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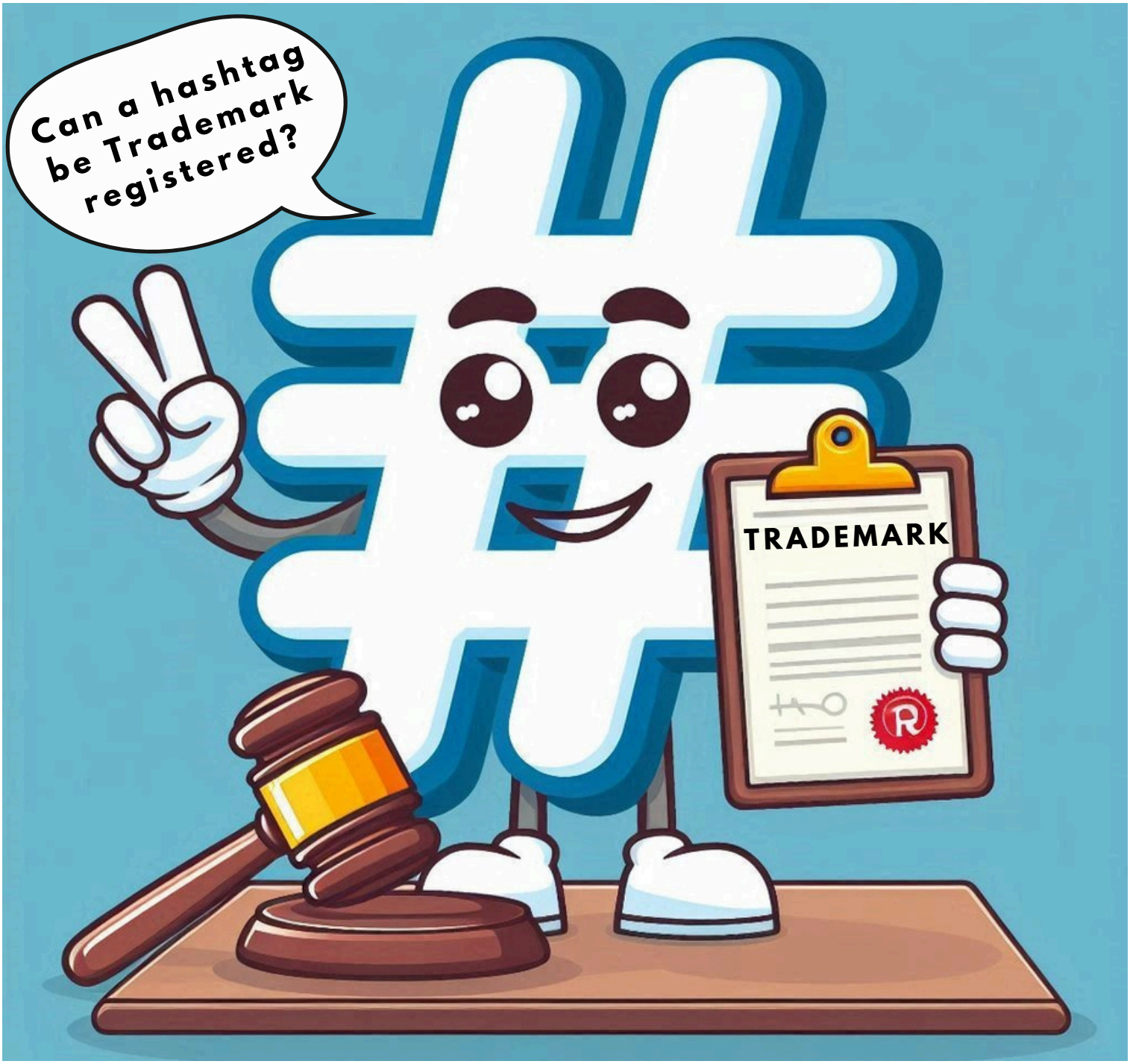


EDITORIAL

P. Arun Sugavaneshvar
Founder

Justice drowning in delay- High time the Judiciary draws a resurrection plan

The Indian judicial system, often lauded as one of the most robust in the world, is grappling with an overwhelming crisis of inordinate delays. The backlog of cases has reached staggering proportions, bringing to the limelight the fundamental principle that "justice delayed is justice denied." With crores of cases pending across various levels of the judiciary, the system struggles to deliver timely justice, eroding public trust and hampering the nation's socio-economic progress.

