

## INTRODUCTION

1. In this document Performance Budget of the Law and Judiciary Department has been presented. The aim of the Performance Budget is to review the programmes and functions of a department on the context of programmes and functions allotted. The programmes which specifically require funds have only been included in the Performance Budget. The details of Budgetary grants under the control of Law and Judiciary Department have been indicated in the Table "A" and "B"

2. Law and Judiciary Department functions as Legal Advisory Department for the Government and as an Administrative department for the Subsidiary Courts and the offices under the control of Law and Judiciary Department Grants are released to the judiciary as per their requirements.

3. The functions which are being performed by the Law and Judiciary Department as an Advisory Department are basically technical. This department tenders legal advice to the departments in Mantralaya prominently on the following four subjects-

1) Legal points arising under the Constitution of India, several Civil and Criminal Acts, Rules and Regulations, etc.

2) Legislation (both Principal and Subordination)

3) Litigation (both Civil and Criminal)

4) Conveyancing.

4. As is inherent to the technique of Performance Budget, each programme is divided in four parts, viz (1) Introductory, (2) Financial requirements, (3) Summary of work load of programmes and Explanation of Financial requirements, (4) Personnel Summary. The section regarding financial requirements has been further classified into three parts, viz

(a) Activity-wise - This explains objects of expenditure on the programme.

(b) Object - It explains the authority and mode of expenditure.

(c) Source - wise classification indicates programmes - wise and head of account-wise provisions for expenditure.

5. Admittedly, a Performance Budget is not an evaluation report. Taking into account the nature of the various activities performed by the Law and Judiciary Department, various activities, with the help of the latest available date, have been indicated as far as possible.

## **Law and Judiciary Department ( Mantralaya Department)**

### **1. INTRODUCTION :**

The Law and Judiciary Department is mainly a Technical Department. It has two sides, one is Legal and another is Non-Legal (i. e. Administrative). The Non-Legal Side (i. e. Administrative side) deals with Establishment and other matters of Mantralaya Departments, Judiciary, Law Officers, Charity Organization, Administrator General and Official Trustees and Registrar of Firms. The Administrative side is distributed among 26 Desks. The Legal Side is divided into three wings, viz. Drafting, Opinion and Litigation Conveyancing.

### **LEGAL SIDE**

#### **(A) Opinion Wing (Known as "A" Branch) :**

A' Branch mainly tenders opinion Mantralaya in the matter in which law points (Civil as well as Criminal nature) are all administrative departments of involved.

#### **(B) The work of this branch as follows:-**

**(1) Criminal Cases :** It deals with Criminal Litigation i.e. scrutiny of Appeal Proposals for filing of appeals in the Session Court for enhancement of sentence, filing of appeal in the High Court / filing of S.L.P. in the Supreme Court against the order of acquittal and for enhancement of sentence. Filing of Revision Application for cancellation of Bail and against order passed in Criminal Misc. Application by the Trial Court/Lower Court in State of Maharashtra.

**(2) The sanction for prosecution - 'A' Branch** is also do scrutiny of the proposals in respect of according sanction to prosecute public servants under the Section 196 and 197 of Code of Criminal Procedure and Section 19 of the Prevention of Corruption Act, 1988 and scrutiny of draft Sanction Orders in such sre matters.

**(3) Withdrawal of prosecution:-** To give advice in respect of withdrawal of prosecution under Section 321 of Code of Criminal Procedure in cases filed under Indian Penal Code, 1860, Maharashtra Police Act, 1950 and Factories Act, 1948

**(4) Appointment of "Special Counsel" :-** To issue instructions for appointment of "Special Counsel" for conducting criminal litigation on behalf of the State of Maharashtra before the High Court as well as Supreme Court. To issue instructions to the Government Advocate for appearance on behalf of the State of Maharashtra before the Supreme Court in Criminal S.L.P. To issue instructions to the Public Prosecutor, Sessions Court and High Court of Bombay to appear and defend the criminal cases on behalf of Government of Other States. To request the Law Department of Other State Governments to issue instructions to their Public. Prosecutors for conducting criminal cases on behalf of State of Maharashtra fileM in the Lower Court/High Court of Other States.

#### **(2) City Litigation and Conveyancing (Known as "E" Branch) -**

City Litigation Branch looks after the work in connection with litigation in the High Court on Original Side (including Sales Tax Reference), Writ Petition in High Cour (Appellate Side) , City Civil Court and Small Causes Court. This Branch also give advice to other Departments in litigation matters.

(i) The work of preparation and scrutiny of deeds or instruments in which the Governor of Maharashtra is a party and the work relating to leases i. e. Agreement for leases, deed of transfer licence etc. and other reference connected with conveyancing is done in this Branch.

(ii) This Branch also does the work related to Admiralty Jurisdiction; Suits and Summons and the Notaries Act, 1952.



