

DELAY DEFEATS JUSTICE: ISSUE OF LARGE PENDENCY OF CASES IN INDIAN COURTS

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INTRODUCTION

Justice is the legal or philosophical theory by which fairness is administered. The concept of justice is not new; it has been prevalent since time immemorial. In Vedic period, justice is meant by preserving the righteousness and punishing the evil. Webster dictionary defines justice as “the process or result of using laws to fairly judge and punish crimes and criminals.” When we take discourse of Jurisprudence, we come across various jurists defining justice in their own way for instance, Plato in his book ‘Republic’ said that “justice is the having and doing of what is one’s own.” John Locke says “justice is a part of natural law.” Similarly, John Rawls in his book ‘Theory of Justice’ says that “justice is a part of fairness, an impartial distribution of goods.”

As far as Indian judicial system is concerned, a large number of pending cases have paralyzed the whole justice delivery system. People are languishing in jails for number of years without having trial. On the one hand, cases are mounting by leaps and bounds and on the other, rate of disposal of cases is very less. Therefore, the problems of pendency and delay are very significant to discuss. The term ‘pendency’ connotes “all cases instituted but not disposed of, regardless of when the case was instituted.”¹ The term ‘delay’ denotes “a case that has been in the Court or judicial system for longer than the normal time that it should take for a case of that type to be disposed of.”² It is obvious to say that inordinate and unnecessary delay defeats the end of justice. The Apex Court in its various landmark judgments held that “right to speedy trial is a fundamental right which is implicit under Art. 21 of the Constitution.” Law Commission of India

¹ Law Commission of India, Report No. 245, Arrears and Backlog: Creating Additional Judicial (wo)manpower, July 2014

² *Ibid.*

has also discussed the matter of arrears and backlogs in its various reports and expressed its deep concerns for reducing the pendency of cases.

Recently, Hon'ble President made a statement on the issue of pendency of cases. While stressing the need for speedy trial he has rightly pointed out "the judiciary is yet to fully meet people's aspirations for speedy and affordable justice. Justice must be accessible, affordable and quick for people to understand the meaning of justice. The role of the judiciary was sacrosanct and the faith and confidence people have in it must be always maintained. Our courts are today overburdened on account of number of cases pending before them. There are over three crore cases pending in various courts throughout the country. Out of these, about 38.5 lakh cases are pending in 24 High Courts."³ While expressing his concern over vacancy of judges in High Courts, the President said "out of a sanctioned strength of 1,056 judges in all the High Courts, the working strength of High Court judges throughout the country was only 591, as on March 1, 2016. The High Court at Allahabad has only 71 judges, including the Chief Justice, against the sanctioned strength of 160 judges. Justice delayed is justice denied. I am sure that the central and state governments will extend all support to reduce pendencies."⁴

COMMITTEES FOR INVESTIGATING CAUSES OF DELAY

Various committees have been formed to investigate causes of pendency time and again. For instance, Rankin Committee was set up in the year 1924 on delay in civil cases in High Courts and subordinate Courts. Further, a High Court Arrears Committee under the chairmanship of Justice S.R. Das was appointed in 1949. In 1969 Hidayatulla CJ presided over a committee to look into the problem of arrears in all its aspects. Later on, Justice Shah was appointed the Chairman of the Committee. The Committee was known as High Courts Arrears Committee, 1972.

³ Judiciary yet to meet aspirations for speedy, affordable justice, available at <http://economictimes.indiatimes.com/news/politics-and-nation/judiciary-yet-to-meet-aspirations-for-speedy-affordable-justice-president-pranab-mukherjee/articleshow/51381688.cms> accessed on March 13, 2016

⁴ *Ibid.*

MAJOR CAUSES OF DELAY

Many factors are responsible for delay in dispensation of justice. Some prominent causes of delay are following-

➤ *Vacancies in Judiciary*

This is the most important cause of delay. Now-a-days, this is one of the most debatable issue. Huge number of vacancies poses a major setback for the speedy justice. Even in Supreme Court, sanctioned strength for the judges is 31 while working strength is just 28 that means three posts of judges are still vacant. Perhaps, on this issue both judiciary and executive are at daggers drawn. The over-all vacancy of judges in all the High Courts is 1017 and the working strength is 604. Allahabad High Court leads in the total vacancy of judges where sanctioned strength is 160 but working strength is just 75. Few months back, Supreme Court lambasted the Centre and asked “whether the Centre intends to bring the entire judiciary to a grinding halt by sitting on recommendations of the collegium for appointment and transfer of judges to High Courts across the country.”⁵

Further, our country has witnessed a lot of hullabaloo over the issue of NJAC. NJAC i.e. National Judicial Appointment Commission was a proposed body established through Ninety-Ninth Amendment Act, 2015 for the appointment of judges in higher judiciary. But later, NJAC was struck down by Constitution Bench of Supreme Court as unconstitutional. Therefore, Apex Court again upheld the collegium system for appointment of judges. The present NJAC row also crippled the appointment in judiciary.

