in administration of justice in

such a tuff time and it has been successfully tried in Delhi, Haryana, Maharashtra and Tamil Nadu. In the present circumstances, it is essential that the judicial and quasi-judicial machinery takes steps not only to remain operational but to achieve maximum functionality at the earliest. The virtual courts system can play a vital role in achieving this goal.

Technology edge of law enhancing the efficiency of judicial system- Current Sinerio:-

Use of technological advancement enhances the efficiency of the rigid judicial procedure. This technological advancement has potential to fulfill every need of judicial procedure which help everyone concerning with the administration of justice. Earlier the court were accepting only physical copies of litigation, evidence, witness statement but downside the physical documents is they are prone to tampering and degradation. To maintain the documents in e-format is better by way of operational part. Also it minimizes the time and place required for the storage of the same. To increase the operational ease to carry the documents in soft copy is comparatively can go for long way to preserve for future references. The role of technology in modernizing court is to make sure that the judicial system does not get hampered. Because of anything, not even the next big pandemic. The judicial system has come a long way; previously it was believed that in order to provide justice, physically being present in the court was requirement. Most of the technological advancement which has been adopted during the covid, are still in use in the current sinerio.

Conclusion

The Covid-19 pandemic has resulted in an unprecedented situation where social distancing in the new normal. Various measures have been adopted by the Indian Judiciary and with the help of technological advancements to widen the scope and enhance the efficiency of judicial system. To protect the vested interest of society our present justice system is trying to cope up with the technological advancement. With help of technology even during the emergency they can cross all the hindrance such as they have passed it in the hard time of corona. Judiciary being a most important organ of the government is always ready to adopt new technologies, which could result into successful administration system. Justice delayed is justice denied, so the delay in justice is resulted into of no use. So in such a hard time technology didn't allow the judiciary to stuck up with rigid procedural aspects of legal system. And thus due to covid 19 we have to adapt changes in functioning of the Judiciary, that provides the ease in the procedural part of the judicial system not only to the judges, advocates but also the common man. It helps them to be in touch with the stage of cases even from their own place when they were compelled to be at home.

References

- Constitutional Law of India, J.N.Pandey.
- <https://timesofindia.indiatimes.com/education/news/how-technology-can-be-leveraged-for-indias-judiciary/articleshow/84374969.cms>
- <https://www.unodc.org/dohadeclaration/en/news/2020/04/covid-19--technology-and-access-to-justice.html>
- <https://blog.ipleaders.in/covid-19-and-the-reconditioning-of-the-indian-legal-system/>
- <https://www.aeologic.com/blog/role-of-information-technology-in-judicial-system/>
- <https://caclub.in/ecourts-project-improving-access-to-justice-through-technology/>
- https://blog.ipleaders.in/the-use-of-ict-technologies-in-courts/#:~:text=Witness%20Protection%20E2%80%93%20Many%20witnesses%20who,physically%20present%20in%20the%20court_
- <https://www.ojp.gov/ncjrs/virtual-library/abstracts/using-technology-improve-administration-justice-federal-courts>
- https://jespnet.com/journals/Vol_1_No_1_June_2014/15.pdf