### **(3) Mofussil Litigation (known as "M" Branch)**

- (i) The Mofussil Litigation work includes giving advice on feasibility of institution or defending litigation on behalf of Government, scrutiny of plaints and written statements and taking decisions regarding filing of appears or otherwise in the District Courts, High Court in respect of Civil Litigation in the mofussil area excluding the Vidarbha and Marathwada Regions. Similarly, the Civil Litigation in Mofussil Courts on behalf of other States or the Officers of other States in India and the Government of India including the Government of India Officers, is looked after by this Branch.
- (ii) For the purpose of effecting proper control over Government mofussil litigation in District, the Government has decided in 1977, to undertake the inspection of offices of District Government Pleaders and according inspections are undertaken by the Solicitor (Mofussil Litigation). During the inspection, all the local Office and the president and the members of the Bar are contacted and the matters relative to Government litigation are discussed. These inspections have proved to be very helpful for effective supervision on Government Civil Litigation in mofussil areas, in removing difficulties and misunderstanding in minds of the Law Officers and improving the quality of work in the District Offices.
- (iii) There are two separate Branches, one at Nagpur and the other at Aurangabad for Administrative convenience. These branches are part and parcel of the Mantralaya Department. An Officer of the rank of Joint Secretary is In-charge of these Branches. These Branches of Joint Secretary, Law and Judiciary Department at Nagpur and Aurangabad deal with Civil and Criminal Litigation, opinion matters and also writ petitions, notice of suits and miscellaneous matters relating to Vidarbha and Marathwada regions, respectively.

### **(B) Drafting Wings (Known as "B" Branch)**

- (i) This Branch of the Law and Judiciary Department deals with the drafting of principal legislation, that is to say Government Bills and Ordinances in regard to all State and Concurrent subjects enumerated in the List 11 in the Seventh Schedule to the Constitution of India. Similarly, it deals with the drafting of all subordinate legislation, that is to say statutory rules, regulations by law, notifications, orders, schemes and other similar instrument, to be issued, whether under Central Acts or State Acts. It examines the question of expediency and competence from the legal point of view as well as in respect of non-official Bills received from the Maharashtra Legislature Secretariat, of undertaking any legislation to give effect to the proposals made by the different Administrative Departments. All technical matters connected with the Legislature of the State, are also dealt with by this Branch.
- (ii) The Maharashtra Code is a Government Publication Containing all the State Laws in force, in the State of Maharashtra. The publication is found useful by the persons in profession of practicing laws. This publication is, therefore, intended to make available to these people as well as to the general public, all State Laws at a reasonable costs. The work of reprinting of the Acts and the maintaining Maharashtra Code up-to-date by issuing Replacement Series to Maharashtra Code, from time to time, is also done in this Branch under the supervision of the Secretary (Legislation).

**(iii) Rules and Orders (known as "R") Branch :** The Maharashtra Rules and Orders is one of the oldest and important publication contains rules and orders made by the State Government under various State and Central Acts including the Constitution of India. The publication which is in two series, namely. Rules and Orders made under the State Acts and Rules and Orders made under the Central Acts contains all important subordinate legislation in one place. This publication too is found useful by all. including Members of legislature, Courts and Members of Bar and general public. These Rules and Orders are kept up-to-date by issuing Replacement Series, from time to time. This work is attended to by "R" Branch of the Law and Judiciary Department, under the supervision of Secretary (Legislation).

**BOMBAY HIGH COURT****INTRODUCTION :-**

The High Court of Judicature at Bombay is the Chartered High Court under Order XLIX of the Code of Civil Procedure, 1908 and one of the oldest High Courts in the Country. By the Charter of Queen Victoria dated 26<sup>th</sup> June 1862, Bombay High Court was established and it was inaugurated on 14<sup>th</sup> August 1862.

Initially, the jurisdiction of the then Bombay High Court was extended under Article 231 of the Constitution, to the then Union Territory of Goa, Daman and Diu, vide the THE HIGH COURT AT BOMBAY (EXTENSION OF JURISDICTION TO GOA, DAMAN AND DIU) Act, 1981. However, in the year 1987, under Goa Daman and Diu Reorganization Act of 1987, separate Goa State came to be established and under Article 231 of the Constitution, a common High Court, for the State of Maharashtra and the State of Goa, as also the Union Territory of Dadra and Nagar Haveli and another Union Territory of Daman and Diu came to be established under Section 20 of the said Goa, Daman and Diu Reorganization Act of 1987. Common High Court has been established with its principal seat at Mumbai as per Section 26 of the said Act. So the jurisdiction of the common High Court now extends over the whole of Maharashtra, State of Goa and also over the union Territories of Daman, Diu and Union Territories of Dadra and Nagar Haveli. In addition to that, Bombay High Court has its permanent Benches at Nagpur and Aurangabad.

The High Court at the principal seat has two wings, viz. the Original Side and Appellate Side.

The principal Officer of the High Court is designated as the Registrar General of the High Court. Registrar General is Head of the Registry of the Original and Appellate Sides of the High Court, Bombay.



**Original Side :-**

The Courts on the Original Side exercises various jurisdictions as conferred by the Letters Patent and other statutes and also dispose off appeals arising from judgments of a Single Judge of the High Court in matters filed on the Original Side as per Clause XV of the Letters Patent. The pecuniary jurisdiction in respect of suit matters on the Original Side extends to the matters, the valuation of which is above Rs. One Crore, whereas Territorial jurisdiction of the matters on the Original Side extends upto the limits of Greater Mumbai.

