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Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

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More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

GRAM NYAYALAYA: A NEW CHAPTER TO INDIAN JUDICIAL SYSTEM

AUTHORED BY - KAVYANI KUMAWAT
(RESEARCH SCHOLAR)

Abstract

Justice used to be the foundation stone of any system. It is said that villages are the reflection of the development of any country. The more developed the village will be the more developed country it will be. Behind every developed state there is a huge ratio of villagers directly or indirectly.

Concerning India into mind our villages need extra care and need every possible help for self-development. Now comes the ugly side of the village which is concerned about the huge illiteracy rate which gave rise to a huge number of suits in courts. Neither they knew about laws nor about the procedure and when there is a lack of money and resources how can it become possible for them to get justice at ease? To solve such problems Gram Panchayats, Nyaya Panchayats were there and more on a new trending version of the grassroots level court was developed and established in 2009, which is called Gram Nyayalaya.

Gram means village and Nyayalaya means Law House therefore Gram Nyayalaya means a house to provide justice. It has been set up at the Grass root level where no such courts are established.

At the lowest tier of the Judiciary, Gram Nyayalaya proves to be effective with its procedure, powers, and jurisdiction process. These courts Caused many such problems as unemployment, the pendency of Suits, huge paid court procedures, etc.

Gram Nyayalayas have proved to be a boon for the Indian Judicial system as after setting up such courts settlement of disputes at Grass root level, villages become much more efficient.

“If we want truth and justice to rule our global village, there must be no hypocrisy. If there is no truth, then there will be no equality. No equality, no justice. No justice, no peace. No peace, no love. No love, only darkness.”

Suzy Kassem

Introduction

From the past till the present from food, clothing, and shelter, justice captures the position of necessity. Every individual is born with so many rights and freedoms and this can only be provided with the help of justice use to be the basic brick of the development of an individual. Justice has also been tarnished with the passage of time. Along with justice equality has also shares the same crown. Without equality justice has no status. They both are complimentary to each other.

It is a bitter truth that nobody is equal, as there are two kinds of people on this earth, one is rich and the second one is poor. Rich is in a position to afford the expenses of court and proceedings whereas the poor is concerned he is not in a position to even earn full wages for his family to look after it is not at all possible for him to bear such expenses. To bring justice to the people of these sections courts were made. But it is important that justice should be done in a fair manner and for that purpose, various courts have been established by our legal system. Various courts were established at various levels at the district level there is a district court, above that there is a high court, and above all supreme court Apart from these there are various courts like consumer courts, motor accident claims, various tribunals at various levels, etc. Apart from these, there is one more court that came into existence in 2008 which is Gram Nyayalaya, whose intention was to resolve the problem at the grassroots level.

Gram Nyayalaya

Gram Nyayalaya was made for the establishment of Gram Nyayalaya at the grass root level for the purpose of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizens by reason of social, economic, or other disabilities. Gram Nyayalaya was established under Gram Nyayalaya Act, 2008 for speedy and easy access to justice in the rural areas of India. Gram Nyayalaya Act came into force on 2nd of October 2009. ¹

¹<https://pib.gov.in/newsite/ereelcontent.aspx?reelid=52951>retrieved 1 May 2013

The Gram Nyayalayas is established generally at the headquarters of every Panchayat at the intermediate level or a group of contiguous Panchayat in a district where there is no Panchayat at an intermediate level.²

This court functions as a mobile court at any place within its jurisdiction. It has both Civil and criminal jurisdiction over the offences and nature of Suits specified in the first second and third schedule of the act.

Case: Shrinivas Chalageris V/S The Chief Secretary 5 April 2016³

Learned advocate for the writ petitioner is not present However, the writ petitioner, who claims himself to be an advocate, seeks leave to argue the case in person Leave as prayed for, is granted.

This writ petition is filed seeking a mandamus on the respondents to implement the Gram Nyayalaya Act 2008, for establishing gram nyayalaya under section 3 of chapter II of the act. It is for the authorities to consider when the gram nyayalaya has to be established.

The writ petition is dismissed.

