



**DEPARTMENT RELATED PARLIAMENTARY STANDING
COMMITTEE ON PERSONNEL, PUBLIC GRIEVANCES,
LAW AND JUSTICE**

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice headed by Shri Sushil Kumar Modi, MP, Rajya Sabha, presented its One Hundred Fifteenth Report on the Demands for Grants (2022-23) of the Department of Legal Affairs (Ministry of Law and Justice) on 24th March, 2022 to both the Houses of Parliament.

While examining the Demands for Grants, the Committee has made an appraisal of performance, programmes, and policies of the Department of Legal Affairs along with Income Tax Appellate Tribunal (ITAT), Indian Law institute (ILI), and Bar Council of India *vis-à-vis* expenditure made out of Consolidated Fund of India in the current financial year during the meeting held on 2nd March, 2022. The Report was considered and adopted by the Committee on 22nd March, 2022. The Recommendations/Observations made by the Committee in this Report are enclosed. The entire Report is also available on <https://rajyasabha.nic.in>.

RECOMMENDATIONS/OBSERVATIONS-AT A GLANCE
ON
115th Report on Demands for Grants (2022-23) of the Department of
Legal Affairs

Overview of the Budgetary Allocations

1. The Department/ ILI has informed that over the last 5 years, 100 percent of funds released to ILI have been utilised and there was excess expenditure (50 percent approx.) of ILI *vis-à-vis* grants allocated for the same period. The ILI has informed this Committee that it has incurred an expenditure of Rs. 6.7 crore in the current financial year (as on 31.1.2022) towards payment of salaries and allowances. However, the Committee observes that the ILI is not able to meet even its salary requirement for teaching and non-teaching staff from the grants allocated by the Department of Legal Affairs. Therefore, the Committee is of the view that ILI being a grantee institution should not eternally depend on government grants and thus it needs to become self sufficient to meet its basic requirements. The Committee also feels that for the time being, grants-in-aid to ILI may be enhanced. The Committee, accordingly, recommends the Department to at least provide grants-in-aid to meet its 100 percent salary and allowances expenditure for sanctioned positions for the next five years. (Para 2.13)

2. The Committee observes that majority of earnings of ILI is from course fee charged from students/trainees, rent received from Ministry of Law and Justice for leasing its premises, and interests. The Committee also observes that the pattern of earning has remained same for the last 2-3 years, except some variations in financial year 2020-21 due to Covid-19 pandemic. The Committee is of the view that the ILI being a research Institution, needs to generate more and more funds from academic and consultancy activities, which are its core activities and not from

rent/leasing its premises to Ministries/Departments of Government of India. The Committee, accordingly, recommends the ILI to explore additional avenues to generate more funds from research/ consulting activities and gradually become self sufficient. (Para 2.14)

3. The Committee also feels that ILI needs to expand its activities by way of introducing demand degrees/diploma programmes and consultancy activities by optimally utilising its existing infrastructure and accordingly, is of the view that its premises rented out to the Departments/institutions needs to be utilised for its own expansion. The Committee, accordingly, recommends the Department to get the ILI premises vacated for its expansion. (Para 2.15)

4. The Committee observes that the Department was not able to spend a single Rupee from the allocations made under the head ACI in the Financial Year (2020-21) & (2021-22), however, it has again made a projection of Rs. 6.50 crore for the Financial Year (2022-23) to the Ministry of Finance, against which Rs. 3.00 crore has been allocated in BE (2022-23). In view of the above, the Committee feels that submission of Department that ACI allocations is primarily due to judicious expenditure in the Financial Year 2021-22 and projection of optimum budget requirement in Financial Year (2022-23), is not tenable. The Committee, accordingly, recommends the Department to expedite the appointment process of Chairperson, Members and Secretariat Staffs without further delay so that it become functional, and apprise the Committee about the timeline in this regard. (Para 2.17)

5. The Committee is of the view that arbitration processes are user friendly, cost effective, and expeditious as compared to litigation in courts. The New Delhi International Arbitration Centre Act, 2019 was enacted for the purpose of creating an independent and autonomous regime for

institutionalized arbitration in the country. The Committee in its previous reports, viz. 107th and 109th had recommended for expediting the process of appointment of Chairperson and Members of NDIAC so as to promote institutional arbitration and make India a hub of International Arbitration. However, more than 2.5 years have passed since the enactment of the NDIAC Act, rules for the same are yet to be finalised. (Para 2.21)

