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FROM THE DESK OF CHIEF EDITOR

Judicial communication and Judicial Behaviour in Court are important. The best recipe for court proceedings is: no arrogance, only elegance. A judge should never lose his or her temper. They must develop scientific temper. Humanism and compassion must be the integral part of Judge's personality. Positive and judicious mind. No suspicion. Only Judicial conscience be the guiding factor in rendering justice.

How do we monitor this judicial conduct? It is true that our courts are open houses. Is this enough? I ask this on the 68th Constitution Day. Probably not. It was March 28, 2017 that the summit Court had directed that at least in two districts in every state / union territory, CCTV cameras may be installed inside the courts. In turn, the monitors thereof may be installed in the chamber of the concerned District and Sessions Judge. The matter, thereafter, came up for consideration on August 14, 2017. It was reported to the Supreme Court that the CCTV cameras have already been installed in the jurisdiction of eight High Courts while in the remaining 4 High Courts installation process was in progress. In some of the reports, it was expressed that CCTV cameras will affect the privacy of judicial officers. On behalf of the Government, it was submitted that there was no question of privacy. CCTV cameras are the culture of the day. In fact, they promote good governance. Publicity keeps the judge conducting the trial under trial. Sun-light is the best dis-infectant. Judges know that they are being watched. Therefore, they would be in their conduct and communication at their best.

The matter once again came up for consideration before the apex Court on November 21, 2017. The Bench observed: "what is privacy? We do not need privacy here. Judges do not need privacy in court proceedings. Nothing private is happening here. We all are sitting in front of you." It was emphasized that audio-visual recording of court proceedings will usher in transparency in the functioning of courts. Therefore, "do not delay it. This step is in larger public interest, discipline and security." This will be a bold step forward. It would gradually reduce / eliminate incidents of misconduct in courts. Both judges and lawyers need to exercise restraint. This, holding of court on time and the whole day long would help in building up the trust and confidence of the people in our Judicial System.

The matter came up for hearing again on November 23, 2017. The reports from the High Courts had been received. The report of Punjab and Haryana High Court showed that it had made a comprehensive plan of action to install CCTV cameras in all courts in four phases. The Bench observed: "The said model may, as far as possible, be adopted, if found viable, at other places. A copy of this report may be put on the website of the Ministry of Law and Justice to facilitate coordination with all the High Courts and Tribunals." This, indeed, would go a long way in strengthening the Justice Delivery System in India. Sooner it is made viable throughout the country, the better it would be. The live video recording of judicial proceedings is the real test of Justice Delivery System.

Balram K. Gupta

BLENDING OF LAW AND LITERATURE

I have been the consumer of legal writings : Judgements, law books, memorial lectures, legal orations, autobiographies, biographies of lawyers and Judges and a variety of other legal writings. Every legal writing would not qualify as good legal literature. Certainly, many legal writings would rank good legal literature. This would be true of any domain. Some legal writings would be comparable and match-able with best of literature. There are two aspects. One, the richness of the words of the language. Two, the weaving of thoughts and ideas into an enduring contribution. This is a recipe for any good literature. Not particularly legal literature. It is on the touch-stone of this meaning of literature that legal literature is rich, lasting and durable. Richness of English language is a matter of common knowledge. Richness of legal minds, lawyers, judges and academia is also common knowledge. The weaving of best of minds into black and white has resulted in colossal legal literature. Normally, when we talk of English literature, we find a good blending, refreshing and relaxing, inspiring and motivating and at the same time universal in nature. It provides rich nourishment. One enjoys, reading such literature. Many judges love to soak their judgments with literature. Equally, many others produce good legal literature. The richness of legal literature is evident from the fact that we have a book of legal quotations "evocatively portraying" the thoughts and minds of Judges of the summit Court. It has been described by Justice Dipak Misra, the present Chief Justice of India in its Foreword – 'artistically woven' spread over a period of 4 ½ decades. It is a 'treasure house' of 'Judicial Wisdom'. The thought behind this compilation is to 'acquaint the generation of lawyers' with the 'authors of judgments' to 'ignite one's thinking'. This compilation of quotations is with a difference. It contains only the wisdom of the Judges of the Indian apex Court.