Present Judicial System

The present Indian judicial system consists of

1. Supreme Court
2. High Court
3. District Or Session Court
4. Gram Nyayalaya

Supreme Court is the court of highest appeal. The composition and constitution of this court is provided under article 124 to 147 of the Constitution of India. Its proceedings are conveyed in English only. It can hear disputes between the center and the state in its original jurisdiction. Supreme Court comprises a chief justice and 33 other judges. Writ petitions for serious rights to constitutional remedies under Article 32 are also entertained directly by the Supreme Court.

²https://en.wikipedia.org/wiki/Gram_Nyayalayas_Act,_2008, 24th July, 2009 ,5.10 pm

³ <https://indiankanoon.org/doc/139166176/>

A high court is a court of appellate jurisdiction that allows appeals from district or session's court and writs under article 226 of the Indian constitution. The high court has jurisdiction over a state and union territory or a group of states and union territories. Permanent benches are also established for particular regions and circuit benches for those regions where judges work in remote areas for particular day visits.

District court hears cases of civil disputes whereas session court deals with cases of a criminal nature. District court is established for every district or for more than one district by the state government. Along with this court, a special court is also there for resolving matrimonial causes which is the "Family Court". There may be additional DJs and assistant DJs are also appointed according to the workload of the courts. The district Judge is also called a Metropolitan Sessions Judge appointed for Metropolitan areas.

Executive and revenue courts-

Each state government established a level Revenue Court for dealing with land revenue matters, matters of partition, succession, ownership, etc. Executive magistrate deals with petty offenses which are lower than compoundable in nature.

Various alternative dispute resolution systems are also there which include arbitration, conciliation, mediation, negotiation, and lok Adalat. Which are also working for peaceful settlement of disputes.

Need For Gram Nyayalaya

It is very well said that if justice was not served on time, it has no Weightage or we can say that when justice is not done on time it has no value for the sufferer. The study shows that about 3 crore cases are pending in different Courts in India and plenty of these cases have been pending for more than 10 years. the below chart shows the approximate number of cases that were pending in the Supreme Court, High Court, district, and subordinate Courts in India.

- Around 60000 cases are pending in the Supreme Court.
- Around 4200000 cases are pending in different high courts.
- Around 2.17 crore cases are pending in district and subordinate courts.⁴

⁴ Under current affairs notes Indian polity notes.

- One of the foremost reasons for the failure of the justice delivery system is insufficient courtrooms and infrastructure which is the main problem. we will simply check the concerning budgetary allocation. Total budget allocation for law and Justice Ministry (in crores).

According to the latest official data, over 3 Crore cases are pending, of which over 70% or 2.17 crore pending cases at the district level are criminal cases and the remaining 86.8 lakh or over 28% cases are pending before the Civil courts.

These are not the small number of cases but it is only the single aspect of the problem. Out of the total number of 86.8 lakh civil suits, about two third of the cases among this value are pending for more than a year. And nearly 7% of cases or more than 5.87 lakh cases are pending for more than a decade. Similarly, in the matters of criminal cases, nearly two-thirds of cases, or 1.42 crores criminal cases have been pending for more than a year and there are 19.38 lakh cases have been pending for more than a decade.⁵

- Bheem Arjun Reddy, a practicing lawyer from Nalgonda gives instances of how, sometimes the rural litigants travel long distances and even sleep overnight in the court complexes to attend their case the following day. He also contradicted the general opinion that such courts would invalidate the existing local mechanism of solving disputes. He felt that much of the local dispute redressal had been made over into the hands of the Gundas, Party Leaders, and police stations. Despite being local and customary, these forums have become expensive and time-consuming for the common man. More importantly, he pointed out that the interventions of the local mechanism are not firm enough in concluding the dispute. A similar opinion was also expressed by women from the Mahila Samartha program who welcomed a legal sanctity to the conclusion of disputes in women's cases.⁶

⁵ <https://www.financialexpress.com/India-news/delayed-justice-pendency-of-courts-cases-how-Indian-courts-are-clogged-with-pending-cases/1578031/justice-delayed-pending-cases-weigh-down-India's-justice-delivery-system>, retrieved on 26 July 2017, on 2:34pm

⁶ Round Table Discussion organised by anveshi Research Centre for women studies and Human Rights forum on Gram Nyayalaya: the New Face of the Judiciary, 19 September 2009 by Vasudha Nagaraj.