6. The Committee observes that framing of rules are taking more time than the original Act itself, which may be due to bureaucratic quagmire. The Committee expresses its concern for this inordinate delay in framing of rules and desires that the Department should apprise cogent reasons for not following the recommendations of the Committee. (Para 2.22)

7. The Committee also observes that the Department has also not been able to spend a single rupee out of the funds allocated from the Financial Years 2020-21 onwards; it has sought exponentially higher allocations. The Committee, accordingly, recommends that the Department in future needs to rationally project its demand under the head NDIAC. (Para 2.23)

Staff Strength in the Department

8. The Committee observes that around 50 percent of Indian Legal Service posts, as compared to sanctioned posts, are vacant at various grades. Further, large number of posts of General Central Services (GCS), Central Secretariat Services (CSS), Central Secretariat Stenographer Services (CSSS), Central Secretariat Clerical Services (CSCS), and Central Secretariat Official Language Service (CSOLS) are also vacant in the Department. The Department has informed that in consultation with recruiting agencies like UPSC and SSC and cadre controlling authority DoPT, various processes have been initiated to fill-up these vacancy positions. The Committee in its previous reports on Demands for Grants

had also raised the issue of vacancy positions in the Department and accordingly, and had pointed that filling-up of these vacancies positions need to be expedited for smooth functioning of the Department. (Para 3.6)

9. The Committee, accordingly, recommends the Department to approach the concerned cadre controlling and recruiting agencies, i.e. Department of Personnel and Training (DoPT), Union Public Service Commission (UPSC) and Staff Selection Commission (SSC), and impress upon them to fill-up the vacancy positions of General Central Services (GCS), Central Secretariat Services (CSS), Central Secretariat Stenographer Services (CSSS), Central Secretariat Clerical Services (CSCS), and Central Secretariat Official Language Service (CSOLS) officers. The Committee further recommends the Department to at least fill-up vacancies of ILS Officers in a time bound manner, as the Department of Legal Affairs itself is the cadre controlling authority of this service.(Para 3.7)

Appointment and Vacancies of Notaries

10. The Committee observes that there are a large number of vacancies of notaries in the country. As against the total sanctioned strength of 35,003 notaries in the country, 12,487 posts are vacant as on 31.12.2021. The Committee appreciates the Department for targeted initiative to fill-up vacancy positions of notaries from under-represented States/UTs. However, it observes that there has been poor response from North-Eastern and some other States with regard to filling-up notary positions and, the Committee, accordingly, feels that either the Department may have failed to effectively advertise its invitations for application for notary or these States/UTs have been allocated excess central quota of notaries. The Committee therefore recommends submitting a status report on the rationale behind projection of notary posts in these States/UTs. Para (3.13)

11. The Committee also observes that from the year 2019 onwards very few appointments i.e. 2019(439), 2020(0), and 2021(91) have been made by the Department despite large number of vacant positions and more than 81000 pending online applications. The Committee is not convinced with the submission of the Department that appointment could not be made due to covid-19 pandemic, as prior to the covid-19 pandemic also large number of positions of notaries were vacant in various States/UTs. Further, in the year 2019, when there was no covid-19 pandemic, very few appointments of notaries were made. The Committee feels that the Department needs to make an all out effort to fill-up the vacant positions and accordingly, recommends the Department to submit a status note proposing a tentative timeline for filling these vacant posts while furnishing Action Taken Replies. The Committee, further, recommends the Department to publish names of officers along with contact details dealing with notaries in its website for the benefit of notary applicants and general public. (Para 3.14)

12. The Committee further that observes the distribution of notaries across the States/UTs is uneven and believes that there should be objective criteria to project required number of notaries in States/UTs to optimally utilize their services. The Committee understands that notary-ship is not a civil post or any kind of employment under the Central Government and hence does not attract any affirmative policy in any manner. Accordingly, the Committee recommends the Department to make a wholehearted endeavour so that composition of notaries is inclusive and reflects the balanced socio-economic composition of the society. (Para 3.15)

13. The Committee in its previous reports, including 101st, 107th and 109th Reports dealt the issue of digital signatures and had recommended the Department to explore the feasibility of introducing Digital Signatures for authenticating notarized documents to reduce malpractices of anti-dating or/and attestation of blank document, etc. and improve

transparency. The Committee also feels that along with digital signatures, the Department may also explore the feasibility of introducing e-affidavits as practice of e-stamping is already in vogue and the Government of India is also promoting courts through video conferencing and virtual courts. (Para 3.16)