The Scale of the Problem: Data on Pending Cases

The total number of pending cases across all levels of the Indian judiciary exceeds 5 crores. This figure includes cases at the Supreme Court, High Courts, and District Courts, reflecting a systemic overload that has persisted for decades. **The National Judicial Data Grid reveals that the Supreme Court has over 81,000 cases pending despite the court functioning at its full sanctioned strength of 34 judges most of the time in the past two years. Approximately 65 lakh cases remain unresolved across the 25 High Courts. Over 8,30,000 of these cases have been pending for more than 10 years. The bulk of the backlog, almost over 4.5 crores, or more than 85% of the total, lies in the district courts. This includes over 1,80,000 cases pending for more than 30 years**.

This backlog has doubled over the past two decades, fueled by a rising litigation rate and a disposal pace that fails to keep up with new filings. **The Central and State Governments are itself the largest litigants, accounting for 50% of pending cases.**

Several factors contribute to this crisis. **India has only 14.4 judges per million people (as of 2022)**, a marginal increase from 13.2 in 2016, compared to 150 in the United States and 210 in Europe. There are procedural inefficiencies like frequent adjournments, cumbersome legal processes, and delays in evidence collection prolong case durations. Further, many courts lack sufficient staff, courtrooms, and technological support, impeding efficient case management.

The economic cost is significant, with pendency estimated to drain over 2% of India's GDP. **In the year 2024, World Justice Project (WJP) Rule of Law Index, India is ranked 79th out of 142 countries.**

Constitutional Remedies to Address Judicial Shortages

The Indian Constitution provides mechanisms to bolster judicial capacity and reduce pendency: **Appointment of Additional Judges**: Under **Article 224**, the President can appoint additional judges to High Courts for a temporary period (not exceeding two years) to clear arrears. This provision allows for a rapid increase in judicial manpower without altering permanent structures.

Recall of Retired Judges: **Article 128** permits the Chief Justice of India (CJI), with the President's consent, to request retired Supreme Court judges to sit and act as judges of the Supreme Court.

Article 224A allows High Court Chief Justices, with the consent of the President and the judge concerned (the retired justice), to appoint retired High Court judges as ad hoc judges for temporary periods to tackle pendency.

Increase in Sanctioned Strength: Parliament can legislate to increase the number of judges in the Supreme Court (Article 124) and High Courts (Article 216).

Other nations have implemented innovative strategies to manage judicial backlogs, offering valuable lessons for India. **Singapore overhauled its judicial system through reforms like strict case management, limits on adjournments, and the use of technology (e.g., e-filing and virtual hearings). The U.S. employs a robust Alternative Dispute Resolution (ADR) framework, including mandatory mediation in many jurisdictions, reducing court caseloads**.

India's Lok Adalats, established under the Legal Services Authorities Act, 1987, have resolved millions of cases but require greater scale, authority and acceptance from the public and litigants. In 2024, National Lok Adalats resolved a total of 1.45 crore cases, data provided by the National Legal Services Authority (NALSA) claims.

The Gram Panchayat, a cornerstone of India's rural governance system, is the smallest unit of local self-government established under the 73rd Constitutional Amendment Act of 1993. **Under Article 243G of the Constitution, Gram Panchayats are endowed with powers and responsibilities to function as institutions of self-governance. The Eleventh Schedule lists 29 subjects, including agriculture, rural housing, health, and social justice, over which they have authority**. Beyond administrative and developmental roles, Gram Panchayats possess quasi-judicial powers to resolve minor civil and criminal disputes at the village level, often through traditional mechanisms like Gram Sabhas or Nyaya Panchayats. Gram Panchayats can mediate petty disputes such as land disagreements, family quarrels, and minor offences, leveraging local knowledge and community trust.

The limitations of Gram Panchayats include limited legal authority, infrastructure and human resource constraints. To enhance their impact, the Government could strengthen Gram Nyayalayas with more resources and trained Nyayadhikaris (judicial officers). Integrate technology, such as online dispute resolution platforms, into Panchayat systems. Further, the Government must conduct awareness campaigns to educate villagers about local justice mechanisms.

Despite all these mechanisms the Indian legal system is suffocating from a collective lack of responsibility and efforts from the citizenry. Educating and adopting ADR could be the only silver lining. Advocates must advise clients to resolve disputes through arbitration and mediation and not precipitate the matter. **Simple acts can cause a radical shift in the respect given to our legal profession. As always, the road to reformation is long, and there are variables unknown. However, the only ask is this: Fiat justitia ruat caelum- Let justice be done, though the heavens fall.**

LEGAL CRISPS

E-Way Bill under GST

-Murshida Banu T

An E-Way Bill (EWB) is an electronic document required for the movement of goods. It is an effective tool for tracking goods and checking for tax evasion. An EWB consists of two parts. Part A includes details of the GSTIN of the recipient, location of the delivery (PIN Code), invoice or challan number and date, value of goods, HSN code, transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and reasons for transportation; and Part B includes the transporter details (Vehicle number). EWB ensures that goods being transported comply with the GST Law.