Gram Nyayalaya

The 114th Law Commission report first suggested the Gram Nyayalaya Act in 1986. a quick perusal of the Law Commission of India's 1986 report on Gram Nyayalaya alerts one to their stated desire to move away from the Nyaya Panchayat model.⁷

The report focuses mostly on the idea of participatory justice. The law commission considers the nature of the Indian legal system as alien and it is its biggest drawback.⁸ Following from this, the persons handling the disputes of Gram Nyayalaya should be well acquainted with the local Customs, Traditions, Culture, and conditions. To achieve this, a three-member panel was composed by the commission like the model of rural courts. This panel was to be headed by a judicially trained officer, assisted by two lay judges.⁹ The judicial officers will be appointed from the rank of judges possessed by every state. Whereas the lay judges will be appointed by the process of selection by the district magistrate and the district and session judge.

The Gram Nyayalaya as one of the lower courts was proposed by the 114th Law Commission report way back in 1986. The 114th commission report came out with two objectives of Gram Nyayalaya the first and major one is the pending cases in subordinate courts, on the other hand, the second one was the introduction of a participatory forum of justice. For the adjudication of the socio-economic dimension two lay persons would be recommended by the law commission to assist the magistrate so that it will enhance the contribution as legal knowledge combines prevalent local customs and culture.

This was suggested that such a model would suit such kind of rural litigation. It was observed by the Law Commission that such Gram Nyayalayas will be best for such kind of villages in which the nature of cases was simple, uncomplicated and easy to come out with a solution and such disputes can easily be tackled out without cumbersome procedural hacks. The law commission report suggested that such litigation is expensive both for the state as well as the litigation. However, the participatory aspect has been set aside in the current act and we find the Gram Nyayalaya manned by the regular Judicial First-Class Magistrate.

⁷This was even though 'strengthening in rural areas the institution of nyaya panchayats' was one of their terms of reference. law commission of India, 114th report; gram nyayalaya,1(1986).

⁸"It has till today remained an alien system which has no living contact with the masses and is not meaningful to them." Id., at7.

⁹Law commission of India (1986), supra note 31, at 19.

Salient features of the act: ¹⁰

- 1.) The judge presiding in this court is designated as a Nyaya Adhikari, and the court itself is called Gram Nyayalaya. A move is quite novel to the judiciary. The Nyaya Adhikari will combine the judicial functions of both a junior civil judge and a magistrate. It is explicitly stated that the Nyaya Adhikari in addition to her regular adjudicative functions, will wherever possible, assist, persuade, and conciliate the parties in arriving at a settlement. There will be a panel of official conciliators to help the judge in such mediation.
- 2.) The functioning of this court has been, in terms of planned differently from that of the existing courts, in terms of its objectives, procedure, and jurisdiction.
 - The Nyayalaya will be mobile and will conduct its proceedings in close proximity to the cause of action.
 - The proceedings will be carried out in the local language.
 - The court fees for any of the civil claims will not exceed RS. 100 irrespective of the worth of the property involved.
 - In civil cases, in execution proceedings the court will not be bound by the code of civil procedure and will be guided by the principle of natural justice.
 - The Nyayalaya may accept documents that may not be admissible under the Indian Evidence Act, of 1872.
 - All the orders (except consent orders) of the Nyayalaya can be appealed in the district court and no further.
 - The Gram Nyayalaya's jurisdiction has been expanded presumably to suit the legislation arising in villages.
 - Claims and offences arising under the Payment of Wages Act, Minimum Wages Act, Equal Remuneration Act, Protection of Civil Rights Act, and Bonded Labour Act.
 - Domestic Violence Act and maintenance cases under the CRPC.
 - Civil disputes that cover rights of use of pastures, water channels, shared cultivation, forest produce, and other disputes regarding the right to purchase property and use of village and Farm Houses.
 - On the criminal side all those offences which are punishable up to a period of 2 years; are theft. And retaining stolen property where the value of the stolen

¹⁰ This was Provided under Round Table Discussion on Gram Nyayalaya: the New Face of the Judiciary 19 September 2009 by Vasudha Nagaraj

property is not more than 20000 rupees; criminal intimidation, breach of peace, and attempts and abatements of the foregoing offenses.