Empanelment of Counsels

14. The Committee observes that the Department has not devised any criteria/methodology to project the required number of panel counsels for a Court/ Tribunal. Further, there is no information available on the Department's website with regard to empanelment process of panel counsels. The Committee, accordingly, feels that the Department needs to devise a rational methodology for projecting required number of panel counsels/advocates based on the number of institution/pending cases, nature of cases and so forth to ensure transparency and optimal utilisation of government resources. The details of empanelment process/criteria also need to be uploaded in the Department's website for the benefit of potential candidates applying for empanelment as government/panel counsels. (Para 3.19)

Pendency of Government Cases

15. The Committee appreciates the Department for creating LIMBS portal for monitoring of government litigations in courts and tribunals and also initiatives of some Ministries/Department like Ministry of Finance and Ministry of Railways to reduce litigations. However, the Committee also observes that still large numbers of government cases are pending in various courts and tribunals, and accordingly, feels that monetary threshold for filing appeals may be gradually enhanced to avoid unnecessary appeals. (Para 3.22)

16. With regard to large number of contempt cases against various Ministries, the Committee fails to understand as to why there are so many contempt cases against government Departments/Ministries. The Committee feels that the Department need to prepare broad guidelines/policy for filing cases/appeals so as to limit discretions of government officials dealing with cases for filing appeal after appeal leading to contempt cases, thereby wasting government resources. The Committee, accordingly, recommends the Department to frame guidelines/policy for filing cases/appeals in court cases and also sensitize the Departments/Ministries in this regard to reduce contempt cases. (Para 3.23)

Income Tax Appellate Tribunal (ITAT)

17. From the information furnished by ITAT, the Committee observes that highest number of vacancies are in the Benches of Mumbai (07), followed by Delhi (03). It has also been observed that 100 percent posts of Members, both, Judicial and Accountant are vacant in Jaipur and Jodhpur Bench of ITAT. Further, in Ahmedabad and Pune excess posts of Accountant Members have been filled-up at the cost of Judicial Members, whereas in Kolkata excess Judicial Members have been filled-up at the cost of Accountant Members. (Para 3.27)

18. The Committee, accordingly, recommends that the Department/ITAT should fill-up the vacant positions so that activities of ITAT are not hampered. Further, it feels that the practice of appointing excess posts of Judicial Members over Accountant Members and *vice-versa* needs to be discouraged in all the Benches of ITAT to avoid over-representation of Members from one group over the other.(Para 3.28)

19. The Committee appreciates the ITAT for having higher disposal of appeals as compared to other institutions, but observes that still large

numbers of appeals are pending in various Benches of ITAT. The ITAT Benches with highest pendency of cases are in Delhi (16513), followed by Mumbai (11070), Ahmedabad (4813), Chennai (4150), and Hyderabad (3728). The Committee, accordingly, recommends the Department to expedite disposal of cases so as to reduce the overall pendency of cases in ITAT. (Para 3.30)

Indian Law Institute (ILI)

20. The Committee observes that out of the sanctioned 20 teaching posts, only 7 posts (35 percent) are filled-up. Further, out of 75 non teaching posts, only 36 are in position (48 Percent). The Committee is not convinced with the argument of the ILI that existing strength of teaching and non-teaching posts is sufficient to meet the present requirement and is of the unanimous view that for the ILI to function at its optimal level, it will have to fill-up the vacant positions of teaching and non-teaching staffs. The Committee also feels that ILI may explore the feasibility of introducing post-doctoral research fellowships to young legal researchers on emerging legal areas. (Para 3.34)

21. The Committee observes that Institution of National Importance (INI) status has been granted to institutions imparting education in engineering, design, medicine, science, pharmacy and so forth, however, no such status has been granted to institution imparting dedicated law/legal education. The Committee feels that the ILI deserves to flourish under the umbrella of an Institution of National Importance in the field of legal education and research, through appropriate enactment by the Parliament. This will help in furthering legal education and research dimensions at a global platform through the legacy earned by the Indian Law Institute. The Committee is of the view that a time bound action must be taken in this

regard. In the light of the above, the Committee recommends that the Department of Legal Affairs should take appropriate steps to bring a draft enactment in Parliament for empowering the Indian Law Institute as an Institution of National Importance (INI) in line with other INIs of various other Ministries. (Para 3.38)