Rule 138 of the Central Goods And Service Tax Rules, 2017, mandates the generation of the EWB for the movement of goods exceeding Rs. 50,000 in value, with exceptions. The consignor or consignee should generate the EWB if they transport the goods by railway or air vessels by themselves. If the goods are handed over to a transporter for transportation by road, EWB is to be generated by the transporter. If the value of the goods is more than Rs. 50,000, and the consignor or consignee didn't generate the EWB, then the transporter is responsible for generation. The validity of an EWB is dependent on the distance travelled by the goods. The rule is that every 200 km or part thereof makes the EWB valid for one day. For oversized cargo, an EWB is valid for every 20 km or part thereof for one day. This countdown starts from the date and time of generating the EWB. The EWB can be extended if goods have not been dispatched within the validity period by updating the details on the portal before expiry. Failure to generate EWB leads to penalties. As per **Section 122 (xiv)** of the **Central Goods And Service Tax (CGST) Act, 2017**, a taxable person who transports taxable goods without the cover of specified documents (E-Way Bill is one of the specified documents) shall be liable to a penalty of Rs.10,000/- or tax sought to be evaded (wherever applicable), whichever is greater. The authorities may seize goods under **Section 129** of the CGST Act, 2017.

In ***M/S Gati Kintetsu Express Pvt Ltd. v/s Commissioner, Commercial Tax of MP & others [W.P.No. 12399 of 2018 07/05/2018]***, the High Court of Madhya Pradesh stated that not entering the vehicle number in Part B of EWB violated Rule 138 of the CGST Act, 2017, and the learned authority rightly imposed the penalty.

This system is very important for ensuring compliance with GST. Businesses must keep themselves updated to avoid penalties and to facilitate the smooth transport of goods with the latest provisions regarding the e-way bill.

Memory & false testimony in the Indian legal framework

-Seethala B

Memory plays a crucial role in legal proceedings, shaping witness testimonies, which impact judgements. However, false memories—where individuals unknowingly misremember events—pose a serious challenge to justice. India's legal framework does address false testimony, with **Section 227 of the Bharatiya Nyaya Sanhita (BNS), 2023**, explicitly penalising the act of giving false evidence. The provision states that anyone legally bound to state the truth who makes a knowingly false statement is guilty of false evidence. The section also clarifies that false statements can be verbal or otherwise, and even a false assertion of belief can amount to false evidence.

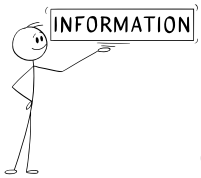
The Supreme Court has recognized the incidents associated with memory inconsistencies. In **Sat Pal v. Delhi Administration [1976 SCR (2) 11]**, the Court acknowledged that discrepancies in witness testimony might result from faulty memory rather than deliberate deception, stating:

"If the departure from the prior statement is not deliberate but is due to faulty memory or a like cause, there is every possibility of the witness veering round to his former statement. Thus, showing faultiness of the memory in the case of such a witness would be another object of cross-examining and contradicting him by a party calling the witness."

In ***Narayan Chetanram Chaudhary v. State of Maharashtra [2000 AIR SCW 3314]***, the Supreme Court emphasized the need to distinguish between minor inconsistencies and material contradictions in witness testimonies. It recognized that minor lapses in memory are natural, as individuals perceive and recall events differently. The Court highlighted that such variations should not automatically discredit a witness, as genuine memory failures can occur without any intent to mislead. This principle reinforces the judiciary's role in assessing whether discrepancies stem from honest lapses or deliberate attempts to distort the truth.

A similar approach was taken in ***Achhar Singh v. State of H.P. [AIRONLINE 2021 SC 330]***, where the Court acknowledged that exaggeration in a witness's statement does not necessarily make it false. It explained that exaggerations often contain elements of truth, with additional details added for impact rather than to deceive. The legal distinction between exaggeration and fabrication is crucial, as courts must carefully evaluate whether statements contain a mixture of truth and overstatement or if they are entirely false.

To address the challenge of unreliable memory, forensic psychology, brain mapping, and narco-analysis have been explored as investigative tools. However, the Supreme Court in ***Selvi v. State of Karnataka [AIR 2010 SUPREME COURT 1974]*** ruled that such techniques cannot be used without consent, limiting their applicability. Despite this, courts must continue to refine their evidentiary standards, ensuring that genuine memory distortions do not lead to wrongful convictions.