The common belief is that the 'Briefs' of the lawyers and the 'Judgments' of judges are mere enumeration of facts, of rules and the application of law in a factual canvas. It is in this context that judges in particular have contributed 'gems' of literature. That is the beauty of legal literature. Inspite of all practical limitations, if judges over the centuries have been able to produce good and lasting literature, this needs to be acknowledged duly and fully. Such good literature needs to be shared by legal and judicial minds. Who does not enjoy the flavour of good literature. A good doze of good legal literature is a health tonic. Generally speaking (exceptions apart), those who have contributed to good legal literature have lived longer and healthier. Therefore, they could contribute hugely.

Quoting **Lord Denning is fashionable**. Not without a reason. Because what he writes. How he writes. Why he writes. Means a lot. A piece of literature. It adds credibility and durability. It provides a good support system. **Literature illuminates and beautifies the court proceedings. Makes them user-friendly.**

Denning in The Family Story records :

"Judges do not speak, as do actors, to please. They do not speak, as do advocates, to persuade. They do not speak, as do historians, to recount the past. They speak to give judgment. And in their judgments you will find passages which are worthy to rank with the greatest literature which England holds. John Buchan at one time desired to make an anthology of them. 'It would', he said, 'put most professional stylists to shame'."

Denning further says :

Judgments have been taken down and recorded in our law books for nearly 700 years. There are to be found there 'full many a gem of purest ray serene'. When great issues have been at stake, the judgments are marked by eloquence, wisdom, and authority. They have laid the foundations of freedom in our land.

Lord Denning in his book **Due Process of Law** has compared the roles of woman and man. It reads: a **woman feels as keenly, thinks as clearly, as a man. She in her sphere does work as useful as man does in his. She has as much right to her freedom – develop her personality to the full – as a man. When she marries, she does not become the husband's servant but his equal partner. If his work is more important in life of the community, her's is more important in the life of the family. Neither can do without the other. Neither is above the other or under the other. They are equal.** What a comparison! Matchless.

Justice P.B. Gajendragadkar, former Chief Justice of India in his autobiography : **To The Best of My Memory** records : **Venkatarama Iyer** was a great judge. Well-versed in statutory law, master of case law, sound in the principles and philosophy or law, lucid in the exposition of law, sound in his conclusions, patient to the Bar, his judgments read like literature and with all that he was so humble, so modest, so appreciative of other people's merits. He was a trained musician and a great Sanskrit scholar. He knew Upanishadic philosophy, Rigveda and the Bhagavad Gita by heart and was capable of speaking on any facet of Hindu philosophy with mastery. I have come across few judges like **Venkatarama Iyer** in my life.

Literary flavour can be tasted in the judgment of Justice V.R. Krishna Iyer in Maru Ram vs. Union of India, 1980 AIR 2147:

"A procession of 'life convicts' well over two thousand strong, with more joining the march even as the arguments were on, has vicariously mobbed this court, through the learned counsel, carrying constitutional missiles in hand and demanding liberty beyond the bars…… Their despair is best expressed in the bitter lines of **Oscar Wilde**:

> **I know not whether Laws be right,**
> **or whether Laws be wrong,**
> **All that we know who lie in gaol,**
> **Is that the wall is strong;**
> **And that each day is like a year,**
> **A year whose days are long.'**

Justice R.F. Nariman in Shreya Singal vs. Union of India, (2015) 5 SCC 1 dealt with Article 19 of the Constitution – Right to Freedom of Speech and Expression. In para 13 (pp 130-31) it is recorded as under :

> "13. This leads us to a discussion of what is the content of the expression "freedom of speech and expression". There are three concepts which are fundamental in understanding the reach of this most basic of human rights. The first is discussion, the second is advocacy, and the third is incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1) (a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in."

In footnote no.9, it is recorded:

> "A good example of the difference between advocacy and incitement is Mark Antony's speech in **Shakespeare's** immortal classic **Julius Caesar**. **Mark Antony** begins cautiously. Brutus is chastised for calling Julius Caesar ambitious and is repeatedly said to be an "honourable man". He then shows the crowd **Caesar's** mantle and describes who stuck **Caesar** where. It is at this point, after the interjection of two citizens from the crowd, that **Antony** says :

(Full speech of Mark Anthony is reproduced)

The Summit Court has recently held that **'Privacy' is a constitutionally protected right**. 9 Judges bench. 5 Judgments. Each one has given literary flavour. This judgment cannot be ignored, if you wish to taste the richness and the aroma of literary wealth. **Justice D.Y. Chandrachud** has over-ruled Senior Chandrachud's Judgment in ADM Jabalpur. A story within a story. The younger Chandrachud says :

> 'Neither life nor liberty are bounties conferred by the State nor does the Constitution create these rights. The right to life has existed even before the advent of the Constitution. In recognising the right, the Constitution does not become the sole repository of the right.'

