



**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 Sixteenth Report** on the Demands for Grants (2022-23) of the **Department of Justice** (Ministry of Law & Justice) on the 24th March, 2022 to both the Houses of Parliament.

While examining the Demands for Grants, the Committee has also made an appraisal of performance, programmes, and policies of the Department 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 Committee scrutinised the Demands for Grants thoroughly in its meeting with the Secretary, Department of Justice. 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 available on <https://rajyasabha.nic.in>.

RECOMMENDATIONS/OBSERVATIONS - AT A GLANCE

on

116th Report on Demands for Grants (2022-23) of the Department of Justice

OVERALL ASSESSMENT OF THE DEMANDS FOR GRANTS

1. The Committee observes that the Department has been able to spend only about 55% of the overall funds earmarked for RE 2021-22 and about 45% of the funds are still left with to be spent in the remaining two months of the financial year. In this connection it may be stated that as per the instructions issued by the MoF, expenditure in the last quarter has to be restricted to 33% ceiling and last month (March) expenditure to 15% ceiling. Thus, performance of the Department in terms of utilization of funds leaves much to be desired. A focused planning and close monitoring of utilization of funds is required on the part of the Department. As restrictions imposed on expenditure due to COVID are waning, the Department should meet the quarterly expenditure targets set by the MoF.

(Para 2.6)

2. The Committee, therefore, recommends that the Department should identify the bottlenecks responsible for not being able to maintain the pace of utilization required as per the instructions of the MoF and take remedial measures to improve its performance in utilization of funds in future.

(Para 2.7)

Assessment of Budget Allocated for Schemes of the Department

3. The development of judicial infrastructure at District and Subordinate level has not kept pace with ever increasing caseload instituted every year. In this scenario this Scheme assumes much importance. However, the Committee has noticed that this Scheme is already plagued with many challenges like non-receipt of utilization certificates from states, slump in construction activities during COVID 19 etc. Apart from this, the new PFMS and other additional requirements of the Ministry of Finance have further created hurdles in release of funds to States under this Scheme. Due to this, about half of the funds remained unspent during the present financial year. The Committee therefore recommends that the new PFMS and other additional requirements for release of funds under this Scheme may be relaxed by the Ministry of Finance for the financial year 2022-23.

(Para 2.12)

4. e-Courts Mission Mode Project is an important Scheme of the Department aimed at improving access to justice using technology. The Committee is appreciative of the fact that Phase II of the project has performed exceedingly well. However, for the

present financial year, the Committee is surprised and disappointed to note that half of the allocation under the scheme has remained unspent. Further, as it was well known in advance that Phase II was scheduled to end on 31.03.2022, in spite of this, the Department failed to proactively prepare and get necessary approvals for Phase-III of the project. This has led to almost no allocation being made for the scheme for the BE 2022-23, except for a notional allocation of Rs. 1.00 crore. The Committee, therefore, recommends the Department to get necessary approvals for Phase III on priority and approach the MoF for further allocation on priority, at an appropriate stage.

(Para 2.15)

Assessment of Budget Allocated to National Legal Services Authority (NALSA)

5. In this regard, the Committee observes that the majority of the Indian population is eligible for legal aid. However, as per 'India Justice Report, 2019' published by the Tata Trusts¹, per capita free legal aid spend in India is just 0.75 paise per annum (in 2017-18), which is perhaps amongst lowest in the world. Though funding legal services authorities is also the responsibility of States, there is a dire need to significantly enhance expenditure on this front. Accordingly, the Committee strongly recommends that Grant-in-aid to NALSA should be substantially increased and for BE 2022-23 they should be provided with the amount projected by them to the MoF i.e. Rs. 300 crores, in order to carry out activities planned by them for the year 2022-23.

(Para 2.18)

Assessment of Budget Allocated to National Judicial Academy (NJA)

6. In the year 2021-22 the BE of Rs. 11.00 crores was significantly enhanced to Rs. 34.25 crores. However, till 31.01.2022, the NJA was able to spend less than half of the funds allocated under RE. The BE for 2022-23 was got reduced to Rs. 20.00 crores. The Committee, accordingly, recommends the NJA to be more proficient in expenditure of funds allocated to them. The Academy should identify the bottlenecks responsible for not being able to utilize the allocated funds and take remedial measures to improve its performance in utilization of funds in future.