Moreover, Supreme Court on various occasions rebuked Central Government on its lacklustre attitude on the appointment of judges. While reacting sharply on the issue of appointment of judges, Chief Justice of India T S Thakur said “vacancies in the judiciary, especially state High Courts have become a national challenge, and efforts were being made to persuade the government to expedite the matter. We have been talking very often about pendency of cases in the courts. 80 per cent of the backlog is in eight to nine states. Uttar

⁵ Supreme Court pulls up Centre for sitting on Collegium list available at <http://www.thehindu.com/news/national/cji-slams-centre-over-recommendations-of-collegium-on-judges/article8979565.ece> accessed on August 13, 2016.

Pradesh, largest state in terms of population has alone 25 per cent of total pendency followed by other states like Tamil Nadu, Andhra Pradesh, Maharashtra and West Bengal. Burden of backlog on the account of these states brings entire judiciary under criticism as the backlog is huge.”⁶

Law Commission of India in its Report No. 245 also recommended the need for filling vacancy of judiciary. It says that “*data obtained from High Courts indicates that the judicial system is severely backlogged, and is also not being able to keep pace with current filings, thus exacerbating the problem of backlogs. The system requires a massive influx of judicial resources in order to dispose of the backlog and keep pace with current filings. The data indicates the need for taking urgent measures for increasing judge strength in order to ensure timely justice and facilitate access to justice for all sections of society.*”⁷

➤ ***Inadequate number of courts***

This is another matter of concern which leads to pendency of cases. Inadequate number of courts proved a major setback for the justice delivery system. Law Commission of India in its Report No. 245 deals with the establishment of additional courts in elimination of delay and speedy clearance of matters.⁸ Similarly, Hon’ble Supreme Court in the matter of *Imtiyaz Ahmad v. State of U.P.*⁹ also directed Law Commission for creation of additional courts.

➤ ***Judicial Officers not able to tackle those cases involving specialized knowledge***

Lack of specialized knowledge on the part of judges directly lays an impact on the justice delivery system. With the advancement of science and technology, many new offences have been emerged e.g. cyber pornography, cyber stalking etc. For dealing with such kind of offences, many Judicial Officers are required to have specialized knowledge.

⁶ Vacancies in judiciary a national challenge, says CJI TS Thakur available at <http://indianexpress.com/article/india/india-news-india/vacancies-in-judiciary-a-national-challenge-says-cji-t-s-thakur-2985733/> accessed on August 20, 2016

⁷ Supra Note 1.

⁸ *Ibid.*

⁹ AIR SC 2012 642

➤ ***Abuse of Public Interest Litigation***

Now-a-days, courts are over-flooded with frivolous PILs. Frivolous PIL is not connected with the public interest. But under the guise of PIL, petitioner wants to serve his personal motives and consequently it causes delay in deciding many important cases. Perhaps, for this reason Bhagwati J. cautioned against misuse of PIL in a landmark judgment of *Janata Dal v. H. S. Chowdhari*¹⁰. Therefore, PIL should not be filed for personal and political motives.

➤ ***Lack of adequate arrangement to monitor, track and bunch cases for hearing***

There is a lack of proper mechanism to monitor, track and bunch cases for hearing as a result, it will waste the time of the court and contributes in the pendency of cases.

➤ ***Frequent Transfer of judges***

This is another important reason which retards the justice delivery system. Sometimes, the new judge orders for *de novo* trial which delays the justice delivery process.

➤ ***Role of administrative staff of the court***

Role of administrative staff is very significant in speedy disposal of cases. If they don't perform their duties properly that will hamper the speedy trial.

➤ ***Large number of appeals***

Large number of appeals also impedes the speedy disposal of cases. Courts have to spend their precious time in disposal of the large number of appeals. As a result, courts cannot devote their time in the disposal of other important matters.