Therefore, during emergency, the suspension of Article 21 cannot amount to – no right to life or personal liberty.

Justice J. Chelmeswar beautifully records :

> '…the silences of the Constitution are also to be ascertained to understand the Constitution.'

Justice Sanjay Kishan Kaul opines :

> 'The Constitution and its all encompassing spirit forever grows, but never ages.'

Justice R.F. Nariman unfolds when he records:

> 'It is as a result of Constitutional interpretation that after Maneka Gandhi, Article 21 has been repository of a vast multitude of human rights.'

Justice S.A. Bobde reminds :

> '… privacy is more than merely a derivative Constitutional right. It is the necessary and unavoidable logical entailment of rights guaranteed in the text of the Constitution.'

The net result is so much of Constitutional literature meaning thereby more of Constitutional Jurisprudence. Constitutional literature adds to the durability of the Constitution. The Constitution becomes an enduring and growing document of literature. Law and literature are inseparable. They are like the siamese twins. They are blended together.

Balram K. Gupta

LATEST CASES: CIVIL

"Law alone also cannot help in restoring a balance in the biospheric disturbance. Nor can funds help effectively. The situation requires a clear perception and imaginative planning. It also requires sustained effort and result oriented strategic action."

Ranganath Mishra,C.J. in M.C. Mehta v. Union of India, (1991) 2 SCC 353

M.C. Mehta vs. Union of India and Ors. : MANU/SCOR/48791/2017: I.A. No.57183/2017 in WP (Civil) No.13381/1984 : DoD 20.11.2017: No Multi-Level Parking in Taj Trapezium Zone: 'Let Tourists Walk Around the World Heritage Site' – Held **–** The Supreme Court bench declined to grant permission for the construction of a multi-level parking in the Taj Trapezium Zone (TTZ), asking the Uttar Pradesh government to let tourists walk in the 10,400 sq. ft. stretch surrounding the historic Taj Mahal rather than commute by vehicles. ***"It would be better for the tourists to walk around the world heritage site rather than travel by cars,"*** remarked the bench, declining to allow the state's application for the construction of the parking. The bench further issued notice to the TTZ Authority to show ***"If there is any comprehensive action plan for protection of Taj Mahal not only from environment point of view but also in regard to other aspects and also to produce the vision document"***.

Naveen Sharma vs. The State of Rajasthan Ors. : MANU/SCOR/48481/2017: Petition for SLP (C) No. 34811/2013 : DoD 16.11.2017 – Summit Court restraints 82 Quarry Holders for Illegal 'Bajri' Mining in Rajasthan – Held **–** The Supreme Court bench expressing displeasure at the continued mining of minor mineral 'bajri' in the state of Rajasthan without any environmental clearances and replenishment studies, restrained 82 mining lease or quarry holders from carrying out mining till the said prerequisites are complied with. The apex court observed, ***"It is quite obvious that the Ministry of Environment, Forests and Climate Change (MoEF & CC) is not concerned about the degradation of the environment in Rajasthan and what is even worse is that the State of Rajasthan is totally unconcerned about it."*** The Bench further said that ***"We are horrified with what is happening in the State of Rajasthan with regard to bajri and sand mining. For several months, if not years, without any environmental clearance and without any scientific replenishment study, unabated mining is going on by 82 parties before us."***