Under Article 226 of the Constitution of India, the Courts on its Original Side hear all Writ Petitions against the State Government; Central Government and Municipal Corporation for Greater Mumbai and all other authorities within the meaning of Article 12 of the Constitution of India including Public Interest Litigation and all miscellaneous matters pertaining to appointment of guardian of minors in Greater Mumbai, and all other matters pertaining to Foreign Adoptions, Indian Guardianship Petition and Matrimonial jurisdiction under Parsi Marriage and Divorce Act, 1936.

The Courts on the Original Side also attend to the following matters :-

- (1) Appeals / References under Direct/Indirect Tax Laws;
- (2) References under Land Acquisition Act, 1956, Chartered Accountants Act, 1949; Company Secretaries Act, 1980;
- (3) Appeals under FERA/FEMA & Foreign Trade (Regulation & Development) Act, 1992.
- (4) Company matters pertaining to Liquidation cases under Section 434 and under the various Sections such as 100, 391, 393 and 628 etc. and Company Applications under Sections 446 (3) etc. and Company Appeal u/s. 10-F of Companies Act, 1956.
- (5) Suits and matters under the Colonial Courts of Admiralty Act, 1890 under its Admiralty and Vice-admiralty Jurisdiction.

- (6) Petitions under Contempt of Court Act, 1971.
- (7) Matters under the Arbitration and Conciliation Act 1996.
- (8) Testamentary and Intestate jurisdiction, viz. Hearing of Suits and petitions pertaining to Succession Certificates, Letters of Administration and Probates of Last will and testament of Deceased Persons as well as Petitions for Heirship under Section 2 of Bombay Regulation Act, 1827 as well as Petitions/Applications under Section 6 and 10 of the Administrator General Act, 1963.
- (9) Suits and matters under Copyrights Act, 1957, Patents Act, 1970 and other related Acts;
- (10) Matters under Presidency-towns Insolvency Act, 1909;
- (11) Matters under the Commercial Court, Commercial Division and Commercial Appellate Division of High Courts Act, 2015;

AND

All other matters and proceedings in exercise of Ordinary Original Civil Jurisdiction of the Bombay High Court.



## Appellate Side:-

The jurisdiction of the High Court on its Appellate Side extends over 34 Districts of the Maharashtra State and the State of Goa and Union Territories of Daman, Diu and Dadra and Nagar Haveli.

## The Courts on the Appellate Side dispose of Appeals-

## I. Civil —

## (a) Appeals :-

- (i) From original decree in suits or from adjudication in other proceedings from which appeals lie to the High Court as from original decrees, whether under the Civil Procedure Code or under any local or special Act, wherein the value of the subject-matter in dispute in the Court or before the Tribunal of the first instance does not exceed 2 crore rupees and wherein the value of the subject-matter still in dispute on appeal is 2 crore rupees or less : provided, however, that the expression 'the value of the subject-matter still in dispute on appeal' appearing in this sub-clause shall be construed to mean, where there is an appeal as well as a cross appeal or cross-appeals or cross-objections, the total of the values of the subject-matters in dispute in the appeal as well as the cross-appeal or the cross appeals or the cross-objections;
- (ii) From appellate decrees in suits or from adjudications in other proceedings from which appeals lie to the High Court as from appellate decrees, whether under the Civil Procedure Code or under any local or special Act;
- (iii) From decrees under section 144 of the Code of Civil Procedure;
- (iv) From orders under section 104 or Order XLIII, Rule 1 of the Code of Civil Procedure; and
- (v) From orders under local or special Acts not having the force of a decree
- (b) Applications for the exercise of the Court's revisional jurisdiction under section 115 of the Civil Procedure Code or under section 25 of the Provincial Small Cause Courts Act, or under any special or Local Law excluding the petitions under section 51 of the Parsi Marriage and Divorce Act, 1936, arising out of decrees or orders passed by the Parsi Chief Matrimonial Court.
- (c) Applications for the withdrawal of appearance or cancellation of the vakalatnama or for deposit or withdrawal of moneys and for refund of Court Fees.
- (d) Applications under the Companies Act, 1956, and proceedings thereunder

(c) All other applications incidental to or interlocutory or arising out of or relating to the appeals or civil revisional applications pending or proposed to be filed in the High Court and also applications for withdrawal of appeals or applications for consent decrees or orders under Order XXIII, Civil Procedure Code.

(d) Revision of orders passed by the Registrar, Deputy Registrar, Assistant Registrar or the Special Officer in those appeals or petitions which are to be dealt with by a Single Judge under these rules.

#### 3. Criminal—

(a) Appeals against convictions, except in which the sentence of death or imprisonment for life has been passed appeals against acquittals wherein the offence with which the accused was charged is one punishable on conviction with a sentence of fine only or with a sentence of imprisonment not exceeding ten years or with such imprisonment and fine, and appeals under section 377 of the Code of Criminal Procedure, revision applications and Court notices for enhancement of sentence for offences punishable on conviction with sentence of fine only or with sentence of imprisonment not exceeding ten years or with such imprisonment and fine.

(b) Appeals against orders relating to disposal of property and orders directing payment of compensation, expenses and/or fees or orders binding over the accused to appear and receive sentence at any time the accused may be called upon and in the meanwhile to be of good behaviour or admonishing the accused.

