

# **PENDENCY OF SUITS IN COURTS OF INDIA DURING COVID**

## **“JUSTICE DELAYED IS JUSTICE DENIED”**

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### **ABSTRACT**

In India there are rapid changes in the society which sometimes lead to conflict in the interests India. Society is now more aware of their rights and litigation becomes a part of life for resolving various issues. Because of significant increase in number of cases and due to lack of judges and pendency in the suits the judiciary is now overburden. Due to that the pendency of suits are increasing day by day and justice giving process is delayed. The main focus of the paper is that reasons why there is delay in the justice to be served. As per NJDG (National judicial data grid) almost most of the cases are in stay. Over 32244239 cases are pending currently as per NJDG. The main reason to analyze is lack of authority to solve the dispute. In this era the environment of society is changed and mental condition of the persons also. By then changing scenario the judicial system also has to change with the changes. There are more discussions regarding pendency of suits in courts in India and regarding the reasons why there is pendency. In judicial system it works in a hierarchy manner as Supreme courts than high courts then high courts are having district courts as they all have to work together with efficiency so there is no compromise in getting justice and justice can be served faster. Almost 3/4th pending cases over a decade, from which 72% are criminal and rest are civil in nature. In pendency the main reason is “stay” and “non trial cases” as per NJDG. The research is concluded in suggestion that there must be more efficiency in judicial frame work, increase in number of judges, more vacancies should be made and also awareness regarding PILS and RTI should be spread.

### **INTRODUCTION**

The judiciary is for giving justice with equality to the people as The Constitution of India gives the right for the speedy trial under Article 21 means right to life with personal liberty but delay in the justice lead to violation of it. As “JUSTICE DELAY IS JUSTICE DEINED”. The Right to Speedy trial is given in the law commission of India in report no. 221<sup>1</sup>. In the bail petition in *Babu Singh v. State of UP*, the honorable Justice Krishna Iyer has remarked,

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<sup>1</sup> <http://lawcommissionofindia.nic.in/reports/report221.pdf>

"Our justice system even in grave cases, suffers from slow motion syndrome which is deadly to 'fair trial' whatever the final decision. Speedy justice is an essence of social justice in which the community, as a whole, is concerned in the criminal being warranted and punished within a time and the innocent person gets the justice". As speedy trial is a right from which suits can be disposed as soon as possible as this right there for giving justice to people and can give punishment to actual accused.

In the 11<sup>th</sup> finance commission recommended that to create the fast track court for the speedy disposal of suits. In case of *Brij Mohan Lal vs. Union Of India* <sup>2</sup> in this case when they consult with the ministry to provide funds to state government for creating of fast track courts. So the problem of pendency can be solved by it.

Indian judiciary system consists of Supreme Court of India, High Courts in the states, District Courts and the Courts at lower level. India has integrated judiciary. Judiciary has power to make decisions and enforcing also. On 26<sup>th</sup> January 1950, the Indian Constitution is made and it also the lengthy written constitution. The Constitution of India gives provision regarding functioning of judiciary in India. Article 124-14 of Part V of constitution the functioning and setup of Supreme Court has given article 214-231 of part VI tells about rules and regulation of High courts and lastly in Article 233-237 is for subordinate courts.

The judiciary system in India works in hierarchy manner like Supreme courts institute with High Courts and then District Courts with Subordinate. As Judiciary system has power to enforce and give decisions as it work as independent organization without interference of legislative or executive. Due to that issue of pendency has been increased in the lower courts and other Courts.

With delay in justice system is a major defect in efficiency in judiciary it regard to delay in justice. Due to delay in the justice the suits are increased, because of that the rights and obligation of citizen are still remaining. The report of national crime records bureau (NCRB) report of 2018 says that from 2016 to 2018 the number of prisoners are increased.<sup>3</sup>

Economy survey 2018-19 says there is a huge pendency in suits in India and needed almost 8521 judges in future the same concern was given by Chief justice Dipak mishra Some of

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<sup>2</sup> (2005)6 SCC 502