- Additionally, the state government can also append its own list of offences and claims to the schedule of cases tried by the magistrate.

Case: Kunahabdulla K.V. V/S Ammad 18th April, 2017¹¹

The tenant of a building filed the original petition. His eviction was sought by his landlord under sections 11(3) and 4(V) of the Kerala Buildings (lease and rent control) Act (for short 'Act 2/1965'). the petition for eviction was filed before the Gram Nyayalaya, Kunnummel Block-Kuttiyadi, Kozhikode District. The Nyayadhikari granted an order of eviction in favour of the landlord under both the grounds sought. That was an ex-parte order That application was allowed. the ex parte order was set aside. Then came before the Gram Nyayalaya an application filed by the landlord to review the order setting aside the ex parte order. The application for review was allowed. The said OP(RC).173/17 order allowing the review application is challenged in the original petition filed under article 226 and 227 of the Constitution of India.

All the orders mentioned above passed by the Gram Nyayalaya stand quashed. The Gram Nyayalaya is directed to return the rent control petition to the landlord for presentation before the proper court.

Cases Dealt by Gram Nyayalaya¹²

1. Civil disputes: disputes arising out of the implementation of agrarian reform and allied statutes act
2. Tenancies Act protected and concealed and contested.
3. Boundary disputes and encroachment.
4. Right to purchase.
5. Use of common pasture.
6. Entries in revenue records.
7. Regulation and timing of taking water from an irrigation channel.
8. Disputes as to assessment.

¹¹

¹² Vishwanathan, T.K., The Gazette Of India, The Gram Nyayalaya Act, 2008, Secy To The Govt. Of India, Govt. Of India Press, Controller Of Publications, Delhi, 2009

II property disputes:

1. Village and farmhouses (possession)
2. Sobas.
3. Easements: the right of way for man, cart, and cattle to fields and courtyards.
4. Water channels.
5. Right to draw water from a well or tube well.

III family disputes:

1. Marriage
2. Divorce
3. Custody of children.
4. Inheritance and succession act share in property.
5. Maintenance.

IV. Other disputes:

1. Non-payment of wages and violation of the Minimum Wages Act.
2. Money suits either arising from trade transactions or money lending.
3. Disputes arising out of the partnership in the cultivation of land.
4. Disputes as to the use of forest produce by the local residents.
5. Complaints of harassment against local officials belonging to police, revenue, forest, medical, and transport departments.
6. Disputes arising under the Bonded Labour System (abolition) Act 1976, and the Protection of Civil Rights Act, 1955.

The Gram Nyayalaya must have jurisdiction to try all offences which can be tried under the code of criminal procedure, 1973, by the Judicial Magistrate First Class.

Though undoubtedly, the Family Courts Act, of 1984 has been enacted and brought into operation, since the custody of children has a distinctly local flavour, the Gram Nyayalaya must have jurisdiction to deal with matrimonial disputes arising in rural areas. The Gram Nyayalaya would be a body for the administration of justice, and legislation for the same would squarely fall under entry 11 -A of the concurrent list.

Current position of Gram Nyayalaya

According to the report presented by the advocate, Goa has issued two notifications to establish the Gram Nyayalayas. However, none are functioning at the moment. Haryana has issued the notification for 3 and currently only two are functioning. In Jharkhand six, but only one is functioning. The state of Uttar Pradesh notified 113 Gram Nyayalaya However only 14 are functioning. The state had to establish 822.

At present only 208 Gram Nyayalayas are functioning as against 2500 required to function according to the 12th five-year plan.¹³

Conclusion

Indian judicial system is the very ancient legal system which consists of Customs, Legislation which is the outcome of the then colonial powers. With the changing time and need it acquires the changes according to the challenges before the judiciary.

Gram Nyayalaya is a very innovative step in achieving a suit-free society and this establishment of such courts is a major concern because most of the village cases are petty enough to be resolved at grassroot level despite awaiting trial for years.

¹³ <https://currentaffairs.gktoday.in> retrieved on 19 aug 2020,8 pm.