M.C. Mehta vs. Union of India & Ors.: WP (Civil) No. 13029/1985 : DoD 17.11.2017 : Supreme Court urges States and UTs to Ban Furnace Oil and Pet-coke; Issues Notice to Centre on Substitution of Natural Gas for Coal – Held **–** The Supreme Court bench urged all state governments and Union Territories to issue similar directions prohibiting the use of pet-coke and furnace oil by any industry, operation or process within their jurisdiction as issued by the Union Ministry of Environment, Forests and Climate Change (MoEF & CC) and the Central Pollution Control Board (CPCB) under Section 5 of the Environment Protection Act of 1986 with regard to the states of Rajasthan, Haryana and Uttar Pradesh. The CPCB direction dated November 15, passed in the wake of the October 24 order of the same bench banning the use of petcoke and furnace oil in the three states with a view to curb the menace of air pollution in Delhi, clarifies that it extends in application to the entire state and not merely the National Capital Region (NCR).The various recommendations made to the Government of India include making functional the cleanest energy power plant in India, the Bawana gas power plant; reviewing the status of existing coal-based power plants to replace coal with gas; bringing natural gas within the purview of the GST mandate and the natural gas-based power plants under the 'must-run' category to make preferential the sale of power so produced; banning the import of petcoke; and implementation of the 2015 emission standards for power plants as set by the MoEF & CC w.e.f. December 1.

Sagar Pandurang Dhundare vs. Keshav Aaba Patil & Ors. : MANU/SC/1455/2017: Civil Appeal Nos. 2306-2307 and 5132-5133 of 2017: DoD 13.11.2017: A Family Member of Encroacher of Govt. Land can't be Disqualified from being Panchayat Member – Held **–** Interpreting Section 14 of the Maharashtra Village Panchayats Act, which disqualifies an encroacher from being a member of Panchayat, the Supreme Court,

observed that only the original encroacher, who has encroached upon the government land or public property, is liable to be disqualified, and not his family member. The Hon'ble Bench was dealing with the contention that the father/grandfather of the elected members of Panchayat were encroachers and they were the beneficiaries of the encroachment. It was urged that the beneficiary of an encroachment was also an encroacher. The court referred to the conflicting decisions on this aspect by Bombay High Court and observed that if there is no statutory expression of the intention, the court cannot supply words for the sake of achieving the alleged intention of the law maker. The bench stated that "***When the intent of the legislature was to disqualify a member for the act of his family, it has specifically done so."*** Further Held – "***The Court, in the process of interpretation, cannot lay down what is desirable in its own opinion, if from the words used, the legislative intention is otherwise discernible. The person, who has encroached upon the Government land or public property, as the law now stands, for the purpose of disqualification, can only be the person, who has actually, for the first time, made the encroachment. However, in view of Section 53(1) of the Act, in case a member has been punished for encroachment, he shall be dismissed. Similarly, a member against whom there is a final order of eviction under Section 53(2) or (2A) shall also not be entitled to continue as a member."***

Maharashtra Forest Guards and Foresters Union vs. The State of Maharashtra & Ors.: 2017 (13) SCALE 234 : The apex court declares Maharashtra Forest Dept. Rule Mandating Graduation to be Prerequisite of Examination for Promotion as Unconstitutional – Held **–** A two judge bench of the Supreme Court examined the question of whether an education qualification, set as a prerequisite for a candidate to be deemed eligible to take part in an examination intended to serve as a benchmark for the grant of promotion, could be said to be in contravention of Article 14 and 16 of the Constitution. Relying on the ratio in ***TR Kothandaraman and Ors. vs. Tamil Nadu Water Supply and Drainage BD and others, (1994) 6 SCC 282***, the Supreme Court ruled that by virtue of there not being any reservation in promotions in favour of Forest Guards holding a graduate degree, subsequently subject to inter se merit in the competitive examination, and the additional requirement of being a graduate operating solely as an eligibility criterion to participate in the examination, the same is violative of Articles 14 and 15 of the Constitution. Consequently, Rule 7(2) of the Rules of 1987, mandating a candidate to be a graduate in order to appear in the Limited Departmental Competitive Examination, was declared unconstitutional.

Uttarakhand Transport Corporation (earlier known as U.P.S.R.T.C.) & Ors. vs. Sukhveer Singh : 2017 (13) SCALE 365 – The Respondent was a driver with the Appellants. On 27th October, 1995 while driving a vehicle on Karnal – Haridwar route, the Respondent did not stop the vehicle when signaled and the inspection team had to follow the vehicle. On verification, 61 passengers were found travelling without a ticket. The Respondent was placed under suspension and disciplinary proceedings were initiated by issuance of a charge sheet.

A reference was made to the labour court which was answered in favour of the Respondent on 15th November, 2007. The writ petition filed by the Respondent challenging the award of the labour court was allowed by the High Court and the labour court was directed to reconsider the matter. After remand, the labour court by an award dated 12th September, 2011 upheld the order of dismissal of the Respondent from service.