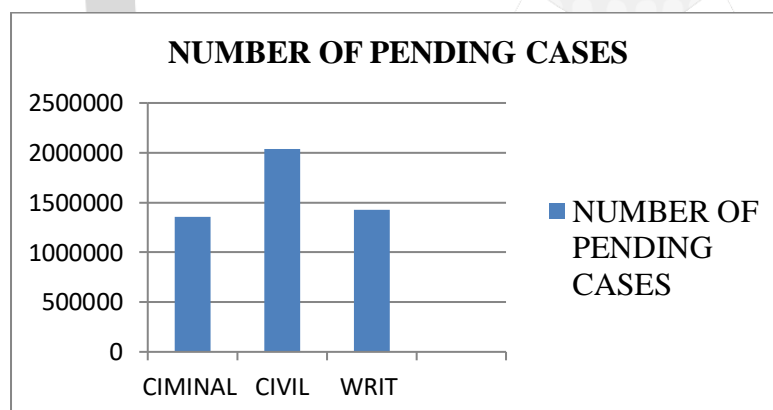
<sup>3</sup> <https://ncrb.gov.in/prison-statistics-india-2018>

recommendations of Arrear committee for the pendency of suits that can solve there are number of elements which are responsible for it.

1. The ratio of judges and the vacancies
2. Accountability of judges
3. Provisions related to adjournment
4. Reformation policy

One more committee is made Malimath committee which recommends the reformation policy on criminal justice system and to give justice in simple procedure.

The number of cases instituted during year 2020 (till now) is 4815357<sup>4</sup> as per NJDG. Amongst which criminal cases are 1353830, civil matters are 2036094 and writ 1425433 cases. The National judicial data grid which provides the status of courts across India, NJDG is most significant part which is an integrated mission mode that helps to track the statistics of courts. As we can see the number of cases in fig 1.1 below -



**Fig 1.1**

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## **METHODOLOGY**

In this research paper Doctrinal methodology is used. Doctrinal research is also a traditional form of research or theoretical research used for the cases, research papers, articles etc. this is for the legal research for the concepts. As primary sources research is not possible. Only secondary sources are used in this.

<sup>4</sup> <https://njdg.ecourts.gov.in/njdgnew/index.php>

## OBJECT OF RESEARCH STUDY

The research is on the pendency of suits in courts in India. As the research is done for finding out some issues –

1. To find out the reason why there is pendency in suits and to understand it
2. What solutions can be there to improve the pendency

## PENDENCY IN SUITS IN INDIA

In India almost 3.3 million suits almost 12666546 cases were instituted and almost 11609259 has been disposed from 2015-2018 and almost from more than 1 year 3116546 cases are pending in India from which more than 1298963 cases are of civil and remaining criminal suits 877359 and writ suits 940224 suits. As we can see the number of cases pending from many years and not yet disposed till now. The civil matters are more from criminal and writ. The increases in suits as citizens are more aware of their rights and they have faiths that will get justice as soon as possible.

Pendency of suits means delay in getting justice. The law commission of India studies and conduct survey to find out the various things that are elements in getting delay in justice. This gives some reformative reforms and tells the importance of law and justice for the simple procedure.

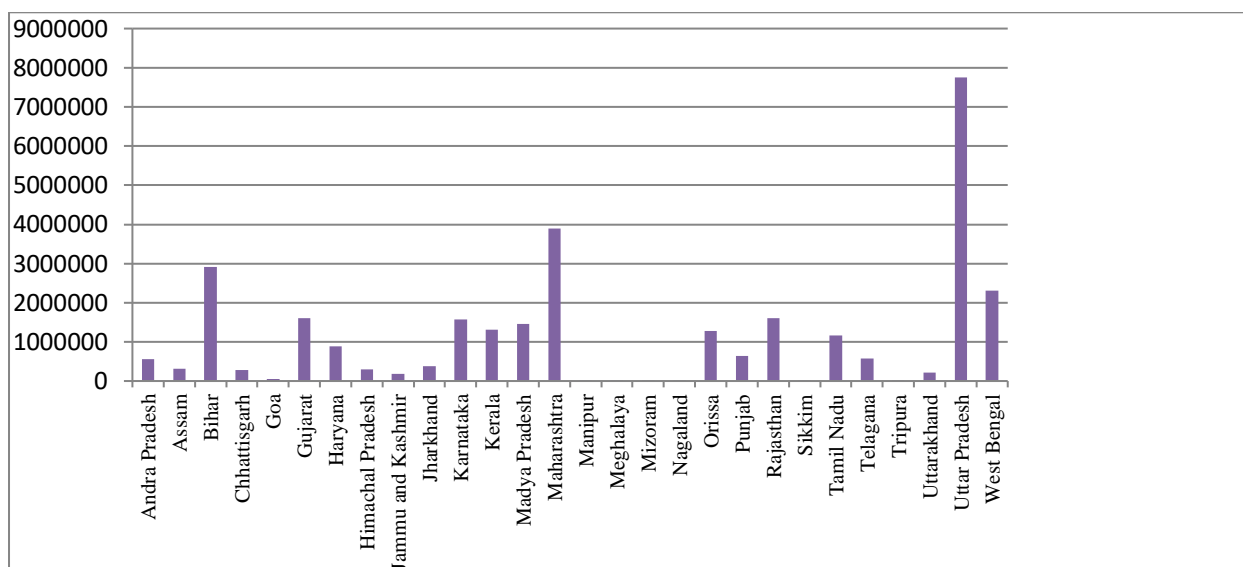
In Indian judicial system it works in hierarchy manner the lower court has to be strengthening the most and judges and court room also need to increase there are many states whose population is huge and they need more officers for it and disposal needed to do little fast. The courts are connected with each other and they play independently without interference of legislative and executive. In case of *Imtiyaz V State of UP* in this the law commission suggests to step up additional subordinate for elimination of delay in the courts. The law commission report no. 245.

