



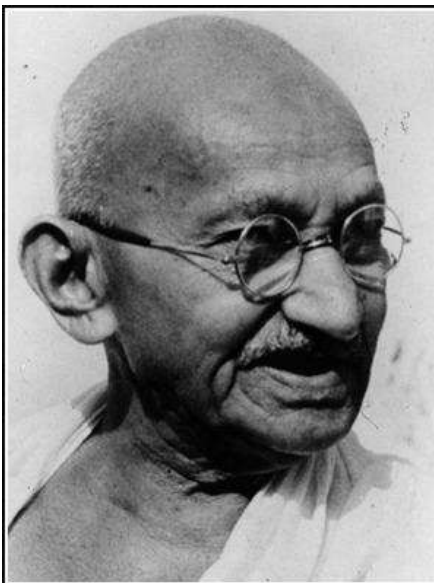
सत्यमेव जयते

# Rajasthan High Court



## ANNUAL REPORT 2018

FOREWORD BY  
**HON'BLE SHRI S. RAVINDRA BHAT**  
CHIEF JUSTICE



There is a higher court than courts  
of justice and that is the court of  
conscience. It supercedes all other  
courts.

— *Mahatma Gandhi* —

# *The Constitution of India*

## *Preamble*

*We* THE PEOPLE OF INDIA, having solemnly  
resolved to constitute India into a  
(SOVEREIGN SOCIALIST SECULAR  
DEMOCRATIC REPUBLIC) and to secure to  
all its citizens:  
JUSTICE, social, economic and political;  
LIBERTY of thought, expression, belief,  
faith and worship;  
EQUALITY of status and of opportunity;  
and to promote among them all;  
FRATERNITY assuring the dignity of the  
individual and the unity and integrity of the  
Nation;  
IN OUR CONSTITUENT ASSEMBLY this  
twenty-sixth day of November, 1949, do  
HEREBY ADOPT, ENACT AND GIVE TO  
OURSELVES THIS CONSTITUTION.



सत्यमेव जयते



S. RAVINDRA BHAT  
CHIEF JUSTICE

## FOREWORD

RAJASTHAN HIGH COURT

JODHPUR : 0291-2544391

JAIPUR : 0141-2227130

It is a matter of delight that the Rajasthan High Court is bringing out its Fourth Annual Report for the year 2018.

The present report contains all the activities of the Rajasthan High Court and its various bodies viz. Rajasthan State Judicial Academy and Rajasthan State Legal Services Authority. A brief introduction to the history of the Rajasthan High Court followed by various activities of public concern/awareness in the legal matters are at the focus in this Report. Besides, it also concentrates on the landmark judgments rendered by the Hon'ble Judges of High Court. Statistics indicators highlighting the legal accomplishment of Rajasthan High Court and Subordinate Courts are also given room in this Report.

I believe that this Annual Report would be of enormous help and use for all, especially the legal fraternity. The efforts made by the team members deserve appreciation.

I wish the publication a grand success.

  
(S. Ravindra Bhat)



# *Upcoming Building of Rajasthan High Court*



**LIST OF SITTING HON'BLE JUDGES IN  
RAJASTHAN HIGH COURT AS ON 31.12.2018**

<b>S. No.</b>	<b>NAME OF HON'BLE JUDGES</b>
<b>01.</b>	<b>HON'BLE MR. JUSTICE PRADEEP NANDRAJOG, CHIEF JUSTICE</b>
<b>02.</b>	<b>HON'BLE MR. JUSTICE MOHAMMAD RAFIQ</b>
<b>03.</b>	<b>HON'BLE MR. JUSTICE SANGEET RAJ LODHA</b>
<b>04.</b>	<b>HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI</b>
<b>05.</b>	<b>HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA</b>
<b>06.</b>	<b>HON'BLE MRS. JUSTICE SABINA</b>
<b>07.</b>	<b>HON'BLE MR. JUSTICE ALOK SHARMA</b>
<b>08.</b>	<b>HON'BLE MR. JUSTICE SANDEEP MEHTA</b>
<b>09.</b>	<b>HON'BLE MR. JUSTICE PRATAP KRISHNA LOHRA</b>
<b>10.</b>	<b>HON'BLE MR. JUSTICE VEERENDR SINGH SIRADHANA</b>
<b>11.</b>	<b>HON'BLE MR. JUSTICE VIJAY BISHNOI</b>
<b>12.</b>	<b>HON'BLE MR. JUSTICE ARUN BHANSALI</b>
<b>13.</b>	<b>HON'BLE MR. JUSTICE MAHENDRA KUMAR MAHESHWARI</b>
<b>14.</b>	<b>HON'BLE MR. JUSTICE BANWARI LAL SHARMA</b>
<b>15.</b>	<b>HON'BLE MR. JUSTICE PRAKASH GUPTA</b>
<b>16.</b>	<b>HON'BLE MR. JUSTICE G. R. MOOLCHANDANI</b>
<b>17.</b>	<b>HON'BLE MR. JUSTICE GOVERDHAN BARDHAR</b>
<b>18.</b>	<b>HON'BLE MR. JUSTICE PANKAJ BHANDARI</b>
<b>19.</b>	<b>HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA</b>
<b>20.</b>	<b>HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI</b>

<b>S. No.</b>	<b>NAME OF HON'BLE JUDGES</b>
<b>21.</b>	<b>HON'BLE MR. JUSTICE DINESH MEHTA</b>
<b>22.</b>	<b>HON'BLE MR. JUSTICE VINIT KUMAR MATHUR</b>
<b>23.</b>	<b>HON'BLE MR. JUSTICE ASHOK KUMAR GAUR</b>
<b>24.</b>	<b>HON'BLE MR. JUSTICE MANOJ KUMAR GARG</b>
<b>25.</b>	<b>HON'BLE MR. JUSTICE INDERJEET SINGH</b>

**LIST OF JUDICIAL OFFICERS POSTED IN REGISTRY**  
**(As on 31.12.2018)**

<b>(I) – RAJASTHAN HIGH COURT, JODHPUR</b>		
<b>1.</b>	<b>SATISH KUMAR SHARMA</b>	<b>REGISTRAR GENERAL</b>
<b>2.</b>	<b>BHUWAN GOYAL</b>	<b>REGISTRAR-CUM-PRINCIPAL SECRETARY TO HON'BLE C.J.</b>
<b>3.</b>	<b>ANOOB KUMAR SAXENA</b>	<b>REGISTRAR (ADMN.)</b>
<b>4.</b>	<b>BRAJENDRA KUMAR JAIN</b>	<b>REGISTRAR (EXAMINATION)</b>
<b>5.</b>	<b>SURENDRA SINGH</b>	<b>REGISTRAR (RULES)</b>
<b>6.</b>	<b>RANDHEER SINGH MIRDHA</b>	<b>REGISTRAR (CLASSIFICATION)</b>
<b>7.</b>	<b>MAHESH PUNETHA</b>	<b>O.S.D., (FINANCE-CUM-INFRASTRUCTURE) RHC, JODHPUR</b>
<b>8.</b>	<b>MUKESH</b>	<b>DEPUTY REGISTRAR (EXAMINATION)</b>
<b>9.</b>	<b>RAJESH JAIN</b>	<b>DEPUTY REGISTRAR (EXAMINATION)</b>
<b>10.</b>	<b>NEERAJ BHAMU</b>	<b>DEPUTY REGISTRAR (JUDICIAL)</b>
<b>11.</b>	<b>SANUJ KULSHRESTHA</b>	<b>OFFICER ON SPECIAL DUTY (W.A.)</b>

<b>(II) – RAJASTHAN HIGH COURT BENCH, JAIPUR</b>		
<b>1.</b>	<b>BRIJESH KUMAR DANGRA</b>	<b>REGISTRAR (VIGILANCE)</b>
<b>2.</b>	<b>BHARAT BHUSHAN GUPTA</b>	<b>REGISTRAR (ADMINISTRATION)</b>
<b>3.</b>	<b>MADAN LAL BHATI</b>	<b>REGISTRAR (WRITS)</b>
<b>4.</b>	<b>DR. NAMITA DHAND NEE VASHISHTHA</b>	<b>REGISTRAR (CLASSIFICATION)</b>
<b>5.</b>	<b>NEERAJ KUMAR BHARDWAJ</b>	<b>REGISTRAR CUM C.P.C.</b>
<b>6.</b>	<b>PRAVEEN KUMAR MISHRA</b>	<b>DEPUTY REGISTRAR (JUDICIAL)</b>
<b>7.</b>	<b>MOHIT SHARMA</b>	<b>OFFICER ON SPECIAL DUTY</b>



## CONTENTS

<b>S.No.</b>	<b>Chapters</b>	<b>Page</b>
<b>1</b>	<b>Introduction, Brief History and Background</b>	<b>1 - 5</b>
<b>2</b>	<b>Main Activities/ Events/ Initiatives during the year</b>	<b>6 – 11</b>
<b>3</b>	<b>Landmark Decisions of Public Importance</b>	<b>12 – 47</b>
<b>4</b>	<b>Status of Infrastructure of High Court and District/ Subordinate Courts</b>	<b>48 – 49</b>
<b>5</b>	<b>Sanctioned Strength, Working Strength and Vacancies of Judges in High Court and District/ Subordinate Courts.</b>	<b>50</b>
<b>6</b>	<b>Human Resource Development</b>	<b>51 – 58</b>
<b>7</b>	<b>Status of Computerization of High Court and District / Subordinate Courts</b>	<b>59 – 72</b>
<b>8</b>	<b>Financial Statement of Budget and Expenditure</b>	<b>73 – 75</b>
<b>9</b>	<b>Functioning of Grievance Redressal Mechanism</b>	<b>76</b>
<b>10</b>	<b>Working of State Legal Services Authority and District Legal Services Authorities and Status on Legal-aid to Poor. Number of Beneficiaries of different categories.</b>	<b>77 – 85</b>
<b>11</b>	<b>Working of Alternative Dispute Resolution Mechanism-ADR Centres, Permanent Lok Adalats/Lok Adalats. Number of cases Disposed of, Number of Lok Adalats held etc.</b>	<b>86</b>
<b>12</b>	<b>Broad Performance Indicators based on analysis of Judicial Statistics.</b>	<b>87 – 90</b>

# **1. INTRODUCTION, BRIEF HISTORY AND BACKGROUND**

## **Historical Perspective**



A cluster of Princely States with an oasis known as Ajmer-Merwara, a British India Territory, was given geographical expression as Rajputana. These twenty one Rajputana States before 20<sup>th</sup> Century A.D. were dynastic of which the Rulers also known as Princes were the fountain head of all Executive, Legislative and Judicial Authority in the States. In every State there were Jagirdars. In some States they were known as Kotri Thikanas. People had no role in administration in these States and there were no democratic institutions. People desperately awaited liberation from feudal clutches and their emancipation. As soon as the country got freedom from British Imperialism, the rule of Princely States became a history. The dynamic Home Minister of India Sardar Vallabh Bhai Patel started the process of integration of the States to form bigger units and in the process the State of Rajputana evolved in March 1948.

A greater Rajasthan was formed when Jaipur, Jodhpur, Bikaner and Jaisalmer also joined the United States of Rajasthan. The Ex-Ruler of Udaipur was made Maharaj Pramukh with Sawai Man Singh of Jaipur as Raj Pramukh. This new State of Rajasthan was inaugurated by Sardar Vallabh Bhai Patel on 30.03.1949 and came into existence on 07.04.1949. Despite the constitution of the State of Rajasthan, the High Court was not formally established. The existing arrangements in these newly joined States continued.

The process of integration of all States was completed only when Matsya Union also merged on 15.05.1949. The First High Court of Rajasthan was inaugurated by H.H. Maharaja Sawai Man Singh Ji of Jaipur at Jodhpur on 29.08.1949.



Hon'ble Chief Justice Kamala Kant Verma and 11 other Judges were administered the oath of office by Maharaja Sawai Man Singh of Jaipur at Jodhpur High Court premises on 29.08.1949. These 11 Judges represented most of the Princely States, except Hon'ble Chief Justice Kamala Kant Verma, who came from the High Court of Allahabad. Hon'ble Mr. Justice Naval Kishore and Hon'ble Mr. Justice Amer Singh of Jasol from Jodhpur, Hon'ble Mr. Justice K.L. Bapna, Hon'ble Mr. Justice Ibrahim from Jaipur, Hon'ble Mr. Justice J.S. Ranawat and Hon'ble Mr. Justice Shardul Singh Mehta from Udaipur, Hon'ble Mr. Justice D.S. Dave from Bundi, Hon'ble Mr. Justice Tirlochan Dutt from Bikaner, Hon'ble Mr. Justice Anand Narain Kaul from Alwar, Hon'ble Mr. Justice K.K. Sharma from Bharatpur, Hon'ble Mr. Justice Khem Chand Gupta from Kota were the first Hon'ble Judges of the High Court. The Principal Seat of High Court was kept at Jodhpur and the Benches at Kota, Jaipur and Udaipur.





The Constitution of India came into force on 26.01.1950, in which the State of Rajasthan was given the status of 'B' Class State. The strength of the High Court Judges also reduced. Hon'ble Chief Justice Verma could not be continued and had to lay down his office as he had completed the age of 60 years. On the vacancies caused by retirement of Hon'ble Mr. Justice Naval Kishore and Justice Ibrahim, two eminent lawyers viz. Sh. Indra Nath Modi from Jodhpur and Shri D.M. Bhandari from Jaipur were elevated to the Bench.



In 1956, State Re-organization Act was passed. On the recommendation of State Re-organization Commission, the Union Territory of Ajmer Merwara which had the status of Part 'C' States, Abu, Sunel and Tappa areas merged into the State of Rajasthan. The reorganized unit constituted the State of Rajasthan which was given the status of 'A' Class State on 01.11.1956.

The Rajasthan High Court as 'A' Class State, started with the strength of only 6 Judges. The then Chief Justice of India, Hon'ble Mr. Justice S. R. Das came to Rajasthan to examine the Judge strength of the High Court. He observed the functioning of the High Court by sitting with the Hon'ble Judges in the Court and found that all the 6 Judges were fit to be appointed and on his recommendation, the President of India, issued fresh warrants of appointment, on which fresh oath taking ceremony took place on 01.11.1956. Four Hon'ble Judges viz. Justice K. L. Bapna, Justice J. S. Ranawat, Justice K. K. Sharma and Justice D. M. Bhandari at that time functioned at the Jaipur Bench, while Justice D.S. Dave and Justice Indra Nath Modi used to sit at Jodhpur, Chief Justice Kailash Wanchoo sitting at both places.

The Bench at Jaipur was initially abolished in the year 1958. It was re-established with effect from 31.01.1977. The strength of the High Court Judges since thereafter has increased. At present the Rajasthan High Court has sanctioned strength of 50 Judges.



**Current Status**

The State judiciary is constituted of 35 Judgeships comprising of 551 Courts of District Judge Cadre, 318 Courts of Sr. Civil Judge Cadre and 468 Courts of Civil Judge Cadre. There are 440 outlying Courts, functioning under respective District Courts, dispensing justice to the people of the State, working under the overall superintendence of the High Court.

The Rajasthan High Court Rules, 1952, as amended from time to time, regulate the administrative business and judicial work in the High Court.

The cadre-wise strength of Judicial Officers in the Subordinate Judiciary is as follows :-

CADRE	SANCTIONED STRENGTH	WORKING STRENGTH	VACANT POSTS
District Judge Cadre	551	487 (Including 122 Ad-hoc)	64
Senior Civil Judge Cadre	318	258 (Including 109 Ad-hoc)	60
Civil Judge Cadre	468	356 (Including 02 Trainee Officers)	112

Rajasthan has 35 Judgeships, 19 of which fall under the jurisdiction of Rajasthan High Court Principal Seat, Jodhpur whereas 16 are under the jurisdiction of Rajasthan High Court Bench, Jaipur.

PRINCIPAL SEAT, JODHPUR	BENCH AT JAIPUR
BALOTRA	AJMER
BANSWARA	ALWAR
BHILWARA	BARAN
BIKANER	BHARATPUR
CHITTORGARH	BUNDI
CHURU	DAUSA
DUNGARPUR	DHOLPUR
GANGANAGAR	JAIPUR DISTRICT
HANUMANGARH	JAIPUR METRO
JAISALMER	JHALAWAR
JALORE	JHUNJHUNU
JODHPUR DISTRICT	KARAULI
JODHPUR METROPOLITAN	KOTA
MERTA	SAWAI MADHOPUR
PALI	SIKAR
PRATAPGARH	TONK
RAJSAMAND	
SIROHI	
UDAIPUR	



## **2. MAJOR EVENTS OF THE YEAR 2018**

The 69th Republic Day Celebration was held on 26.01.2018 in the premises of Rajasthan High Court, Jodhpur and Bench at Jaipur. Hon'ble the Chief Justice Mr. Pradeep Nandrajog unfurled the National Flag at the Rajasthan High Court Bench, Jaipur. Hon'ble Mr. Justice K.S. Jhaveri presided over the Ceremony at the Principal Seat of Rajasthan High Court, Jodhpur.

August presence of Hon'ble Sitting Judges, Officers of the Registry, Members of Bar Association, Former Judges and Staff made the occasion resonate with patriotic vibes.



**Flag hoisting by Hon'ble Mr. Justice Pradeep Nandrajog, Chief Justice, Rajasthan High Court at Jaipur on the Republic Day, 26.01.2018.**



**Flag hoisting by Hon'ble Mr. Justice K.S. Jhaveri, Judge, Rajasthan High Court at Jodhpur on the Republic Day, 26.01.2018.**



**Reference Ceremony of Hon'ble Mr. Justice Ajay Rastogi, Judge, Rajasthan High Court on his transfer to Tripura High Court as Chief Justice on 28.02.2018.**

Hon'ble Mr. Justice Gopal Krishan Vyas, Judge, Rajasthan High Court attended a two days' meeting of Hon'ble Judges In-charge of Judicial Education and Directors of State Judicial Academies held on 14.04.2018 and 15.04.2018 at National Judicial Academy, Bhopal.

Hon'ble Mrs. Justice Sabina, Judge, Rajasthan High Court, participated in the 'West Zone Regional Judicial Conference' held from 07.04.2018 to 08.04.2018 at Maharastra Judicial Academy, Uttan, Thane.

Hon'ble Mr. Justice Alok Sharma, Judge, Rajasthan High Court, participated in P-1098: 'National Judicial Conference for High Court Justices' held from 04.05.2018 to 06.05.2018 at National Judicial Academy, Bhopal.

Hon'ble Mr. Justice Sandeep Mehta, Judge, Rajasthan High Court, participated in P-1095: 'National Judicial Conference for High Court Justices' held from 20.04.2018 to 22.04.2018 at National Judicial Academy, Bhopal.

Hon'ble Mr. Justice Arun Bhansali, Judge, Rajasthan High Court, participated in P-1082: 'National Judicial Conference for High Court Justices' held from 02.02.2018 to 04.02.2018 at National Judicial Academy, Bhopal.

Hon'ble Mr. Justice Mahendra Kumar Maheshwari, Judge, Rajasthan High Court, participated in P-1097: 'National Judicial Conference for High Court Justices on the Regime of Goods and Services Tax' held from 27.04.2018 to 29.04.2018 at National Judicial Academy, Bhopal.

Hon'ble Mr. Justice Banwari Lal Sharma, Judge, Rajasthan High Court, participated in P-1086: 'National Judicial Conference for High Court Justices on the Regime of Goods and Services Tax' held from 09.02.2018 to 11.02.2018 at National Judicial Academy, Bhopal.

Hon'ble Mr. Justice Prakash Gupta, Judge, Rajasthan High Court, participated in P-1089: 'National Judicial Conference for High Court Justices' held from 09.03.2018 to 11.03.2018 at National Judicial Academy, Bhopal.



Hon'ble Mr. Justice G.R. Moolchandani, Judge, Rajasthan High Court, participated in P-1091: 'National Judicial Conference for High Court Justices' held from 23.03.2018 to 25.03.2018 at National Judicial Academy, Bhopal.

Hon'ble Mr. Justice Inderjeet Singh, Judge, Rajasthan High Court, participated in P-1080: 'National Judicial Conference for Newly elevated High Court Judges on Public Law' held from 19.01.2018 to 21.01.2018 at National Judicial Academy, Bhopal.

The 72nd Independence Day Celebration was held on 15.08.2018 in the premises of Rajasthan High Court, Jodhpur and Bench at Jaipur. The National Flag was hoisted by Hon'ble the Chief Justice Mr. Pradeep Nandrajog at Jaipur and Hon'ble Mr. Justice Sangeet Raj Lodha at Jodhpur. The occasion was marked by the benign presence of Hon'ble Sitting Judges, Hon'ble Former Judges, Learned Advocates, Members of the Bar, Officers of the Registry and High Court Staff.



**Flag Hoisting Ceremony at Rajasthan High Court Bench, Jaipur on the occasion of the Independence Day, 15.08.2018.**



**Flag Hoisting Ceremony at Rajasthan High Court, Jodhpur on the occasion of the Independence Day, 15.08.2018.**

On the occasion of superannuation of Hon'ble Mr. Justice Ramchandra Singh Jhala on 02.07.2018, superannuation of Hon'ble Mr. Justice Gopal Krishan Vyas on 06.07.2018 and superannuation of Hon'ble Mr. Justice Deepak Maheshwari on 27.07.2018, Reference Ceremonies were organized at Rajasthan High Court, Jodhpur and Bench at Jaipur.



**Reference Ceremony at Rajasthan High Court, Jodhpur on the eve of superannuation of Hon'ble Mr. Justice Ramchandra Singh Jhala on 02.07.2018.**



**Reference Ceremony at Rajasthan High Court, Jodhpur on the eve of superannuation of Hon'ble Mr. Justice Gopal Krishan Vyas on 06.07.2018.**



**Reference Ceremony at Rajasthan High Court Bench, Jaipur on the eve of superannuation of Hon'ble Mr. Justice Deepak Maheshwari on 27.07.2018.**

Hon'ble Mr. Justice Kalpesh Satyendra Jhaveri, Judge, Rajasthan High Court has been appointed as the Chief Justice of Orissa High Court on 12.08.2018. A Reference Ceremony was organized on 09.08.2018 at Rajasthan High Court Bench, Jaipur.





**Reference Ceremony at Rajasthan High Court Bench, Jaipur on the eve of transfer of Hon'ble Mr. Justice Kalpesh Satyendra Jhaveri as Chief Justice of Orissa High Court on 09.08.2018.**

On the occasion of superannuation of Hon'ble Mr. Justice Vijay Kumar Vyas on 28.08.2018, superannuation of Hon'ble Dr. Justice Virendra Kumar Mathur on 31.08.2018 and superannuation of Hon'ble Mr. Justice Dinesh Chandra Somani on 31.10.2018, Reference Ceremonies were organized at Rajasthan High Court, Jodhpur and Bench at Jaipur.