(c) Applications for the exercise of the Court's revisional jurisdiction under section 401 of the Code of Criminal Procedure, and reports of cases of which record is called for on examination of criminal returns or otherwise.

(d) Applications for leave to appeal under section 378(4) of the Code of Criminal Procedure against acquittals wherein the offence with which the accused was charged is one punishable on conviction with a sentence of fine only or with a sentence of imprisonment not exceeding ten years or with such imprisonment and fine.

(e) Application for bail or stay, not arising in or out of or relating to any appeal or application already pending in the High Court.

(f) Application for leave to appeal to the Supreme Court under Article 134 of the Constitution of India in matters disposed of by a single Judge.

(g) All miscellaneous applications, including applications for bail or stay in or out of or relating to matters under items (a) to (c) above.



- (h) All applications under section 482 of the Code of Criminal Procedure including applications challenging an Order for issuing process in a private complaint, except -
- (i) applications seeking review, modification or setting aside of any order passed by a Division Bench
  - (ii) applications for quashing an F.I.R., C.R., Charge Sheet or order directing investigation under Section 156(3) of the Cr.P.C. irrespective of whether such applications have been filed under Section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution.
- (i) Application/petitions for furlough or parole under Prison (Bombay Furlough and Parole) Rules, 1959 or under the (Prison Goa, Daman and Diu Furlough and Parole) Rules, 1968 or for temporary bail in the matter pending before Division Bench or a Single Judge shall be placed before the respective fora. Applications/petitions of aforesaid nature arising out of matters already disposed of shall be placed before the Single Judge assigned with criminal matters.
- 2) In pursuance to the insertion of Section 260A of Income Tax Act, 1961, Section 27A of the Wealth Tax Act, 1957, Section 130 of the Customs Act, 1962, Section 35G of the Central Excise Act, 1944, Section 83 in Chapter V of the Finance Act, 1994 (Service Tax) read with Section 35G of the Central Excise Act, 1944, Section 27 of Maharashtra Value Added Tax, 2002, Section 9(2) of the Central Sales Tax Act, 1956 read with Section 27 of the Maharashtra Value Added Tax, 2002 or under any tax legislation other than which is referred to hereinabove or which is enacted or re-enacted or that may be enacted after the coming into operation of these Rules which provide for an appeal to the High Court from an order of the Tribunal under such legislation,

arising out of Kolhapur, Nashik, Pune, Raigad, Ratnagiri, Sindhudurg, Satara, Sangli, Solapur and Thane Districts shall be presented to the Prothonotary and Senior Master of High Court of Judicature at Bombay and the same shall be heard and disposed of by a Division Bench on the Original Side.

The Rules for filing such Direct and Indirect Tax Appeals on the Original Side will also apply, *mutatis mutandis*, to all Tax Appeals arising from the aforesaid Districts.

The High Court at Bombay is at present having sanctioned strength presided over by the Chief Justice with the assistance of 94 companion at Judges. The Administrative Side of the High Court is managed by the Registrar General with the help of Registrar, Prothonotary and Senior Master on the Original Side and by the Registrars on the Appellate Side.

47-G

**Benches of the High Court of Bombay:**

There are 3 permanent benches of the High Court of Bombay at Nagpur, Aurangabad and Panaji (Goa). There are 50 sanctioned posts of Judges at Mumbai, 22 at Aurangabad, 18 at Nagpur and 4 Posts at Panaji (Goa). The administrative work at benches is looks after by Registrar (Adm).



## INTRODUCTION

### City Civil & Sessions Court, Mumbai.

1 The City Civil and Sessions Court, Mumbai is established in the year 1948 for the Greater Mumbai area. The main and sole function of this Court is to administer Civil and Criminal Justice in territorial limits of Greater Mumbai. It decides declaratory suits, summary suits and commercial cases of the pecuniary value of above Rs.10,000/- up to Rs.1,00,00,000/- and Misc. Applications such as Notice of Motions, Misc. Appeals under the Public Premises Eviction Act and also under Municipal Corporation Act and other Acts. The Government vide Bombay City Civil Court [Amendment] Act, 2012 (Mah.XXV of 2012) and Government Notification of Law & Judiciary Department No CCS-2911/CR-58/DESK-19, dated 28/08/2012, has authorized this Court to decide suits of value up to Rs. 1,00,00,000/-. Provisions of sections 1, 2, 3, 5, 6 and 7 of the said Act came into force from 1<sup>st</sup> September, 2012 and provision of section 4 of the said Act came into force from 1<sup>st</sup> October 2012.

2 On Criminal Side, Sessions Court tries Sessions cases committed to it by the Metropolitan Magistrates for trial and also hears [corruption cases]. with effect from 1st April 1974, Sessions Court has been vested with jurisdiction to hear Criminal Appeals and Criminal Revision Applications in the cases tried by the Metropolitan Magistrates in Greater Mumbai. This Court tries cases filed under Bail Applications, Cases under P.C. Act, ELECTRICITY, SC/ST, POCSO, N.D.P.S., MOCCA, ATS, ED, TADA, POTA, NIA, SEBI M.P.I.D., P.L.M.A.]