## PENDENCY OF SUITS IN STATES OF INDIA

In table below which shows the statistics in pendency of suits across India is there from which it can be seen the suits pendency of each state below in fig 1.2<sup>5</sup>

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<sup>5</sup> <https://njdg.ecourts.gov.in/njdgnew/index.php>



**Fig 1.2**

In above statistics tells about the pendency of suits in states-

- 1.1 Total number of pending cases as per NJDG is 32262508. From which the highest number state is Uttar Pradesh in which there are almost 7748898, than in Maharashtra the number is 3887579 and then Bihar is 2910581. There are three states highest number of pending suits.
- 1.2 Then in Gujarat the pending suits almost 1602041, than in Karnataka 1576229 suits are pending. As statistics we can see the number of pending suits in states.
- 1.3 Than in West Bengal also it can be seen almost 230382 suits and in Rajasthan 1597103 suits due to lack of judges the pendency is increased in all the states.
- 1.4 Lowest number of pending suit is in Manipur, Mizoram, Nagaland, Tripura and Goa where there are less number of pending suits. And in Sikkim also there is lowest suits pending 1319. In this state's they also lower courts are having workloads due to that pendency in suits.
- 1.5 Andhra Pradesh having 566266 suits than in Assam 308717 and in Chhattisgarh almost 277501 suits. As there are suits pending but not as high as in Maharashtra, Uttar Pradesh and Bihar this are the states in which there are highest number of suits pending.
- 1.6 In states like Haryana there are 893471, Himachal Pradesh almost 298079 and in Jammu and Kashmir are having 180570 suits pending.
- 1.7 In states of Jharkhand the suits are 378661, than in Kerala the number of suit is 1317169, Madhya Pradesh having 1451096 suits pending, Uttarakhand having 212750.

1.8 The suits are pending in almost all the states across country. In Supreme Court says due to lack of manpower in judiciary the filling of suits are increased. In law commission has submitted 245<sup>th</sup> report for taking effective measures to disposal of cases and recommended uniform data for High courts.

1.9 In most of the states in India is having pending cases as the population is factor that increase the pendency of suits.

### **REASONS FOR THE PENDENCY IN SUITS**

1. **Less number of judges**– According to the report of March 31<sup>st</sup> 2018 says nearly 5748 officers are <sup>6</sup>needed in the courts. One of the major causes of pendency in suits is the shortage of judges in the courts. As less number of judges are there due to that the workload of judges are getting more and more and because of it pendency in suits are increased. As per guidelines in India 19 judges per 10lakhs people. Law commission of India report says that the pendency is increased in rapid number to deal with it there needs to strength the number of judges to deliver the justice to the citizens of country without delaying it.<sup>7</sup>
2. **Lack of training of judges**– As in lower courts the judges needs to trained properly and if quality of judges are efficient than the pendency can be reduces. Because there is lots of work load in lower courts almost most of the cases are in under trail process. As judiciary works in hierarchy so there need to train judges in effective and quality manner. According to National judicial data grid almost 58% of cases are stayed and 10% cases are because of bulky cases.
3. **Awareness to be spread**– By the changing society the people seek to go to the courts for the getting justice and uses there legal right but not everyone is aware of RTI means right to information and about PIL available. By getting proper education people are more aware and which results the increase in cases.
4. **Need for reformation**- By changing era the laws and rules need to change and amendments as the procedure are taking lots of time and by giving dates and dates for next proceedings is because the procedure if taking time which leads to pendency in suits. There are many laws which need to be change by the changing scenario. Need updated laws.