**Reference Ceremony at Rajasthan High Court Bench, Jaipur on the eve of superannuation of Hon'ble Mr. Justice Vijay Kumar Vyas on 28.08.2018.**



**Reference Ceremony at Rajasthan High Court, Jodhpur on the eve of superannuation of Hon'ble Dr. Justice Virendra Kumar Mathur on 31.08.2018.**



**Reference Ceremony at Rajasthan High Court Bench, Jaipur on the eve of superannuation of Hon'ble Mr. Justice Dinesh Chandra Somani on 31.10.2018.**

Hon'ble Kumari Justice Nirmaljit Kaur has been transferred to Punjab and Haryana High Court on 08.11.2018. Reference ceremony was organised on 15.11.2018 at Rajasthan High Court, Jodhpur.



**Reference Ceremony at Rajasthan High Court, Jodhpur on transfer of Hon'ble Kumari Justice Nirmaljit Kaur to Punjab and Haryana High Court on 15.11.2018.**



### **3. LANDMARK DECISIONS OF PUBLIC IMPORTANCE**

#### **DEVELOPMENT OF LAW**

#### **CIVIL LAWS**

**(1) Sageer Sajjad Ahmed Vs. Mohammed Ayub**  
**Hon'ble Mr. Justice Dinesh Mehta**  
**Judgement dated 19.02.2018**

#### **Important Law Point – Civil Law**

●Section 9 of Civil Procedure Code.

While considering the provisions of Sec. 9 of C.P.C., the Court held that “in order to ascertain as to whether a Civil Court has jurisdiction to try a suit, the first question, which needs to be determined by the Court is as to whether the suit is of civil nature. Normally, suits can be bifurcated in two categories; viz. first the suits which are of civil nature; and the suits which are not of civil nature. The suits falling under the former category can be tried and decided by all Civil Courts, unless expressly barred; whereas the suits falling under the latter category cannot be tried by the Civil Courts. The moot question which arises for the Court's consideration is, which are the suits of civil nature? The word "civil" has not been defined in the Code of Civil Procedure, however the dictionaries define it as "pertaining to private rights and individual remedies of a citizen as distinguished from criminal or political matters". The expression "civil nature" means the rights vested in the citizen falling within the domain of private law and not of public law. That a suit in which principal question revolves around the caste or religion, such suit is not a suit of civil nature. However, if the principal question in the suit is, of civil nature and the adjudication of such suit as an incidental issue, involves the determination relating to caste or religion; rites and ceremonies; such suit does not cease to continue as a suit of a civil nature and the jurisdiction of the Civil Court is not ousted.”

The Court further held that, “this is what, is discernible from a careful reading of Explanation-I of Section 9 of the Code. Explanation-II of Section 9 inserted in the Code, vide Amendment Act of 1976 has expanded the scope of Section 9 of the Code as it specifically provides that suit, relating to religious office is maintainable, whether or not it carries any fees or it is attached to a particular place. As a natural corollary to Section 9, it percolates that a Court cannot try a suit which is not of a civil nature. Prima facie, suits raising questions of religious rites and ceremonies are not maintainable in a Civil Court, as they do not deal with legal rights of parties, but the Explanation to the Section, acknowledging such legal position, provides that a suit in which the civil rights or right to property or an office are contested, is a suit of civil nature; irrespective of the fact that such right may accrue or is based on adjudication of religious rites or ceremonies. A conjoint reading of the explanations evinces that a right which depends entirely on the decision of questions as to religious rites or ceremonies can be claimed by way of suit but only where a right to property or to an office is

contested. However, it is a settled position of law that the right to worship is a right of civil nature which can be claimed by way of a suit.”

Relying on the judgement of Hon'ble Supreme Court in the matter of Commissioner of Police and Ors. vs. Acharya Jagadishwarananda Avadhuta and Anr. reported in (2004) 12 SCC 770, the Court further held that “the scope of enquiry for the courts, for the Right to Worship as part of the Right to Religion is limited to interfering/enforcing only those parts of the religion which form an 'essential' part/practice thereof. The question whether a suit for enforcement of certain religious rites or ceremonies is maintainable or not can only be decided once it is ascertained whether the said rites and ceremonies form an 'essential' part of the religion or not. The answer to that question has to be arrived at on the basis of evidence adduced as to and with reference to the doctrines, practices, tenets, historical background etc. of the given religion. It is clear that a suit for enforcement of right to worship or mode of worship is maintainable, if the party claiming such right is able to prove that such right of worship or manner of worship is an essential part of the religion. Explanations I and II stringed to Section 9 of the Code are inclusive; and they "expand its expanse, rather than limiting its limits". Wading through the judgments referred hereinabove, this Court finds that the Courts have held that right to worship is a civil right and the same can be enforced. However, the right to claim priority or honour has been held not to be a civil right, capable of being claimed by way of a suit. There is a subtle difference between the right to worship and manner of worship vis-a-vis right of precedence in worship. Right to worship and getting honours or offerings etc. is a civil right whereas prior right to worship is not. In considered opinion of this Court, priority or precedence of worship should be left to be decided by the Society based on customs or established practice.”

## **(2) Hasti Cement Pvt. Ltd. Vs. Sandeep Charan and Ors.**

**Hon'ble Mr. Justice Arun Bhansali**

**Judgement dated 07.03.2018**

### **Important Law Point – Civil Law**

- Order 7, Rule 11 of CPC
- Section 151 of CPC

While discussing the provisions of O. 7, R. 11 and Sec. 151 of the C.P.C., 1908 with respect to Sec. 207 of Rajasthan Tenancy Act, the Court held that “it can be safely concluded that if the allegation in the plaint/substance of the allegations in the plaint allege the instrument to be void and no cancellation is required and without seeking such cancellation the relief of declaration pertaining to tenancy rights with regard to the agricultural land in question can be obtained by the plaintiff, only the revenue courts would have jurisdiction to deal with the subject matter of the suit and consequently the jurisdiction of civil courts would be barred. However, if the allegations made in the plaint make out a case of document being voidable, relief of cancellation of such a voidable document can only be granted by civil court and irrespective of the fact that the instrument pertains to agricultural land, the suit would not be barred under Section 207 of the Tenancy Act. Therefore, the trial court in each case, where an issue in

this regard is raised, based on the stage of the suit i.e. either based on the plaint averments or the evidence available on record would have to come to a conclusion as to whether the facts as alleged, if established or as established in a case where evidence has been led makes the instrument void or voidable and decide accordingly.”

### **(3) Ratan Lal and Ors. Vs. Premlata Parihar**

**Hon'ble Mr. Justice Dinesh Mehta**

**Judgement dated 11.04.2018**

While discussing the issue of abstinence Court held that “the decision of abstinence is to be taken by the Judge concerned, on the basis of personal/private interest in the subject matter of the lis before him; his proximity with the party/parties to the lis; his perception about conflict of interest in taking up the matter; and above all “his own conscience”. The discretion to recuse or not to recuse is essentially an inner impulsion or inner voice of the Presiding Officer and the same cannot be thrust upon or even elicited by anyone; may it be a litigant or a lawyer. The duty of a litigant and/or lawyer is only to bring to the notice of the Court, the relevant and requisite fact(s), which may have a bearing on such discretion or decision of the Judge. An application or even suggestion /request to abstain from hearing is not expected from a litigant/lawyer, in this Institution having high tradition and highest repute.”

### **(4) LR's of Moti Lal Vs. Smt. Shanti Devi Borana & Ors.**

**Hon'ble Dr. Justice Pushpendra Singh Bhati**

**Judgement dated 26.07.2018**

#### **Important Law Point – Civil Law**

- Section 151 of Civil Procedure Code, 1908

While discussing Section 151 of Civil Procedure Code, 1908, the Court held that, the compromise arrived at between the parties was reduced into writing and same was duly signed by both the parties, but it was denied by the respondents subsequently. Now, the question arises as to what should be the course of action on the part of the court in such a situation as to whether the court should reject the compromise on denial of the respondents or Court should hold an enquiry to find out as to whether such compromise really exists or not. One party is asserting the compromise and other party has denied the same and has resiled from said compromise.

In view of the word 'so far as it relates to the suit' in Order 23 Rule 3 of CPC, a question arises whether decree which refers to the terms of a compromise in respect of matters beyond the scope of the suit is executable or whether the terms of the decree relating to the matters outside the suit can be enforced only by a separate suit. The amendment seeks to clarify the position. The provision contained in order XXIII, Rule 3 of the code, as amended, provides: where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, in writing and signed by the parties, or where the defendant

satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance there with so far as it relates to the parties to the suit, whether or not the subject matter of the agreement, compromise or satisfaction is the same as the subject matter of the suit. According to the grammatical construction, the word 'or' makes the two conditions disjunctive. At first blush, the argument of the learned Counsel appears to be plausible but that is of no avail. In our opinion, the present case clearly falls within the first pact and not the second. The Court finds no justification to confine the applicability of the first part of Order XXIII, Rule 3 of the Code to a compromise affected out of Court. Under the rule prior to the amendment, the agreement compromising the suit could be written or oral and necessarily the Court had to enquire whether or not such compromise had been affected. It was open to the Court to decide the matter by taking evidence in the usual way or upon affidavits. The whole object of the amendment by adding the word 'in writing and signed by the parties' is to prevent false and frivolous pleas that a suit had been adjusted wholly or in part by lawful agreement or compromise, with a view to protract or delay the proceedings in the suit. Even if a person not a party to the compromise were to contend that the compromise was not lawful, it would be obliged to approach the same court, which has recorded the compromise or settlement and passed a decree based thereon.

It was further observed that, when the amending Act introduced a proviso along with an explanation to Rule 3 of Order 23 saying that where it is alleged by one party and denied by other that an adjustment or satisfaction has been arrived at, “the Court shall decide the question”, the Court before which a petition of compromise is filed and which has recorded such compromise, has to decide the question whether an adjustment or satisfaction had been arrived at on basis of any lawful agreement. To make the enquiry in respect of validity of the agreement or the compromise more comprehensive, the explanation to the proviso says that an agreement or compromise “which is void or voidable under the Indian Contract Act...” shall not be deemed to be lawful within the meaning of the said Rule. In view of the proviso read with the explanation, a court which had entertained the petition of Compromise has to examine whether the compromise was void or voidable under the Indian Contract Act. Even Rule 1(m) of order 43 has been deleted under which an appeal was maintainable an order recording a compromise. As such a party challenging a compromise can file a petition under proviso to Rule 3 of Order 23 or an appeal under section 96(1) of the code, in which he can now question the validity of the compromise in view of Rule 1A of Order 43 of Code.

**(5) Ratan Lal Parihar & Anr. Vs. Prem Lata Parihar & Anr.**  
**Hon'ble Mr. Justice Arun Bhansali**  
**Judgement dated 30.07.2018**

**Important Law Point – Civil Law**

- Order IX, Rule 9 of CPC

The question before Hon'ble Court “Whether the plea raised by learned counsel for the appellant that application under Order IX, Rule 9 CPC seeking restoration of an application for restoration dismissed in default, is maintainable or not and has no substance”. A bare perusal of section 141 of CPC would reveal that the procedure provided in the Court with regard to suit is to be followed in all proceedings in any Court of civil jurisdiction and the explanation, which was inserted in the year 1976, specifically provides that the expression “proceedings” would include Proceedings under Order IX. The Section 141 of CPC clearly provides for applicability of provisions of Order IX to dismissal in default of an application under Order IX itself.

When a suit, which is dismissed for non appearance of the plaintiff can be restored on satisfying the Court that the plaintiff was prevented by some sufficient cause from appearing before the Court, there is no reason why, when an application under Order IX, Rule 9 CPC is likewise dismissed for non-appearance of the applicant, the applicant should be denied an opportunity to satisfy the Court that he was prevented by reason of a sufficient cause from appearing before the Court when the application was called on for hearing. An application under Order IX for restoration of an application filed under Order IX, dismissed in default, would be very much maintainable.

**(6) Satya Narain Sharma through LR Vs. State of Rajasthan**  
**Hon'ble Mr. Justice Mohammad Rafiq**  
**Hon'ble Mr. Justice Goverdhan Bardhar**  
**Judgement dated 28.08.2018**

**Important Law Point – Civil Law**

- Section 3(Viii) of Rajasthan Rent Control Act, 2001

While discussing Section 3(Viii) of Rajasthan Rent Control Act, 2001, Hon'ble Court held that, It cannot be disputed that public religious and charitable endowments or trusts constitute a well-recognized distinct group in as much as they not only serve public purposes but the disbursement of their income is governed by the object with which they are created and buildings belonging to such public religious and charitable endowments or trusts clearly fall into a distinct class different from buildings owned by private landlords and as such their classification into one group done by the State Government while issuing the impugned notification must be regarded as having been based on an intelligible differentia.

Clearly, Section 3(viii) itself provides that exemption could be granted to only such public trusts where premises belong to religious, charitable or educational trust or class of such trusts as may be specified by the State Government. Even the class of such trusts, as may be specified by the State Government, has to have the character analogous or similar to religious, charitable or educational. The predominant object of the trust therefore should be religious, charitable or educational. The context in which the exemption is granted is that the protection available to the tenants under Chapter II and III of the Act of 2001 would not be available to the tenants of the premises let out by such trusts, the major being the grounds of eviction contained in Section 9 of Chapter III and eviction on other various grounds contained in different provisions of that Chapter of the Act. It is no doubt true that exemption notification granted in a particular case to a particular trust may be subjected to challenge in that case. When it is done, the government would be obliged to disclose the materials by which it was satisfied to extend such exemption to such trust but it cannot be said that the provisions of the act vest unguided and unbridled power in the State Government for extending exemption to such public trusts.

**(7) Punjilal Damor & Ors. Vs. Chouhan Hari Singh Seva**

**Sansthan Peeth**

**Hon'ble Mr. Justice Arun Bhansali**

**Judgement dated 29.08.2018**

**Important Law Point –**

Provisions of Section 80(2) of C.P.C.

●Section 271 of the Rajasthan Municipalities Act, 1959

While discussing the Section 80(2) CPC and 271 of the Rajasthan Municipalities Act, 1959, the Court held that, the provisions of Section 80(2) CPC requires 'leave of the Court' for maintaining a plaint without serving a notice as required by Sub-section (1). Provision for grant of leave, wherever they appear in any statute, envisage that if a leave is granted, the order should reflect application of mind by the Court to the requirements of the Section, however, the order passed by the trial court is wholly cryptic and does not reflect any application of mind. The above aspect is also fortified from the observations made in the order impugned wherein the Court has come to the conclusion that defendant Nos.4 & 5 were merely Performa parties. If in the opinion of the Court, defendant Nos. 4 & 5 were mere Performa parties, there was no necessity to grant leave.

The perusal of Section 271 of the Rajasthan Municipalities Act, 1959, indicates that the issue/objection in this regard can only be raised by the parties for whose protection the provision has been enacted either in CPC and/or in various other provisions and as the same has no jurisdictional effect other party to the suit cannot question the maintainability of the suit on account of alleged non-compliance of provisions of the CPC/Act, inasmuch



as, the said non-compliance can always be waived by the party for whose protection the provisions have been enacted. However, the said aspect can only be determined when the protected party puts in appearance and/or file its objection and/or written statement.

**(8) Swati Bhatia (Smt.) Vs. Lalit Upadhyay Shastri & Ors.**

**Hon'ble Mr. Justice P.K. Lohra**

**Judgement dated 06.09.2018**

**Important Law Point – Civil Law**

● Order 39 Rule 1 and 2 CPC

While discussing factual as well as legal matrix of Order 39 Rule 1 and 2 CPC, the Court is of the view that, appeal against grant or refusal of temporary injunction is an appeal on principle, precisely, for the reason that said order being discretionary it is the prerogative and repository of the Court of first instance. Well it is true that scope of judicial review against a discretionary order of the Court of first instance by the appellate Court is very much limited and circumscribed but then it is rather difficult to comprehend that appellate Court is loathed with the power to interfere in the matter. When an appeal is preferred against a discretionary order, granting or refusing injunction by the trial Court, appellate Court is expected to examine as to whether the Court of first instance has exercised its discretion judiciously in adherence of sound principles of law and practice. In case, the appellate Court finds that the Court of first instance has exercised its discretion arbitrarily or capriciously, or perversely, or while passing the order exercised its jurisdiction dehors the settled principles of law regulating grant or refusal of interlocutory injunctions, its jurisdiction is not circumscribed to interfere with the order. However, at the stage of passing temporary injunction order, competent Court is obliged to form its opinion on availability of prima facie case in favour of plaintiff and further record its satisfaction regarding two other necessary ingredients; viz., balance of convenience and irreparable injury. Essentially, these are three pillars on which rest the foundation of any order of injunction. Although jurisdiction to grant temporary injunction is discretionary, but the same has to be exercised with utmost care and caution. The phrase “prima facie case” cannot be construed to have a magic connotation. In legal parlance, it means a case sufficient on its face, supported by atleast the minimum level of evidence. In other words, a case that should prevail in absence of contradictory evidence. More precisely, the term 'prima facie case' can be defined as under :

“There is a serious question to be tried in suit to dispel cloud of doubt relating to plaintiff's entitlement.”

Contextually, now, if the afflictions of the appellant are examined, then it clearly emerges out that subject matter of the suit is an immovable property Law postulates that in the event of any genuine dispute between the rival parties concerning immovable property, changing its status during pendency of the suit may not be congenial and its detrimental effect on the rights of the plaintiff are of high magnitude. Therefore, normally, in a suit for partition, redemption of mortgage and specific performance of contract,

Courts are adopting a pragmatic approach to preserve and protect status/nature of the immovable property to avoid multiplicity of proceedings and other complications. Likewise, a suit for pre-emption also falls in the same category. Be that as it may, in a suit for pre-emption, at times, it may be too harsh for a bona fide purchaser to enjoy the property when its rights to reap the fruits flowing from title are sought to be jeopardized at the instance of any unscrupulous or ingenious litigation. Thus, while granting indulgence to plaintiff in a suit for pre-emption in the form of temporary injunction, a Court of first instance is expected to examine prima facie case with a practical and pragmatic approach sans purely pedantic and idealistic view of the matter. A litigant, who has approached the Court asserting his right of preemption, is required to plead and prove for grant of temporary injunction his preferential right to purchase the immovable property, which has been sold to other.

The right of pre-emption is duly recognized by custom among Hindus since Pre-Independence Era and subsequently in the year 1966 a comprehensive law on the subject in the form of Act came into offing. According to popular view, pre-emption right can be classified in three categories: (i) superior rights of pre-emption, (ii) equal rights of pre-emption, and (iii) inferior rights of pre-emption. Section 4 of the Act envisages cases in which right of preemption accrues and Section 6 defines the persons to whom right of pre-emption accrues. While it is true that threadbare examination of the right of preemption at the stage of consideration of temporary injunction application is not desirable in as much as the same can be adjudicated in the main suit after taking evidence of the rival parties, but then temporary injunction applications in such matters cannot be decided in a cursory manner. While granting temporary injunction, a Court is not expected to be swayed solely on the basis of subject matter of the suit and reliefs prayed therein.

### **(9) Mamta Devi Valmiki Vs. State of Rajasthan**

**Hon'ble Mr. Justice Sandeep Mehta**

**Judgement dated 07.09.2018**

#### **Important Law Point – Civil Law**

- Section 38(4) of the Rajasthan Panchayati Raj Act, 1994

While discussing Section 38(4) of the Rajasthan Panchayati Raj Act, 1994, the Court held that, Sections 38 and 39 for the present purpose have to be read disjointly to make the scheme of the legislation workable. While it is true that sub-section (1) of Section 38 envisages an enquiry before an order of removal is passed, for which enquiry provisions of Rule 23, supra, are attracted but as is evident from caption of Section 38 “Removal and Suspension”, this provision does not speak about removal alone but also contains provision with regard to suspension. Sub-sections (1) and (2) of Section 38 contains provision with regard to removal and sub-section (3) of Section 38 stipulates that any member including chairperson or deputy chairperson of a Panchayati Raj Institution against whom findings have been recorded under the proviso to that sub-section, shall not be eligible for being

chosen under the Act of 1994 for a period of five years from the date of his removal or, as the case may be, the date on which such findings are recorded. But sub-section (4) of Section 38 is an independent provision of the then sub-sections (1) and (2) thereof, as suspension order of the members of the Panchayati Raj Institution under this provision could be passed not only against whom an administrative enquiry has been initiated but it also covers the cases of members against whom any criminal proceedings in regard to offence involving moral turpitude is pending trial in a court of law. The order of suspension passed invoking latter part of sub-section (4) of Section 38 read with Section 39(2) therefore need not be preceded either by an enquiry or a show cause notice. While the competent authority may be under an obligation to give an opportunity of being heard before recording a declaration that a member of Panchayati Raj Institution has become ineligible to be continued as such, but no such show cause notice or opportunity of being heard can be insisted upon in a case where a member of Panchayati Raj Institution is placed under suspension against whom criminal proceedings in regard to offence involving moral turpitude is pending trial in a court of law. Sections 38 and 39 of the Act of 1994 thus operate in different spheres; while Section 39 covers different situations in which a member of Panchayati Raj Institution shall not be eligible to continue to be such member and if any of such situations are attracted, it would result in cessation of his membership, Section 38 has only one component of many such situations, included in Section 39, which is that the State Government may, after an opportunity of being heard and making an enquiry, remove such any member, who refuses to act or has become incapable of acting as such or is guilty of his misconduct in discharge of duties or any other misconduct. Such an enquiry can be held as per proviso to sub-section (1) of Section 38 of the Act of 1994 or can be continued if already instituted before such suspension. But sub-section (4) of Section 38 is an independent provision, latter part of which can be invoked by the State Government for placing a member of Panchayati Raj Institution under suspension only on the basis of criminal proceedings for offence involving moral turpitude is pending trial in a court of law against him.

The Court further held that with regard to the word 'pending trial', it must be held that neither show cause notice is required to be given nor any enquiry is required to be conducted either with reference to subsection (1) of Section 38 or sub-section (2) of Section 39 of the Act before placing a member of Panchayati Raj Institution under suspension “against whom any criminal proceedings in regard to an offence involving moral turpitude is pending trial in a court of law”. If upon conclusion of trial, the petitioner is eventually convicted and the State Government proposes to remove her from the office of Sarpanch, the judicial determination, having already been recorded with regard to his/her guilt, would obviate the need for an enquiry and at that stage, limited show cause notice on such factual aspect may be required to be served upon him/her before passing the order of removal from the office of Sarpanch. The provisions of Section 38(4) of the Act of 1994 and Section 17(4A) of the Rajasthan Panchayat Act, 1953 are in parimateria with each other.