(Para 2.20)

Assessment of Budget allocated to the Supreme Court of India (Demand No. 67)

7. The Committee further notes that the audit inspection report for the year 2018-19 was submitted by the DG Audit, Central Expenditure to the Supreme Court Registry in January, 2020, with a request to furnish replies to the audit objections raised within 4 weeks. The audit objections pertain to various financial transactions carried out by the

Registry during the year 2018-19. It was also observed that some of the audit objections pertaining to the year 2017-18 were not settled. Even after more than 2 years, the replies of the Registry were not furnished to the DG Audit. However, after being enquired on this issue by the Committee, the Registry finally furnished the replies to the DG Audit on 10.03.2022. As auditing is not just a requirement under the law, it is also in the own financial interest of the organization and not replying to audit objections makes the whole process of auditing a cosmetic and futile exercise. Accordingly, the Registry is expected to take audit reports with due seriousness and ensure that replies to all future audit reports are furnished to the concerned authority within the stipulated time period.

(Para 2.23)

POLICIES, PROGRAMMES AND SCHEMES

Vacancies in the Department of Justice

8. The Committee notes that even after 12 years of its separation from the Ministry of Home Affairs and becoming an independent Department, the Department of Justice is still dependent on the MHA for all its man power requirements. The vacancies in the Department are particularly staggering at the middle and operating level of SO, ASO (50% vacancy), UDC (100% vacancy), PA (100% vacancy) and Steno (100% vacancy). It is surprising that the DoPT is posting officers of the rank of US and above directly to the Department, but other officials are posted by the MHA. There is hardly any justification for this type of cumbersome arrangement being followed in the case of the Department of Justice, where it is being given a step motherly treatment in this matter. The Department of Justice has been mandated with a significant role in appointment of judges, access to justice and justice delivery. Accordingly, it should be provided with sufficient resources and manpower to fulfil its mandate. The Committee, therefore, recommends that the Department of Justice should be given full autonomy in case of personnel management and all cadre controlling authorities, including DoPT, should post all encadred posts directly to the Department of Justice. The Department of Justice is directed to bring this recommendation of the Committee to the notice of DoPT and MHA.

(Para 3.2)

Vacancy of Judges and Pendency of Cases in Higher Judiciary

9. The Committee observes that the judicial system of the country is plagued with perennial problems of vacancy and pendency, especially at the High Courts level and there is no end in sight for these problems. Both the problems are interwoven in a way that vacancies have a natural fall out on pendency of cases. The figures regarding vacancies and pendency are staggering. One has to acknowledge that the existing process is not working and it overwhelms us completely, it needs to be re-engineered.

(Para 3.8)

10. The Committee fails to understand that even if the date of vacancy of a particular post becomes known the day a Judge assumes charge, then why such a huge delay in first sending recommendations by the collegium and then its processing by the Government. The Committee has also observed a recent phenomenon that because of delays in appointments, many lawyers have started saying no to such appointments. No respectable lawyer is prepared to wait *ad infinitum* and thus there have been spate of refusals by them. The Committee in its 87th Report on inordinate delay in filling up of vacancies in the Supreme Court and High Courts have observed/recommended the following:

".... The Committee expresses its deep sense of disappointment and anguish that the timelines laid in the Second Judges Case and the MoP are not being adhered to and are violated with impunity which is leading to extraordinary and unacceptable delay in filling up of the vacancies. The Committee recommends that an institutional mechanism should be evolved, so that retirement of a particular Judge and appointment against the resultant vacancy is simultaneously completed. Such a mechanism will be in the interest of the judicial administration and its efficacy. For this to happen the timelines for completion of various stages of appointment process in all Constitutional Courts should not only be firmly laid in the Memorandum of Procedure but also needs to be scrupulously adhered to by all Constitutional authorities."

(Para 3.9)

11. Accordingly, the Committee reiterates its recommendation as referred above and also recommends that the entire process of appointment of Judges, particularly at the High Courts, should be relooked into. A workable and efficient process, including a proactive timeline should be drawn and scrupulously adhered to, by synergising the efforts of the Judiciary and the Government.