The Respondent challenged the award of the labour court in the High Court. The High Court allowed the writ petition and set aside the dismissal order. The present Appeal is filed by the employer against the judgment of the High Court by which the order of dismissal of the Respondent – driver from service was set aside by the High Court. The Respondent contended that the punishment of dismissal is disproportionate to the delinquency and he was working as a driver and the irregularity in issuance of tickets was committed by the conductor. The apex court agreed with the findings of the inquiry officer which were accepted by the disciplinary authority and approved by the appellate authority and held that the Respondent had committed the misconduct in collusion with the conductor. It is no more res integra that acts of corruption /misappropriation cannot be condoned, even in cases where the amount involved is meager.

LATEST CASES: CRIMINAL

"Rape is one of the most depraved acts. The iniquitous, flagitious act becomes abdominal when the victim is a child. The diabolic act reaches the lowest level of humanity when the rape is followed by brutal murder."

Dr. Arijit Pasayat,J. in State of U.P vs. Satish, (2005) 3 SCC114

Ram Ishwar Rai vs. State of Bihar: MANU/SCOR/47611/2017: Criminal Appeal No. 188 of 2015: DoD 09.11.2017: Despite inconsistencies in statements by Minor Rape Victim, SC upholds Conviction but reduces sentence – Held **–** The Supreme Court has upheld the conviction of a man accused of raping a minor, even though it found that there were inconsistencies in the statements given by the prosecutrix. The bench observed that the evidence of the prosecutrix is not wholly consistent with her statements under Section 164, Cr.P.C. The bench further said that ***"She says at one place that she was alone at home. In her evidence in Court, she says that her sister was with her. Secondly, though the prosecutrix claimed that there were injuries on her lips and near her private parts, neither there is medical certificate to show external injuries."*** The court, however said that it is not possible to acquit the appellant of the offence, in view of the statement made by the prosecutrix that she was in fact raped by the three accused near her house when she had gone out to attend the call of the nature. Further Held - that ***"It is not possible to discredit her testimony about the incident which took place when she was 13 years old"*.** The court then ordered to reduce the sentence imposed upon the appellant from 10 years to a period of 8 years already undergone.

National Insurance Company Limited vs. Pranay Sethi & Ors. : 2017 (13) SCALE 12 : SC Constitution Bench Issues Guidelines On Fixation Of Future Prospects For Deciding Motor Accident Claims – Held **–** The Supreme Court Constitution Bench on hearing a reference by a two Judge Bench to resolve the conflicting opinion between the three Judge Bench Judgments in ***Reshma Kumari and others v. Madan Mohan*** and another and ***Rajesh and others v. Rajbir Singh and others*** issued guidelines on fixation of future prospects for deciding compensation in motor accident claim. The seminal controversy before the Court was, ***"where the deceased was self-employed or was a person on fixed salary without provision for annual increment, etc., what should be the addition as regards the future prospects"***. The Bench observed that Section 168 of the Act deals with the concept of ***"just compensation"*** and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude."***It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of "just compensation" has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for compensation. It cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, "just compensation"".*** According to the bench, the determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. **Fixation of future prospects in cases of deceased who is self-employed or on a fixed salary:** The Court observed that if it accepts the principle of standardization, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. ***"To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act".*** The Bench observed that in case of a deceased who had

held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. "The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job, yet the said perception does not really deserve acceptance. We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of standardization on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality. And, therefore, degree-test is imperative. Unless the degree-test is applied and left to the parties to adduce evidence to establish, it would be unfair and inequitable. The degree-test has to have the inbuilt concept of percentage. Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable". **Whether there should be no addition where the age of the deceased is more than 50 years:** "When a person is in a permanent job, there is always an enhancement due to one reason or the other. To lay down as a thumb rule that there will be no addition after 50 years will be an unacceptable concept. We are disposed to think, there should be an addition of 15% if the deceased is between the age of 50 to 60 years and there should be no addition thereafter. Similarly, in case of self-employed or person on fixed salary, the addition should be 10% 47 between the age of 50 to 60 years. The aforesaid yardstick has been fixed so that there can be consistency in the approach by the tribunals and the courts".