3 There are 82 sanctioned posts of Judges including two Principal Judges and two Additional Principal Judges and 16 additional posts of Judges for Commercial Courts have been sanctioned vide Government Resolution No. SPC-1316/133/C.R.14/IX, Dated 13<sup>th</sup> September, 2019 as such, there are 98 sanctioned posts of Judges in this office. **In addition thereto Fast Track Courts and Judges are officiating vide Maharashtra Government, Law & Judiciary Department, Government Resolution No. FTC 2010/Case No.83/Desk-9, Dated 23<sup>rd</sup> March,2011.** As proposed by the Hon'ble Prime Minister, Government of Maharashtra has established 4 C.B.I. Special Courts in Mumbai are functioning in this Court.

4 Mumbai City being a premier commercial and industrial city, the litigations in this Court is of varied types and therefore, enormous growth of litigations has reflected huge volume of work in this Court. The Government vide notification, Law and Judiciary Department No.Mis 1207/5/C.R./3/Desk XI, dated 20<sup>th</sup> February 2007, in consultation with the High Court of Judicature of Bombay, has created with effect from 19<sup>th</sup> September, 2007, City Civil and Sessions Court, Mumbai (Borivali Sessions Division) at Dindoshi (Goregaon) for the area comprising Goregaon, Malad, Kandivali, Borivali and Dahisar. The Government of Maharashtra vide Notification dated 30<sup>th</sup> September, 2015 has altered the limits of the Borivali Sessions Division at Dindoshi by including therein the local limits of Andheri and of the areas of the Police Stations within the jurisdiction of the Courts of the Additional Chief Metropolitan Magistrates and the Metropolitan Magistrates at Andheri, in the Court of Session, Borivali Sessions Division at Dindoshi, to be presided over by the Additional Sessions Judge at



Dindoshi Court, which shall have jurisdiction co-extensive with the Courts of the Additional Chief Metropolitan Magistrates and the Metropolitan Magistrates at Andheri to try the cases, appeals, revisions, etc. arising within the said areas. The Sessions Judge, Gr. Bombay shall be the Sessions Judge for the said Division and shall have the jurisdiction for Borivali Sessions Division and shall have the power to withdraw himself or assign to any other Court of Competent Jurisdiction, the cases from the said Sessions Division or to assign the Additional Sessions Judge at Goregaon, Dindoshi any such cases, as he thinks fit.

5 The Government, vide Notification No. FTC 1416/ Case No.204/Desk-9, Dated 18th August, 2017 has established 1 Fast Track Court established at Dindoshi, under 14th Finance Commission and for that 6 Posts have been sanctioned. Originally 12 Courts started it's functioning at City Civil & Sessions court, Goregaon, Dindoshi in the year 2007. The Government has sanctioned funds for creation of Court no. 15 & 16 vide Government Resolution No. Sankirna &0118/162/Case No.42/Desk-11, Dated 5th June,2018.

6 A Mediation Center is also commenced in this Court w.e.f. 01.10.2011 pursuant to the directions of Hon'ble High Court, Mumbai and the said Mediation Center is running smoothly. Also **free service of E-Sewa Kendra** is made functional from 14th December, 2020. Under E-Sewa kendra services such as: inquires about case status, next date, e-filing, **Scanning of Documents, e-stamp papers, e-port service apps, e-payment, certified copies, other online application etc.** are available to Advocates and litigants. **Softcopies of Court Orders and decisions are provided to**

**advocates & litigants by Electronic System. Also, arrangement of e-meet appointment & video conference are also made for the inmates to visit their relatives.**

7 It is pertinent to note here that, for creation of additional courts for the City Civil and Sessions Court, Gr. Mumbai, this office has shifted some Department to MTNL building on a rent basis. In pursuance of directions of Hon'ble High court the Government in Law and Judiciary Department, Mantralaya, Mumbai has issued memorandum number misc-0416/case no.48/desk-11, dated 4<sup>th</sup> March, 2017 given permission for taking possession of rental premises at about 13533.32 sq.ft. in the Building of M.T.N.L., at 6<sup>th</sup> floor, situated at Hutatma Chowk, Flora Fountain, Mumbai, for the period of 5 years on monthly rent amounting to Rs. 37,21,663/- (Increasing 5% rent per annum + 18% G.S.T. and C.G.S.T.) + Property Tax and Water Charges for remaining years. It is stated that, this office has taken possession of the said rental premises on 4<sup>th</sup> December, 2017 by making necessary agreement for the same. Presently Accounts Department, Paper book Department and Sessions Record Department are **functioning** there.

8 Separate proposal will be sent to the Government for housing 16 commercial Courts and 26 POCSO Courts on rental basis in due course.

Paragraph -9 : 9 The Central Government in Ministry of Law & Justice vide letter dated 5th September, 2019 and High Court letter dated 11th November, 2019 has directed to constitute 1 POCSO Court at Head Quarter and 14 Fast Track Special Courts at

City Civil Court, Bombay and 11 Fast Track Special Courts at Dindoshi Division, for expeditious trial and disposal of POCSO cases. Further, as referred in High Court, Bombay letter Dated 11 November, 2019 as per Standard Norms, 7 staff require for 1 court, total 182 staff are required to be appointed for these 26 POCSO Courts.

