

**LAW, SOCIETY AND ECONOMICS BEHIND A HIGH COURT FOR PUDUCHERRY**

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In the first week of July, 2018 when the Chief Minister of Puducherry spoke amid the Pondicherry Bar Association, he informed the large gathering that he has taken steps to establish a High Court at Puducherry and has also written and personally met the Chief Justice of the Madras High Court in that regard. Last year, the Puducherry legislature unanimously resolved to have its own High Court and the law secretary informed the same to the Madras High Court by his Letter dated 7.7.2017, a copy of which was marked to the author. At this context, it is pertinent to discuss the law, economics and society behind the need for a High Court at Puducherry.

**1. Puducherry Government** with 12.5 lacs population *spends as much as Tamil Nadu Government* with 7.5 crore spends *towards expenses of Madras High Court*. This can be reduced to less than a quarter with a much smaller High Court for Puducherry.

In fact, according to Article 229 read with Article 231(2)(c) of the Constitution, when a common High Court is established for more than one State, administrative expenses have to be paid only from the consolidated fund of the 'State' in which the principal seat of the High Court is situated. It is in accordance with this principle, Goa which has a permanent bench of the Bombay High Court does not share the administrative expenses with Maharashtra, where the principal seat of the High Court is situated. Similarly, the administrative expenses of Calcutta High Court are not shared with Government of West Bengal by the administration of Andaman and Nicobar, which has a Circuit Bench of the Court. However, this provision is breached with respect to Puducherry, which shares the exorbitant expenses of the Madras High Court with the Government of Tamil Nadu disproportionately. At least Goa and Andaman have a bench of High Courts at Bombay and Calcutta respectively, Puducherry does not even have one. This was brought to the notice of the Madras High Court in Writ Petition No.43482 of 2016 which the Court refused to admit on technical grounds.

**2. Several cases from Puducherry** are pending before the Madras High Court close to a decade along with ones from other parts of Tamil Nadu because 75-Judges cater to the huge population of Tamil Nadu. *Puducherry High Court with 4-5 Judges can speedily dispose* this pendency at least at Puducherry.

According to the recommendation of the Law Commission in 1988, the Judge to Population ratio is to be 50 Judges for 1 million population. In

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2016, the Supreme Court observed that the ratio is only 12 Judges for 1 million population in India. In fact, the ratio recommended by the Law Commission of India is much lesser than the standards in several other countries like the United Kingdom and the USA. This ratio at Puducherry can be increased if a separate High Court with 4-5 judges is established.

**3. The number of cases filed and disposed at Puducherry** in 2010 is 4 times higher than the numbers at Sikkim, Manipur & Goa (with High Courts) combined. Therefore, the size of population and territory is irrelevant. Bigger States have more Judges and staff, smaller States have lesser.

The data I collected under the Right to Information Act, 2005 from the District level Courts at Sikkim,

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Manipur, Goa and Puducherry are provided in the following Table.

|                              | <i>Sikkim</i> | <i>Manipur</i> | <i>Goa</i> | <i>Puducherry</i> |
|------------------------------|---------------|----------------|------------|-------------------|
| No. of Cases filed in 2010   | 1,117         | 637            | 4,984      | 24,159            |
| No. of Cases decided in 2010 | 1,174         | 495            | 3646       | 24,336            |

Similarly, the statistics provided by the All India Bar Association in its memorandum to the Chief Minister of Puducherry in April 2017 shows that the number of cases disposed from Puducherry (28,631 cases) is three times more than the number of cases (9,031 cases) disposed by four High Courts - Tripura, Manipur, Meghalaya and Sikkim put together in 2016. This justifies a High Court for Puducherry.

4. Chennaiites safeguard Fundamental Rights of Tamil Nadu's residents by filing PILs challenging their Government. But PILs from residents of Puducherry against their Government involves travel, time and expense.

People opposing establishment of High Court at Puducherry often cite the example of litigants from Nilgiris or Coimbatore districts having to travel long distance to Chennai. It only defies logic why litigants from Puducherry need not be benefitted merely because litigants from Nilgiris are not benefitted, particularly when Constitution permits Puducherry to have its own High Court under Article 241 but does not similarly permit Nilgiris or Coimbatore.

5. Establishment of a High Court for Puducherry will strengthen the voice in seeking statehood for Puducherry. Article 239-A of the Constitution enabled establishment of legislature and Council of Ministers for certain Union Territories with an intention to provide them statehood gradually. Out of the 7 Union Territories originally placed under Article 239-A, all of them except Puducherry have been granted statehood by 1989, the year in which

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Goa attained Statehood. Most Union Territories under 239-A at least had benches of High Courts when they attained Statehood. Tripura, Manipur, Meghalaya had Benches of Gauhati High Court before they got their Own High Courts.

Delhi High Court was established in 1966 before Delhi got its legislature in 1992 with the Constitution (Sixty Ninth Amendment) Act, 1991.

Even a bench of the Madras High Court at Puducherry is unfavourable because:

1. Puducherry will still share expenses of such a Large High Court;
2. Judges might not prefer shuttling between benches at Chennai, Puducherry and Madurai frequently;
3. The protests against setting up the Madurai Bench a decade back should be borne in mind. Though the process in setting up the Madurai bench began in 1980, the Presidential Order was passed enabling the same only in 2002 due to the strong resistance from people with vested interests. In fact, this Presidential Order was challenged before the Madras High Court in 2004 vide **V. Subramanian v. Union of India**, W.P. No.20038 of 2004, just before commissioning the work in the Madurai bench, the building of which had already been built.

In March 2016, the Department of Justice, Government of India suggested to me that establishment of High

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Court for Puducherry will be taken up if Puducherry Government proposes. Therefore, if the territorial Government convinces the Centre to pass an Act in the Parliament, Puducherry will get its High Court. RTI information however discloses that though the decision of Puducherry legislature is informed to the Madras High Court, this has not been intimated to the Government of India which has to introduce the bill in the Parliament.

Only time should answer if 'Political will' to benefit a small territory and population can survive a much stronger resistance from people with vested interests.

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