(Para 3.10)

Gram Nyayalayas

12. The Gram Nyayalayas were envisaged to make justice delivery more accessible and affordable for the people at the grassroots. However, even after more than 12 years of coming into force the Gram Nyayalayas are yet to take off in the country. Only 15 states have notified them and about half of those are yet to be operationalized. This is in spite of the fact that financial assistance is being given to States, by the Centre, to operationalize them. The apathy of States and the challenges enumerated above by the Department has made this institution almost defunct. The Committee therefore, recommends the Department to ponder seriously over continuation of this scheme anymore. The funds under this may be diverted to some other new scheme(s) or any existing scheme, which is working well.

(Para 3.15)

Designing Innovative Solutions and Holistic Access to Justice (DISHA)

13. The Committee appreciates the concept of DISHA scheme that endeavours to address the legal needs of the people and to empower them with knowledge of their rights, entitlements and different redressal mechanism. However, the Committee observes that, on the face of it, many components of the DISHA scheme appear to be the same as that of NALSA. The Committee accordingly, recommends that all programmes under the Scheme before being implemented be thoroughly analysed to ensure optimal utilization and non-duplication of resources.

(Para 3.17)

Fast Track Courts

14. Fast Track Special Courts (FTSCs) were meant to bring down substantially the pendency of cases related to heinous crimes like rape and POCSO Act at the district and subordinate court levels. However after assessing the performance of these courts in the past two decades the Committee observes that these courts remained 'Fast' in namesake only. About 1.84 Lakh cases are presently pending in these FTSCs and as per NCRB data even the cases disposed by the FTSCs took anywhere between one to 10 years for their disposal. Lack of Judges, rigorous procedures and frequent adjournments are some of the main reasons for dysfunctionality of the fast track courts.

(Para 3.23)

15. The Committee, therefore, recommends that in addition to establishment of more FTSCs the Department should also study and suggest how systemic improvement may be brought about to make the fast track courts truly faster. The Committee further recommends the Department to explore the best practices in other countries where FTCs are functional and have been able to dispose of cases in a time bound manner and to bring about the required changes in our system to make it more efficient.

(Para 3.24)

National Legal Services Authority (NALSA)

16. The Committee appreciates the efforts of NALSA, especially during the last few years, for doing exceedingly well in providing Legal Services and spreading legal awareness about their entitlements to the poor and vulnerable sections of the country. NALSA had declared 2021 as the year of Lok Adalats and in which a record number of cases were disposed off. It had also launched a 44 days campaign on 2nd October, 2021 to enhance their outreach of legal services to all 6.7 Lakh villages and 4100 plus municipal town across the country. The NALSA also launched a mobile app and a web portal for giving an online push to the legal services they are offering to the people. The Committee lauds such efforts of the NALSA and hopes that such efforts would continue in future with even more vigour.

(Para 3.32)

17. NALSA has recently completed 25 years of its establishment, accordingly, it is also the right time to ponder over reforms which are required in NALSA and legal aid movement in India. Majority of Indians are eligible to receive legal aid, but the number of people actually receiving legal aid is a miniscule percentage of those entitled. In the previous chapter, the Committee has already recommended a significant increase in NALSA's budget and expects NALSA to make best use of it in performing its assigned mandate.

(Para 3.33)

18. The Committee observes that the majority of the funds for NALSA are utilized for administrative services, rather than providing legal aid. Also, panel lawyers are not being adequately compensated and their remuneration has remained stagnant for long. This affects the quality of legal aid service provided to the clients. This also often leads to lawyers found harassing beneficiaries or demanding 'fees' from them. The Committee accordingly, recommends NALSA to compensate lawyers adequately, so that they are able to sustain themselves and remain motivated in their job. On other hand, a robust system of monitoring the efficacy and accountability of legal aid services provided to the beneficiaries should also be put in place by NALSA.

(Para 3.34)

National Judicial Academy, Bhopal

19. The National Judicial Academy, Bhopal has the advantage of having a quality faculty, infrastructure and location. However, the Committee feels that the institution has remained underutilized and there is a tremendous scope for enhancing its mandate and to make it an institution of eminence. Accordingly, the Committee recommends the Academy to prepare a road map for enhancing the scope of its mandate and to seek higher allocation accordingly.

(Para 3.40)