SPECIFIC CAUSES OF DELAY IN CIVIL MATTERS

Apart from the causes of delay which we discussed earlier, there are some specific causes of delay in civil matters. Some of them are following-

¹⁰ (1992) 4 SCC 653

➤ *Frequent Adjournments*

Frequent adjournments slow down the justice delivery system in civil matters. Law Commission of India in its Seventy Seventh Report also mentioned frequent adjournments as an important cause of delay.¹¹ Though the Code of Civil Procedure provides that “no such adjournment shall be granted more than three times to a party during hearing of the suit.”¹² But unfortunately, our courts don’t follow this rule properly.

➤ *Delay in serving of summons*

Summons is a process to compel the attendance of defendant. Order V provides that “when a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim.”¹³ Generally, people try to evade the summons. Consequently, it delays the speedy trial. The Code provides for two kinds of service of summons- personal service and substituted service. In case, defendant tries to avoid the service of summons court must avail Rule 20 of Order V which deals with substituted service.¹⁴ Substituted Service serves a best mode to avoid the delay in service of summons.

➤ *Non-examination of process servers*

The role of process servers is also very significant to avoid the delay of summons. Sometimes due to their negligence and lethargy, they fail to serve the summons in time. Therefore, there should be proper supervision of process-servers.

➤ *Delay in filing Written Statement*

Order VIII CPC provides that “defendant should file Written Statement within 30 days from the date of service of summons on him.” But this provision is not followed in true letter and spirit. Defendants tend to prolong the matter by not filing written statement in time. As a result, delay in filing written statement contributes in pendency of cases.

¹¹ Law Commission of India, Seventy Seventh Report, Delay and Arrears in Trial Courts, November 1978.

¹² Order XVII CPC, 1908

¹³ Order V R. 1 of CPC, 1908

¹⁴ Order V R. 20 CPC

➤ ***Non-appearance of parties at the day fixed for hearing***

As per the provisions of CPC, if both the parties don't appear on the day fixed for hearing the suit will be dismissed.¹⁵ As a result, plaintiff may bring fresh suit or court may restore suit.¹⁶ Similarly, if only defendant appears and plaintiff doesn't appear the court shall dismiss the suit.¹⁷ Therefore, non-appearance of parties at the day fixed for hearing also delays the matter.

➤ ***Non-compliance of Order X***

Order X CPC deals with examination of parties by the court. Law Commission of India in its Seventy Seventh Report says that "in order to make effective use of provisions of Order X, it is essential that trial judge should read in advance the pleadings of the parties and should know the case of each party only then he can put questions and frame issues properly." So, non-compliance of provisions of Order X prolongs the matter.

➤ ***Non-adherence to the provisions of Sec. 89***

Section 89 CPC was inserted through amendment in 2002 which deals with settlement of disputes outside the court. It implies that if the court considers a chance of possible settlement then court should send the dispute for alternative dispute resolution methods rather than doing regular trial. Non-adherence to the provisions of this section also causes delay in civil matters.

➤ ***Non-compliance of some other provisions of CPC, 1908***

Non-compliance of provisions of CPC also leads to delay. Courts and judges should abide following provisions of CPC properly in order to avoid delay-

- Order XI – Discovery & Inspection
- Order XII – Admission
- Order XIII – Production, Impounding and Return of Documents
- Order XV – Disposal of the suit at the first hearing

¹⁵ Order IX R. 3 CPC, 1908

¹⁶ Order IX R. 4 CPC, 1908

¹⁷ Order IX R. 8 CPC, 1908

SPECIFIC CAUSES OF DELAY IN CRIMINAL CASES

There are few specific causes of delay in criminal cases which are following-

➤ ***Delay in investigation***

As per the provisions of The Code of Criminal Procedure, 1973 the criminal law sets in motion since the lodging of FIR in cognizable cases.¹⁸ Further, power is conferred to police officer to investigate cognizable case.¹⁹ Similarly, police officer gets power to investigate non-cognizable cases after receiving the order from Magistrate.²⁰ “If during investigation there is no sufficient evidence to justify the forwarding of the accused to a Magistrate, accused shall be released.”²¹ But if there is sufficient evidence against the accused then such police officer shall forward the accused to the Magistrate.²² So, it can be inferred from the above mentioned provisions that the role of police is very significant in the speedy disposal of cases. If the police officer completes its investigation in time, it will speed up the justice delivery process. Perhaps for this reason, the Code provides that “Every investigation shall be completed without unnecessary delay.”²³

➤ ***Delay in filing Charge-sheet***

Charge-sheet is also known as ‘Completion Report’. Charge-sheet is filed by the police officer on completion of investigation. Delay in filing charge-sheet also impedes the speedy trial.