Siba Bisoyi vs. State of Odisha: 2017 (4) RCR (Crl.) 409 SC: Law Finder Doc Id: 902693 : Section 7A Juvenile Justice Act, 2000, Rule 12 of Rules 2007 - Hon'ble Apex Court held that a specific procedure is laid down u/s 7A of JJ Act read with Rule 12 of JJ Rules, which has to be followed while determining the juvenility of a person. The matriculation certificate issued by the Secondary Education, Odisha and the certificates of school and the admission register serve as a conclusive proof for his date of birth.

Ratanlal vs. Prahlad Jat: 2017 (4) RCR (Crl.) 410 : Law Finder Id : 900876: Section 311 Cr.P.C. – In this case, charges were framed against the accused u/s 302, 201, 342, 120B IPC. Statements of 28 witnesses were recorded. Thereafter PW4 and PW5 moved applications before the Sessions Judge u/s 311 Cr.P.C for re-recording their statements on the ground that the previous statements were made under the influence of the police. In the applications, the witnesses stated that the respondents No.1 & 2 had no role in the incident. The Sessions Judge dismissed the application observing that 28 witnesses had already been examined. The witnesses were crossed at length and it cannot be said that they were in any kind of pressure. The order of the Sessions Judge was set aside by the High Court. The question before the Hon'ble Apex Court was as to whether the High Court was justified in setting aside the order of the Sessions Judge and allowing the applications filed by PW 4 & PW 5 for their re-examination. Apex Court rejecting the order of the High Court held that the object of the provision of Section 311 is to do justice not only from the point of view of accused and the prosecution but also from the point of view of an orderly society. This power has to be exercised only for strong and valid reasons with caution, not as a matter of course. It was obvious that they had been won over. Such application cannot be allowed.

NOTIFICATION

The Punjab Financial Corporation Chandigarh has floated "**one time settlement policy for loan portfolios**". The policy has covered small loan cases upto to Rs. 5 lacs and the loan cases above Rs. 5 lacs with different benefits and payment schedules to the borrowers. The Punjab Financial Corporation has issued a comprehensive scheme known as OTS Scheme. It has been also mentioned in terms and conditions no. iv that the companies loanees opting for OTS scheme shall withdraw their cases in courts/ DRT etc. if any. Since the courts are now going to hold National Lok Adalat on 15.12.2017 and the loanees and the companies can be persuaded by way of the present notification to get settled their cases in the coming Lok Adalat.

Eligibility Criteria:

All non-performing assets as on 31.3.2016 as per the Corporation's Books of Accounts and certified by Statutory Auditors of PFC.

II. OTS Amount

a) **(SMALL LOAN CASES UPTO RS. 5.00 LACS)**

The OTS amount for the cases where the amount disbursed is upto Rs.5.00 lacs shall be settled on the; Principal Outstanding on cut off date Plus Expenses.

b) **(SEMFEX LOAN CASES)**

Eligibility:-Cases where interest claim has been received from the State Government.

OTS amount shall be Principal Outstanding on the cut off date Plus Expenses.

c) **(LOSS ASSETS CATEGORY)**

Eligibility Criteria:- Where all the mortgaged properties i.e. prime as well as collateral security if any have been sold.

The OTS amount under Loss Assets Category is Principal Outstanding as on cut off date Plus Expenses Plus 5% of the Interest Outstanding in the loan account in the books of the Corporation on date of sale of the last of the mortgaged assets.

d) **(LOAN CASES ABOVE RS. 5.00 LACS OF DISBURSEMENT)**

(1)The total amount outstanding (Principal + Interest + Expenses) on the 1st date of Default (duly certified by a Chartered Accountant on the panel of PFC) Plus any amount disbursed after 1st date of default and simple interest @ 10%p.a. is to be charged from respective date, Less any amount paid towards principal after the 1st date of Default is to be deducted on the date of payment up to the cut-off date Plus Expenses (After 1stdate of default) in loan account with PFC. The benefit of interest amount paid by the borrower after 1st date of default shall be given. However in any case OTS amount shall not be less than the Principal Outstanding in the books of accounts of the Corporation as on cut off date Plus Expenses.

III. Terms of Payment:

(a) **Receipt of Applications – Within 90 days from the date of Notification**. This OTS policy is close-ended. No applications will be entertained after the last date mentioned herein.

(b) **Cut-Off Date** – OTS amount will be calculated on cut off date fully described in other terms & conditions hereinafter.