10 Presently 60 Courts are functioning in the Main Branch of Bombay City Civil & Sessions Court at Fort, Mumbai and Civil Work of 5 more Courts is in progress. In order to reduce the pending Sessions cases speedily, Fast Track Court have been constituted w.e.f. 17th October 2003. Originally Fast Track Court were functioning at Sewree, Mumbai, however, the Court building at Sewree is handed over to the Metropolitan Magistrate Court, Mazgaon and all the Fast Track Courts and its departments have been shifted to the Bombay City Civil Court, Old Secretariat Building, Fort, Mumbai.

Principal Judge is the Head of the Administration of this Hon'ble Court. The posts viz. 1 – Registrar (Civil), 3 – Addl. Registrars (Civil), 2 – Registrars (Sessions), 2 – Addl. Registrar (Sessions) and 7 – Deputy Registrars, are the sanctioned Gazetted posts of the Registry to assist the Hon'ble Principal Judge in overall administration of this Hon'ble Court. The Registrar has the powers as delegated under the Sec.8 [2] of Bombay City Civil Court Act, 1948.



**FAST TRACK COURT****Fast Track Court under the 14<sup>th</sup> Finance Commission**

1. on 1<sup>st</sup> September, 2015, the Hon'ble the then Chief Justice and Their Lordships have directed the Registry to identify the places by applying 1000 pendency per Judge in the State of Maharashtra, Goa and Union Territory of Dadra Nagar and Havelli at Silvassa, so as to establish Fast Track Courts for a period of 5 years as per the guidelines of 14<sup>th</sup> Finance Commission.
2. The Hon'ble the Acting Chief Justice and Their Lordships on 5<sup>th</sup> February, 2016, have approved the 24 Fast-Track Courts (12 DJ Cadre viz. Latur, City Civil Court (Dindoshi), Sangamner-(Ahmednagar), Newasa-(Ahmednagar), Khed(Ratnagiri), Hingoli-(Parbhani), Amravati, Buldana (Khamgaon), Khed-Pune, Beed, Kalyan- (Thane), Thane and 12 CJSD viz. Majalgaon (Beed), Bhandara, Pusad(Yavatmal), Ahmednagar, Mangrulpir-(Washim), Bhoom (Osmanabad), Mukhed (Nanded), Panvel-(Raigad Alibag), Paranda (Osmanabad), Kalyan-(Thane), Karad-(Satara), after deducting 179 posts (which were created vide G.R. dated 06/01/2016) from the 203 Fast Track Courts in various Districts in the State of Maharashtra, 5 Fast Track Courts in the State of Goa and 1 Fast Track Court in Dadra and Nagar Haveli, at Silvassa, for a period of 5 years, as per guidelines of the 14<sup>th</sup> Finance Commission, subject to availability of infrastructure.
3. The Government vide its resolution dated 18<sup>th</sup> August, 2017 and memorandum dated 5<sup>th</sup> July, 2017 has created posts and made budgetary provision respectively for establishment of 24 Fast Track Courts in the State of Maharashtra, as per the 14<sup>th</sup> Finance Commission.
4. The High Court vide its Notification dated 5<sup>th</sup> May, 2018 has appointed the 12 Judicial officers of Civil Judge S.D. Cadre for establishment of Fast Track Court under the 14<sup>th</sup> Finance Commission and the said Courts are functioning.

5. The High Court vide its letter dated 6<sup>th</sup> November, 2019 has directed to the concerned Principal District & Sessions Judges of the remaining 12 Fast Track Courts of District Judge Cadre to empower to fill up the posts of Judicial Officers in the cadre of District Judge in Fast Track Court under the 14<sup>th</sup> Finance Commission for the period of 5 years from among the Judicial Officers who are working under their control.

**Fast Track Special Courts**  
**under the ' National Mission for safety of women'**

6. The subject "Setting up 30 exclusive/dedicated POCSO courts and 108 Fast Track Special Courts for POCSO in the State of Maharashtra for expeditious trial and disposal of Cases under Rape & POCSO Act, involving women and children under the ' National Mission for safety of women'" was placed before the Hon'ble Judges Committee for consideration and the Hon'ble Committee of Bombay High Court have approved the identified highlighted 30 places for exclusively/dedicated for POCSO Act and 108 places to try Rape and POCSO Act cases (total 138 places) in the State of Maharashtra, to set up the Fast Track Special Courts of District Judge Cadre as per the guidelines, subject to availability of infrastructure.
7. The Government of Maharashtra vide Resolution (L&J) No. Jagnya1419/5/ Pra.Kra.4/Ka-9, dated 4.03.2020, has given approval for setting up 138 FTSCs and created the posts of Judicial Officer and supporting staff. The Government has issued resolution dated 12.06.2020 for distribution of funds for establishment of 138 Fast Track Special Courts (30 POCSO + 108 FTSC) under the "National Mission Safety of Women" for Financial year 2020-2021.
8. Out of 138 Courts, at 22 places exclusive dedicated POCSO Courts and at 13 places Fast Track Special Courts are functioning.