**(10) Royal Living Homes Pvt. Limited Vs. Aseem Kumar Sharma**  
**Hon'ble Mr. Justice Sanjeev Prakash Sharma**  
**Judgement dated 11.09.2018**

**Important Law Point – Civil Law**

- Section 22 C of Legal Services Authority Act

While discussing the provision of Section 22 C of Legal Services Authority Act, the Court is of the view that, no party can be stopped from moving an application before the Permanent Lok Adalat. The stage of conciliation is subsequent, the other party cannot wriggle out itself from the jurisdiction of the Permanent Lok Adalat merely by saying that it does not want to participate in the conciliation proceedings and the jurisdiction of the Permanent Lok Adalat, therefore, cannot be said to have been ousted. No party can by its conduct oust the jurisdiction of the adjudicating authority. The very purpose of Section 22-C would be rendered redundant if a view is taken that both parties' consent has to be taken before proceeding to take cognizance under Section 22-C. The only requirement for taking cognizance by Permanent Lok Adalat are the two criteria's, namely offence is compoundable or it is affecting public utility and secondly the valuation of dispute.

**(11) Rustic Art Exports (M/s) Vs. Employees State Insurance Corporation**  
**Hon'ble Mr. Justice P. K. Lohra**  
**Judgement dated 19.09.2018**

**Important Law Point – Civil Law**

- Section 82 75, 2(9) of the Employee State Insurance Act, 1948

While considering the provisions of Section 82 75, 2(9) of the Employee State Insurance Act, 1948, the Court is of the view that, the provision of appeal under Section 82 of the Act is circumscribed by the legislature in as much as appeal shall lie before this Court from an order of Employees' State Insurance Court if it involves a substantial question of law. The language employed in sub-section (2) of Section 82 of the Act is in parimateria with the provisions contained in Section 100 CPC. For construing a question of law to be "substantial" within the meaning of Section 82 of the Act, it would be just and appropriate to examine whether question of law is of general public importance or it directly or substantially affects the rights of the party and if so whether it is an open question which is not finally settled by the highest court or is not free from difficulty or calls for discussion of alternative views. If the question of law is no more res integra, or the general principles to be applied in determining the question are well settled, then the mere question of applying those principles would not be a substantial question of law.

The Court further held that, an intellectual or artistic labour, who receives wages as remuneration for work done in manufacturing process is a

person employed. The expression “employed” as used in Section 2(l) of the Factories Act, 1948 does not necessarily involve the relationship of master and servant, and person would be a worker whether he is paid fixed wages or whether his remuneration is determined on the basis of given terms of work done by him. Therefore, a person who does anything directly or indirectly towards the making of articles manufactured in a factory or an establishment up to any stage, till they are ready to be delivered and put in the market, is a person employed in the factory, i.e., “worker” within the meaning of Section 2(l) of the Factories Act, 1948.

While construing the definition of “employee” under Section 2(9) of the Act, every word or phrase employed therein by the legislature requires harmonious and purposeful construction to farther its aims and objects. The words “incidental or preliminarily to” have to be understood in conjunction with the words “with the work of the factory”. In the instant case, if above referred two phrases in the exhaustive definition of the “employee” are read in conjunction, then, there remains no room of doubt that manufactured articles' finishing work undertaken by certain persons on job-work basis outside factory premises is conducive to the appellant factory or establishment besides being necessary for the augmentation of its manufacturing works. Therefore, without any demur, in my opinion, said work is incidental or preliminary to, or connected with the factory or establishment. Then work done being incidental or preliminary to the work of the factory or establishment, they fall within the ambit of an employee within the meaning of Section 2(9) of the Act.

**(12) Ramnivas Vs. Madan**  
**Hon'ble Mr. Justice Alok Sharma**  
**Judgement dated 09.10.2018**

**Important Law Point – Civil Law**

- Section 115 of CPC
- Article 227 of the Constitution of India

While considering the Article 227 of the Constitution of India and Section 115 of CPC, Court is of the view that the Petition under Article 227 of Constitution of India is liable for rejection at the threshold for misjoinder of causes of action as dismissal of two distinct applications under Order 8 Rule 1(A) (3) of CPC and U. 14 Rule 5 of CPC albeit by common order constituted to causes of action one unrelated to other. There is no linkage between the two order impugned each order was to be challenged separately. It would in place to record the gross abuse of Article 227 of the Constitution of India by reckless petitions following the amendments to Section 115 of CPC under CPC's amendment effective 1.7.2002 where under the proviso to Section 115 (1) CPC sets out a strict pre-condition for invoking revisional jurisdiction and excludes revisions against interlocutory orders passed in the course of a trial in a suit which would not even if otherwise passed have entailed final dismissal of the suit. That exclusion is sought to be circumvented by Article 227 petitions filed without any legal justification. Article 227 of the Constitution of India confers supervisory jurisdiction in



the High Court which is substantially discretionary. The contours of Article 227 of the Constitution of India have well-being delineated ad nauseum. It has been broadly held, the interlocutory orders of the courts below not be interfered with under Article 227 of the Constitution of India unless such orders are palpably vitiated by capriciousness, perversity, error of jurisdiction or such like root causes leading to manifest injustice. Aside of the above, a party aggrieved of an interlocutory order by the trial court is not without remedy as it can lay a challenge to such orders subsequently in regular first appeal under Section 96 CPC against a final judgment and decree if warranted by resorting to Section 105 CPC which specifically permits challenge to all and sundry interlocutory orders passed by the trial court along with the regular first appeals. The amendment to Section 115 CPC effective 1.7.2002 vide the Code of Civil Procedure (Amended) Act, 1999 was intended to be a prescription to overcome delays in trials of civil suits which delays are notorious and adversely commented on publically. The salutary provisions of Article 227 of the Constitution of India cannot be allowed to be casually invoked to circumvent legislative intent clear from the CPC amendment effective 1.7.2002. No doubt the court's supervisory jurisdiction under Article 227 is ever present but its exercise has to be guarded and confined to situations referred to above.

**(13) Division Manager N.I.C. Ltd. Vs. Rajasthan State Consumer  
Disputes Redressal Commission & Ors.**

**Hon'ble Mr. Justice Sandeep Mehta**

**Judgement dated 25.10.2018**

**Important Law Point – Civil Law**

- Sections 14(2) and 14(2A) of the Consumer Protection Act 2002

The Court held that, as per Sections 14(2) and 14(2A) of the Consumer Protection Act 2002, every proceeding of the District Forum has to be conducted by the President and at least one member there of sitting together. Sub-clause 14(2A) makes it abundantly clear that the order of the District Forum has to be signed by the President and the member/members, who conducted the proceedings. It can safely be concluded that the only modification which has been introduced in the procedure applicable to the State Commissions vis-a-vis the District Forum is that the State Commission has been empowered to constitute and function in Benches as well. However, the composition of a Bench would indisputably be governed by Section 14 of the Act because no dilution has been allowed on this aspect in the entire scheme of the Act. Section 14(2A) of the Act makes it abundantly clear that every order made by the District Forum (which would mutatis mutandis apply to the State Commission in view of Section 18 of the Act) shall be signed by the President and the member/members who conducted the proceedings. The Act does not contemplate an order signed by the President or a single member in case of the District Forum and a consequently of the State Commission or its Benches as well. Provisions referred to supra, the only visible and marked difference in procedure applicable to the District Forums and the State Commission is available in Section 16(1B) which allows for constitution of Benches whereas, bench of



a District Forum is not contemplated under the Act.

The State Consumer Commission cannot be constituted by a single member and that the same must be comprised of the President and at least one member thereof. In reference to Section 2(jj) of the Act, it is clarified that the word “President” as appearing in the Act, shall always be referred as including a member except where, the jurisdiction of constituting the Bench is to be exercised. The said power is with the President who being the “head of the institution” has the exclusive administrative power to decide the composition of the bench.

## **CRIMINAL LAWS**

### **(1) Ratanlal Chamar Vs. State of Rajasthan**

**Hon'ble Mr. Justice Mohammad Rafiq,**

**Hon'ble Mr. Justice Goverdhan Bardhar**

**Judgement dated 22.02.2018**

#### **Important Law Point –**

- Section 302, 84 of the Penal Code, 1860
- Sections 328, 329, 331 of Cr. P. C., 1973

While discussing the provisions of Sec. 302, 84 of the Penal Code, 1860 and Secs. 328, 329, 331 of Cr. P. C., 1973, the Court held that “Schizophrenia is a serious mental illness that interferes with a person's ability to think clearly, manage emotions, make decisions and relate to others. It impairs a person's ability to function to their potential when it is not treated. People with schizophrenia are far more likely to harm themselves than be violent toward the public. When violence does occur, it is most frequently targeted at family members and friends, and more often takes place at home. Therefore, in the facts of present case, we have no hesitation in holding that the trial was vitiated for non-compliance of the mandatory provisions of Chapter XXV of the Code of Criminal Procedure. It is surprising to note that despite the fact that almost all the prosecution witnesses disclosed this fact to the investigating officer in their statements recorded under Section 161 Cr.P.C., investigating officer in the summary of charge sheet (Exhibit C- 10) has not at all mentioned anything about the fact that accused-appellant was suffering from acute mental disorder.”

Sections 328-339 of Cr.P.C. provides special safeguards to accused persons of unsound mind. While holding so, the Court observed that “the analysis of the above referred provisions, would show that it is upon compliance of provisions of Sections 328, 329 and 330 of the Cr.P.C., if the court is later informed that the person concerned has ceased to be of unsound mind, then and then only it can, in accordance with Section 331 of the Cr.P.C., resume the trial and require the accused to appear or be brought before it. Here also there is a rider in subsection (2) of Section 331 of the Cr.P.C. that if the accused is released under Section 330 of the Cr.P.C., and the sureties for his appearance produce him to the officer whom the court appoints in this behalf, the certificate of such officer that the accused is

capable of making his defence shall be receivable in evidence.”

The Court held that “at the first instance when it comes to the knowledge of the trial Court, that the accused is of unsound mind, the Court is under obligation to stop the proceedings and get the accused examined or refer him to a psychiatrist or a clinical psychologist who shall report to the Court whether the accused is suffering from unsoundness of mind or not. In the recent past, the Court has come across several similar cases in the recent past where despite evidence emerging on record about acute mental ailment of the accused, neither the police has invoked relevant provision of law, nor even the courts have paid due regard to the mandate of law. The police in such kind of cases is expected to act with utmost sensitivity. Investigating Officer in the present case despite having been apprised of the acute mental disorder of the accused by number of witnesses, did not point this out in the summary of the charge sheet that was filed before the Court.”

**(2) State of Rajasthan Vs. Vikramjeet Singh @ Vika Virk,**

**Hon'ble Mr. Justice Vijay Bishnoi,**

**Judgement dated 23.05.2018**

**Important Law Point –**

- Section 482 of Cr.P.C.

While dealing with the preliminary objections of the respondent that the present miscellaneous petition under Sec. 482 Cr.P.C. is not maintainable as per the provisions of Sec. 397 (3) Cr.P.C., the Court relying on the judgement of the Hon'ble Supreme Court in the matter of Dhariwal Tobacco Products Ltd. vs. State of Maharashtra, reported in (2009) 2 SCC 370 held that “the State has not invoked the revisional jurisdiction of this Court but has filed this petition while invoking inherent jurisdiction of this Court under Section 482 CrPC and, therefore, this petition cannot be dismissed while treating it as second revision petition. Otherwise also, an important question of law is involved in this petition and, therefore, a petition under Section 482 Cr.P.C. can be entertained by this Court to secure the ends of justice.”

The next question before the Court was that whether if an accused is compelled to give his voice sample during the course of investigation of an offence, is violation of Article 20 (3) of the Constitution of India? The Court held that “nowadays, criminals are using sophisticated devices and modern techniques while committing heinous crimes. They are using Whatsapp Call, VOIP and many other modern techniques for committing the offences like extortion, kidnapping, blackmail and terrorist activities and looking to these circumstances, narrow interpretation of Section 53 Cr.P.C. or keeping voice sample out of the definition of measurement, as provided in the Prisoners Act, at one hand will result in giving long rope to the criminals indulged in destroying the peace of society and making life of an ordinary law abiding citizen miserable, whereas on the other hand will also result in throttling the investigation by the police or investigating agency. The consideration of public safety may weigh with the court in persuading it not to give narrow construction to a penal statute. We must not forget that though the voice sample has not been expressly included in any of the provisions of Cr.P.C. or in the definition of measurement as provided in Prisoners Act but there is no

prohibition in drawing voice sample in Cr.P.C. or in any other law either. The law is silent on this aspect. The voice sample in itself is not a substantive piece of evidence. By giving it the accused does not convey any information based upon his personal knowledge, which can incriminate him. It can only be used for comparison with the recorded conversation and it cannot be treated as testimony at all. When as per Section 65B of the Indian Evidence Act, tape recorded conversation containing voice of an accused is admissible in evidence and if the prosecution has to prove the said evidence, it is essential to allow the police or investigating agency to take voice sample of accused, otherwise, keeping of the recorded voice of the accused by the police in case file would be a futile exercise if it cannot be proved. There are two more aspects, which are also to be taken into consideration. Firstly when there is no provision under the law, which empowers a Magistrate to compel an accused to give his voice sample during the course of investigation or in other words when no procedure is prescribed under any law, which enables the police to take voice sample of an accused during the course of investigation, how a court of law can allow the police to take voice sample of any accused, who voluntarily agrees to give it.”

The Court further held that, “if there is no provision under any law to take any voice sample of an accused-person during the course of investigation, the same cannot be permitted even when the accused-person voluntarily agrees for it. Either the law permits it or does not permit it, there cannot be any via media. Voice spectography test is in no manner violative of Article 20(3) of the Constitution of India, the voice sample also in itself is not a substantial piece of evidence, it can only be used for the purpose of comparing it with the tape recorded conversation and by giving voice sample, the accused does not convey any information based upon his/her personal knowledge, which can incriminate him/her. There is no impediment in directing the accused-person of the offence to give voice sample to the police during the course of investigation. However, safeguard, which is to be observed is that the text which the accused would be called upon to read out for the purpose of his/her voice sample should not have the sentences from the inculpatory text but can contain words drawn from the recorded conversation. The another aspect which I want to emphasise is that assuming that there is no provision under any law which enables a Magistrate to direct the accused-person to give his voice sample to the police during the course of investigation, can any such direction be given.”

The Court referring to the judgement of *Mahipal Maderna vs. State of Rajasthan*, reported in RLW 1971 page 43 observed that “it is the duty of the investigating officer to collect the evidence by using reasonable means to establish the identity of those, who took part in a crime. In the present case also, the police cannot be restrained from taking voice sample of respondent for establishing his involvement in the crime for the reason that there is no provision under the law which permits to take voice sample of the accused during the course of investigation. Despite realising the need of use of scientific methods in an investigation by the police or any investigating agency can any court of law refuse to act just because there is no provision under any law which empowers a Magistrate to direct an accused to give his voice sample to the investigating agency or police during the course of investigation. First of all by directing an accused to give his/her voice sample to the police, he/she is not forced to give evidence against himself/herself which may be incriminatory. When the criminals are using modern technologies to commit the crime, it is not justified to restrain the

police or investigating agency to counter it with the aid of scientific methods or modern technology on the ground that there is no provision of this effect under any law. Rules of the game should be equal for all the players.”

**(3) Kumari Chandra @ Sati Lajnani Vs. State of Raj.**  
**Hon'ble Mr. Justice Mohammad Rafiq,**  
**Hon'ble Mr. Justice Goverdhan Bardhar**  
**Judgement dated 01.08.2018**

**Important Law Point –**

- Sections 302 and 307 of I.P.C.

While discussing the provisions of section 84 with reference to Sections 302 and 307 of Indian Penal Code, the Court held that, although the law has not much developed in India as to the Premenstrual Stress Syndrome being set up as the defence of insanity, yet the accused has a right to plead and probabilize such defence to show that she was suffering from 'premenstrual stress syndrome' when the crime was committed and because of her such condition, the offence that she committed was an involuntary act on her part, in as much owing to this fact, she was laboring under the defect of reason or was suffering from psychological disorder or unsoundness of mind. She can, within the scope of Section 84 of the Indian Penal Code, set up such a plea and substantiate the same by evidence. In the present case, not one but three doctors, who treated her on different occasions, have deposed in favour of such plea of insanity set up by the defence.

While prosecution has to prove its case beyond reasonable doubt, the accused has to merely probabilize his or her defence by preponderance of probabilities. The analysis of evidence in the light of the law and literature on the subject referred to above clearly demonstrates that the accused-appellant has been able to probabilize the defense by standard of preponderance of probabilities.

The law as to the criminal liability of a person of unsound mind owes its genesis to an English judgment in *R v. McNaughten*– (1843) 10 Cl& F 200 (T.A.C.), which has now come to be known as *McNaughten Rule*, according to which, where on a criminal charge, it appears that, at the time of the act or omission giving rise to the offence alleged, the defendant was labouring under a defect of reason owing to a disease of the mind so as not to know the nature and quality of his act, or, if he knew this, so as not to know that what he was doing was wrong, he is not regarded in law as responsible for his act. This is a question of fact to be decided on a given case on the basis of evidence adduced before the court. 'Unsoundness of mind' has often been used as a synonym for other terms such as insanity, lunacy, madness or mental derangement or disordered state of mind owing to which an individual loses the power of regulating his action and conduct according to rules of the society to which he belongs. There is no other possible test available to judge the condition of his mind at the particular point of time. Behavior of the accused, antecedent, and attendant and subsequent to the event may be relevant in finding the mental condition of the accused at the time of the incident, but not of the remote past in time. It is not every mental derangement that exempts an accused person from



criminal responsibility for his acts, but it must be such which impairs the cognitive faculties of understanding the nature of his act on the victim or in relation to himself, that is, his own responsibility for it.

Even if the accused is not able to establish conclusively that he was insane at the time of committing offence, the defence pleaded before the court by the accused or by the prosecution may raise an able doubt in the mind of the court as regards one or more of the ingredients of the offence, including mensrea of the accused and in that event the court would be entitled to acquit the accused on the ground that the prosecution has failed to discharge its burden of proving the offence beyond reasonable doubt. In light of this, the appellant has been able to probabalize her defence that at the time of incident she was suffering from unsoundness of mind and was labouring under a defect of reason triggered by premenstrual stress syndrome. Even, if the material placed before the court is held to be not sufficient to discharge the burden under Section 105 of the Evidence Act, it still raises a reasonable doubt as to the existence of mensrea on the part of the accused-appellant, thus making out a case for extending benefit of doubt to her.

**(4) V.K. Godika Vs. State of Rajasthan,  
Hon'ble Mr. Justice Vijay Bishnoi,  
Judgement dated 20.08.2018**

**Important Law Point –**

- Sections 244 and 245, 245(2) Cr. P.C.
- Section 29 of Police Act, 1861

While considering the provisions of Section 197 (1)(3) of the Code of criminal Procedure and Section 29 of Police Act, 1861, the Court held that, it was the duty of the petitioner while working as Superintendent of Police to get the summons of a witness returned to the concerned court, which had issued it, either served or not served and if there is any negligence on the part of the petitioner in doing the said duty, it can be said that the act or omission on the part of the government employee is very much connected to his official duty. Hence, before proceeding further, a proper sanction is required to be obtained from the State Government for initiating the criminal proceedings against the Public Servant.

**(5) State of Rajasthan Vs. Aatma Ram & Ors.,  
Hon'ble Mr. Justice Sandeep Mehta  
Hon'ble Mr. Justice Vinit Kumar Mathur  
Judgement dated 13.12.2018**

**Important Law Point –**

- Provisions of Section 273 of Cr. P.C.

While considering the provisions of Section 273 of CrPC, the Court held, Section 273 of CrPC, which is mandatory in nature, enjoins that prosecution evidence shall be recorded in presence of the accused. Exception to this proposition is provided in Section 317 of CrPC, which stipulates that

reference and trials can be held in absence of the accused in particular situations enumerated therein. The summoning accused from prison so as to ensure their participation and providing them an opportunity to witness the trial court's proceedings is the statutory obligation of the trial court and it is immaterial whether the defence raises an objection in this regard or not. Exemption from appearance of the accused, if any has to be expressly granted by the trial court after assigning reasons in accordance with Section 317 of CrPC that the attendance of the accused is not necessary in the interest of justice or that the accused persistently disturbs the proceedings in the court. The right of the accused to see the evidence being taken in their presence is recognized as an absolute right by Section 273 of CrPC and the same emanates from the principles of natural justice and fair trial.

## **EVIDENCE ACT**

**Bhagirath Ram Jat and Ors. Vs. State of Rajasthan**

**Hon'ble Mr. Justice P. K. Lohra**

**Judgement dated 25.01.2018**

### **Important Law Point –**

- Provisions of Sec. 7, 13(1)(d) and 13(2) Prevention of Corruption Act, 1988
- Sec. 154 of the Evidence Act, 1872 read with Sec. 120-B Penal Code, 1860.

While discussing the provisions of Sec. 7, 13(1)(d) and 13(2) Prevention of Corruption Act, 1988, Sec. 154 of the Evidence Act, 1872 read with Sec. 120-B Penal Code, 1860, the Court held that “the pivotal issue which requires judicial scrutiny in the instant appeal is indictment of first appellant for offence under Section 7 of the Prevention of Corruption Act and his conviction for criminal misconduct within the meaning of Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act. That apart, Court is also required to examine conviction of second appellant, a private individual, for offence under Section 120-B IPC. In order to ascertain legality and propriety of the findings and conclusions of the learned trial Court, it has become imperative for the Court to re-appreciate the evidence on the touchstone of requirements for constituting these offences. While it is true that evidence of a hostile witness is not worth outright rejection but then it is duty of the Court to take utmost care while examining its testimony being a witness having no regard for truth. As the credibility of the witness is under cloud, it would not be safe to rely on testimony of such a witness. The learned trial Court, while indicting the first appellant for offence under Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act, has though discussed the loopholes and serious pitfalls in the prosecution evidence, so as to discredit the same, but surprisingly it has taken shelter of circumstantial evidence for recording conviction. I am at loss to say that when a case is based on direct evidence or ocular evidence, which is per se vulnerable, it would be unsafe to switch on to circumstantial evidence for castigating an accused for the alleged offence. Moreover, the so called circumstantial evidence, on which learned trial Court has placed reliance, has not furnished any direct and positive proof of the criminal delinquencies

of the first appellant. In case of circumstantial evidence or indirect evidence where circumstances are susceptible of two equally possible inferences, the Court should accept that inference which favours the accused rather than inference which goes in favour of the prosecution. Mere disregard of the relevant provisions as well as ordinary norms of procedural behaviour of govt., official without conclusively establishing beyond a reasonable doubt the guilt of the concerned official may give rise to strong suspicion but that cannot be held to establish guilt of the accused. Presumption drawn by the learned trial Court under Section 20 of the Prevention of Corruption Act in absence of proof of demand is also contrary to legislative intent, and therefore, based on mere conjectures and surmises.”