(c) **Interest to be charged on OTS amount** – Interest on OTS amount shall be charged @ 12% per annum (compounded quarterly) from the cut off date to the date of issuance of OTS acceptance letter.

(d) **Lump-sum payment-** Borrowers opting for lump-sum payment within 90 days of the date of settlement by PFC, shall be eligible for rebate of 5% on the interest portion of the OTS amount. No interest shall be charged on the lump-sum payment provided it is made within 90 days of the date of settlement of the proposal by PFC. However, this option has to be exercised at the time of approval of OTS.

(e) **If the OTS payment is made beyond** a period of 90 days- Balance 60% of OTS amount will be paid in eight equated quarterly installments, interest @ 12% p.a., (compounded quarterly), shall be charged from the cut-off date upto the date of receipt of full & final payment.

IV. Payment Schedule:

(a) Down payment of atleast 20% of the tentative OTS amount alongwith application by way of demand draft.

(b) Atleast 40% of OTS amount (**including the down payment already received**) within a period of 30 days from the date of issuance of OTS acceptance letter by PSIDC/PFC/PAIC or its subsidiary Companies.

(c) Balance 60% of the OTS amount shall carry interest @ 12% per annum (compounded quarterly) and payable in eight equated quarterly installments.

EVENTS OF THE MONTH

1. Hon'ble Mr. Justice A.B. Chaudhari, President, Board of Governors, CJA inaugurated on November 08, 2017 **One Month Orientation Course for Additional District Judges on Promotion from the State of Haryana**. The promotee ADJs were advised to take the criminal trials seriously. A reference was made to Kasab's case wherein the apex court had applauded the role played by the Trial Judge as the torch bearer of Rule of Law. A photocopy of the entire trial record was ordered to be kept in National Judicial Academy library for the benefit of Judges. The programme will conclude on December 07, 2017.

2. **Refresher-cum-Orientation Course** to sensitize Additional District and Sessions Judges from the States of Punjab and Haryana with regard to Compensation under various Laws was organized on 18.11.2017. This one day programme covered: Compensation under Land Acquisition Act, Compensation to the Victim under Criminal Law, Compensation under Motor Vehicle Act and a Session on Dragon Dictation Software. A visit to the Paperless Court - A Guided Tour and Mock Demonstration was also organized. 35 ADJs participated in the Refresher Course.

3. **Five Days Computer Training Programme for Staff of District Courts in the State of Haryana** was organized from November 29 to December 03, 2017. This training is divided in two components: three days by Centre for Development of Advanced Computing (C-DAC) and two days Case Information Software and NJDG Training. The participants in this training programme are technically qualified (B.Tech / M.Tech / M.C.A). This orientation programme would equip them well in the performance of court work as also they would be able to provide training to others.

FORTHCOMING EVENTS

1. One day workshop will be organized on December 02, 2017 for **training the Principal Magistrates and Members, Juvenile Justice Boards of Punjab, Haryana and Chandigarh**. Principal Magistrates and Members will participated in the workshop. This workshop will cover Production of Child before the Board, Functions of the Board, Procedure in Case of Missing Children, Post Production Processes by Board, Orders of Board, Individual Care Plan, Rehabilitation and Reintegration of Children, Use of Child Friendly Procedures, Preliminary Assessment, Presumption and Determination of Age, Provisions of Bail and Child Psychology and Behaviour of Children in Conflict with Law. The object of one day workshop is to sensitize the Principal Magistrates and the Members of the Juvenile Justice Board. There would be a second workshop on December 04 for different stakeholders under Juvenile Justice Act wherein the participants would include nominees of SIPU, CCI, DCPU/PO of Punjab, Haryana and Chandigarh.

2. **Refresher-cum-Orientation Course** to sensitize Additional District and Sessions Judges from the States of Punjab and Haryana with regard to Compensation and Sentencing on December 02, 2017. The Programme would cover – Sentencing - Law and Procedural Aspects, Compensation under Motor Vehicles Act, Dragon Dictation Software and Visit to Paperless Court.

3. **Forth Delegation and third of the year 2017 of 33 Sri Lankan Judges** will be coming to Chandigarh Judicial Academy on December 07, 2017 for one week Academic programme (from 07th-14th December, 2017). This delegation will be led by Hon'ble Justice Eva Wanasundera, Judge, Supreme Court of Sri Lanka.