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ROLE OF GOVERNMENT IN TAKING STEPS FOR SPEEDY DISPOSAL OF CASES: WITH REFERENCE TO KARNATAKA STATE

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Abstract:

The Government is an institution which includes legislative assembly and legislative council and other authorities in the State which is having the authority and obligation to secure the people in the state on the basis of administration of justice in the Karnataka State. The State faced with a delay in providing justice to the people, inefficiency, and unaccountability in the day to day working of the government administration, an ordinary citizen finds himself simply defenceless to make a move. None of his protests nor expressions of deep anguish has any effect on the behaviour of the government machinery. No wonder, a feeling of resignation is the prevailing attitude of most of the masses of our country to all the ills caused by our political leaders. Such a helpless attitude of the resignation of ordinary citizens brings to the force this question: Has not an Indian citizen a fundamental right to good government? Or is a citizen condemned forever to be at the mercy of a capricious government administration of justice?

A good government we mean a government that is clean, efficient and responsible. A government is clean when it is fairly free from corruption and transparent in all its dealings in the disposal of cases. An efficient government is one that accomplishes the common good of all of by far most of the general population with a necessary political will and resolves and within a time frame. A responsible government accounts for all its commissions and omissions, not only to the assembly but also to all the people of Karnataka.

***Keywords**: Karnataka State Government, administration of justice, speedy disposal of cases, the responsibility of government, government machinery*

1. Introduction

It is a matter of great sadness that the Indian people are helpless in spite of the fact that they are the very source of political power. People may be poor and illiterate but political power belongs exclusively to them and them alone. This is so because India is a democracy, and democracy recognizes no other sources of political power except the people. Religion or social and economic clout is recognized as the source of political power. However, the people cannot exercise political power except through delegation. In a democracy, power is delegated to the elected representatives so that the latter may exercise this power on behalf of and for the

common welfare of the people. For this reason, we have adopted a representative democracy where the power to the executive and the legislative flow directly from the people. Accordingly, the general population contributes to the legislature with the ability to control and to oversee the nation. Therefore, they have a basic right to know how this power is exercised. So when this power is misused or abused i.e., when political officers are so used as not to subserve the legitimate interests of the basic rights of the people are violated.

Is it an exaggeration to say that the right to good government administration in the justice is more fundamental than other fundamental rights? Is it not true that the realisation of all other fundamental rights turns on this right?

2. The Concept of the Indian Constitution

The central standard of this land is a Constitution. Give us a chance to take the right to freedom (article 19 to 22). Article 19 – protection of specific rights with respect to the right to speak freely and so on. Article 20 – security in regard to the conviction of offenses. Article 21 – protection of life and individual freedom. Rapid transfer of cases is a privilege of the party. What is expressed by article 21? No individual will be prevented from claiming his life or individual opportunity beside according to the system set up by law. What is the genuine feeling of the articulation that technique built up by law? It has been judicially deciphered as a technique which is sensible, reasonable and simple, legal translation implies understanding given by a court of law. Article 22 – insurance against capture and confinement in specific cases. What are the privileges of an arrested individual? At the point when an individual is captured under the normal tradition that must be adhered to:

- He must be educated, not long after his capture, about the grounds on which he has been captured.
- He must be allowed the chance to pick and counsel a legal advisor to shield him
- A captured individual must be created before the closest Magistrate inside 24 years of his capture (barring the time important for the adventure from the place of capture to the court of the Magistrate)
- No individual can be confined in guardianship past 24 hours without the specialist of the Magistrate

3. Conduct of Government litigation rules, 1985

Arrangement of rules:

Part	Topic	Rules
I	Preliminary	1-2
II	Cases filed by the government	3
III	Cases (other than writ petitions) against the government	4-10

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These tenets might be known as the Karnataka Conduct of Government Litigation Rules, 1985. They will come into power on the double. These standards will apply to the direction of the suit in the interest of the Government of Karnataka or its officers in their official limit. Nothing in these principles will apply to writ petitions and procedures emerging thusly identifying with applications looking for conferment of inhabitance rights under the Karnataka Land Reforms Act and assurance of surplus land under the said Act.