The Court further held that, “upon a close scrutiny of the evidence and available material, I am constrained to observe that the learned trial Court has seriously erred in appreciation of evidence. The learned trial Court, while indicting the first appellant for offence under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, has not applied the standard of proof in a criminal trial, i.e., proof beyond all reasonable doubts, and therefore, findings are clearly perverse. After examining the findings and conclusions of the learned trial Court, it is ex-facie clear that the Court has based its conclusions on mere assumptions and hypothesis rather than on preponderance of probabilities. Therefore, the finding of guilt of the first appellant for offence under Section 13(1)(d) and his consequent conviction and sentencing by the learned trial Court under Section 13(2) of the Prevention of Corruption Act, is per se falling short of moral certainty. Now advertent to the criminal delinquency of second appellant and his indictment for offence under Section 120-B IPC, suffice it to observe that there is no cogent evidence of the prosecution to show his communication with the first appellant much less their meeting of minds so as to establish his nexus with the alleged dubious transaction. The evidence in this behalf lack requisite sting to draw an inference about the meeting of minds. In order to constitute a criminal conspiracy, there must be an agreement between the parties who are alleged to have conspired for doing an illegal work or for doing by illegal means an act which may not itself be illegal. When the evidence against the first appellant for offences under the Prevention of Corruption Act is not of sterling worth and that of demand for bribe, obviously, second appellant cannot be castigated for offence of criminal conspiracy. ”

**HINDU LAWS**

**Kavita Vyas Vs. Deepak Dave**  
**Hon'ble the Chief Justice Mr. Pradeep Nandrajog**  
**Hon'ble Mr. Justice Arun Bhansali,**  
**Hon'ble Mr. Justice Ramchandra Singh Jhala**  
**Judgement dated 10.01.2018**

**Important Law Point –**

- Section 24 of the Hindu Marriage Act, 1955 read with Sec. 19 of the Family Courts Act, 1984

While discussing the provisions of Sec. 24 of the Hindu Marriage Act, 1955 read with Sec. 19 of the Family Courts Act, 1984, the question before the Court was whether an order passed under Sec. 24 of the Hindu Marriage Act by the Presiding Officer of the Family Court is an order maintainable for appeal or not?

The Full Bench observed that “a perusal of sub-section (1) of Section 19 of the Family Courts Act, 1984 would evince that save as provided in sub-section (2) thereof and notwithstanding anything contained in the CPC or in the Cr.P.C. or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law. Thus, an appeal shall lie to the High Court from every judgment or order save and except an interlocutory order passed by a Family Court subject to sub-section (2) of Section 19 and notwithstanding anything else contained in any other law. The question would be whether an order passed under Section 24 of the Hindu Marriage Act, 1955 is an order of the kind where an appeal would lie there against. Ex-facie the legislative intent is to provide for an appeal against every judgment and an order passed by a Family Court and exclude an interlocutory order. The contention to oppose maintainability of the appeal is that the legislature was aware of the provisions of the Hindu Marriage Act, 1955. Maintenance under Section 24 is pursuant to an order passed by a Court. Permanent alimony and maintenance is as per the power vested in the Court under Section 25 of the Hindu Marriage Act, 1955 and custody of children is from the power flowing under Section 26 of the Hindu Marriage Act, 1955. The legislature was aware of Section 28 of the Hindu Marriage Act, 1955, as per which appeals were provided against orders passed under Sections 25 and 26 of the Hindu Marriage Act, 1955, excluding Section 24. But the contention over-looks the use of the phrase 'notwithstanding anything contained in the CPC or in the Cr.P.C. or in any other law' in sub-section (1) of Section 19 of the Family Courts Act, 1984.

A reading of sub-section (1) of Section 19 of the Family Courts Act, 1984 shows that an appeal is maintainable in two cases. It is maintainable against a judgment. It is also maintainable against an order if it is not an interlocutory order. The word 'judgment' has not been defined in the Family Courts Act, 1984 but is defined in of Section 2 (9) of the CPC and simply means the statement given by the Judge on the grounds of a decree or order.

Unfortunately, the definition is of not much use because it does not define either the wide or narrow parameters within which the word 'judgment' has to be construed nor does it state as to what are the characteristics of a 'judgment'. What is noticeable in sub-section (1) of Section 19 of the Family Courts Act, 1984 is that it has deviated from Section 96 of the Code of Civil Procedure and from Section 28 (1) of the Hindu Marriage Act, 1955, in that, it provides for appeals against judgment. The Code of Civil Procedure does not provide for an appeal against judgments. It provides for an appeal against decrees and orders. Likewise Section 28 of the Hindu Marriage Act, 1955 also does not provide for appeals against judgment. It provides for appeals against decrees and certain orders. The question would arise as to why the legislature made a departure by providing appeal against judgments also under subsection (1) of Section 19 of the Family Courts Act, 1984. Not that the legislature was not aware of the established practice or did not know the meaning of the word 'judgment' as was expounded by the Supreme Court in Shah Babulal Khimji's case."

The Court further held that, "Indeed, the order would be a judgment because it decides matters of moment and which affects a valuable right of the parties. The expression 'some right or liability' is not restricted to the right in controversy in the main proceeding itself. It may be an order which is of an ancillary nature but is determinative of the rights and liabilities for the reason a spouse who is not able to maintain himself/herself without maintenance being awarded would be handicapped in litigating and per contra if the maintenance awarded is beyond the means of the other spouse and the spouse cannot pay the same the proceedings can be halted. In Shah Babulal Khimji's case the Supreme Court itself recognized that an order, including an interlocutory order to be a judgment, may decide a question in controversy even in an ancillary proceeding in a suit."

Finally, the court answered the reference holding that an appeal shall lie under Sec. 19(1) of Family Court Act, 1984 against an order passed by the Family Court u/s 24 of Hindu Marriage Act.

## **FAMILY LAW**

**Beena Jain (Smt.) Vs. Shri Vinendra Kumar Jain**  
**Hon'ble the Chief Justice Mr. Pradeep Nandrajog,**  
**Hon'ble Mr. Justice G. R. Moolchandani**  
**Judgement dated 22.10.2018**

### **Important Law Point –**

- Sec.13(ia) and (ib) of the Hindu Marriage Act, 1955

While considering the provisions of Sec.13(ia) and (ib) of the Hindu Marriage Act, 1955, the Court held that there can be no comprehensive definition of what constitutes mental cruelty because human mind is extremely complex and human behavior is equally complicated. The concept of cruelty differs from person to person depending upon upbringing, level of sensitivity, educational qualification, family and cultural background,



financial position, social status, customs, traditions, religious beliefs, human values and the value system of the parties. Yet, some standards have been evolved by the Courts to determine what would be cruelty. The approach by the Courts is to consider the complete matrimonial life of the parties and then see within the broad parameters of cruelty whether it is impossible for the parties to live together with each other. Where coldness or lack of affection, indifference and neglect reaches the degree that it makes the marriage life of other spouse absolutely intolerable it would amount to cruelty. Total departure from normal standard of conjugal kindness causes mental injury to the other spouses.

The Court further held that where there has been a long period of continuous separation it would be fair to conclude that the matrimonial bond is beyond repair and the marriage has become a fiction, though supported by a legal tie. By refusing to sever the tie, the law in such case does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations it may lead to mental cruelty.

## **DOMESTIC VIOLENCE ACT**

**Vikram Bothra Vs. Nupur Bothra**  
**Hon'ble Mr. Justice Pratap Krishna Lohra**  
**Judgement dated 08.01.2018**

### **Important Law Point –**

- Section 21 of the Protection of Women from Domestic Violence Act, 2005

While discussing Section 21 of the Protection of Women from Domestic Violence Act, 2005, the Court held that “a bare perusal of Sections 7 & 8 of the Family Court Act of 1984 makes it abundantly clear that the matters/disputes which are within the exclusive jurisdiction of Family Court, jurisdiction of other Courts is excluded. Furthermore, Section 20 of the Act of 1984 gives it overriding effect with non-obstante clause. Section 20 envisages with clarity and precision that provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. the Act of 2005 aims to provide for more protection to women of their constitutional rights. Being a social welfare legislation, it is imbuing the spirit of various welfare provisions for upliftment in socio-economic conditions of women. Therefore, it is certainly a unique piece of legislation for doing away with social menace of domestic violence which is prevalent in civilized as well as uncivilized sections of society. Unquestionably, it is latter enactment than the Act of 1984 and therefore in appropriate cases, a Magistrate, while exercising power under Section 21 of the Act, may pass appropriate orders of temporary custody of a child or visitation rights to an aggrieved person.

The Court further held that, “A bare reading of the definition of “aggrieved person” makes it abundantly clear that “aggrieved person” postulates a woman who is or has been in domestic relationship with the respondent. The definition does not restrict it to the woman in her capacity as “wife” alone. In that very context, if the provisions of Section 21 of the Act of 2005 are examined then it would ipso facto reveal that locus to maintain such an application is that of an aggrieved person or the person making application on her behalf. Thus, by no stretch of imagination a respondent, may it be husband, can invoke Section 21 for seeking temporary custody orders or for a child or children or to seek visitation rights. The legislature in its wisdom has confined that right to an aggrieved person only and as per the scheme of the Act of 2005 a husband cannot fall within the definition of an aggrieved person. Section 8 of the Indian Penal Code defines “gender”, which says, the pronoun “he” and its derivatives are used for any person, whether male or female. Therefore, if the legislation has used pronoun 'he', then it also embraces 'she' and not vice versa. Section 21 in this behalf is clear and unequivocal using the words “grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf”, thus unquestionably restricts its invocation for an aggrieved person and not otherwise.”

## **MINES AND MINERALS**

**JSW Cement Limited Vs. State of Rajasthan & Ors.**

**Hon'ble Kumari Justice Nirmaljit Kaur**

**Judgement dated 29.05.2018**

### **Important Law Point –**

- Provisions of Mines and Mineral (Development and Regulation) Amendment Act, 2015 in accordance with Mineral (Auction) Rules, 2015 with respect to Art. 226 of the Constitution of India.

The question before the Court was whether the Court can quash the e-auction and direct the govt. to conduct fresh e-auction or not? The Court is of the view that if there is a defect in the decision making process, the Court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on account of some legal infirmity and should keep larger interest in mind before deciding whether its intervention is called for or not.

The Court observed that the three following questions are required to be examined before proceeding to interfere in any such tender, award or contract;

- (i) Whether the process is arbitrary or malafide;  
or
- (ii) Whether the decision is irrational and in accordance with the relevant law and rules;
- (iii) Whether the public interest is affected.”

In the said case, due to technical glitch, petitioner was not able to log-in at the e-auction site and could not continue in e-auction process. This was informed to the respondent at once, telephonically and otherwise before the cut-off time. In these set of facts the Court is of view that “it is not possible for the Court to ascertain as to whether the fault was at the end of server or at the end of petitioner but at the same time, it cannot be denied that there was indeed a technical glitch and the petitioner was restrained from making a genuine and bonafide higher offer on account of the same. The lapse and inaction on their part to act immediately on receiving the call is a great cause of concern because in case their inaction is overlooked by the authorities now and ignored, the same is likely to be misused in future. Next time, someone just might cut off the login to help another. A complaint received before cut off time could not have been ignored and the authority needed to handle the situation in a better way. It is therefore evident that there was negligence, inefficiency and total lack of expertise at the end of respondent server to handle a situation where a bidder was vigilant enough to inform well in time about the technical glitch.”

Looking at the provisions of Mineral (Auction) Rules, 2015 and conditions of N.I.T, there is no vested right of the respondent No.7 just because he has been declared as a 'preferred bidder'. The declaration of preferred bidder is open to challenge and recall. It was well within the State to make an enquiry in the prevailing situation specially if the petitioner company was able to show the heavy loss the State exchequer was about 1900-2000 crores due to the technical glitch faced by the petitioner. There was no reason to be in haste keeping in view the public interest involved.

Finally the Court held “that the declaration of respondent no 7 to be a preferred bidder is at the cost of heavy loss of revenue to the State exchequer and against the public interest. In the circumstances, this Court cannot shut its eyes and ignore the public interest which stands to suffer in case the State is not stopped from finalising the contract with respondent No.7. The Mineral (Auction) Rules, 2015 duly permit cancellation and recall specially when no vested right is created till as such time the bid is finalised and approved. In any case, individual interest cannot be watched in face of such a huge loss to public exchequer. Hence, keeping the public interest involved as upper most in the present case, the order dated 29.09.2017 of declaration is set aside.”

**SARFAESI ACT****I.C.I.C.I. Bank Limited Vs. Krishna Kumar & Ors.****Hon'ble Kumari Justice Nirmaljit Kaur****Judgement dated 27.04.2018****Important Law Point –**

- Provisions of Sections 9, 18 and 21 of the Rajasthan Rent Control Act, 2001 and Section 17 of the SARFAESI Act

While discussing the provisions of Sections 9, 18 and 21 of the Rajasthan Rent Control Act, 2001 and Section 17 of the SARFAESI Act held that grounds of eviction mentioned in the Section 9 of the Rent Act of 2001 can only be available to a landlord and not to a secured creditor. The bank cannot invoke Sec. 9 of the Act. Sec. 18 of Rent Control Act of 2001 pertains to the disputes between the landlord and the tenant only and does not include the disputes between the tenant and the secured creditor under the SARFAESI Act.

“Before incorporation of sub-section 4(a) and substitution of sub-section (3) of section 17 of the SARFAESI Act, there was no remedy available to the tenant who was being dispossessed under the SARFAESI Act, hence, it was in those circumstances that the judgment in the case of Vishal N. Kalsaria (supra) was passed. The amended Act and incorporation of sub-section (3), 4 (4-A) in Section 17 of the SARFAESI Act sufficiently empowered the tenant to challenge the proceedings qua his dispossession as a lessee or a tenant, in case, action is being initiated against him for dispossession under the SARFAESI Act. An opportunity and right having been granted to such a tenant, his only option was to invoke the amended provisions of Section 17 of the SARFAESI Act and not the Rent Act of 2001.”

“In the present case, there was no reason for the respondent - tenant to invoke the provisions of Section 18 and 21 of the Rent Act of 2001 as no eviction petition had been filed against him under Section 9 of the Rent Act of 2001 and the possession was sought under the SARFAESI Act and therefore, in view of the amended provisions of sub-section (4-A) of the SARFAESI Act, ample opportunity and right is available to a tenant or lessee on being aggrieved with the order of dispossession to invoke the provisions provided under the SARFAESI Act and also to seek restoration of the possession of the secured assets to the borrower or such aggrieved person in accordance with Section 17.”

“The amended provisions of Sec. 17(4) of SARFAESI Act have been incorporated to safeguard the interests of genuine tenants as well as the interest of secured creditors against the unscrupulous tenants. Sub-section (4-A) has been incorporated for special circumstances and issues as involved in the present case with respect to the lease or tenancy being contrary to Section 65 of the Transfer of Property Act, 1882 or contrary to the terms of mortgage or having been created after the issuance of notice of default.”



**SERVICE LAWS****(1) Sohan Lal Soni and Ors. Vs. The State of Rajasthan & Ors.,****Hon'ble the Chief Justice Mr. Pradeep Nandrajog****Hon'ble Mr. Justice Ramchandra Singh Jhala****Judgement dated 05.01.2018****Important Law Point –**

- Rajasthan Service Rules, 1951 and Rajasthan Civil Services Pension Rules, 1966

While discussing the difference between resignation and compulsory retirement under Rajasthan Service Rules, 1951 and Rajasthan Civil Services Pension Rules, 1966 Court held that “ the absurdity of the argument is writ large. A resignation would never be propelled by a misconduct, insolvency or inefficiency. Resignation is a voluntary act. This takes us to the core issue: Whether the entailment in the two Rules qua forfeiture of past service upon resignation makes the two Rules ultra vires the Constitution, in that, a discrimination ensues between those who resign and those who seek voluntary retirement. At the outset, Government servants who resign and those who seek voluntary retirement form two distinct categories and thus the question of any discrimination inter-se the two does not arise. Concededly, under the Rajasthan Rules, as is under the Rules framed by the Central Government, a Government servant who seeks voluntary retirement has to put in 20 years service. A person can resign at any time. Now, if a person who has rendered more than 20 years service would be free to choose and opt for either resignation or voluntary retirement. But a Government servant who has not rendered 20 years service and wants to leave Government employment would have to opt for resignation. Since the vires of the Rules have been questioned with reference to cases of voluntary retirement and because we have held that Government servants who resign and those who seek voluntary retirement form different categories, the question of vires of the Rules being declared ultra vires does not arise. The case law is clear. Government servants who resign from service and those who seek voluntary retirement are two separate and distinct classes and therefore the effect of consequences of their relinquishment of service by the two modes can be entirely different. While cessation of service brought about in both the methods is 24-07-2018 (Page 5 of 6) [www.manupatra.com](http://www.manupatra.com) Raj. High Court Jodhpur traceable to the voluntary act of the Government servants, the consequences are regulated by separate Rules. A resignation can be tendered irrespective of the period of service rendered by the employee, but in the case of voluntary retirement the employee has to serve for a number of years prescribed. Whereas resignation depends upon the discretion of the employer, voluntary retirement upon completion of qualifying service is right of the Government servants. Different yardsticks and criteria are applied in cases of resignation vis-a-vis voluntary retirement and its acceptance. If a Government servant on his own decides to resign knowing the consequences of forfeiture of past service, such forfeiture cannot be considered as one imposing penalty.”

**(2) Mangu Kanwar Vs. State of Rajasthan and Ors.**

**Hon'ble Dr. Justice Pushpendra Singh Bhati**

**Judgement dated 16.01.2018**

**Important Law Point –**

- Provisions of Rule 19 of the Rajasthan Civil Services Classification Control and Appeal Rules, 1958

While discussing the provisions of Rule 19 of the Rajasthan Civil Services Classification Control and Appeal Rules, 1958, the Court held that “there is no doubt that the respondent had a power to impose a penalty upon the Government servant i.e., petitioner's husband on the ground of his conduct which has led to his conviction on a criminal charge. But such invocation of Rule 19 of the Rajasthan Civil Services Classification Control and Appeal Rules, 1958 could have been resorted to only while the petitioner's husband was alive. The order passed by the respondents on 15.12.2016 under Rule 19(1) of CCA Rules after the death of the Government employee i.e. petitioner's husband on 05.08.2014 is totally contrary to law and is illegal.”

**(3) Raj. Samayojit Shiksha Karmi Welfare Society Vs.  
The State of Rajasthan**

**Hon'ble Mr. Justice Gopal Krishan Vyas**

**Hon'ble Mr. Justice Manoj Kumar Garg**

**Judgement dated 01.02.2018**

**Important Law Point –**

- Provisions of Sec. 5(ii) (iii) (v) and (ix), Rajasthan Voluntary Rural Education Service Rules, 2010, Rajasthan Civil Services (Contributory Pension) Rules, 2005, Rajasthan Civil Services Rules 1951, Rajasthan Civil Service (Pension) Rules, 1996 and Art. 14 of the Constitution of India

While discussing the provisions of Sec. 5(ii) (iii) (v) and (ix), Rajasthan Voluntary Rural Education Service Rules, 2010, Rajasthan Civil Services (Contributory Pension) Rules, 2005, Rajasthan Civil Services Rules 1951, Rajasthan Civil Service (Pension) Rules, 1996 and Art. 14 of the Constitution of India, the Court observed that “ the main grievance of the employees is for denial of right which is available to the regular Government employees even after their appointment under the Rules of 2010, therefore, it is prayed that sub-Rules ii, iii, iv, v and ix of Rule 5 of the Rules of 2010 may be declared ultra vires of the Constitution of India and struck down and issue directions to the State Government to grant benefits accruing to the Government servants under the Rajasthan Civil Services Rules, 1951 and Rajasthan Civil Service (Pension) Rules, 1996 and to all the

appointed/absorbed employees under the Rules of 2010 with all consequential benefits. It is also prayed that the respondents may be directed to count previous service rendered by the employees in the Non-Government Education Aided Institutions after being absorbed after appointment under the Rules of 2010 for the purpose of pension and other retiral benefits with all consequential benefits. The grievance of the employees is to the extent of Rule 5 of the Rules, 2010 and Form No. I, which is required to be filled in by the employees working against the aided/sanctioned post for appointment under the Rules of 2010.”

The Court held that “upon consideration of entire scheme of the Rules of 2010 and the fact that service of all Government servants is regulated under the R.S.R., 1951, therefore, obviously no discrimination can be practiced by the State Government by way of creating separate class of employees under the Rules of 2010, in which certain conditions have been incorporated contrary to the R.S.R., 1951 and Rules of 1996. The framers of the Constitution specifically incorporated the Articles 14 and 21 of the Constitution of India, whereby a complete restriction is imposed upon discrimination on the basis of creed, sex and caste and right to equality has been guaranteed to the citizen of India, therefore, the contention of the learned A.A.G. that doctrine of acquiescence and waiver will apply in this case as undertaking was furnished by the employees with open eyes, has no substance because every citizen has a right to challenge the provisions, if they are in contravention of basic principles of fundamental right guaranteed by the Constitution of India and it is duty of Courts to decide the question of fundamental rights on merit. As per the scheme of the Rules, they are govt. Servants in a dying cadre. There is no doubt that the State Government has a right to create dying cadre or prescribe certain terms and conditions for providing appointment in the Government service, but here in this case undisputedly those employees who were working against sanctioned/aided post after appointment as per the provisions of Act of 1989 and Rules of 1993 in the aided institutions and only those employees who were working against the sanctioned and aided posts were granted an opportunity for appointment under the Rules of 2010. Meaning thereby, after appointment under the Rules of 2010, all those employees working against the sanctioned post in the aided institutions, became Government servant, but due to furnishing undertaking so as to get appointment under the Rules of 2010 upon condition to forego their claims with respect to benefits as are available to other Government servants under the R.S.R. and Pension Rules.”

These employees who were working for many years after appointment as per Rules and discharging the same functions, cannot be discriminated by the State Government so as to deny the benefit of Rajasthan Civil Service Rules, 1951 and the Rules of 1996.

“The State Government has a right to frame rules, but at the same time, it is also incumbent upon the State Government not to act contrary to the provisions of the Constitution. No regular appointments are made by the State Government in rural areas against the vacant posts and a device is operated to fill up those vacancies from the employees working against the aided post in the institutions. In our opinion, the State Government on the one hand did not make regular appointment in the Government schools of rural area, and on the other hand, employees who were working against the sanctioned/aided posts were shifted after promulgation of Rules of 2010 to the vacant posts in Government schools/institutions while taking such

decision, therefore, it is the duty of the State Government to grant benefits without any discrimination to the employees of aided institutions after their appointment/absorption under the Rules of 2010 at par with other Government employees. Upon consideration of entire Scheme under which, the Rules of 2010 were framed by the State Government, it is abundantly clear that the State Government owned the responsibility for absorption and appointment of those employees who were working against the sanctioned and aided posts in the private educational institutions, who were in receipt of grant-in-aid and enacted the Rules whereby the employees of the aided institutions were appointed against the posts, existing in the educational institutions of Government of Rajasthan in the rural areas. Admittedly, the vacancies, upon which employees of aided institutions were appointed were in existence, therefore, option was given to the employees of aided institutions for appointment under the Rules of 2010, who were working against the sanctioned/aided posts. After appointment and absorption, they became the Government servants, therefore, under Article 14 of the Constitution of India, it is the duty of the State Government to act without any discrimination so as to apply the provisions of RSR, and Pension Rules.”