➤ ***Unnecessary adjournments***

Unnecessary adjournments also hamper the speedy disposal of cases. The issue of adjournments was also dealt by Law Commission of India in its Seventy Seventh Report.

¹⁸ Sec. 154 of The Code of Criminal Procedure, 1973

¹⁹ Sec. 156 of The Code of Criminal Procedure, 1973

²⁰ Sec. 155 of The Code of Criminal Procedure, 1973

²¹ Sec. 169 of The Code of Criminal Procedure, 1973

²² Sec. 170 of The Code of Criminal Procedure, 1973

²³ Sec. 173 (1) of The Code of Criminal Procedure, 1973

➤ ***Excessive Cross-examination***

The issue of excessive and unnecessary cross-examination is also very relevant to discuss in curtailing the delay. Law Commission of India in its Seventy Seventh Report points out that “sometimes questions are put to the witnesses in cross-examination which are unnecessary, slanderous and harassing. It is on such occasions it becomes necessary for the trial judge to control the proceedings.” There is a need to avoid the harassing of witnesses. Even Indian Evidence Act also prohibits asking indecent and scandalous questions.²⁴ The court should also forbid question which intends to annoy or insult.²⁵ Further, the Code provides that question should not to be asked without reasonable grounds.²⁶ Therefore, it can be said that such kind of unnecessary questions waste the precious time of the court and as a result justice is delayed. Therefore, the role of judge is very pertinent to control such unnecessary cross-examination.

➤ ***Practice of fixing too many cases not desirable***

Practice of fixing too many cases on a day is not desirable if there is no reasonable chance of their being taken up for hearing.

➤ ***Controlling the case diary and fixing cases***

Law Commission of India in its Seventy Seventh Report says that “in matter of controlling the case diary and in fixing cases for each working day the trial judges discharge a very important duty. There is a tendency on the part of presiding judges to leave the matter of fixing dates to their readers and sheristadars.”²⁷ Therefore, judges should not delegate this power to subordinate officials.

➤ ***Evidence should not be taken in instalments***

Evidence should not be taken in instalments otherwise it will delay the trial.

²⁴ Sec. 151 of Indian Evidence Act, 1872

²⁵ Sec. 152 of Indian Evidence Act, 1872

²⁶ Sec. 149 of Indian Evidence Act, 1872

²⁷ Supra Note 11.

➤ ***Lengthy Arguments***

Lengthy arguments waste the time of court and slows down the justice delivery system. Therefore, arguments should be concise and precise, they should not be verbose.

➤ ***Provisions given under Criminal Procedure Code, 1973 are not followed properly***

The Code provides certain provisions for settlement of disputes and for speedy trial for instance, compounding of offences, plea bargaining, summary trial etc. But the problem is that this provision is not implemented properly.

• **Compounding of offences²⁸**

This section makes certain offences as compoundable by the persons concerned or with the permission of the court. Compounding of offences will save the time of the court.

• **Plea Bargaining²⁹**

Plea Bargaining is a mode of settlement of dispute in which defendant pleads guilty in return for less punishment. An accused person may file an application for plea bargaining in the court.

• **Summary Trial³⁰**

Power to try summarily lies with the court where the offence is punishable with imprisonment for less than two years. It is a good way to ensure speedy trial.

LEADING CASE LAWS ON SPEEDY TRIAL: EVOLUTION OF LAW OF SPEEDY TRIAL

There are some leading case laws on the point of speedy trial. The study of these case laws is essential to comprehend the evolution of law of speedy trial.

➤ ***Hussainara Khatoon v. Home Secretary, State of Bihar³¹***

²⁸ Sec. 320 of the Code of Criminal Procedure, 1973

²⁹ Sec. 265A- Sec.265L of the Code of Criminal Procedure, 1973

³⁰ Sec. 260 of the Code of Criminal Procedure, 1973

In this celebrated case, a petition for writ of habeas corpus was filed by number of under-trial prisoners who were in jails in the state of Bihar for years awaiting their trial. Justice Bhagwati held that “right to speedy trial is a fundamental right which is implicit under Art.21 of the Constitution.” Consequently, the Apex Court ordered the Bihar Government to release under-trial prisoners on their personal bonds. In *Hussainara Khatoon (No. 2)*³² and *Hussainara Khatoon (No. 3)*³³ cases, the Court reiterated the same view.