Definitions: Section-2

(1) 'Administrative Secretariat' signifies the bureau of the Karnataka Government Secretariat managing the concerned issue
(2) 'Case' means any proceedings in a Court or Tribunal
(3) 'Government' signifies the Government of Karnataka
(4) 'Law Officer' signifies a law officer as characterized in the Karnataka Law Officer (Appointment and Conditions of Service) Rules, 1977 and incorporates an Assistant Public Prosecutor responsible for common suit work in a court
(5) 'Litigation leading officer in connection to a case' signifies the officer who is set responsible for the direct of prosecution for each situation.

Speedy Trial:

Speedy trial is a fundamental element of sensible, reasonable and just strategy ensured by Article 21 of the Constitution[1]

4. Law set down by the Supreme Court of India

Constitution of India – Article 21 – the central appropriate to life and freedom incorporates ideal to rapid preliminary (of criminal cases) i.e. sensibly speedy preliminary by a 'sensible, reasonable and just procedure[2]
Criminal Procedure Code, 1973 – section 468 – Limitation for preliminary of minor offenses – constitution of India – Article 21 – appropriate to rapid preliminary spilling out of it – conflict that to make it significant, enforceable and powerful should be joined by an external limit of 10 years for real offenses – recommendations

and rules of Constitution seats for A.R.Antulay's situation, 1992(1) SCC 225 – dismissing this dispute – regardless of whether this announcement is right? (indeed) suggestions reaffirmed – rules illustrative.

Held: The Constitution Bench, in A.R.Antulay's, heard expound contentions certain suggestions, 11 in number, intended to fill in as rules, it isn't vital for our motivation to imitate every one of those recommendations. Get the job done it to express that in the supposition of the constitution bench:

(1) Fair, just and sensible methodology verifiable in Article 21 of the Constitution makes a privilege in the denounced to be attempted quickly
(2) Right to speedy trial spilling out of Article 21 envelops every one of the stages, to be specific, the phase of the examination, inquiry, trial, claim, correction, and re-trial
(3) Who is in charge of the postponement and what factors have contributed to deferral are important variables. Specialist conditions, including nature of the offense, number of denounced and witnesses, the outstanding task at hand of the court concerned, winning nearby conditions, etc – what is known as the methodical postpones must be kept in view
(4) Each and each postponement does not really bias the blamed as some deferrals surely work further bolstering his advantage

Constitution of India – Articles 21, 14, 19, 32, 141, 142, 144, 226, 227, Preamble, Directive Principles of State approach – Criminal Procedure Coder, 1973 – clarification segment 2 to 309 and sections 311, 258 in Chapter XX, 482 – regardless of whether in its enthusiasm to secure the ideal to speedy preliminary of a denounced – can the court devise and nearly authorize such bars of impediment which the lawmaking body and rules have not done as such.

Held:

- The decrees for A.R.Antulay’s situation are right and still detain the sector.
- The recommendations rising up out of Article 21 of the Constitution and explaining the privilege to the speedy trial set down as rules in A.R.Antulay 's case, sufficiently deal with ideal to the speedy trial. The court maintains and re-attests the said recommendations.
- The rules set down for A.R.Antulay's situation are not thorough but rather just illustrative. They are not proposed to work as rigid standards or to be connected like a strait-coat equation. Their pertinence would rely upon the real circumstance of each case. It is hard to predict all circumstances and no speculation can be made.