The Court further held that, “on the one hand the State Government is owning the responsibility of the employees working against the sanctioned post in the aided institution and framed Rules of 2010 for their appointment and absorption in the Government services, and on the other hand, denied the benefit of pension to the employees who were appointed prior to promulgation of the Rajasthan Civil Service (Contributory Pension) Rules, 2005 to opt for pension as provided under the Rules of 1996, therefore, obviously it is a case of clear cut discrimination because under the Rules of 2010, the State Government has created a separate cadre amongst Government employees knowingly well that financial aid was provided to the aided institutions for the purpose of imparting education. Thus the provisions for denial of pension in the aforesaid sub-rule (ix) of Rule 5, quoted herein above, is hereby declared to be illegal and in contravention of the fundamental rights of the employees to the extent of denial of pension to the employees who were appointed prior to 2005.”

#### **(4) Loon Singh and Ors. Vs. State of Rajasthan and Ors.**

**Hon'ble The Chief Justice Mr. Pradeep Nandrajog**

**Hon'ble Mr. Justice Ramchandra Singh Jhala**

**Judgement dated 10.04.2018**

#### **Important Law Point –**

- Provisions of Rajasthan Home Guards Act, 1963 and Rajasthan Home Guards Rules, 1962

Vide judgement dated 10.04.2018, the Division Bench comprising of Hon'ble the Chief Justice Pradeep Nandrajog and Hon'ble Mr. Justice Ramchandra Singh Jhala, in the case of Loon Singh and Ors. Vs. State of Rajasthan and Ors., while discussing the provisions of Rajasthan Home Guards Act, 1963 and Rajasthan Home Guards Rules, 1962 the question before the Court was whether appellants i.e. members of Border Wing of Home Guards of State Rajasthan are to be treated as 'volunteers' or they are



to be treated as permanent employees (like other employees) under the State of Rajasthan and whether there can be any direction by this Court for regularization of services of the appellants.

The Court held that “in view of ratio of law laid down in afore-noted judicial pronouncements wherein pari-materia provisions came to the Rajasthan Home Guards Acts and Rules were considered and it was specifically held that no relief for regularization can be granted we have no hesitation in holding that: 'The appellants are not entitled for regularization of service in view of voluntary nature of their service. Further, in absence of any comparison of duties, responsibilities, accountability and status, they shall not be equated with permanent employees of State of Rajasthan to claim parity of pay with such employees.'”

### **(5) Dr. B.S. Meena Vs. State of Rajasthan**

**Hon'ble Mr. Justice Mohammad Rafiq**

**Hon'ble Mr. Justice Goverdhan Bardhar**

**Judgement dated 03.10.2018**

#### **Important Law Point –**

- Rule 56 of the Rajasthan Services Rules, 1951

The question arose before this Court “Whether the restriction imposed on continuation of the medical teachers on the administrative posts beyond the age of 62 years, in latter part of the third proviso to Rule 56 of the Rajasthan Services Rules, 1951 is beyond the scope of the main provision contained in Chapter IX of the Rajasthan services Rules, 1951 and being violative of Article 14 of the Constitution of India”.

The Court is of the view that the age of retirement is one of the essential conditions of service and, therefore, can either be prescribed by way of Rules framed under Article 309 of the Constitution of India or by mutual contract between the employer and the employee. It is up to the employer or the appointing authority to regulate the age of superannuation as per the stipulation made in the Rules. An employee has no fundamental right to remain in service beyond the terms of the Rules. The Medical Council of India Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998 (for short, 'the MCI Regulations'), the MCI Regulations merely lay down guidelines that a medical teacher can be retained in service upto the age of 70 years. But that does not mean that age of retirement of a medical teacher has to be necessarily kept as 70years.

Coming back to the facts of the case in hand, as per the prescription that was originally made in Rule 56 of the RSR, the petitioners could continue in the service till 60 years. This was subject to an exception given in the first proviso to Rule 56 that this age of retirement shall not be applicable in the case of government servants who are either re-employed or granted extension after attaining the age of super annuation. But the State Government faced with the scarcity and dearth of both, the medical teachers in the medical colleges and the hospitals attached thereto and also the medical officers in the Government hospitals and other dispensaries, introduced second proviso to Rule 56 of the Rajasthan Service Rules, 1951

by way of amendment vide Notification dated 31.03.2016 which uniformly enhanced the age of super annuation for both the categories upto the age of 62 years. The Government, there realizing the acute shortage of medical teachers in the medical colleges and the hospitals attached thereto for providing super-specialty treatment to the public at large, decided to further enhance the age of retirement of the medical teachers from 62 to 65 years by introducing the third proviso to Rule 56 of the RSR vide notification dated 30.03.2018 but with a rider that they shall be placed only on the non-administrative positions for this extended period of service between 62 to 65 years, meaning thereby that their services would be utilized only for the purpose of teaching the medical students in the medical colleges and for the super specialized treatment of patients in the hospitals attached thereto. Increase in the age of retirement has been introduced by this special provision to ensure continued availability of sufficient number of medical teachers in the higher education to the students in the medical colleges and the super-specialized treatment to the patients in the hospitals attached thereto. This has, therefore, come as a composite package to such medical teachers who have attained the age of 62 years. They cannot be allowed to contend that this creates any discrimination qua them as it uniformly applies to all falling in this category.

The courts have to keep in mind that by the process of classification, the State has the power of determining who should be regarded as a class for the purposes of legislation and in relation to law enacted on a particular subject. The power, no doubt, to some degree is likely to produce some inequality but if a law deals with liberties of a number of individuals or well-defined classes, it is not open to the charge of denial of equal protection on the ground that has no application to other persons. Classification thus means segregation in classes which have a systematic relation usually found in common properties and characteristics. It postulates a rational basis and does not mean herding together of certain persons and classes arbitrarily. The differentia which is the basis of the classification and the object of the legislation, are two distinct things. What is necessary is that there must be a nexus between them. The basis of testing the constitutionality, particularly on the ground of discrimination, should not be made by raising a presumption that the authorities are acting in an arbitrary manner. One of the known concepts of the constitutional interpretation is that the legislature cannot be expected to carve out classification which may be so scientifically perfect or logically complete as may satisfy the expectations of all the concerned. The courts would respect the classification dictated by the wisdom of the legislature and shall interfere only on being convinced that the classification would result in pronounced inequality or palpable arbitrariness tested on the touchstone of Article 14 of the Constitution.

Further, the third proviso to Rule 56 introduced by way of amendment seeks to achieve the purpose of dealing with the problem of scarcity and non-availability of sufficient number of Medical Teachers in higher medical education, especially at super specialty level and also super-specialized treatment of the patients in the premier medical colleges and hospitals attached thereto by the experienced senior doctors, who would otherwise on attaining the age of 62 years cease to be in service. The classification which the third proviso to Rule 56 of the RSR seeks to make between those who have attained the age of 62 years for the purpose of holding only non-administrative posts vis-a-vis those who have not yet attained the said age, is a reasonable classification, purpose of which is to ensure the availability of

medical teachers for higher medical education in the medical colleges, which are the higher centers of study in the subject of medicines both for undergraduate and postgraduate level and super-specialty treatment of patients in the premier government hospitals of the State attached to such medical colleges. This has reasonable nexus with the object sought to be achieved as it classifies the medical teachers who have crossed the age of 62 years as a distinct category than those who have not attained that age. This is the real and substantial differentia which has got a reasonable nexus with the object of introducing the third proviso to Rule 56 as even after introduction of the second proviso, whereby age of retirement was uniformly increased by the State from 60 to 62 years allowing the medical teachers to continue to serve on the administrative as well as the non-administrative positions up to the age of 62 years, the problem of scarcity of the medical teachers with sufficient experience for teaching the students in the super specialty subjects and providing treatment to the patients in the government hospitals attached to the medical colleges of the State, could not be solved. This is a sound and reasonable nexus with the object of the Rule under challenge, as it seeks to achieve a salutary purpose for positive public cause.

The classification which the respondents have made between the medical teachers by inserting the third proviso to Rule 56, has recognition of specific characteristic in favour of those who, but for the subject amendment, would have retired from service than those who have not yet attained the age of 62 years and could still, therefore, be considered for appointment against the administrative post. Since it has come as a positive provision giving a composite package to them, the petitioners cannot assail one part of that proviso which is beneficial to them, and question the validity of the latter part, which is integral to the main provision.

## **TAX LAWS**

### **(1) M/s Choudhary and brothers Vs.**

**Deputy Commissioner of Income Tax, Circle Jaipur Raj.**

**Hon'ble Mr. Justice Mohammad Rafiq**

**Hon'ble Mr. Justice Goverdhan Bardhar**

**Judgement dated 31.08.2018**

The question before the Court is that whether in facts and circumstances of the case Income Tax Appellate Tribunal is justified in considering that interest income from FDR and NSC as income from other sources by not considering the same as business income in part of total receipts. In answer to this question, Court finds that appellant being a civil contractor was required to provide a performance guarantee to the various works departments for obtaining contracts of civil construction. He is to keep such performance guarantee alive by way of utilizing the bank overdraft limit against which he had to furnish FDRs/NSC for execution of the contracts. His failure to submit the performance guarantee or inability to keep them alive would have resulted in termination of the contract awarded to him and in that event, the concerned departments/employer could encash the security. Release of such performance guarantee is dependent on fulfillment of certain conditions. It is not that the appellant had invested

surplus money lying idle with him only in FDRs/NSCs with a view to earning interest. Obtaining of FDRs/NSCs and furnishing of the same against the performance guarantee by the appellant, therefore, had an inextricable nexus with his business of securing civil contracts and integral to his working as civil contractor. The income of interest earned from the interest such FDRs/NSCs by the appellant therefore, cannot be treated as income from other sources and would rather be an income earned from business.

The interest income from FDRs and NSCs of the petitioner has to be treated as income from business and not income from other sources as the income is part of the total receipts and not from other sources.

## **(2) Vishnu Aggarwal Vs. Income Tax Officer**

**Hon'ble Mr. Justice Ashok Kumar Gaur**

**Judgement dated 26.10.2018**

### **Important Law Point –**

- Section 147 and 148 of the Income Tax Act, 1961

While discussing the provisions of Section 147 and 148 of the Income Tax Act, 1961, the court held that, the purpose of sections 147 & 148 of the Act, 1961 is to ensure that the assessee, who have suppressed the fact at the time of filing of their income tax returns or if the Department is in possession of certain new materials in respect of the assessment of a particular year, then the assessee must be informed about the decision to reopen the assessment and after such information is provided, the procedure is required to be followed for the purpose of concluding the reassessment.

The very initiation of procedures under Sections 147 & 148 of the Income Tax Act, 1961 cannot be interfered by the Courts in a routine manner and judicial review against such initiation is limited. It is found that Section 147 requires that the reasons must be recorded in the notice and in the absence of any reason communicated along with notice under Section 148 of the Act; the entire procedures can become null and void. The intention of the statute is that the authorities on the receipt of new material facts or any suppression of materials by the assessee, is bound to initiate proceeding in invoking under Section 147 & 148 of the Act of 1961.

The phraseology of “reasons to believe” has to be interpreted that the Assessing Officer on receipt of any such new material or materials in relation to suppression of fact by the assessee, has made out a prima-facie opinion that it is a case for reopening of the assessment and then issue notice under Section 148 and thereafter, the procedure of furnishing the reasons, receiving objections and conducting scrutiny and all other procedures contemplated under the provisions of the Income Tax Act, 1961 will follow. When notices are issued based on certain material available with the Department and on receipt of the notice, assessee has got right to seek for the reasons from the Department and the Department is bound to provide reasons, enabling the assessee to submit his explanation/objections in order to defend his case. There is a provision for check on the Income Tax officials under the Act and the word “reasons to believe” indicate that officials cannot



reopen the assessment in a routine and mechanical manner. The Assessing officer in the event of receipt of new material information or suppression must have “reason to believe” and the reasons must be recorded in the files. The issuance of notice to the assessee and after supplying the reason, the Income Tax Officer is to adjudicate the matter in the manner known to law.

The Court further held that High Court cannot use the power of the Appellate Authorities in respect of the objections on the merits and demerits of the matter and the High Court cannot appreciate the question of law and facts at the initial stage, when notice under Section 148 of the Income Tax Act, 1961 is issued to the assessee for reopening the assessment. The complex facts and circumstances are required to be adjudicated by producing the documents and adducing evidences by the parties concerned and such an exercise cannot be done by the High Courts under Article 226 of the Constitution of India. The Assessing Officer, if has “reasons to believe” that a particular income has escaped assessment and he is not proceeding only on hearsay/conjectures, no fault can be found in such action, undoubtedly reopening is to be done cautiously & reasons for reopening is mandatory. In the absence of any substantial reason, the Assessing Officer cannot reopen the assessment which was closed long back. Therefore, the writ petition would not be maintainable against an order passed deciding the objections under Section 148 of the Income Tax Act, 1961.

## ARBITRATION

**(1) Doshion Private Ltd. Vs. Hindustan Zinc Limited & Anr.**

**Hon'ble Mr. Justice Arun Bhansali**

**Judgement dated 04.01.2018**

### **Important Law Point –**

- Provisions of Secs. 14, 15(2) of the Arbitration and Conciliation Act, 1996

While considering the provisions of Secs. 14, 15(2) of the Arbitration and Conciliation Act, 1996 with regard to the maintainability of combined application u/s. 14 and 15(2) of the Act, the Court held that “the provisions of sub-section (2) of Section 14 as noticed hereinbefore, specifically provides for an application to the court to decide on the termination of the mandate of the arbitrator, if a controversy remains. The term 'Court' already stands defined under Section 2(1)(e) of the Act, which in the case of arbitration other than international commercial arbitration means the principal civil court of original jurisdiction in a District, which in the present case is the Court at Udaipur.”

“The submission made by learned counsel for the applicant based on the amendment in opening part of Section 14 providing for termination and substitution of arbitrator is also not of much significance inasmuch as the provisions of Section 15(2) of the Act provides for appointment of a substitute arbitrator in case where the mandate of the arbitrator terminates. It is only once the finding regarding the termination of mandate of arbitrator is recorded by the jurisdictional court that proceedings for substitution of the arbitrator can be initiated and not prior to that and a combined application in this regard based on the opening words of Section 14 cannot be maintained. The very fact that the applicant is required to approach the Court seeking termination of the mandate necessarily means that a controversy does remain concerning such termination. It is apparent that the jurisdiction under Section 14(2) of the Act where the controversy remains concerning any of the grounds referred to in clause (a) of sub-section (1) of Section 14 and the mandate of an arbitrator is sought to be terminated by approaching the 'Court' the party has to apply to the court and the court would be as defined under Section 2(1)(e) of the Act, which in the present case is the principal civil court of the District and the petition filed before this Court is apparently not maintainable.”

**(2) R.K. Industries Vs. Maximus International General Trading &Anr.****Hon'ble Mr. Justice Sangeet Raj Lodha****Hon'ble Mr. Justice Dinesh Mehta****Judgement dated 31.10.2018****Important Law Point –**

- Provisions of Secs. 14, 15(2) of the Arbitration and Conciliation Act, 1996

The Court held that, an order deciding an application on the question of jurisdiction is appealable before the Court authorized to hear the appeal or prescribed forum, irrespective of the fact whether the court has exercised jurisdiction or has refused to exercise the jurisdiction. Merely because the concerned court has held that it does not have jurisdiction, an aggrieved party is not precluded from invoking the appellate forum against such order, with a plea or assertion that the court below did have the jurisdiction. While referring section 37 and 34, the Court further held that, section 37 of the arbitration Act is substantive provision giving an aggrieved party a right to assail an order passed under Section 34 of the Act, setting a side or refusing to set aside an arbitral award. Section 37 of the Act of 1996 provides that an appeal shall lie from such order to the court authorized by law to hear appeals or original decrees of the court passing such order.

In the present case, the appellant had moved the High Court under Section 34 of the Act of 1996, treating the award to be a foreign award amenable to the High Court's jurisdiction in view of the definition of term "court" contained in clause (ii) of Section 2(e) of the Act of 1996. Section 37 of the Act of 1996 instead of prescribing the forum for the appeal against an order under Section 34 of the Act, simply provides that the appeal shall lie to the court authorized by law to hear appeals. A perusal of Rule 134 of the Rajasthan High Court Rules, 1952 reveals that it provides that an appeal shall lie to the Division Bench of the High Court from the judgment or a final order of one Judge of the High Court. Neither the Hon'ble Supreme Court is an appellate court qua the orders passed by the High Court, nor the High Court is a Court subordinate to it, in the hierarchy of the courts defined in Section 3 of the Code of Civil Procedure, at least for the purpose of Section 34 and 37 of the Arbitration Act. Wherever the legislature wanted an appeal to lie before the Supreme Court, it has ingrained a specific provision to this effect. Sans a categorical stipulation in the Act, no appeal can be maintained before the Supreme Court, as the right of appeal is a statutory right governed by the substantive provisions enacted in this regard.

#### **4. STATUS OF INFRASTRUCTURE OF HIGH COURT & DISTRICT/SUBORDINATE COURTS**

##### **HIGH COURT**

##### **RAJASTHAN HIGH COURT PRINCIPAL SEAT AT JODHPUR**

At present, Rajasthan High Court, Jodhpur is functioning in an old Heritage Building and due to paucity of space and to cater the future need, it was felt that there should be building of High Court with sufficient space, therefore, New Building of Rajasthan High Court, Jodhpur near Jhalamand is under construction having a project cost of Rs. **220.07 Crore**. A sum of Rs. **211.02 crore** has been released by State Government to RSRDC Ltd. (Constructing Agency) till date. Further, a budget of Rs. **15.00 Crore** has been sanctioned by the State Government for purchase of furniture during the year 2017-18 for New Building of High Court.

##### **RAJASTHAN HIGH COURT BENCH AT JAIPUR**

In addition to the old building of Rajasthan High Court Bench, Jaipur, one more unit of the building has been constructed behind the existing building having sufficient courts & space for Advocates as well as for Litigants.

##### **DISTRICT AND SUBORDINATE COURT(S)**

##### **Court & Residential Building –**

There are 35 Judgeships in the State of Rajasthan which have 1152 Courts established at present. Out of these, 857 Courts run in the Judicial Department, of which 591 Courts are suitable as per norms. Other Court buildings have been provided by the Gram Panchayat, Bar Association, Tehsil, GAD etc. Further, 34 Courts are running in rented premises.



Further, 583 Residential Accommodations are available & 34 Residential Accommodations are under construction. Some Residential Accommodations have been provided by other Departments and some are operative in rented premises.

**(2) Demand of Budget from GOI under Centrally Sponsored Schemes(CSS) as 60% Central Share for the year 2018-19:-**

(Rs. In Crore)

S. No.	Name of Scheme	Project Cost
1.	Construction of Court Buildings	760.18
2.	Construction of Residential Accommodation	220.48
TOTAL		980.66

The Central Government has released an amount of only 17.41 Crore as Central Share under Centrally Sponsored Scheme during the year 2018-19.

**5. SANCTIONED STRENGTH, WORKING STRENGTH AND VACANCIES OF JUDGES IN HIGH COURT AND DISTRICT/ SUBORDINATE COURTS**

**STRENGTH OF HON'BLE JUDGES OF RAJASTHAN HIGH COURT**

**(As on 31.12.2018)**

SANCTIONED STRENGTH	WORKING STRENGTH	VACANT POSTS
50	25	25

**STRENGTH OF JUDGES IN DISTRICT/ SUBORDINATE COURTS**

**(As on 31.12.2018)**

CADRE	SANCTIONED STRENGTH	WORKING STRENGTH	VACANT POSTS
Rajasthan State for District and Subordinate Courts (RJS)	1337	1101	236

## **6. HUMAN RESOURCE DEVELOPMENT**

### **(I) TRAINING OF JUDGES / JUDICIAL OFFICERS**

#### **Training Programme on Local Laws :-**

On 4<sup>th</sup> Feb, 2018, a one day Training Programme was organized for Judicial Officers of Senior Civil Judge & Civil Judge cadre of Rajasthan Judicial Services. The Workshop was inaugurated by Hon'ble Mr. Justice G. K. Vyas, Judge, Rajasthan High Court and the then Chairman, Rajasthan State Judicial Academy. Mr. Devendra Prakash Sharma, District & Sessions Judge, Banswara, Shri Ashok Kumar Jain-II, District & Sessions Judge, Jhunjhunu, Madhusudan Sharma, Spl. Judge, SC/ST (POA) Act Cases, Jodhpur Metro, Shri Praveer Bhatnagar, Director, RSJA and Shri Madhusudan Mishra, Additional Director (Academic), RSJA chaired the training programme as resource persons. 139 officers attended the Workshop.

#### **Final Phase Reflective Training of Trainee Civil Judges :-**

This Training Programme for Trainee Civil Judges was held from 12<sup>th</sup> March to 21<sup>st</sup> March, 2018. During this Training Programme, an educational cum excursion tour was organized from 12<sup>th</sup> March to 21<sup>st</sup> March, 2018 to acquaint the Trainee Officers with the culture of Rajasthan and administrative functioning along with legal aspects related to other departments and institutions.

Visits to Department of Irrigation, Zonal Railway Training Institute, Department of Mines & Geology, Rajasthan Atomic Power Station, Kota Super Thermal Power Station, Board of Revenue, Rajasthan Public Service Commission, Ajmer, National Research Centre on Camel, Jawai Dam, Jawai Leopard Project, Sajjangarh Biological Park, Maharana Pratap University of Agriculture and Technology, Lok Kala Mandal, Ahar Archeological Museum, Manikya Lal Verma Tribal Research and Training Institute, Bisalpur Dam, Rajasthan State Archives, Ganga Golden Jubilee Museum, Joonagarh Fort, Kapil Muni Ashram, Jaisalmer Fort, Patwon Ki Haweli, Kuldhara, Sand dunes, Jaisalmer War Museum and Bhadariya Library were included in the excursion tour.

After the excursion tour, Trainee Officers were imparted institutional training on various legal subjects through lectures by Hon'ble Judges of Rajasthan High Court, Judicial Officers, Professors and Prominent Advocates of Supreme Court and High Court. In this phase, their judicial knowledge and judgment writing skills were also developed through practical exercise sessions.

The Valedictory Function took place on 07.04.2018. The Trainee Officers were blessed with the word of wisdom by Hon'ble Pradeep Nandrajog, Hon'ble the Chief Justice, Rajasthan High Court and Hon'ble Mr. Justice Gopal Krishan Vyas, the then Chairman, RSJA. Other Hon'ble Judges and dignitaries graced the occasion.

### **Mediation Training Programme for 31 Trainee Judicial Officers :-**

A 40 Hours Mediation Training Programme was organized for 31 newly appointed Civil Judges from 27<sup>th</sup> March to 31<sup>st</sup> March, 2018 at Rajasthan State Judicial Academy to make Judicial Officers aware with the Mediation Techniques.