- 9 The proposal of establishment of Fast Track Special Courts at remaining places is in process.

**Fast Track Court under the 15<sup>th</sup> Finance Commission**

10. The subject pertaining to setting up 140 Fast Track Courts (50 DJ Cadre and 90 CJSD Cadre) in the State of Maharashtra during the period of the award of the 15<sup>th</sup> Finance Commission", was placed before the Hon'ble the Chief Justice and the Hon'ble Judges Committee for consideration. Considering the pendency as 1:1000 cases and availability of Court halls, Their Lordships have approved, at present, only 140 identified places (50 DJ Cadre and 90 CJSD Cadre) for establishing Fast Track Courts for the period of 5 years in the District Judiciary in the State of Maharashtra
- 11 The matter is in process.



## Family Court.

This relates to the establishment of Family Courts in the State of Maharashtra.

1. The Government of Maharashtra by his letter dated 11/05/2006 has informed that a policy decision was taken to establish new Family Courts at 21 District places. The then Hon'ble Committee had called information regarding availability of infrastructure, pendency of cases etc., from all the District places and took a decision in the meeting held on 5<sup>th</sup> June, 2007 that the Family Courts should be established in the 11 places where Municipal Corporations were established i.e. 1)Ahmednagar, 2)Akola, 3)Amravati, 4)Kolhapur, 5)Nanded, 6)Nashik, 7)Pune (Pimpari-Chinchwad), 8)Sangli, 9)Solapur, 10)Thane and 11)Kalyan, in addition to the existing Family Courts i.e. Mumbai, Pune, Aurangabad & Nagpur in the State of Maharashtra.

Out of the said 11 places Family Courts have been made functional at Akola, Amravati, Nashik, Thane, Solapur, Kolhapur and Nanded.

Whereas at Kalyan (Thane) and Pimpari-Chinchwad (Pune) Family Courts are yet to be established as the same are pending for want of infrastructure.

2. As per the guidelines of the 14<sup>th</sup> Finance Commission, at least One Family Court is to be established in each District. Accordingly, on the basis of pendency & viability, the Committee of Dedicated Cell for the 14<sup>th</sup> Finance Commission in its meeting dated 24<sup>th</sup> November, 2016 has approved the 14 Family Courts viz. 1) Sangli, 2) Raigad-Alibag 3) Jalgaon 4) Parbhani 5)Yavatmal 6) Ahmednagar 7) Satara

8) Jalna 9) Dhule 10) Buldana 11) Latur 12) Beed 13) Bhandara 14) Osmanabad including already approved 4 Family Courts (i.e. Beed, Jalna, Osmanabad and Parbhani) vide Government Resolution dated 13<sup>th</sup> October, 2016. On 29<sup>th</sup> November, 2016, the Hon'ble Establishment of Court Committee have approved aforesaid 14 places for establishment of Family Courts in the State of Maharashtra, as per 14<sup>th</sup> Finance Commission.

The Government of Maharashtra vide its letter dated 20<sup>th</sup> July, 2016, has created posts and by its another letter dated 3<sup>rd</sup> March, 2017 has made budgetary provision for Family Court, at Latur and the said Court is functional from 1<sup>st</sup> April, 2017.

The Government vide its Resolution dated 18<sup>th</sup> August, 2017 has created posts for remaining 9 Family courts in the State of Maharashtra which falls within the jurisdiction of Municipal Limit/Municipal Corporation i.e. Sangli, Raigad-Alibag, Jalgaon, Yavatmal, Ahmednagar, Satara, Dhule, Buldana and Bhandara, as per 14<sup>th</sup> Finance Commission and vide Resolution dated 5<sup>th</sup> July, 2017 has made budgetary provision, as per 14<sup>th</sup> Finance commission.

As per 14<sup>th</sup> Finance Commission, all Family Courts at Osmanabad, Buldana, Ahmednagar, Dhule, Jalgaon, Satara, Jalna, Sangli, Yavatmal, Beed, Bhandara, Parbhani and Raigad-Alibag are started functioning w.e.f. 4<sup>th</sup> February, 2018, 10<sup>th</sup> March, 2018, 8<sup>th</sup> April, 2018, 28<sup>th</sup> July, 2018, 20<sup>th</sup> January, 2019, 17<sup>th</sup> March, 2019, 24<sup>th</sup> March, 2019, 8<sup>th</sup> February, 2020, 29<sup>th</sup> September, 2020, 2<sup>nd</sup> October, 2020, 10<sup>th</sup> October, 2020, 12<sup>th</sup> December, 2020 and 04.05.2021 respectively.

As per the Government Notifications dated 08.04.2021,

15.07.2021, and 26.07.2021, territorial jurisdiction of the Family Courts, Beed, Bhandara, Buldana, Jalna, Latur, Osamanabad, Satara, Ahmednagar, Akola, Amravati, Dhule, Jalgaon, Kolhapur, Nanded, Sangli, Solapur, Yavatmal, Parbhani, Raigad-Alibag are extended within the local limits of the entire Taluka instead of within the limit of Municipal Corporation/Council, under Section 3(2) of the Family Courts Act, 1984.

3. The proposal of establishment of Family Courts at Vashi (Navi Mumbai), Dist. Thane is pending for creation of posts and budgetary provision with Government.