➤ ***Mantoo Majumdar v. State of Bihar***³⁴

In *Mantoo Majumdar* case, “the two under trial prisoners had been in jail for seven years without any investigation of the charges or filing of charge sheet before the Court.” Slamming the State of Bihar, Justice Krishna Iyer held it “to be gross violation of art. 21 and directed the release of two forth with on their own bond without sureties.”

➤ ***State of Maharashtra v. Champa Lal***³⁵

Court held that “if the accused himself was responsible for delay, he could not take advantage of it. A delayed trial was not necessarily an unfair trial. If the accused had been prejudiced in conducting of his defence, it could be said that the accused had been denied the right and the conviction would certainly have to go.”

➤ ***Kadra Pahadiya (I) v. State of Bihar***³⁶

The Court held that “right to speedy trial had remained a paper promise and was grossly violated as the case involved the detention of four boys for more than eight years.”

➤ ***T.V. Vatheeswaran v State of TN***³⁷

³¹ AIR 1979 SC 1360

³² AIR 1979 SC 1369

³³ AIR 1979 SC 1377

³⁴ (1980) 2SCC 406

³⁵ AIR 1981 SC 1675

³⁶ AIR 1982 SC 639

³⁷ AIR 1983 SC 364

The Supreme Court held that “delay in execution of death sentence exceeding 2 years would be sufficient ground to invoke the protection of Art. 21 and the death sentence would be commuted to life imprisonment.”

➤ *A.R. Antulay v R.S. Nayak*³⁸

The Constitution Bench in a leading case of *Abdul Rehman Antulay v. R.S.Nayak*, has formulated certain propositions as guiding principles in this regard. They are as follows:

1. “The right to speedy trial is the right of the accused to be tried speedily as implicit in Article 21 of the Constitution of India spreading over through all stages from investigation, inquiry, trial, appeal, revision and retrial. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.
2. ‘Systemic delay’ must be kept in view in dealing with an issue of alleged infringement of the right to speedy trial.
3. The court has to balance and weigh the several relevant factors- ‘balancing process’- and determine in each case whether the right to speedy trial has been denied in a given case.
4. Each and every delay does not necessarily prejudice the accused as some delays indeed work to his advantage and ‘delay is a known defence tactic’. However, inordinate delay may be taken as presumptive proof of prejudice.
5. If the right to speedy trial is found by the court to have been infringed, the charges or the conviction, as the case may be quashed. However, in cases where quashing of proceedings would not be in the interest of justice, the court may make any other appropriate order as may be deemed just and equitable in the circumstances of the case, like-order to conclude the trial within a fixed time or reducing the sentence where the trial has concluded.
6. It is neither advisable nor practicable to fix any time limit for trial of offences. Any such rule is bound to be qualified one. It is primarily for the prosecution to justify and explain the delay.”

➤ *S.C. Advocates on Record Association v. UOI*³⁹

³⁸ (1992) 1 SCC 225

The Court pointed out the need of appointment of judges and held that “it may issue direction to assess the felt need and fix the strength of judges according to the need.”

➤ *Mahendra Lal Das v. State of Bihar*⁴⁰

In *Mahendra Lal* case, the prosecution failed to explain the delay of more than 13 years. Consequently, the Court quashed the proceedings.

➤ *Ranjan Dwivedi v. CBI*⁴¹

In *Ranjan Dwivedi* case, court reiterated the same view that right to speedy trial is a fundamental right. Court held that “A ‘reasonably’ expeditious trial is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India.”

➤ *Intiyaz Ahmad v. State of U.P.*⁴²

Hon’ble Supreme Court in the matter of *Intiyaz Ahmad v. State of U.P.* directed Law Commission for creation of additional courts for ensuring expeditious disposal of cases and elimination of delay.

Therefore, the right to speedy trial has been recognized as a fundamental right by the Apex Court in its various above mentioned leading pronouncements. After examining the case laws on the point of speedy trial, now it is crystal clear that speedy trial is *sine qua non* for justice dispensation system.