### **Training on Use of Video Conferencing Facility :-**

In compliance of direction issued by Hon'ble Mr., Justice Madan B. Lokur, Judge-in-charge, E-Committee, Supreme Court of India, a training on use of Video Conferencing Facilities was imparted on 2<sup>nd</sup> and 3<sup>rd</sup> April, 2018 under guidance of Hon'ble Mr. Justice Gopal Krishan Vyas, the than Chairman RSJA.

Further, training on use of Video Conferencing Facilities was imparted from 13<sup>th</sup> to 15<sup>th</sup> May, 2018 for 105 clerks for 35 Judicial Districts (3 from each District) were trained as Master Trainers with an object that they would assist the officer Master Trainers when the training would be imparted at District level.

In the month of July 2018 to September 2018, under the direction of Hon'ble Mr., Justice Madan B. Lokur, Judge-in-charge, E-Committee, Supreme Court of India, training on use of Video Conferencing Facilities was imparted to all the Judicial Officers, Court Staff and staff of Jail in 35 districts of Rajasthan.

Shri Vikram Singh, ADJ, Nathdwara, Shri Ashok Sen, ACMM No. 20, Jaipur Metro (Sanganer), Shri Kamal Lohia, ACMM No. 19, Jaipur Metro, Shri Jitendra Goyal, ACJM (Rent Tribunal), Udaipur, Ms. Deepti Srivastava, ACJM, Degana (Nagaur) and Ms. Ajanta Aggarwal, ACJM No. 2, Bharatpur were Officers Master Trainers for this Training Programme. In this programme 105 clerks of 35 Judicial District (3 from each district) which were trained as Staff Master Trainers for use of Video Conferencing Facility on 13-15 May 2018 at RSJA, supported during training at district level. Around 944 Judicial Officers, 602 Court Staff and 174 Jail Staff (Total 1720 participants) have been trained so far.

### **Refresher Training for Additional Chief Judicial Magistrates :-**

A three days Refresher training Programme was organized by RSJA from 18<sup>th</sup> to 20<sup>th</sup> August, 2018 for Additional Chief Judicial Magistrates. In this Refresher Course Mrs. Meena Awasthi, ADJ No. 3 Bharatpur, Mrs. Poornima Gaur, Spl. Judge, SC/ST Cases Court, Sirohi, Mr. Hari Om Sharma Attri, Judge, MACT, Jhunjhunu, Mr. Vishwa Bandhu, Additional Director (Acad.), RSJA, Mrs. Sangeeta Garg, Mr. Madhu Sudan Mishra, ADJ No. 1, Jaipur Metro, Mr. Girijesh Kumar Ojha, Judge, MACT, Sawai Madhopur, Mr. Bal Krishna Mishra, Spl. Judge, SC/CT Cases Court, Sawai Madhopur, Ms. Vimla Sharon, Mr. Arvind Bhatt, Motivational Speaker, Samvad, Jodhpur, Mr. Dinesh Tyagi, Judge, MACT, Chittorgarh enlightened the participants as resource persons.



### **Refresher Training for Assistant Prosecution Officers :-**

A Two days Refresher training Programme was organized by RSJA from 28<sup>th</sup> to 29<sup>th</sup> September, 2018 for Assistant Prosecution Officers (Batch-2014). In this training, participants were enlightened by Hon'ble Mr. Justice P. K. Lohra, Judge, Rajasthan High Court, Hon'ble Mr. Justice Sandeep Mehta, Judge, Rajasthan High Court, Shri Chandra Shekhar Sharma, Director, RSJA, Shri Vishwa Bandhu, Additional Director (Acad.), RSJA, Shri Ramesh Sharma, Director, Prosecution Department, Jaipur, Shri Ramesh Choudhary, Addl. Director, FSL, Jodhpur, Shri Dinesh Tiwari, ADP, Jodhpur, Dr. Puneet Setia, Addl. Professor, AIIMS, Jodhpur, Shri Mukesh Choudhary, Cyber Crime Consultant, Jaipur, Ms. Shalini Goyal, ACJM, Gangapur City and Shri Pramod Sharma, Retired ADP, Jodhpur.

### **Refresher Training for Referral Judges :-**

A one day Training Programme was organized by RSJA on 18<sup>th</sup> November, 2018 for Referral Judges to educate, sensitize about the latest Laws and procedure to achieve the constitutional mandate of securing the “the rule of law”. In this training programme, Mrs. Archana Mishra, an officer of District and Sessions Judge rank and Mrs. Pramila Acharaya, a practising Advocate were the resource persons. 95 Judicial Officers of 2013 batch witnessed the programme.

### **Refresher Training for Judicial Magistrates :-**

Keeping the constitutional mandate in mind, a two days Refresher Training Programme for Judicial Magistrates was organized on 24<sup>th</sup> and 25<sup>th</sup> November, 2018 by RSJA. Mr. Mukesh, Dy. Registrar (Exam), Rajasthan High Court, Jodhpur, Mr. Sukesh Kumar Jain, Judge, POCSO Court, Jhunjhunu, Mr. Madhu Sudan Sharma, Joint Secretary (Law), Law and Legal Affairs Department, Jaipur, Mr. Satyanarayan Vyas, Judge, MACT, Jodhpur Metro, Mrs. Nandini Vyas, Judge, MACT, Bundi, Mr. Kamal Chhangani, Judge, Family Court, Balotra resource persons for the programme.

### **Training on Cyber Crimes and Laws relating to Cyber Crimes :-**

A one day Training Programme was organized on 16<sup>th</sup> December, 2018 by RSJA for Judicial officers of Trial Court and Appellate Court with the objective to enhance the understanding of Cyber Crimes as well as various aspect of Cyber Laws dealing with cyber crimes. It also intended to create clarity and understanding of Appreciation of Electronic Evidence and to facilitate the speedy disposal of cases. This Training Programme was inaugurated by Hon'ble Mr. Justice Sandeep Mehta, Judge, Rajasthan High Court, Shri C. S. Sharma, Director, RSJA, Mr. Rodney D Ryder, Founding Partner, Scriboard Advocates & Legal Consultants, Shri Mukesh Choudhary, Cyber Crime Consultant, Jaipur. All these dignitaries and Ms. Shalini Goyal, CJ & ACJM, Gangapur City, Sawai Madhopur enlightened the participants as resource persons.

### **Workshop on Speedy and Qualitative Disposal of Sessions Cases :-**

On 27<sup>th</sup> and 28<sup>th</sup> January, 2018, a Workshop was organized by RSJA for Sessions Judges, inaugurated by Hon'ble Mr. Justice Gopal Krishan Vyas, Judge, Rajasthan High Court and the then Chairman, RSJA. The sessions of Workshop were chaired by Hon'ble Dr. Justice Vineet Kothari, Judge, Karnataka High Court and co-chaired by Hon'ble Mr. Justice Gopal Krishan Vyas. Shri Farzand Ali, Advocate, Advocate, Rajasthan High Court, Jodhpur, Shri M. K. Vyas, Former Dean & H.O.D., Jail Narayan Vyas University, Jodhpur and Shri Nisheeth Dixit, Advocate, Rajasthan high Court, Jaipur also enlightened the participants. 88 Officers attended the Workshop.

### **Workshop on Speedy and Qualitative Disposal of Civil Cases :-**

On 18<sup>th</sup> March, 2018, a Workshop was organized by RSJA for the Officers of District Judge, Senior Civil Judge and Civil Judge Cadres. Shri Ashok Kumar Jain, District & Sessions Judge, Jhunjhunu, Shri Praveer Bhatnagar, Director, RSJA, Shri Umesh Sharma, Former District & Sessions Judge, Shri Neeraj Kumar Bhardwaj, ADJ No. 2, Sikar enlightened the participants as resource persons. 71 Officers witnessed the Workshop.

### **Workshop on Speedy and Qualitative Disposal of N. I. Act Matters :-**

On 25<sup>th</sup> March, 2018, a Workshop was organized by RSJA for the Judicial Officers dealing with NI Act Matters. The resource persons of the Workshop were Mr. B. K. Mishra, ADJ No. 3, Bharatpur, Mr. Mahendra Kumar Dave, A.D.J. No. 2, Udaipur, Mr. Mukesh Parnami, Sll. CJ-cum-ACJM No.2, Ajmer, Mr. Vineet Jain, Advocate. 43 Officers attended the Workshop.

### **Workshop for Stakeholders under Juvenile Justice System :-**

On 20<sup>th</sup> May, 2018, a one day Workshop was organized by RSJA for the Principal Magistrates and Members of Juvenile Justice Boards, Chairpersons, CWCs across the State of Rajasthan. In this Workshop Hon'ble Mr. Justice Sandeep Mehta, Judge, Rajasthan High Court, Shri Mahendra Kumar Dave, ADJ No. 2 Udaipur, Shri Sanjay Nirala, Child Protection Officer, UNICEF, Shri Govind Beniwal, Project Director, "Antakshari" Foundation and Member, High Level Committee of JJ Act enlightened the participants as Resource Persons. The Workshop was convened for about 126 participants amongst various stakeholders, like Principal Magistrates, JJB Members, JJB Chairpersons, CWCs across the State of Rajasthan. Workshop was inaugurated by lighting of lamp and with the inaugural address by Hon'ble Mr. Justice Manoj Kumar Garg.

### **Workshop for Sensitization on Motor Claims Cases and Modified Claims Tribunal Agreed Procedure:-**

In pursuance of the direction of Hon'ble Supreme Court, on 28<sup>th</sup> July, 2018, a one day Workshop was organized by RSJA for Sensitization on Motor Claims Cases and Modified Claims Tribunal Agrees Procedure for Presiding Officers of North, West and South Zone of the State. Hon'ble Mr. Justice Sangeet Raj Lodha, Judge, Rajasthan High Court, Hon'ble Mr. Justice P. K. Lohra, Judge, Rajasthan High Court, Hon'ble Mr. Justice H. R. Panwar, Former Judge, Rajasthan High Court enlightened the participants as Resource Persons. 44 Judicial Officers having jurisdiction to hear Motor Claims Cases participated in this Workshop.

### **Workshop on Speedy and Qualitative Disposal of NDPS Cases :-**

On 7<sup>th</sup> October, 2018, a one day Workshop was organized by RSJA on "Speedy and Qualitative Disposal of NDPS Cases". The Academy focuses on Capacity Building of the Judicial Officers including other stakeholders and is achieving its objective by accomplishment of various training programmes. The Resource Persons of the Workshop were Hon'ble Mr. Justice Sandeep Mehta, Judge, Rajasthan High Court, Hon'ble Mr. Justice Vineet Kumar Mathur, Judge, Rajasthan High Court and Hon'ble Dr. Justice Pushpendra Singh Bhati, Judge, Rajasthan High Court. The Workshop witnessed participation of 40 Judicial Officers, 10 Special Public Prosecutors and 26 Police Officers dealing with NDPS Cases all over Rajasthan.

### **Zonal Conference on Sensitization of Stakeholders on Family Court Matters :-**

In compliance of the decision of Hon'ble Committee constituted for Sensitization of Judges on Family Court Matters, a two days Zonal Conference was organized by RSJA on 17<sup>th</sup> & 18<sup>th</sup> February, 2018 for Family Court Judges, Additional District Judges having jurisdiction to hear Family Court Matters and Counselors.

Hon'ble Mr. Justice V. S. Siradhana, Judge, Rajasthan High Court inaugurated and enlightened the First Session. Other Resource Persons were Shri Mukesh Bhargav, Dy. Registrar (Exam), Rajasthan High Court, Shri Pallav Shishodia, Senior Advocate, Supreme Court. 45 Judges of Family Court and Additional District Judges having jurisdiction to hear Family Court matters and 23 Counselors attended the Conference.

### **Zonal Conference on Sensitization on Family Court Matters :-**

A one days Zonal Conference was organized by RSJA on 26<sup>th</sup> May, 2018 for Family Court Judges, Additional District Judges having jurisdiction to hear Family Court Matters and Counselors.

Hon'ble Mr. Justice Vineet Mathur, Judge, Rajasthan High Court inaugurated the Conference. Hon'ble Mr. Justice Banwari Lal Sharma, Judge, Rajasthan High Court, Mr. Arvind Bhatt, Motivational Speaker “Samvad”, Jodhpur, Mrs. Pramila Acharya and Mr. Haider Agha, Advocates, Rajasthan High Court, Jodhpur addresses the participants as Resource Persons. 53 Participants attended the Conference.

### **Zonal Conference on Sensitization on Family Court Matters :-**

A one day Zonal Conference was organized by RSJA on 16<sup>th</sup> September, 2018 for Family Court Judges with four sessions principally covering the broader practical aspects related to Family Court Matters with emphasis on Psychological aspect, amicable resolution and protection of Child Rights and Interests.

In this Conference, participants were enlightened by Hon'ble Mr. Justice Pradeep Nandrajog, the Chief Justice, Rajasthan High Court and Patron-in-Chief, RSJA, Hon'ble Mr. Justice Sangeet Raj Lodha, Chairman, RSJA and Judge, Rajasthan High Court, Hon'ble Mr. Justice Mohammad Rafiq, Judge, Rajasthan High Court, Hon'ble Kumari Justice Nirmaljit Kaur, Judge, Rajasthan High Court, and Shri C. S. Sharma, Director, RSJA as resource persons.

### **Judicial Colloquium for Effective Implementation of Pre Conception and Pre Natal Diagnostic Techniques Act, 1994 :-**

In compliance of the decision of the Hon'ble Supreme Court in Writ Petition No. 394/2006 – Voluntary Health Association of Punjab Vs. Union of India and Hon'ble Rajasthan High Court in D.B. Civil Writ Petition (PIL) No. 3720/2012 – S. K. Gupta Vs. Union of India, a One day Judicial Colloquium was held on 6<sup>th</sup> May, 2018 for Judicial Officers, Prosecution Officers & District Coordinators from the State of Rajasthan.

In this Judicial Colloquim Hon'ble Mr. Justice Vijay Kumar Vyas, Judge, Rajasthan High Court, Sh. Naveen Jain, I.A.S., Mission Director NHM and Secretary Medical, Health and Family Welfare, Government of Rajasthan, Ms. Meena Avasthi, A.D.J. No. 3, Bharatpur enlightened the participants as resource persons.



### **Judicial Colloquium on Prevention of Human Trafficking:-**

Strive to accentuate the object of Article 23 of the Constitution of India, in its mandate to fight the menace of Human Trafficking and bonded laboury, a One day Judicial Colloquium was held on 22<sup>nd</sup> July, 2018 for Presiding Officers of Trial Courts and Appellate Courts, Police Officers of District AHT unit, Members of NGO's.

Hon'ble Mr. Justice Ashok Kumar Gaur, Judge, Rajasthan High Court with Sh. C. S. Sharma, Director, RSJA, Sh. P. M. Nair (Retd.) IPS – Professor, Tata Institute of Social Sciences, Shri Ravi Kant, Advocate and President, Shakti Vahini, NGO, and Sh. Govind Beniwal enlightened the participants amongst various stakeholders, like Presiding Officers of Trial Courts and Appellate Courts, Police Officers of District AHT unit, Members of NGO's across the State of Rajasthan witnessed the Colloquium.

### **West Zone-I "Regional Conference on Enhancing Excellence of the Judicial Institutions : Challenges and Opportunities."**

A two days West Zone-I "Regional Conference on Enhancing Excellence of the Judicial Institutions : Challenges and Opportunities" was organized by National Judicial Academy, India collaboration with Hon'ble Rajasthan High Court and Rajasthan State Judicial Academy, Jodhpur on 27<sup>th</sup> & 28<sup>th</sup> October, 2018 for High Court Justices, Civil Judges Senior Division and Civil Judges Junior Division of West Zone viz. Madhya Pradesh, Bombay and Rajasthan States.

In this conference, Hon'ble Mr. Justice M.B. Lokur, Hon'ble Mr. Justice U.U. Lalit, Hon'ble Mr. Justice Navin Sinha, Judges, Supreme Court of India and Hon'ble Mr. Justice Pradeep Nandrajog, Chief Justice, Rajasthan High Court, Hon'ble Mr. Justice M.N. Bhandari, Judge, Rajasthan High Court, Hon'ble Mr. Justice Sunil Ambwani, Former Chief Justice, Rajasthan High Court enlightened the participants as resource persons. Hon'ble Mr. Justice Sangeet Raj Lodha, Chairman RSJA and other Hon'ble Judges were also grace the occasion by their benign presence. In this conference 05 High Court Justices, 10 Judges of the rank of Civil Judge Senior Division (CJSD) and 10 Judges of the rank of Civil Judges Junior Division (CJJD) each from the High Courts of the West Zone viz. High Court of Madhya Pradesh, High Court of Bombay, High Court of Gujarat and High Court of Rajasthan were invited. 05 law students NLU Jodhpur were also nominated as facilitators.

**(II) ACTIVITIES OF STATE JUDICIAL ACADEMY**

In Rajasthan, Judicial Academy was constituted and established in the name of School of Judicial Administration & Rajasthan Judicial Academy (S.J.A.R.J.A.) considering suggestions made by the Vice Chancellor of National Law University, Jodhpur the then Hon'ble Chief Justice Mr. A. R. Laxmanan vide his order dated 16.11.2001.

Presently, the Academy is functioning in its newly constructed splendid building spread in about 80 Bighas of land and situated near Jhalamand Circle, Old Pali Road, Jodhpur. The Academic Block of RSJA has state-of-the-art Auditorium (with a capacity of 240 persons), a Conference Hall (with a capacity of 135 persons), a Library Hall, Class Rooms and a Computer Lab. The Hostel Block of RSJA has 52 rooms alongwith a Dining Room, a Gymnasium and a Recreation Room for the Trainee Officers.

The Rajasthan State Judicial Academy has a Faculty Guest House comprising of suites and rooms for Hon'ble Guest Faculties and other invited dignitaries invited for various purposes. In the near future, RSJA is planning to construct a few additional Hostel Rooms, a Swimming Pool, a Tennis Court, a Utility Centre, a Canteen and a Drivers' Dormitory etc.

## **7. STATUS REPORT OF COMPUTERIZATION OF RAJASTHAN HIGH COURT**

### **THE BEGINNING**

Computerization in Rajasthan High Court began in the year 1993, with the visit of a team of NIC, HQ at New Delhi. The NIC Team in coordination with High Court Administration conducted a detailed study of the requirements and prospects of ICT Development & Computerization in High Court. Requisite hardware and software programs were provided by NIC, Delhi and with its assistance, Rajasthan High Court, Jaipur Bench, Jaipur was partially computerized in the year 1995.

To begin with, the cases listed on each day were started to be entered into the computer system and gradually the backlog was covered. Subsequently, in the year 1996, the same software was replicated at the Principal Seat of the Rajasthan High Court at Jodhpur.

Since 1993, the computerization drive has come a long way with the last 2 years being very crucial in this journey when we have revamped the entire IT setup with 360 degree approach to enhance the capability of the system for optimum results.

In August 2016, rigorous exercise was initiated for further development to implement the same in an organized frame and manner. Two time-bound plans were separately prepared for High Court and Subordinate Courts.

### **RECENT MAJOR STEPS FOR COMPUTERIZATION IN HIGH COURT**

#### **MIGRATION AND REPLICATION TO CIS 1.0**

Hon'ble E-Committee, Supreme Court of India has developed CIS 1.0 for all the High Courts of Country in order to have uniformity amongst all the High Courts. The data of Rajasthan High Court, Principal Seat, Jodhpur and Bench at Jaipur has been migrated to CIS 1.0 in June 2018 and replication process has also been done

successfully. Now the Data is replicated real time on NJDG. The new CIS 1.0 Software is advanced software to cater needs of High Court. Now, Hon'ble Supreme Court, Hon'ble High Court and Subordinate Courts are on the same platform in regard to Data Integration. The CIS data is being diverted simultaneously to the Rajasthan High Court website and Rajasthan High Court eServices Mobile App.

### **DIGITIZATION**

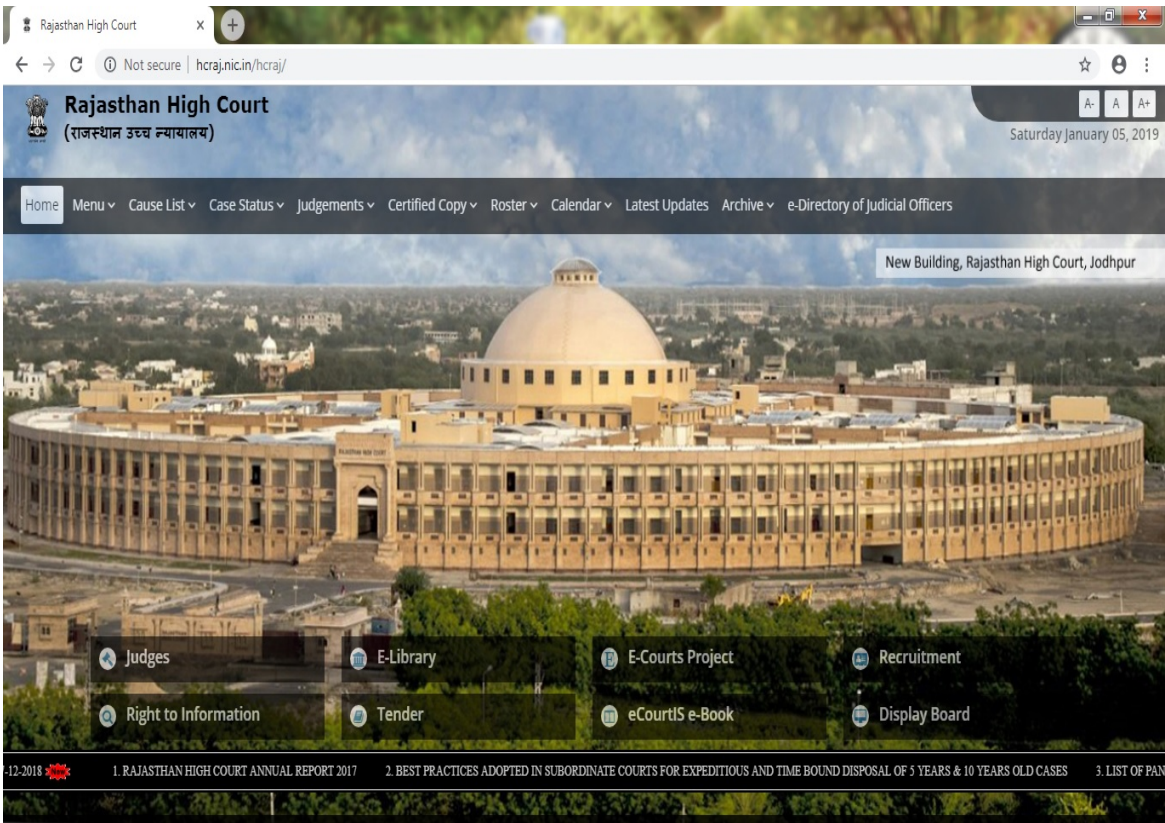
Scanning & Digitization of Case Records of Rajasthan High Court, Principal Seat, Jodhpur and Jaipur.

