

A CRIPPLING SHORTAGE: ON VACANCIES IN COURTS

Relevant for: Indian Polity & Constitution | Topic: Judiciary: Structure, Organisation & Functioning

The burgeoning docket burden that weighs down the judiciary is not because of its lumbering judicial processes alone, as it is often made out. The chronic shortage of judges and severe understaffing of the courts they preside over are significant reasons. More than a decade after the Supreme Court laid down guidelines in 2007 for making appointments in the lower judiciary within a set time frame, a similar issue is back before the highest court. The immediate context is the existence of more than 5,000 vacancies in the subordinate courts. A Bench headed by Chief Justice of India Ranjan Gogoi has pulled up State governments and the administration of various High Courts for the delay in filling these vacancies. Answers provided in the Rajya Sabha reveal that as on March 31, 2018, nearly a quarter of the total number of posts in the subordinate courts remained vacant. The court has put the actual figure at 5,133 out of 22,036 sanctioned posts. The State-wise figures are quite alarming, with Uttar Pradesh having a vacancy percentage of 42.18 and Bihar 37.23. Among the smaller States, Meghalaya has a vacancy level of 59.79%. The reasons are not difficult to guess: utter tardiness in the process of calling for applications, holding recruitment examinations and declaring the results, and, more significantly, finding the funds to pay and accommodate the newly appointed judges and magistrates. Besides, Public Service Commissions should recruit the staff to assist these judges, while State governments build courts or identify space for them.

SC pulls up States for delay in recruitment of judges

According to the Constitution, district judges are appointed by the Governor in consultation with the High Court. Other subordinate judicial officers are appointed as per rules framed by the Governor in consultation with the High Court and the State Public Service Commission. In effect, the High Courts have a significant role to play. A smooth and time-bound process of making appointments would, therefore, require close coordination between the High Courts and the State Public Service Commissions. A study released last year by the Vidhi Centre for Legal Policy revealed that the recruitment cycle in most States far exceeded the time limit prescribed by the Supreme Court. This time limit is 153 days for a two-tier recruitment process and 273 days for a three-tier process. Most States took longer to appoint junior civil judges as well as district judges by direct recruitment. This situation demands a massive infusion of both manpower and resources. Subordinate courts perform the most critical judicial functions that affect the life of the common man: conducting trials, settling civil disputes, and implementing the bare bones of the law. Any failure to allocate the required human and financial resources may lead to the crippling of judicial work in the subordinate courts. It will also amount to letting down poor litigants and undertrials, who stand to suffer the most due to judicial delay.

Firm intervention is needed to end the unsavoury controversy in the CBI

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