Criminal Procedure Code, 1973 – area 309. Indian Constitution Article 21:- speedy trial – the privilege to speedy trial streams from article 21. It incorporates the stages ideal from the date of enrolment of First Information Report. Directions of Supreme Court towards speedy procedures. On the off chance that the preliminary is for offense culpable with detainment for not surpassing seven years proof will be shut on the

fruition of two years from chronicle request of denounced on charges encircled. Accused, it has been in prison for a period at least one portion of most extreme recommended discipline, will be discharged on bail forthwith. On the off chance that the trial is for an offense culpable for over seven years proof will be shut on consummation of three years of account please of denounced on charge confined. In the event that postpones inferable from accused, above direction, not material. Time of remain of trial by a request of court avoided from above said period[3]

Held: The privilege of the charged to a speedy trial has been over and again underlined by this court. Despite the fact that it isn't counted as a basic right in the Constitution. This court has perceived the equivalent to be understood in the range of Article 21. The perceptions in Kartar Singh versus the State of Punjab, (1994) 3 SCC 569 must be comprehended in the scenery of the issues engaged with that case. The sacred legitimacy of Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) was addressed and a five-Judge bench was then considering different disputes including the likelihood of people accused of offense under TADA staying in prison as under-preliminary detainees for significant lot because of harsher and progressively stringent arrangements identifying with conceding of bail. The perceptions made in that can't, hence, be perused as in any capacity not quite the same as the perceptions made by the seven-judge bench in A.R.Antulay that the privilege to speedy trial streams from Article 21 and it envelops the stages ideal from the date of enrolment of the First Information Report and onwards stays unaltered.

Appropriate to speedy trial streams from Article 21 of the Constitution and it includes the stage ideal from the date of enrolment of the First Information Report.

(1) In case trial is for offense culpable with detainment for a period not surpassing seven years, court will close indictment proof on culmination of 2 years from the date of account supplication of accused on the charges confined, whenever denounced has been in prison for at least one portion of the most extreme time of discipline recommended court will discharge charged on bail forthwith.
(2) In case the trial is for offense culpable with detainment surpassing 7 years court will close indictment proof on offense culmination of 3 years from offense date of chronicle of a request of accused on the charges surrounded.

High Court is a piece of the State under article 12 of the Constitution – AIR 1986 AP 339. Article 12 – the State incorporates the administration and parliament of India and the administration and the lawmaking body of every one of the States and all nearby or different specialists inside the region of India or below the control of the legislature of India.

5. Law set down by the High Court of Karnataka

Request against acquittal4 - Responded denounced were indicted for offense under segment 326 of Indian Penal Code, 1860 – Not a solitary observer was created for an extensive stretch of preliminary however forms against observers were directed through ACP and DCP – Acquittal however brought about an aggregate disappointment of equity yet examining organizations and police division were to consider themselves capable. Explicit bearings as of now issued to examining experts and subordinate courts required to be pursued. Result: Appeal rejected.

The courts do not, however, propose to condone what has happened. This court, while disposing of criminal appeal No.995/1997 on 15-01-1998, had occasion to make elaborate observations dealing with precisely this State of affairs and specific directions have been issued both to the investigating authorities and to the subordinate courts. It would be incumbent and absolutely necessary that the levels of negligence that are being displayed and which are obvious even in this case and which give rise to grave suspicion that all this is being done in order to benefit the accused, will have to be put a final stop to as otherwise, this court would be left with no option except to recommend individual disciplinary action against the entire set of persons responsible for such situations in these cases. The head of the police department will have to see to it that the views of this court and the observations of this court are very widely publicized as far as the department is concerned and that they are communicated to a serious note is taken by every member of the police force in the State. The levels of laxity, levels of negligence and the malpractices that are responsible for this state of affairs will have to be curtailed forthwith. This is the second time in two days that this court is required to make strong observations and it would be appropriate that the incidents of the present type are not allowed to pass, that they are seriously looked into, suitable warnings and if necessary appropriate action is ordered to rectify this unholy state of affairs.