The State Government sanctioned the budget for digitization of records. The work order is given to M/s. Enhira Software Exports Pvt. Ltd., Mumbai. The work of scanning and digitization has been started at both the places. The digitization of record has commenced since month of October 2018 at Rajasthan High Court Principal Seat Jodhpur and at its bench at Jaipur. Almost 7 crore pages are to be digitized. Around 12 lacs pages have been digitized so far. Dedicated DMS software and web service has also been developed to fetch data fields for digitization. Necessary staff for quality checks has been deputed. Training has also been imparted to them.

### **RAJASTHAN HIGH COURT WEBSITE**

The domain name of Rajasthan High Court official website is [www.hcraj.nic.in](http://www.hcraj.nic.in). The website has been designed with latest technology and advanced features with entire new look and design. The website is screen responsive i.e. can be seen on mobile, iPad or laptop and on any size of screen. *The new website is disabled friendly also.* Visually impaired users can also access it now. For this, the website supports screen readers meant for visually impaired persons. Links of Free screen readers are available on the website itself. The website receives around 40,000 hits per day.





***(Screen-Shot of New Website of Rajasthan High Court)***

**JUDICIAL OFFICERS DIRECTORY ON WEBSITE (e-DIRECTORY)**

e-Directory of all the Judicial Officers has been hosted on the website of Rajasthan High Court. Directory is in Physical book format to give it a look and feel of a physical book. Multiple search features have been added in the directory for easy access. The directory is mobile responsive also.



***(Screen-Shot of eDirectory of Judicial Officers)***

### **MOBILE APPLICATION (*Android App*)**

Android Mobile App for eServices of Rajasthan High Court is developed by the Technical Team of Rajasthan High Court. Following are the key features of the App:

❖ **Cause List-** Cause List can be viewed & downloaded with following search parameters:

- ❖ Court Number
- ❖ Hon'ble Judge
- ❖ Case Number
- ❖ Advocate Name
- ❖ Petitioner Name
- ❖ Respondent Name

❖ **Filing/Defect Status-** Status of Filing/Defect can be viewed with following search parameters:

- ❖ Filing/Diary Number
- ❖ Case Number
- ❖ Advocate Name
- ❖ Party Name

❖ **Case Status-** Status of cases can be viewed with following search parameters:

- ❖ Filing/Diary Number
- ❖ Case Number
- ❖ Advocate Name
- ❖ Party Name

In Case Status facility Judgments and Orders can be viewed or downloaded.

❖ **My Diary** - A unique features which enables the user to store his selected cases in his mobile.

- ❖ Case Numbers can be selected and saved under My Cases.
- ❖ The status of these selected cases may be accessed offline as well.
- ❖ Whenever there will be internet connectivity in the mobile, the status of these selected cases will be updated automatically.

- ❖ **Copying Status** -Status of copying application can be viewed on following parameters:
- ❖ Case Type
  - ❖ Inward Number



(Screen-Shot of Android Mobile Application)

**JUDICIAL OFFICERS ASSESSMENT PORTAL**

A portal regarding assessment of Judicial Officers with reference to disposal in the Court since last seven years has been developed by technical team of Rajasthan High Court. Data of disposal by all the Presiding Officers of Rajasthan Subordinate Judiciary is being entered in the system. This portal has been developed to assist in annual comparative assessment of Judicial Officers.

### **WI-FI FACILITIES**

Free Wi-Fi Internet Facility has been provided by Department of Information Technology & Communication (DoIT&C). Now, the entire Rajasthan High Court, Jaipur Bench Campus has been facilitated with free Wi-Fi. Work for providing free Wi-Fi Services at Rajasthan High Court, Principal Seat, Jodhpur has been completed and the facility will be started soon.

### **DISPLAY BOARDS IN HIGH COURT**

Real time status of cases listed in courts is displayed through various screens installed in High Court. The cases listed in Court are simultaneously being displayed on High Court Website and Android App also.

### **ENROLLMENT NUMBER OF ADVOCATES ON RESPECTIVE FILES**

Earlier, only the names of Learned Advocates are entered in computer system at the time of filing of case/ application/ vakalatnama. There were typing mistakes while entering these names. There were instances of entering name of one Advocate in different ways i.e. Full or Short Name. Besides this, there were multiple Advocates with same name. In this situation, it was not possible to exactly find out by using only the name of Learned Advocate entered in the computer system that a particular case belongs to which Advocate. Thus, a mechanism was developed to enter enrollment number of Learned Advocates at the time of filing so that personalized Email and SMS services may be provided. Therefore, to overcome such instances it has been made mandatory for all Advocates to enter their enrollment numbers on every vakalatnama from 12.02.2018.

### **E-MITRA KIOSKS**

eMitra+ Kiosks through Department of Information Technology & Communication have been installed in Rajasthan High Court and at district Judgeships. These kiosks provide various digital services to public at large. Video Conferencing facility is also available in these kiosks.

### **E-GATE PASS**

Computerized Gate pass system software has been made operational at Rajasthan High Court, Jaipur Bench. ICT is used to track litigants entering into court premises for hearing of cases.

### **EMAIL ADDRESSES OF ALL SUBORDINATE COURTS**

E-Mail address of all Subordinate Courts has been made, so that direct communication can be made with all courts through internet.

### **MEDICO LEGAL POSTMORTEM REPORTS (MEDLEAPAR)**

Medico Legal Report, Injury Reports, Post-Mortem Reports are handwritten and are generally not legible. There are also instances of manipulations in such reports. In such situation, steps were taken to develop a system for preparing and generating these reports including Forensic Science Laboratory Reports. State Government and NIC are finalizing the modalities and it will be implemented very soon.

### **CITIZEN CENTRIC SERVICES RENDERED BY THE HIGH**

#### **COURT TO LAWYERS AND LITIGANTS**

- ❖ Touch Screen e-Kiosks both at Jodhpur and Jaipur at prominent places
- ❖ eMitra+ Kiosks at at Jodhpur and Jaipur at prominent places
- ❖ Query Counter
- ❖ Case Status
- ❖ Cause List
- ❖ Centralized Filing Section
- ❖ Certified Copy Status
- ❖ Defect/Objection Status
- ❖ Online Scrutiny
- ❖ SMS for Case Status
- ❖ E-stamp Centers both at Jodhpur and Jaipur.
- ❖ Mobile App for Display Board



## **ICT DEVELOPMENT AND COMPUTERIZATION IN SUBORDINATE COURTS OF RAJASTHAN**

### **MIGRATION AND REPLICATION TO CIS 3.0**

Hon'ble E-Committee, Supreme Court of India has developed CIS 3.0 for all the District & Subordinate Courts of Country. Rajasthan is the largest state with highest number of establishments on NJDG i.e. 754. High Court started migration exercise for CIS 3.0 in May 2018 and successfully completed migration exercise within a very short span of 42 working days without causing any interruption in Court Proceedings and Court Management, which is an achievement in context to its large Data size and large number of establishments. Now entire data of all Subordinate Courts is being replicated real time on NJDG server.

The Case Filing, Scrutiny of Cases, Registration, Allocation and further case proceedings are being done through CIS 3.0. To ensure smooth functioning of CIS 3.0, continuous training programs for staff members have been organized at each and every Court Complex. The staff is being motivated to adopt changes. Personalized training is also being given as per their need. On site and electronic support also provided to the courts and their staff.

### **IMPLEMENTATION OF MEDIATION AND LOK ADALAT MODULE IN CIS 3.**

In Rajasthan Lok Adalat and Mediation Module has been successfully implemented through CIS 3.0. Cause-List of mediation cases and Lok Adalats is also being generated through CIS 3.0. Apart from that various Reports related to Mediation and Lok Adalats are being generated through CIS.

### **UNDATED CASES**

Correct data entry and its timely updation is essence of case information system, without which the same would not be of any use. Hence, focus was made on proper data entry and its daily updation on NJDG portal. Therefore, special emphasis was given on undated cases and strict monitoring of undated cases is being ensured. Directions were issued to concerned Staff Members that every case in cause-list should get updated on same day and all the Presiding Officers are also directed to monitor the same. District Level Computer Committees are also monitoring the undated cases in each District under overall supervision of respective District Judges. Dedicated staff has been deputed in the Office of Registrar cum CPC to monitor the connectivity at each and every court of Rajasthan so that daily updation be ensured. With continuous monitoring and follow up, percentage of Undated Cases is being maintained between 0.20 to 0.80 and only goes up if there is any connectivity issue on the part of BSNL or other technical and other inevitable issues.

### **EMAIL ADDRESSES OF ALL SUBORDINATE COURTS**

E-Mail accounts of each and every subordinate Court have been generated with the idea to have direct official communication with the Courts. E-Mail accounts of all Courts and all Police Stations have been exchanged with Police Department. Now effective and timely compliance of Section 157 Cr.P.C. can be ensured. FIR can be sent to the concerned Court within stipulated time. Apart from that Courts can now communicate with each other and various requisitions of records etc can be sent through e-mails and thus time in the process can be reduced. Summons and other documents/orders also can be sent to concerned Police Station directly on their email addresses. 10 Pilot Courts have been identified to use these e-mail addresses and their effective implementation. Efforts are being made to integrate with Crime and Criminal Tracking Network System.

### **VIDEO CONFERENCE FACILITY**

Video Conference Facility has been made available in all the District Courts and District Jails. Procurement process for Video Conferencing in all remaining court complexes and jails has been completed and installation process is under progress.

### **CCTV CAMERAS**

In the light of directions of Hon'ble Supreme Court vide judgment dated 28.03.2017 in Civil Writ Petition (Criminal No. 99/2015) Pradyuman Bisht V/s. UOI, CCTV Cameras (without audio recording) have been installed in District HQs of Pali & Sikar District as Pilot Project. A Dedicated Cell comprising of Registrar (Admn.), Registrar cum CPC, System Officer and System Assistant has been constituted to observe and publish CCTV footage of District Courts.

An action plan for installation of CCTV Cameras in all the District & Subordinate Courts has been prepared on the basis of court functional in own buildings, buildings of other departments and rented buildings and the same has been sent to Hon'ble Supreme Court of India.

### **AUTOMATED EMAIL SERVICE**

Automated Email Services for Lawyers, Litigants and other Stakeholders has been started in all District & Subordinate Courts of Rajasthan. Through this automated email facility, case status and other details being sent to those litigants and advocates whose email addresses are stored in the CIS.

### **SOLAR PANELS**

Now 22 Court complexes in Rajasthan are running on Solar energy.

### **DISPLAY BOARD & KIOSKS**

Display Boards and Kiosks have been installed at all the Subordinate Courts and made functional.

## **PROCUREMENT OF HARDWARE**

For proper implementation of eCourts Project, process of providing additional hardware and LAN Work in all the courts is underway.

### **CITIZEN CENTRIC SERVICES IN SUBORDINATE COURTS**

- Touch Screen e-Kiosk
- Case Status on Internet
- Query Counter
- Cause list on Internet
- SMS for Case Status
- Mobile App for eCourt Services

## **ACHIEVEMENTS**

### **UNIFORMITY EXERCISE**

The Rajasthan High Court is the first High Court which successfully implemented uniformity exercise. Uniform Case Types and Case Nature have been implemented in all the District Courts upto Taluka Level across the State w.e.f. 01.01.2017. Case Types and respective Case Natures have been standardized to have uniformity in all the Courts. After introduction of National Codes and Types by Hon'ble E-Committee, New Masters of Adjudgment Types, Purpose Types and Disposal Types on the lines of National Types have been inserted in the CIS to maintain uniformity across the State. Rajasthan was the First State in the Country which successfully completed National Uniformity Exercise for each Establishment. In addition to adopting national codes Rajasthan took its own initiative. Previously various Masters were causing difficulty in retrieving data because of their own case types. Different Master of Case Types in different Districts were creating issues in retrieving data. For example in Civil Suit Category there were various nomenclature such as "Civil Suit" "Money Suit" "Regular Civil Suits" "Partition Suit" "Suit for Damages" "Cancellation of Sale Deed" etc. similarly for Criminal cases there were category like "Criminal Case" "Regular Criminal Case" "Indian Penal Code" "Criminal Case Complaint" "PFA Act" etc. To meet out the problem, Rajasthan created its own Uniform Case Types Master

and implemented it at all District & Subordinate Courts. Directions were issued to use only these case types starting from Series 501. Case Types were reduced to 34 from 250. Now the system is shifted to Process Oriented from Person Oriented. Now it is easy to get exact information of pendency and disposal of particular case type. Consolidation of data on various parameters is now streamlined by implementing uniformity pattern.

### **UNDATED CASES**

The Rajasthan High Court has been amongst large High Court which could maintain undated cases percentage below 0.4 for long time.

### **MIGRATION WITH LARGEST ESTABLISHMENTS**

- The migration of subordinate Courts in CIS 3.0 Module was completed just within 42 days while having 742 establishments which is the highest number in India.
- In the process of Migration, the NIC and E-Committee, Supreme Court of India considered Rajasthan High Court's data ***cleanest*** which shows that data entry at Subordinate Courts level is done with almost perfection and cautiously.
- UNIQUE SCRIPT- SIMULTANEOUS REPLICATION-** The Rajasthan High Court is the only High Court which replicates its data simultaneously to its website and mobile app along with NJDG. The technical team of High Court has developed its own script which is shared with other High Courts also.

### **FUTURE PLANS**

#### ***E-PAY, E-FILING AND E-SUMMONS (NSTEPS)***

The data of Rajasthan High Court both at Principal Seat, Jodhpur and Bench at Jaipur has been migrated to CIS 1.0 which have been designed and developed by Hon'ble E-Committee Supreme Court of India. The Data of all the District & Subordinate Courts also have been migrated to CIS 3.0 and the same has been replicated to NJDG. Both these new CIS versions have the facility of ***E-Pay, E-Filing and E-Summons (NSTEPS)***. With introduction of these facilities in regular Court functioning will ease up the entire process



of the case proceedings. It is pertinent to mention that prior to introduction of these aforesaid facilities, there is a requirement to amend the Rules. In this context, the Process Re-Engineering Exercise of General Rules (Civil) and General Rules (Criminal) has been completed and new General Rules (Civil & Criminal) have been approved by Hon'ble The Full Court. Now the matter is pending with State Government for further necessary action. For E-PAY facility there is requirement of amendment in Stamp Act. Apart from this for E-Filing facility the presently installed servers in District & Subordinate Courts are also required to be upgraded and for the same, the procurement process has been initiated. Regarding E-Summons, online forms are required and for which Hon'ble E-Committee has been requested. As soon as the aforesaid processes are completed E-Pay, E-Filing and E-Summons will be introduced in the system.

Integration of CIS 3.0 with the applications of various concerned departments especially with Police and Jails. (ICJS) is also in the pipeline.

CIS 3.0 to be compatible with both Hindi and English Language as the official language in Subordinate Courts in State of Rajasthan is Hindi.

### **OTHER FUTURE PLANS**

- A dynamic computer programme for fixing next dates in cases has been prepared and is under testing. This programme would provide multiple information with different aspects to facilitate fixing of next dates.
- e-filing of Cause Title by the advocates, identifiable through their Unique Identity Number. This programme is also under security audit and will be launched shortly. This programme will later on be converted into complete eFiling.
- Administrative profiling and tracking of administrative work of all the Officers/Officials at High Court.
- Initiation has been taken with the State Government to provide all Acts, Rules, Statutory Notifications, Circulars and Orders on one common platform. The exercise is almost complete and a centralized website for all these information will be launched very soon.

- Process to make available IOS Version of Mobile App is being initiated.
- Process to install Justice Clock at Principal Seat, Jodhpur and Bench at Jaipur has been initiated.

\* \* \* \* \*

## **8. FINANCIAL STATEMENT OF BUDGET AND EXPENDITURE**

**The Financial Statement of Budget and Expenditure (Revenue Expenditure for the year 2018) as under :-**

(Amount in Thousands)

S.No.	Budget Head	2018-2019	
		Final Grant	Expenses
1	2014-00-102-01-00- Rajasthan High Court	1277142	1275469
2	2014-00-105-01- (62) - Computer	389075	389074
3	2014-00-105-02- CJM/ ACJM COURTS	1750949	1750330
4	2014-00-105-03- MJM/ AMJM COURTS	1702073	1701750
5	2014-00-105-04- MOBILE COURTS	26960	26956
6	2014-00-105-06- DEGINATE COURTS	8091	8088
7	2014-00-105-07- DACOITY COURTS	14824	14821
8	2014-00-105-08- SATI NIVARAN COURTS	8442	8440
9	2014-00-105-09- SC/ ST COURTS	191637	191632
10	2014-00-105-11- NDPS COURTS	78526	78522
11	2014-00-105-15- N.I. ACT COURTS	294295	294288
12	2014-00-105-16- BOMB BLAST COURTS	9116	9114
13	2014-00-105-17-00- GRAM NYAYALAYA	129919	129915
14	2014-00-789-02-00- GRAM NYAYALAYA	25514	25504
15	2014-00-796-02-00- GRAM NYAYALAYA	97891	37871
16	2014-00-117-01- FAMILY COURT	348914	348595
17	2014-00-105-19- DJ/ ADJ COURTS	3648066	3647531
18	2014-00-105-20- COMMERCIAL COURTS	26363	26360
19	2014-00-105-21- RAJASTHAN JUDICIAL ACADEMY	42165	42160
	<b>TOTAL</b>	<b>10009962</b>	<b>10006420</b>

### Financial statement of Budget and Expenditure

The Financial statement of Budget and Expenditure (Capital Expenditure) for the year 2018-19 (01.04.2018 to 31.12.2018) are as under :-

(Rs. In Lacs)

S. No.	Budget Head	Provision 2017-18 by Finance Department			Expenditure upto 31.12.2018
		State Fund	Central Assistance	Total	
PLAN					
1	4059 capital Outlay on Public Works, 80- General, 051-Construction, (03)-General Building (Judicial Administration), [01]- Construction of New Rajasthan High Court Building, Jodhpur, 17 Major Construction Works (State Fund)	1405.00	0.00	1405.00	5580.00
2	4059 capital Outlay on Public Works, 80- General, 051-Construction, (03)-General Building (Judicial Administration), [02]- Construction of Building for Rajasthan State Judicial Academy, Jodhpur, 17 Major Construction Works (State Fund)	287.60	0.00	287.60	
3	4059 capital Outlay on Public Works, 80- General, 051-Construction, (03)-General Building (Judicial Administration), [03]- Other Judicial buildings, 17 Major Construction Works (State Fund & C.A.)	4428.86	5261.21	9690.07	
4	4059 capital Outlay on Public Works, 80- General,051-Construction, (03)-General Building (Judicial Administration), [04]- Construction of Gram Nyayalaya Buildings, - 17 Major Construction Works (State Fund & C.A.)	5.18	0.01	5.19	
5	4059 Capital Outlay on Public Works, 80- General, 796- Tribal Area Sub Plan, (05)- General Building (Rajasthan High Court), [00], 17-Major Construction Work (State Fund & C.A.)	1328.44	1169.08	2497.52	
6	4216-Capital Outlay on Housing 01-Government Residential Building, 700-Other Housing – (01)-General Residential Building (Judicial Houses), [90] – Construction work (Through the agency of Chief Engineer, PWD), 17-Major Construction work (State Fund & C.A.)	173.97	266.96	440.93	
7	4216-Capital Outlay on Housing 01-Government Residential Building, 796-Tribal Area sub Plan – (01)-General Residential Building (Judicial Houses), [90] – Construction work (Through the agency of Chief Engineer, PWD), 17-Major Construction work (State Fund & C.A.)	103.73	155.60	259.33	

OTHER THAN SCHEME		Provision 2018-19 by Finance Department		Expenditure upto 31.12.2018
		State Share	CSS	Total
8	4059-Public Works, 80-General-051-Construction, (02)-Judicial Buildings, [05]- Judicial Administration Dept. <b>Committed</b> , 16- Minor construction Works, Through the agency of the Chief Engineer, PWD, Raj. Jaipur. <b>(State Fund)</b>	800.00	0.00	<b>215.8</b>
9	2059-Public Works, 80-General, 053-Maintenance & Repairs, (18)- Through Registrar General (RHC), Jodhpur-Committed, 21-Repair & Maintenance <b>(State Fund)</b>	136.69	0.00	<b>52.96</b>
10	2216-Housing-05-General Pool Housing, 053-Maintenance & Repairs, (02)- Through Law Department, [02]-Other Maintenance Expenses <b>Committed</b> , 21-Repair & Maintenance, <b>(State Fund)</b>	730.00	0.00	<b>237.38</b>



## **9. FUNCTIONING OF GRIEVANCE REDRESSAL MECHANISM**

### **REDRESSAL OF GRIEVANCES OF ADVOCATES**

To resolve the grievances of advocates Grievance Redressal Committees comprising of Hon'ble Judges have been constituted at Rajasthan High Court Jodhpur and Bench Jaipur.

### **REDRESSAL OF GRIEVANCES OF SEXUAL HARASSMENT AGAINST WOMEN AT WORKPLACE**

In compliance of Section 4 of Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013 Internal Complaint Committees have been constituted to address and redress the grievances.

### **REDRESSAL OF GRIEVANCES AGAINST JUDICIAL OFFICERS**

To consider the complaints against the judicial officers there are separate Vigilance Cells at Rajasthan High Court, Jodhpur and Jaipur Bench Jaipur headed by Registrars, working under the direct control of Hon'ble the Chief Justice.

### **REDRESSAL OF GRIEVANCES OF LITIGANTS ABOUT COURT FUNCTIONING AND STAFF**

The grievances of litigants against the court functioning and staff are dealt with by the concerned establishments and same are disposed/resolved expeditiously.

# **10. WORKING OF STATE LEGAL SERVICES AUTHORITY AND DISTRICT LEGAL SERVICES AUTHORITIES AND STATUS ON LEGAL-AID TO POOR. NUMBER OF BENEFICIARIES OF DIFFERENT CATEGORIES**

Article 39A of the Constitution of India Provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability. Similarly Articles 14 and 22(1) also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on the basis of equal opportunity to all. Legal aid strives to ensure that constitutional pledge is fulfilled in its letter and spirit and equal justice is made available to the poor, downtrodden and weaker sections of the society.

Legal Aid scheme was first introduced by Justice P.N. Bhagwati under the Legal Aid Committee formed in 1971. In different states legal aid schemes were floated through Legal Aid Boards, Societies and Law Departments. In 1980, a Committee at the national level was constituted to oversee and supervise legal aid programmes throughout the country under the Chairmanship of Honorable Mr. Justice P.N. Bhagwati, then a Judge of the Supreme Court of India and finally in 1987 Legal Services Authorities Act was enacted to give a statutory base to legal aid programmes throughout the country on a uniform pattern. This act came in force on 9<sup>th</sup> November 1995.

Rajasthan State Legal Services Authority in exercise of the power conferred by section 6 of the Legal Services Authorities Act, 1987 was constituted on 7<sup>th</sup> April, 1998. At present Hon'ble Mr. Justice Mohammad Rafiq, Judge, Rajasthan High Court, is Executive Chairman of RSLSA under whose visionary leadership RSLSA is moving forward.

