



Access To Justice: Needy Without Means

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Abstract- *Real and meaningful access to the courts is fundamental to the health and vitality of any democracy. It is the shield used by citizens to protect themselves against tyranny, abuses and any kind of exploitation. Access to the courts is the lifeblood of the system because from it flow all other rights. Peaceful progress of the individuals and the society can not be made without it and it helps preserve order when conflict arises. Justice R.C. Lahoti says, "The seekers of justice approach the courts of justice with pain and anguish in their hearts on having faced legal problems and having suffered physically and psychologically. They do not take the law into their own hands as they believe that they would get justice from the courts at the end and on some day. We owe an obligation to them to deliver quick and inexpensive justice shorn of the complexities of procedure. The elements of judiciousness, fairness, equality and compassion can not be allowed to be sacrificed."*

Introduction- Gratuite de la justice was proclaimed by the French Revolution as one of its first achievements, which means that unlike the judges of the previous regime judges were no longer to be paid by the parties, but by the state. The "fee system" was not a characteristic of pre-revolutionary France alone but was also a feature of other continental countries, including Germany, Spain, Holland and Italy, and was not at all unknown to England and the United States.

The purpose of discarded practices of "fee system for the judges is to discuss the present "fee system" for the counsel, which is applicable not only in civil suit also criminal adjudication, justice in a present day welfare democracy is not expected to be merely open to all like He "Ritz Hotel" where the needy without means have no business, but is proclaimed to be accessible by one and all, disregarding one's social, economic and political standing. However, a general right to access to court will have no meaning unless legal assistance of a competent and comparable professional is not available. Yet the reality is far away from the requirement. No explanation is required to demonstrate it as it is in every body's knowledge that lawyers fees vary from a few hundreds to several lakhs for the same work and if the services given by every lawyer would have been of comparable quality no one would have gone to those lawyers with extortional rates of fees.

There are various reasons for this particular inequality and some of them are so integral to the social order and general economic disparity in the society that can not be cured without a major change in the society. But many of them relate to the functioning of the judicial institutions and by and large depend on the men behind the system.

The people manning the judicial system can be broadly divided into three classes; judges, lawyers and the administrative staff. An egotistically rustic lawyer, probably rude, may argue that if one among the three integrally functioning group of people has grown systemically wrong, the reason lies in the other two. Well, it may not be true in every sense but certainly has some truth in the present case because the price tag of a lawyer depends mainly on his capacity to get-result, extremely subjective and unpredictably varying, which is granted by the member of the other class. Further it deals with the issue, entitled justice to the needy without means, underprivileged, and therefore, it is appropriate to see how far the varying lawyers fees and competency affect the quality of justice rendered to the needy without means, i.e. the weaker

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section of the people.

Ignorance of law excuses no body, but the ignorance of a judge is the misfortune of the poor and innocent; because the poor is almost incapable of appealing against the erroneous judgment, and the innocent, even if appeal, has to suffer until reversed, which ordinarily comes too late. Necessity of a lawyer arises because law presumes knowledge of all the laws to everyone and in a legal system like our based on adversarial adjudication each one is also presumed to take care of one's own interest, whereas in reality even the best educated non-legal people know a very little about the complexities of law.

Legal Aid- One need not spent much time on the question of the competency of the lawyers assigned under the legal aid services today to conclude that most of them are not competent enough, though many of them at the High Court and Supreme Court level render fairly good service. This has to be considered in view of the fact that the majority of the underprivileged litigants need the service at the lower courts. The statement is not intended to belittle the laudable services rendered by the legal Aid but was mentioned to say that the services as rendered today by itself do not solve the problems of the weaker sections of the society.

Larger societal problems that can not be solved by the judiciary alone. To provide justice to every one without discrimination the following steps for improvement are:

- (i) Legal education and lawyers co-operatives.
- (ii) Public defender systems
- (iii) Legalising contingency fee
- (iv) compulsory public service by all lawyers
- (v) Law students in court and clinical legal education.

The above recommendations for improvement of justice to the needy without means or weaker section of society problems and difficulties that prevent the from receiving equal justice. Court fee and other related costs, small claims, delay, ignorance and illiteracy etc. are some not to be a barrier to receive justice. Access to justice to all, i.e. to ensure justice to each and every needy individual and further, to infuse among general masses with a sense of confidence and trust. Public confidence on the judiciary is said to be the basic criteria of the justice delivery system. So there is a need to strength then the justice delivery system, which should be quick, free of cost, efficient, fair and honest.

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