CASE CHRONICLE

Can non-citizens seek information under the RTI Act?

-Monisha TM

CASE NAME: A.S. Rawat v. Dawa Tashi
CITATION: 2023 SCC OnLine Del 1504

The Right to Information (RTI) Act of 2005 was enacted to promote transparency and accountability in governance by granting Indian citizens access to information from public authorities. However, since the Act explicitly states that only citizens can seek information, questions have arisen on whether non-citizens can also file RTI applications.

In this case, Mr. Dawa Tashi, who was a Postgraduate Teacher (Tibetan) at the Central School for Tibetans, Darjeeling, filed an RTI application for certain information and the Public Information Officer (PIO), A. S. Rawat, declined to give the information to him, saying that RTI is available only to Indian citizens in accordance with Section 3 of the Right to Information (RTI) Act, 2005. Frustrated, Dawa Tashi approached the Central Information Commission (CIC), which essentially upheld his request to obtain information and gave the PIO a penalty for denying his request. In turn, the PIO challenged the CIC's decision before the Delhi High Court, reasoning that he had done his job correctly.

The Delhi High Court examined the scope of the RTI Act and its interpretation under constitutional principles. It recognized that Section 3 of the Act explicitly restricts the right to information to Indian citizens, making it clear that non-citizens do not have an inherent right under the Act. However, the Court also acknowledged that denying information solely based on nationality could contradict broader constitutional values, especially in cases where the applicant has a valid reason to seek information. The judgment emphasized that public authorities should adopt a balanced approach when dealing with RTI requests from non-citizens, particularly when the information sought is relevant to their residency, employment, or legitimate interests.

Despite this observation, the Court ruled that the penalty imposed on the PIO was unjustified. It held that since the officer had followed the language of law, his decision was based on a reasonable interpretation of the RTI Act. The Court pointed out that no clear legal precedent existed on whether non-citizens could seek information under RTI, making it unfair to penalize the PIO for adhering to the statutory provisions.

This case highlighted the challenge that exists in defining the scope of RTI access and the responsibilities to be exercised by public authorities in dealing with such requests.

BEYOND THE OBVIOUS

The Legality of registering hashtags as Trademarks in India

-Nithyaparvathy R G

With the rise of social media, businesses and individuals increasingly use hashtags to promote brands, products, and campaigns. This has led to a growing interest in registering hashtags as trademarks. However, the legality of hashtag trademarks in India is subject to specific legal considerations and requirements under the Trade Marks Act, 1999.

A trademark is a distinctive sign used to identify a particular entity's goods and/or services and distinguish them from those of others. In India, a hashtag can be registered as a trademark if it meets the basic requirements of distinctiveness and non-generic use, as mentioned in Section 9 of the Trade Marks Act. The trademark must not be descriptive, deceptive, or common.

A hashtag must be distinctive rather than merely descriptive or generic to qualify for trademark protection in India. Generic hashtags, such as #food or #travel, cannot be registered because they fail to distinguish the source of goods or services. However, if a hashtag is uniquely associated with a brand, such as #McDFries or #JustDoIt, it may be eligible for trademark registration. One of the few examples of a hashtag registered as a trademark in India is #MadeWithLicious (TM Application No.3924265), used by a famous Indian brand, Licious, as a platform for people to share recipes made by the company's raw meat and spices. Additionally, the hashtag must be capable of indicating the origin of goods or services and not merely serve as a promotional tool.

Trademark laws in India require that the hashtag functions as a source identifier for goods or services. The mere use of a hashtag in a promotional or social media context may not be sufficient. For example, a company using #BestShoes in an advertising campaign without directly linking it to its brand identity may find it challenging to secure trademark registration. The applicant must provide evidence of the hashtag's use in connection with the sale of goods or services.

Even if a hashtag is successfully registered as a trademark in India, enforcing exclusive rights can be difficult. The widespread use of hashtags on social media platforms complicates ownership claims. Additionally, courts may be reluctant to grant broad exclusivity over hashtags commonly used in everyday digital interactions. Trademark owners must actively monitor and enforce their rights to prevent unauthorised use.

The Indian Trademark Registry examines hashtag trademark applications based on distinctiveness and commercial significance. While hashtags can be registered as trademarks under certain conditions, their registration and enforcement present legal challenges. Businesses seeking to trademark a hashtag should ensure it is distinctive, used in commerce, and serves as a genuine source identifier.

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