At present 35 District Legal Services Authorities, Two Rajasthan High Court Legal Services Committees and 181 Taluka Legal Services Committees are working across the State of Rajasthan to ensure access to justice for all through panel advocates, retainer advocates, Bail/Remand Advocates & Para Legal Volunteers.

**Free Legal Aid:** Rajasthan State Legal Services Authority along with his DLSA's after examining the eligibility criteria of an applicant and the existence of a prima facie case in his favour provide him counsel at State expenses, pay the required Court fee in the matter and bear all incidental expenses in connection with the case. **Rule 16 of the Rajasthan State Legal Services Authority Rules, 1995** was amended to increase the upper limit of Rupees 1,25,000/- to Rupees 1,50,000/- per annum. Now the person whose annual income is up to Rupees 1,50,000/- per annum is eligible to seek legal aid from legal services institutions in the State of Rajasthan. Total 4838

persons were granted free legal aid in the year-2018 as shown in the following chart :

Free Legal Aid Beneficiaries of the year-2018							
SC	ST	OBC	In Custody	Women	Children	Handicapped	Total
311	257	750	2847	580	86	07	4838

**Legal Aid Clinics:-** Legal Aid Clinics are working to secure "justice for and to protect the rights of the needy". **8886** Legal Aid Clinics have been established by RLSA at every Gram Panchayat, College, Police Station etc. where Para Legal Volunteers and Panel Lawyers, when needed, are providing their services. Legal Aid Clinics are working like single-window facility for helping the disadvantaged people to solve their problems whenever needed. RLSA has introduced the new innovative step through establishing the Women Legal Aid Clinics in all the Districts of Rajasthan. RLSA has established those clinics on the eve of **International Women Day**.

**One Stop Crisis Centre for Women – Jaipur:** First ever new initiative for women has been taken up in the form of establishing 'One Stop Crisis Centre for women' at Jaipuria Hospital with an object to provide basic facilities and rehabilitation under one roof.

**Para Legal Volunteers:** RLSA has Para-Legal(PLV) in all the districts and depute all of them in the legal aid clinics functioning throughout its jurisdiction. The important areas where the PLVs are engaged right now are Police Station and Jail Legal Aid clinics, Village Legal Aid Clinics and in the front office of D.L.S.A. The honorarium has been revised w.e.f. 1.7.2017. The previously payable Rupees 250/- has been increased to Rupees 500/- per day.

**Bail/Remand Advocates & Retainer Advocates :** Rajasthan State Legal Services Authority, has issued Bail/Remand Advocates scheme to ensure free legal aid to all accused persons produced before judicial and executive courts of Magistrates and Sessions Court empowered to grant remands. 828 Panel Advocates have been designated as Bail/Remand Advocates.

Under this scheme, Bail/Remand advocate is appointed for each of such court. The Bail/Remand advocates are attached with a particular court and they render their services in that court whenever any accused is produced for remand.

In compliance of the Regulation 8 (6) & (7) of the National Legal Services Authority (Free & Competent Legal Services) Regulation, 2010 254 Panel Advocates have been designated as the Retainer Advocate to man the front office of DLSAs, deal with the legal aid cases and consultancy at DLSAs, headquarter and at RHLSCs.

**Panel Advocates:** To make available free and competent legal services to the person entitled thereto under section 12 of the Legal Services Authorities Act and as per regulation 8 of NALSA (Free and Competent Legal Services) Regulations, 2010 and in order to strengthen the system of providing legal aid to the person as and when they required, panels of Advocates were formed and time to time reconstituted in all Districts of Rajasthan, RSLSA as well as at Rajasthan High Court Legal Services Committees i.e., Jaipur and Jodhpur.

**Rajasthan Victim Compensation Scheme:**

Victim compensation is one of the major aspects in reparation of the harm or injury caused to the victim due to the commission of the crime. The Government of Rajasthan has launched the Rajasthan Victim Compensation Scheme, 2011. 1589 persons were awarded Rupees 22,83,65,500 under this scheme in the year-2018. The beneficiaries of victim compensation schemes are shown as under :

Beneficiaries of Victim Compensation Scheme-2018				
Men	Women	Children	SC/ST	Total
311	257	750	2847	580

**National Lok Adalat:** National Lok Adalats- 2018 have been organized under visionary foresight of Hon'ble Executive Chairman, RSLSA. Under his guidance the whole State puts their efforts to their best to bring out the unsurpassed results. A specific strategy was adopted for incredible result. The excellent results of Lok Adalats are shown in the following chart:

Cases Settled in National Lok Adalat - 2018					
Pre-litigation	Settlement Amount	Pending Cases	Settlement Amount	Total Settled cases	Award
40087	1,11,78,81,575	79,521	6,87,68,71,909	1,19,608	8,00,57,56,808

**Permanent Lok Adalat:-**

The permanent Lok Adalat is also one kind of special Lok Adalat. Permanent Lok Adalats have been constituted to resolve the matters related to Public Utility Services i.e. transport services, postal, telegraph, telephone, supply of power, light or water to the public, public conservancy or sanitation, matter relating to real estate, insurance companies etc. The provisions for the constitution of these Lok Adalats have been made under Section 22A to 22E of the Legal Services Authority Act, 1987. In Rajasthan total 23 Permanent Lok Adalats for "Public Utility Services" have been established. These Permanent Lok Adalats have contributed significantly in bringing down the pendency of the regular Courts and Tribunals and have helped people in prompt redressal of their grievances relating to public services.

Cases Settled in Permanent Lok Adalat		
Year	Cases Disposal	Settlement amount
2018	4257	19,29,96,136

**Monthly Lok Adalat:**

Monthly Lok Adalats are being organized at every District Head-quarter on last Monday of every month. At every district Head-quarter and Taluka level, a bench consisting a Chairperson and one member is being constituted to hear all the cases of Districts and Taluka as the case may be. Total 13,335 cases were disposed of in Monthly Lok Adalat in the year-2018.

**Mediation:**

Mediation is all together is new in Rajasthan which is gradually intensifying. Today there is a cadre of 1027 trained Mediators including judicial Officer as well as advocates who are providing their services to mediate the cases.

Year	No. of Cases Referred to Mediation Centre	Cases Disposed off
2018	27775	2588

Mediation monitoring Committee for State of Rajasthan has been constituted for two years. Various training programmes such as ACM, 20 Hour Refresher Course, 40 Hours Mediation Training and 1 Day Awareness Programme have been organised throughout the State.

**Honorarium in unsuccessful mediation cases:**

The honorarium is payable in cases where mediation is successful but in case of failure there was no provision of honorarium though backbreaking efforts were made by the mediator. Therefore, for the first time special provision (Govt. Order date 10.07.2018) has been made to give monitory honorarium in cases refer to mediation which were failed after three sittings. Now Rupees 1000/- is being paid for unsuccessful Mediation.

**Awareness Programme:** RLSA under the directions of Mediation and Conciliation Project Committee, New Delhi has organized many Mediation and Referral Judges training programme. These are shown in the following table :

40 Hours Mediation Training Programme	Referral Judges Training Programme	Awareness & Sensitization Programme	ARCM Programme
45	40	13	06



**Legal Awareness Camps:**

As legal literacy is a process of self and social empowerment that moves people not only to activate the rights they do have, but to redefine and reshape the inadequate ones as expressed in law and practice.

Year	Legal Literacy camps organized	Beneficiaries
2018	20400	1,63,74,196

**Awareness Camps under NALSA Schemes :-**

Legal Awareness Camps are one of the most effective tools for creating awareness among the people who are in need. NALSA has launched 10 schemes :-

- 1. NALSA (Legal Services to Disaster Victims Through Legal Services Authorities) Scheme, 2010
- 2. NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015
- 3. NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015
- 4. NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015
- 5. NALSA (Legal Services to the Mentally ill and Mentally Disabled Persons) Scheme, 2015
- 6. NALSA (Effective Implementation of Poverty Allevation Schemes) Scheme, 2015
- 7. NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015
- 8. NALSA (Legal Services to the Victims of Drug Abuse and the Eradication of the Drug Menace) Scheme, 2015
- 9. NALSA (Legal Services to Senior Citizens) Scheme, 2016
- 10. NALSA (Legal Services to Victims of Acid Attack) Scheme, 2016

Year	Awareness Camps under NALSA Schemes	Beneficiaries
2018	13645	8,47,996

In addition to it, Rajasthan State Legal Services Authority has launched following Schemes as its own for legal services to marginalized sectors of society :-

- 1. Schemes for Legal Services to Senior Citizens.
- 2. Scheme for welfare of Schedule Castes, Schedule Tribes & Tribals.

### **Legal Services Camps :**

The concept of Mega Legal Awareness & Public Welfare Camps of Rajasthan has been opted by NALSA in a form of Legal Services Camp to spread awareness about welfare legislations and schemes and strengthen the community's access to the schemes being implemented by the Legal Services Authorities at one hand and identifying and connecting people to welfare schemes to ensure that fruit of welfare schemes are passed to eligible people on the other hand. A yearly calendar for District to organize 2 Legal Services Camp in one year with an interval of 6 months have been designed and circulated.

### **Divisional Level Orientation Workshop for Stakeholders under Juvenile Justice Act, 2015 :**

Rajasthan State Legal Services Authority in association with the District Legal Services Authorities have organized divisional level orientation workshops for stakeholders under Juvenile Justice Act, 2015 with the technical and financial support of UNICEF at Kota Division (28<sup>th</sup> May, 2017), Udaipur Division (25<sup>th</sup> February, 2018), Ajmer Division (10<sup>th</sup> March, 2018), Bikaner Division (6<sup>th</sup> May, 2018) and Bharatpur Division (25<sup>th</sup> November, 2018). These workshops have been organized with the objective to bring different stakeholders at divisional level to a joint platform to understand the provisions of the new act and perform duties assigned to them with mutual coordination.

### **A Report on “The Open Prisoners of Rajasthan” :**

The Rajasthan State Legal Services Authority has conducted a detailed study on the Open Prison System of Rajasthan and the Parole practices prevalent in the State. Ms. Samita Chakraborty, independent Researcher (Prison Expert) was appointed as Honorary Prison Commissioner to conduct study on open jails. The report “The Open Prisons of Rajasthan” was released on 26<sup>th</sup> November, 2017, which is the National Law Day of India. The report comes with several recommendations and suggestions.

### **Jail Reforms :-**

In Re- Inhuman Conditions in 1382 Prisons, Writ Petition (Civil) No. 406 of 2013 by its order dated 15.09.2017, Hon'ble Apex Court has directed the State Legal Services Authorities to conduct detail study of jails in the State to ensure rights of prisoners. In addition to it, Hon'ble Rajasthan High Court in D.B. CIVIL WRIT PETITION (PIL) No. 2808/2012, Suo Motu V. the State of Rajasthan by its order dated 27.01.2017 has directed to ensure better functioning of jails in the state of Rajasthan. Hon'ble Rajasthan High Court in D.B. Criminal Appeal No. 1180/2016, Tonny Kumar @ Vikas Vs. State of Rajasthan, vide its order dated 14.12.2016, directed the Member Secretary to visit all 97 jails of Rajasthan to ensure appellate rights of prisoners. In compliance of the above directions detail jail study of all the jails of Rajasthan was conducted by RLSA. In addition to it, Chairman, DLSA's; Secretaries, DLSA's; CJM's, Legal Awareness Teams are also conducting jail inspections time to time to ensure smooth functioning of jails. Legal Aid Clinics are made functional in all 97 prisons of the State of Rajasthan to provide free legal aid to all the prisoners.

### **Publications :-**

RSLSA has published various newsletters, handbooks, reports and LSSR in last two years. The main publications are as follows :-

1. Quarterly Newsletter ;
2. Handbook on Legal Rights of Children;
3. Preventive & Strategic Legal Services Scheme of National Legal Services Authority (in Hindi & in English);
4. Handbook for Bail / Remand Advocates;
5. Handbook for PLV's;
6. Revised Copy of Legal Services Ready REckoner;
7. FAQ on Permanent Lok Adalat;
8. A Study on Open Prisons of Rajasthan;

### **Legal Awareness through Community Radio and Doordarshan :**

Various programmes have been broadcast on All India Radio, Jaipur and 7 other community Radios – Tiloniya, Ajmer, FM Radio 7, Jaipur, Alwar Ki Aawaj, Alwar, Radio Madhubani Sirohi, Radio Kamalvaanil Jhunjhunu, Radio Banasthali, Tonk Radio Eminent, Tonk. RSLSA joins hands with Doordarshan and telecasts number of programs i.e. NALSA Scheme, Nyay SABke Liye, Child Marriage Prohibition Act and Bal Sakha Kanoon.

### **Poster Painiting, Debate, Essay Writing and Sports Competition :**

The lessons learned through competition are always valuable life lessons. Competition provides motivation to achieve a goal to demonstrate creativity and perseverance to overcome challenges. To build legal awareness and boost up the spirit of sport, RSLSA has organized the Poster; Painting, Debate, Essay Writing and Sports Competitions from schools to State level. Total 2,06,954 students participated in these games in the year-2018.

### **Mobile Van :**

To make people aware about their rights and remedies at their door steps Mobile Van for Legal Literacy and Lok Adalat has been launched by RALSA. The Mobile Van with the Legal Aid team visits the remote areas of Rajasthan and disseminate Legal knowledge about schemes of NALSA and RSLSA, distributes pamphlets, literacy books etc.

### **Special Campaign :**

Rajasthan have some peculiar problems such as Child Marriage, Child Labour, and Scarcity of Water, Untouchability, Caste Discrimination, Female Feticide etc. These problems are prevailing in Rajasthan since long and deep rooted in the society. Therefore, under the aegis of His Lordship various special campaigns were carried out throughout the State, as discussed in following paras :-

1. Child Marriage Restraining Campaign,
2. National Seminar on Rethinking of Juvenile Justice System in India : Status & Challenges,
3. Prevention of Child Labour Campaign,
4. Legal Services Week,
5. Anti Polythene & Water Conservation,
6. Door to Door Campaign,
7. Bank Help Desk,
8. Prevention of Blue Whale Challenges : Suicidal Game,
9. Connecting to Serve,
10. Outreach Programmes.

**Following Programmes / activities have been organized throughout the State :-**

- **Legal Services Camp** : The Legal Service Camp envisages to spread awareness about welfare legislations and schemes and strengthen the community's access to the schemes being implemented by the Legal Services Authorities at one hand and identifying and connecting people to welfare schemes to ensure that fruit of welfare schemes are passed to eligible people on the other hand.
- **Legal Literacy Clubs in School** : Legal Literacy Clubs in Schools are opened in schools for growing children's with certain objectives i.e. to legally empower; making them aware about their rights and duties and encouraging them to make others also aware of the same. 175 Legal Literacy Clubs have been opened in the schools / colleges.
- **Digitization of Legal Services Clinics in Jails** : In order to have proper record keeping of the activities in such clinics and to have data with regard to the Court cases pertaining to each prisoners in clinics digitization of these clinics have been done.
- **Pan India Awareness Campaign** : NALSA Theme Song has been played four times a day for 30 days throughout the State in 257 cinemas, LED Screens were established in all DLSAs to display audio visuals of activities of Legal Services Institutions, short films, documentaries and success stories etc.

**Glorious Moments for RSLSA :**

The hard work of all the legal aid functionaries i.e.e PLV’s, Panel Lawyers, Legal Awareness Teams, Secretaries & RSLSA team has been recognized at National Level by National Legal Services Authority.

National Legal Services Authority has awarded following National Level Awards to RSLSA during last five years :-

<b>Glorious Moments for RSLSA</b>				
<b>S. No.</b>	<b>National Award Winner</b>	<b>National Award</b>	<b>Date</b>	<b>Special</b>
1.	Rajasthan State Legal Services Authority	Best SLSA, West Zone	15 <sup>th</sup> December, 2018	First time in the History of RSLSA
2.	Alwar District Legal Services Authority	Best DLSA, West Zone	15 <sup>th</sup> December, 2018	First time Alwar, DLSA achieved this award

**11. Working of Alternative Dispute Resolution Mechanism– ADR Centre, Permanent Lok Adalats/Lok Adalats. Number of cases disposed off. Number of Lok Adalats held etc.**

Under the aegis of Rajasthan State Legal Services Authority, various Legal Services Programmes and Schemes were implemented and the achievements are as follows in the year 2018 (01.01.2018 to 31.12.2018) :-

Rajasthan State Legal Services Authority and its associates, District Legal Services Authorities, Rajasthan High Court Legal Services Committees and Taluka Legal Services Committees are implementing various schemes for upliftment of weaker and marginalized sections of society through such services as free legal aid, legal awareness, Lok Adalats, Mediation, Para Legal Clinics and welfare schemes of Rajasthan State Legal Services Authority & National Legal Services Authority as per provisions contained under Legal Services Authorities Act, 1987, Rajasthan State Legal Services Rules, 1995 and Rajasthan State Legal Services Authority Regulations, 1999.

Following programmes were organized to materialize these achievements were achieved during the period commencing from 01.01.2018 to 31.12.2018 :-

**(1) National Lok Adalat :-**

In the year 2018, a total number of **79,521** cases were disposed of in National Lok Adalats and award of Rupees **6,87,68,71,909/-** was passed in Motor Vehicles Accident Cases.

**(2) Lok Adalat U/s 19 of the Act :-**

In the year 2018, a total number of **40,087** cases were disposed of in Lok Adalats U/s 19 of the Act and award of Rupees **1,11,78,81,575/-** was passed in Motor Vehicles Accident Cases.

**(3) Permanent Lok Adalat under Section 22B of Legal Services Authority Act:-**

In the year 2018, a total number of **4257** cases were disposed of by Permanent Lok Adalat in the State of Rajasthan.

**(4) Mediation:-**

In the year 2018, a total number of **27,775** cases were referred in Mediation out of which total **2,588** cases were disposed of successfully.



## **12. BROAD PERFORMANCE INDICATORS BASED ON ANALYSIS OF JUDICIAL STATISTICS**

**(i) Category-wise Institution, disposal and pendency of cases in High Court and District/ Subordinate Courts.**

### **HIGH COURT**

<i>Type of case</i>	<i>Pendency as on 01.01.2018</i>	<i>Institution during the year 2018</i>	<i>Disposal of cases during the year 2018</i>	<i>Total pendency as on 31.12.2018</i>
Civil	191135	71406	50165	212376
Criminal	70225	53432	51678	71979
Total	261360	124838	101843	284355

### **DISTRICT & SUBORDINATE COURTS OF RAJASTHAN**

<i>Type of case</i>	<i>Pendency as on 01.01.2018</i>	<i>Institution during the year 2018</i>	<i>Disposal of cases during the year 2018</i>	<i>Total pendency as on 31.12.2018</i>
Civil	466172	234401	230831	469742
Criminal	1169217	1330821	1237459	1262566
Total	1635389	1565222	1468290	1732308

**(ii) Age-wise pendency of different category of cases in High Court and District and Subordinate Courts**

### **RAJASTHAN HIGH COURT**

<i>Type of cases [Main Cases]</i>	<i>0 to 1 year old cases</i>	<i>1 to 5 years old cases</i>	<i>5 to 10 years old cases</i>	<i>More than 10 years old cases</i>	<i>Total pendency as on 31.12.2018</i>
Civil	43261	75167	50879	43069	212376
Criminal	12724	22276	13498	23481	71979
Total	55985	97443	64377	66550	284355

### **DISTRICT & SUBORDINATE COURTS OF RAJASTHAN**

<i>Type of case</i>	<i>0 to 1 year old cases</i>	<i>1 to 5 years old cases</i>	<i>5 to 10 years old cases</i>	<i>More than 10 years old cases</i>	<i>Total pendency as on 31.12.2018</i>
Civil	123992	244933	74776	26041	469742
Criminal	372265	658008	179620	52673	1262566
Total	496257	902941	254396	78714	1732308

(iii) Number of adjournments being granted on an average in various categories of Civil and Criminal cases during the life cycle of cases

<i>Civil cases</i>	<i>No. of adjournments being granted on an average</i>	<i>Criminal cases</i>	<i>No. of adjournments being granted on an average</i>
Civil suits	36	Sessions cases	36
Civil appeal	23	Criminal original	30
Civil revision	11	Criminal appeal	16
Civil execution	20	Criminal revision	22
Civil misc.	16	Criminal Misc.	9

(iv) Number of cases in which trial proceedings have been stayed by Superior Courts in various categories of Civil and Criminal cases and average time for which cases in which trial proceedings have been stayed by Superior Courts in various categories of Civil and Criminal cases

<i>Civil cases</i>	<i>No. of cases</i>	<i>Average time (in days)</i>	<i>Criminal cases</i>	<i>No. of cases</i>	<i>Average time (in days)</i>
Civil suits	2158	902	Sessions cases	268	464
Civil appeal	90	676	Criminal original	984	511
Civil revision	19	8	Criminal appeal	43	78
Civil execution	1922	1151	Criminal revision	22	63
Civil misc.	551	552	Criminal Misc.	104	978

(v) Average time taken for disposal of various categories Civil and Criminal cases in High Court and District/Subordinate Courts.

RAJASTHAN HIGH COURT

<i>Civil cases</i>	<i>Average time (in days)</i>	<i>Criminal cases</i>	<i>Average time (in days)</i>
CFA	3665	CRLA	1792
CSA	1856	CRLR	576
CMA	1786		
CW	542		
SAW	710		

DISTRICT & SUBORDINATE COURTS OF RAJASTHAN

<i>Civil cases</i>	<i>Average time (in days)</i>	<i>Criminal cases</i>	<i>Average time (in days)</i>
Civil suits	1031	Sessions cases	1185
Civil appeal	716	Criminal original	733
Civil revision	368	Criminal appeal	430
Civil execution	769	Criminal revision	383
Civil misc.	455	Criminal Misc.	158

(vi) Category-wise disposal of cases per judge per year in the High Court and District/Subordinate Courts

RAJASTHAN HIGH COURT

	<i>Civil cases</i>	<i>Criminal cases</i>	<i>Total</i>
Disposal during the year (a)	50165	51678	101843
Total working strength (b)	25		
Disposal per judge per year=a/b	2000.6	2067.12	4073.72

DISTRICT & SUBORDINATE COURTS OF RAJASTHAN

	<i>Civil cases</i>	<i>Criminal cases</i>	<i>Total</i>
Disposal during the year(a)	230831	1237459	1468290
Total working strength(b)	1099		
Disposal per judge per year=a/b	210.04	1125.99	1336.02

(vii) Category-wise number of Criminal and Civil cases where orders of the District/Subordinate Courts are challenged in appeal before the High Court.

<i>S. No.</i>	<i>Kind of cases</i>	<i>Pending as on 31.12.2018</i>
1	Civil First Appeal	<b>18660</b>
2	Civil Second Appeal	<b>7480</b>
3	Civil Misc. Appeal.	<b>55136</b>
4	Criminal Appeal	<b>39385</b>

(viii) Number of writ petitions/PILs being filed and being disposed of in High Court

<i>PILs being filed</i>	<i>PILs being disposed of</i>
<b>438</b>	<b>252</b>