7. SUGGESTIONS AND RECOMMENDATIONS TO REDUCE THE PENDENCY OF CASES

After analyzing the causes of delay, the author comes up with following suggestions and recommendations to curtail the pendency of cases –

³⁹ AIR 1994 SC 268

⁴⁰ AIR 2001 SC 2989

⁴¹ SCC (2012) 8 495

⁴² AIR SC 2012 642

➤ ***Establishment of Fast-track courts***

Establishment of Fast Track Courts serves a major breakthrough in speedy trial. The Eleventh Finance Commission recommended “a scheme for creation of 1734 Fast Track Courts (FTCs) in the country for disposal of long pending Sessions and other cases. The FTCs were established to expeditiously dispose of long pending cases in the Sessions Courts and long pending cases of undertrial prisoners.”⁴³ Justice J S Verma Committee also recommended establishment of fast track courts for expeditiously dealing with sexual assault cases.

➤ ***Encouragement to Lok Adalats***

Lok Adalat is an alternative dispute resolution mechanism where parties settle their disputes amicably. Lok Adalats got its statutory status under the Legal Services Authorities Act, 1987. Encouragement to Lok Adalats will certainly curtail the burden of court and accelerate the justice delivery system.

➤ ***Setting up of Gram Nyayalaya***

Gram Nyayalaya are established under Gram Nyayalaya Act, 2008. They are basically village courts which are meant to ensure expeditious disposal of petty matters at rural level. But the problem is that only few Gram Nyayalaya are working in the country so far. Therefore, there is a need for setting up of more village courts for speedy and easy access to justice at rural level.

➤ ***Establishment of Commercial Courts***

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Bill, 2015 was passed for the establishment of Commercial Courts. Commercial Courts will be proved efficient to ensure speedy disposal of cases relating to commercial disputes.

➤ ***Role of Legislature***

Role of legislature is also very pertinent in this regard to ensure speedy and timely justice. In Indian Penal Code, some petty offences are made cognizable and non-bailable for instance,

⁴³ Fast Track Courts, Ministry of law and justice available at <http://doj.gov.in/other-programmes/fast-track-courts>

theft of even 50 Rs. is a cognizable and non-bailable offence. Making such kind of petty offences as a cognizable and non-bailable will waste the precious time of the court. Therefore, legislature should try to unmake such kind of petty offences as cognizable and non-bailable.

➤ ***Filling Vacancies of judges***

There is an urgent need to fill the vacancies of judiciary as we have discussed that there are lot of vacancy in Indian Judiciary. Both judiciary and government should work together to solve this problem.

➤ ***Judicial Education, Training and Personality of Judges***

Law Commission of India in its Seventy Seventh Report also deals with the same issue. Therefore, there should be proper training and education for the judges. Personality of judges plays a vital role in justice delivery system.

➤ ***Other suggestions to ensure expeditious disposal of cases –***

- Adherence of Alternate Dispute Resolution systems including arbitration, conciliation, mediation as provided under Sec. 89 CPC
- Check on unnecessary adjournments
- Proper adherence to the provisions of C.P.C.1908 and Cr. P.C. 1973
- Minimizing the delay in service of summons and filing of written statement in civil matters
- Minimizing the delay in investigation and filing charge-sheet
- Encouragement to Plea Bargaining, Compounding of offences

CONCLUSION

William Gladstone has rightly observed that '*Justice delayed is Justice denied*'. Really, speedy trial is the need of the hour which is also recognized as a fundamental right in plethora of judgments. But at the same time, we should not forget that '*Justice hurried is Justice buried*'. Therefore, speedy justice doesn't mean that court should ignore the procedural requirements given under C.P.C., Cr.P.C. and Evidence Act. But within the statutory parameters, court should ensure the expeditious disposal of cases. Since time and again, various committees have been formed to probe in the causes of delay. Law Commission of India is very much concerned to reduce the arrears and backlog of cases. Judiciary has also shown its active role on the issue of vacancy of judges to minimize the delay. Therefore, a joint effort is required on the part of all the stakeholders to ensure speedy, timely and fair justice. Both, Government and judiciary should come forward and find out the solution.

Moreover, speedy trial should also contain the element of fairness. The element of fairness leads to fair trial. Both speedy trial and fair trial are *sine qua non* for ensuring the real justice. As it has been said "*Not only must Justice be done; it must also be seen to be done.*"⁴⁴

⁴⁴ *R v Sussex Justices, Ex parte McCarthy* ([1924] 1 KB 256, [1923] All ER Rep 233)