Law Commission of India

22. The Union Cabinet approved the constitution of the 22nd Law Commission of India and Gazette notification for the same was published on the 21st February, 2020. However, the Committee observes that even after more than two years of its constitution, the appointment processes of Chairperson and Members of the Commission is yet to be completed. The Committee is disappointed with the snail's pace of their appointment processes, as a body whose tenure itself is three years is now in its 3rd year without a Chairperson and Members. The Committee fails to understand that why post of Chairperson and Members are vacant for such a longtime in such an important body like Law Commission. (Para 3.41)

23. The Committee feels that since more than two and half years have already elapsed, appointment of Chairman and Members for the remainder would not serve the desired purpose. The Committee desires that the Chairman and Members of the LCI may be appointed for full-term of three years, instead of the remaining period from the date of constitution of the LCI, for its meaningful tenure and functioning, and recommends that the Department should furnish its views on the suggestions of the Committee. (Para 3.42)

New Delhi International Arbitration Centre (NDIAC)

24. The Committee observes that the Department has initiated framing of rules/subordinate legislations and appointment process at NDIAC.

However, the Committee observes that New Delhi International Arbitration Centre Act was enacted in July, 2019, and almost 2.5 years have passed without framing of rules or appointment of Chairperson, Members and Officers making the NDIAC dysfunctional. The Committee, accordingly, recommends the Department to expedite the framing of rules and appointment process to make the NDIAC functional. (Para 3.45)

Bar Council of India (BCI)

25. The Committee observes from the submissions made by both the Department of Legal Affairs and Bar Council of India that the Department releases grants only after receiving request from concerned organisation/Institution and no such application for seeking grants has been received from the BCI, hence there is no proposal for release of Grants to BCI by the Department. The Committee was apprised of the plight of lawyers due to covid-19 pandemic by BCI and infrastructural constraints of Bar Councils/Associations and request for recommending grants, including provisions for medical aid, health insurance etc. to undertake welfare activities. (Para 3.52)

26. The Committee observes from the submission of the BCI that many Bar Associations, especially in rural areas require proper infrastructure and basic amenities like toilets, drinking water, fans, good library for facilitating good practice of Advocacy, computers with internet facilities and proper sitting space for Advocates and their clients, and is of the view that without a conducive atmosphere, the justice system suffers and leads to delays and pendency of cases. The Committee feels that BCI needs to be provided with some grants by the Department for basic infrastructural and other facilities like sitting space, clean drinking water, electricity, libraries, etc. in various courts, and accordingly, recommends the Bar Council of India to approach the Department of Legal Affairs for Grants-in –aid. The

Committee also feels that the Department may approach the Department of Justice, Ministry of Law and Justice for exploring the feasibility of recommending grants/or including infrastructure facilities for Bar Associations under the Centrally Sponsored Scheme (CSS) for Development of Infrastructure Facilities for Districts and Subordinate Judiciary. The Committee, further, recommends the Department of Legal Affairs to explore the feasibility of providing grants to the BCI and also submit a status note to this Committee while furnishing Action Taken Replies on the issue along with appropriate justifications. (Para 3.53)

27. The Committee also feels that budgetary allocations for Welfare of Advocates during pandemic and natural calamities may be made in the budget allocation, and there should also be provisions to disburse interest free /low interest loans. It also feels that that there is a requirement for life/term insurance and health insurance as well as for nominal/subsidized medical facilities for majority of Advocates and their families, who are under financial duress, more so, due to the pandemic. The Committee, accordingly, recommends the Department to explore available options and modalities in this regard and submit a status note while submitting the action taken replies. (Para 3.54)

28. The Committee appreciates the Bar Council of India's initiative to improve the standards of legal education, however, it is of the view that utmost care must be taken in granting recognition to law colleges/institutions to impart legal education across the country. The Committee observes that legal education is being commercialized and many colleges without having proper class room, building, library etc. and ghost teachers are granting law degrees and candidates without attending law classes are enrolling as advocates thereby increasing the pool of sub-standard lawyers. (Para 3.59)

29. The Committee also feels that the BCI also needs to improve the standard of All India Bar Examinations (AIBE) and accordingly recommends that exit examination to practice law in the country should be made compulsory without any further relaxations. Further, the Committee is of the strong view that to enhance the quality of legal education and preserve the credibility of legal profession, the BCI needs to improve its regulatory functions and therefore, law universities promoting malpractices needs to be strictly dealt with. (Para 3.60)

30. The Committee also feels that as part of improving the legal education and profession in the country, the BCI may explore the options of revisiting the earlier practice of compulsory apprenticeship of law graduates, and Department/BCI should apprise the Committee about their considered opinion on the issue. (Para 3.61)