> Had the Trial Court been unduly impatient or had the Trial Court disposed of the case without giving reasonable and more than reasonable time to the prosecution, the court would have certainly upheld the request made by the learned state public prosecutor, but on the facts of this case. The court finds that no useful purpose will be served by doing this. In the ultimate analysis it has resulted in total failure of justice for which nobody, other than the investigating agencies and the police department are responsible. As soon as they realise this and stop behaving in this fashion, would be better for e law and order situation in the State.
>
> A copy of this order had communicated to the Secretary to Government, Home Department, Law Department with a request that they kindly take serious note of this state of affairs and order immediate corrective steps.

6. Criminal Procedure Code, 1973

Area 2(u) – 'Public Prosecutor' signifies any individual designated under section 24, and incorporates any individual acting under the bearings of a public prosecutor.

Section 24:

(1) For each High Court, the Central Government or the State Government will, after discussion with the High Court, name a Public Prosecutor and may likewise designate at least one Additional Public Prosecutor and may likewise name at least one Additional Public Prosecutors, for leading in such court, any arraignment, offer or different procedures for the benefit of the Central Government or State Government, all things considered
(2) The Central Government may choose at least one or more public prosecutors to conduct any instance of a class of cases in any region or local areas
(3) For each region, the State Government will delegate a public prosecutor and may likewise designate at least one Additional Public Prosecutors for the region
(4) The District Magistrate will, in conference with the Sessions Judge, set up a board of names of people, who are, as he would like to think fit to be designated as public prosecutors or extra public prosecutors for the area
(5) No individual will be designated by the state government as general society investigator or extra open examiner for the region except if his name shows up in the board of names get ready by the District Magistrate under sub-area (4)

7. Civil Procedure Code, 1908

The Civil Procedure Code (Amendment) Act, 2002:

Articulation of items and Reasons: The Code of Civil Procedure, 1908 as the code contains the law identifying with the system in suits and common procedures. The code has been altered every once in a while by different Acts of Central and State Legislatures. The code of Civil Procedure (Amendment) Act, 1999 was ordered by parliament with a view to stopping the postponements at different dimensions. After its establishment, countless were gotten both for and against its authorization.

Before activity could be started for requirement of the said Act, the Bar Council of India and certain nearby Bar Associations asked the legislature to relook into specific arrangements which could make hardship the litigants. In like manner, the arrangements of the Code of Civil Procedure (Amendment) Act, 1999 and different recommendations to diminish delay in the transfer of common cases were examined with lawful illuminating presences. The government has additionally considered the issue in the entirety of its perspectives subsequent to counselling the Bar Council of India and others concerned and dependent on the result of the considerations, it is

presently proposed to additionally correct the Code of Civil Procedure, 1908, predictable with the requests of reasonable play and equity.

That the State Government additionally should make strides as indicated by the arrangements of the change made in the code for fast disposal.

8. Obligations of State Government in speedy disposal

That the State is having binding directions from the Supreme Court and High Court to take proper steps with regard to the disputes for early disposal and also State is having constitutional obligations in the same aspects. Such obligations are:

(1) Enforcement of law including setting down of time confines or chalking out a timetable for procedures to pursue, to reclaim the bad form done or for dealing with rights disregarded.
(2) Court can declare the law, they can decipher the law, they can expel evident lacunae and fill the holes yet they can't dig in upon in the field of enactment property mean for the legislature. Therefore the intention of legislature must be perfect on the speedy disposal of cases.
(3) Stable Government must be established in the State to enforce or implement the legislations and policy matters on the time factor for disposal of cases in civil, criminal and authoritative matters.
(4) Strengthen the Judiciary quantitatively and subjectively by giving imperative assets, manpower and infrastructure.
(5) The concept of Fast Track Courts must be implemented.
(6) The State must identify unreasonable delay and laid down rule on the definite factors or delegate to the Judiciary to make such rule of law. Unreasonable delay which could be identified by the factor
    (i) Length of postponement
    (ii) The jurisdiction for the delay
    (iii) The accused or the plaintiff of any other party for a situation declaration of his entitlement to speedy trial.
    (iv) Prejudice caused to the accused or plaintiff or any other party by such delay.
(7) The proper guidelines must be issued to the Attorney General and the Advocates General of the State.
(8) Certain circumstances the court may not be possible to finish up the trial for reasons, such as
    (i) Non-availability of the counsel
    (ii) Non-availability of the accused and party
    (iii) Interlocutory proceedings
    (iv) Other systemic delays.
(9) Even the Supreme Court itself summarised the condensed the purposes behind defer, for example,
    (i) Dilatory proceedings