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<sup>6</sup> <https://economictimes.indiatimes.com/news/politics-and-nation/india-has-19-judges-per-10-lakh-people-data/articleshow/65935214.cms?from=mdr>

<sup>7</sup> <http://lawcommissionreportno.245>

5. **Due to increase in competition amongst lawyers**– Sometimes the justice is delayed due to some wrong allegations ,by taking dates for next proceeding so to earn money, due to lack of drafting the suits the suits may rejected .some more reasons but due this all almost suits are delayed and lead to pendency.
6. **Population increase** – The increase in population has direct impact on litigation. India is having very populated country. The more population the more suits but there is shortage of judges due to that workload increases and pendency of suits occur.
7. **Due to change legislation things**- Radical change in society that also impact on parliament because it is dealing with lots of causes in across country. Increase in litigation.
8. **Lack of disposal of old cases**- New suits are instituted and old are remaining in same stage due to that the suits are increasing and pending because of reasons like shortage of judges or absence of person or document etc that lead to pendency in suits.

**As per NJDG reasons for delay in suits are in below fig1.3**

As we can seen in below table –

1. The highest reasons for pending cases as per data are that most of the cases are stayed.
2. The second most reason is the presence of parties or any person related to cases not present at time of proceedings this can lead to pendency in suits.
3. In few cases due to lack of documents or lack of evidence the suit is pendent and in some suits there is delay in execution that lead to huge pendency.
4. Some cases are not attendant means due to increase of prisoner in the jail the population has been increase that lead to increase in pendency.
5. Some more reasons we can see in below table. Fig 1.3

REASONS IN PENDENCY	NUMBER
AWATING	2128



RECORDS	
BULKY CASES	5779
EXECUTION DELAYS	296
HUGE PENDENCY	703
OFF SHOTS	1843
SECURING PRESENCE	10787
STAYED	30682
UNATTENEDED	655

**Fig 1.3**

## CONCLUSION

India with a huge population is now experiencing lots of explosion and experiencing increase in pendency in suits which can also lead to various issues because a lay man who believes that he will get justice from the court, that person who is having faith on it but due to pendency it goes low. At present there are lots of pending cases across the country. Which can lead to pendency of cases and also it raise question to the efficiency of the judicial system? By seeing various factors lead to pendency that can be solved. By researching on this topic we can conclude that by increase in judicial courts, or officers by giving proper training and by another means from which justice can be delivered like Lok Adalat, ADR (Alternative dispute resolution) or right of speedy trial etc. pendency can be managed. In Article 39(A) in this person can avail equal justice and free legal aids.

As in Article 14 also constitution gives right to citizens "Equality before law." Challenges can be faced by giving justice in time with equity, good concise and fairness without dealing it. Justice giving in time is ok but justice giving in hurried is justice buried. By research we have seen number of states with their pendency of suits about there is three states which are having highest number of pending cases Maharashtra, Uttar Pradesh and Bihar. By seeing the increase suits the challenges are increased. The pendency in the cases leads to low faith in justice system. Lack of disposal of suits or any challenges lead to pendency. By making software by IT the things can be managed easily as to conclude lots of changes are needed in



judicial system to reduce the pendency of suits. The alternate dispute resolution can help more in resolving the disputes and also fast track courts. In ADR there is variety of option to solve the dispute and it also have civil jurisdiction that is acceptable.

1. **Lok Adalats** – This is a mechanism for the alternative dispute resolution in this the small cause cases of civil nature involve in it .this is under legal service authority (in this free legal aid is provided those who cannot afford the fees but they can get justice through legal aid services) in this the case dissolve through compromise .In this there are no arbitrator or conciliator .It is up to parties whether to solve the dispute with compromise or not.
2. **Mediation** – In this third party get involved for specific issues by consult of both party and can enforce the award and by compromise or by agreeing into terms.
3. **Conciliation**- In this it simply facilitates communication or help in direct settlement in dispute. In this also the award if legally enforceable to both parties and to resolve the dispute by agreeing to the terms.
4. **Arbitration**- This is also by third Party but to decide how to dissolve the dispute there is a third party involved in it and voluntary both parties agree to agreement. This is legally binding upon both parties and the award is enforceable to both.
5. **Negotiation**- In this the structure is created to dissolve the dispute directly by negotiation between parties and no third party is involved.

## SUGGESTIONS

1. By recruiting more judges and filling the vacancies in the courts.
2. By giving quality training, seminars or workshops for judges.
3. By using technology there can some software made for it.
4. Making a proper infrastructure.
5. By using right of speedy trial ,and ADR
6. Reform judicial policy should be made.
7. Work load of lower courts should be managed like some number of cases should be there.
8. Give more information about RTI AND PIL
9. Virtual courts should be made for resolving dispute in less time.