(ii) The nonappearance of successful strides towards radical disentanglement and streamlining of criminal method

(iii) Multi-level interests/correction applications and redirection to the transfer of interlocutory issues

(iv) Heavy dockets, mounting unpaid debts, postponed administration of the process

(v) Judiciary, starved by executive by neglect of basic necessities and amenities, enabling smooth functioning. In these aspects, State must formulate specified rule of law for speedy disposal

(vi) Establishment of Courts is required according to the density of population and not based on cases

Every one of the elements exhibits that the objective of speedy justice can be accomplished by a consolidated and result-situated aggregate reasoning, contemplation, and action on part of the Government, State Legislature, State Judiciary, Executive and Representative bodies of members of Bar, Advocates and also legally interested persons.

9. Suggestions and Conclusions

The following steps may be taken by the State Government in the disposal of cases:

(1) The substantive and procedural laws should be vigorously implemented, such as Karnataka Land Revenue Act, 1964; Karnataka Land Reforms Act,1961; Land Acquisition Act, 1894; Karnataka Panchayat Raj Act, 1993; Consumer (Protection) Act, 1986; Legal Services Authority Act, 1987; Juvenile Justice Act, 2000; Motor Vehicles Act, 1988; Karnataka Co-operative Societies Act, 1958; Karnataka Right to Information Act, 2000; Civil Procedure Code, 1908, Criminal Procedure Code, 1973; Indian Evidence Act, 1872; Indian Limitation Act, 1963; Specific Relief Act, 1963; Indian Constitution, 1950; All Karnataka Acts and Rules; etc.

(2) Amend the procedural provisions in State Legislations on the concept of speedy disposal and abolish the existing Revenue, Panchayat, Labour, special courts and establish special courts in judicial aspects on these matters.

(3) The strength of the judiciary has to be increased proportionately in the concept of administration of justice. The bureaucracy will be contained automatically if the citizen has access to inexpensive and speedy relief from the judiciary.

(4) The elements of the police in the State must be assessed frequently in the concept of administration of justice. That the elements of the police in a State are: Maintenance of law and order, counteractive action of crime, investigation of crime, to arrest persons accused of committing cognizable offences, protection of life, freedom, and property of the general population. To execute all requests and warrants legally issued to them by any skilled specialist and courts.

(5) Records of rights and production of the document must be perfect and within the time.

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(6) Legal seminars and training must be conducted for the judicial presiding officers and administrative officers in judiciary and executive about the interpretation of law, legal awareness, social concern.

(7) Organise Lok Adalats a day in a week at the jurisdictional area of the court

(8) Taluk Legal Aid Committee, District Legal Service Authority must function perfectly and it must have a proper office to serve the needy people when they visit such workplaces for free lawful guide. And such authorities just conduct legal awareness camps jointly with law colleges, gram panchayats, municipalities, non-governmental organisations for the public on legal matters

(9) The Kannada language must implement in the Courts of Karnataka, then only the proper justice might be given to the general population and people will believe in the judicial functions when they understood with their own language with regard to the process of courts.

(10) Special conferences must conduct twice in a year at least three days for Judges about the recording of evidence, hearing of arguments, orders on IAs, disposal of bail applications

(11) When cases documented by the Government or against the Government, it must strictly follow the procedural aspects with concerned to the speedy disposal of the cases.

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