### 5. GRAM NYAYALAYAS

The Gram Nyayalaya Bill, 2008 was passed by the Rajya Sabha on 17<sup>th</sup> December, 2008. On 2<sup>nd</sup> February, 2009, in the conference of State Law Secretaries and Registrar Generals of High Courts, it was assured that Central Government would bear 50% of expenses required for keeping such Gram Nyayalayas functional. By letter dated 11<sup>th</sup> September, 2009, the Hon'ble the Chief Justice of India has informed that it was decided by the Central Government to operationalise the Gram Nyayalayas Act, 2008 w.e.f. 2<sup>nd</sup> October, 2009.

In 1<sup>st</sup> phase, Gram Nyayalayas have started functioning in 9 Districts i.e. Ahmednagar (Ralegaon-Siddhi), Chandrapur (Gadchandur), Dhule (Nizampur), Nanded (Kasarkheda), Pune (Uralikanchan), Ratnagiri (Pali), Raigad-Alibag (Kharwali), Thane (Jawhar) and Wardha (Sevagram) in the State of Maharashtra with effect from 2<sup>nd</sup> October, 2009 as shown in Annexure 'A'.

Thereafter, on 17<sup>th</sup> June, 2010 the Hon'ble the Acting Chief Justice decided to establish 30 Gram Nyayalayas in the 2<sup>nd</sup> phase at following places in the State of Maharashtra:-

#### NAMES OF GRAM NYAYALAYAS (DIST.)

- |                            |                               |
|----------------------------|-------------------------------|
| (1) Chikhaldara (Amravati) | (16) Trimbakeshwar (Nashik)   |
| (2) Salekasa (Gondia)      | (17) Umari (Nanded)           |
| (3) Goregaon (Gondia)      | (18) Mulshi (Pune)            |
| (4) Jivti (Chandrapur)     | (19) Welhe (Pune)             |
| (5) Akkalkuva (Dhule)      | (20) Mhasala (Raigad-Alibag)  |
| (6) Itapalli (Gadchiroli)  | (21) Tala (Raigad-Alibag)     |
| (7) Korchi (Gadchiroli)    | (22) Poladpur (Raigad-Alibag) |
| (8) Mulchera (Gadchiroli)  | (23) Mandangad (Ratnagiri)    |
| (9) Bhamragad (Gadchiroli) | (24) Talasari (Thane)         |
| (10) Bodwad (Jalgaon)      | (25) Mokhada (Thane)          |

|                             |                                  |
|-----------------------------|----------------------------------|
| (11)Gaganbawada(Kolhapur)   | (26) Vikramgad (Thane)           |
| (12)Shirur Anantpal (Latur) | (27) Ambarnath (Thane)           |
| (13) Jalkot (Latur)         | (28)Vaibhavwadi(Sindhudurg-Oros) |
| (14) Peth (Nashik)          | (29)Dodamarg (Sindhudurg- Oros). |
| (15) Deola (Nashik)         | (30)Deoli (Wardha).              |

However, till date in 2<sup>nd</sup> phase, 16 Gram Nyayalayas (i.e. at 15 places from the proposed 30 Gram Nyayalayas and at 1 place i.e. at Alipur which is not from the proposed Gram Nyayalayas) have started functioning in 2<sup>nd</sup> Phase as shown in **Annexure "B"**. Thus at present, total 25 Gram Nyayalayas are started functioning in the State of Maharashtra (In 1<sup>st</sup> Phase-9 + 2<sup>nd</sup> Phase 16) and the work of remaining Gram Nyayalayas is in process as shown in Chart at **Annexure "C"**.

Out of 25 established Gram Nyayalayas at 2 places i.e. Korpana Dist. Chandrapur and Bodwad Dist. Jalgaon, the Full fledged Court of Civil Judge J.D. is started functioning w.e.f. 26.03.2018 and 16.06.2019 in place of Gram Nyayalaya at Gadchandur(Tal Korpana) Dist. Chandrapur and Bodwad Dist. Jalgaon respectively. Thus at present, 23 Gram Nyayalayas are functioning.

Remaining approved places, at 3 places i.e. Akkalkuva, Umri and Dodamarg, where Full Fledge Courts of CJJD were established and at 2 places i.e. Itapalli, Bhamragad are Naxal affected areas, are cancelled by the Hon'ble the High Court.

The Hon'ble Committee has revoked the earlier proposal of establishment of Gram Nyayalaya at Peth Dist. Nashik and approved the proposal of establishment of Gram Nayaylaya at Harsul Tal Trimbakeshwar Dist. Nashik.

Now, at 11 places Gram Nyayalaya are required to be established and the same are in process at **Annexure "C"**.

## 6. SMALL CAUSES, COURT

1) **Court of Small Causes, Mumbai:-** The Court of Small Causes, Mumbai has been established under the provisions of the Presidency Small Causes Courts Act, 1882. The procedure of this Court is governed by the provisions of the Presidency Small Causes Courts Act, 1882, Civil Manual, 1986 and the Code of Civil Procedure, 1908, as it is applicable to this Court by the rules framed by the Hon'ble High Court under the said Act.

2) The sanctioned strength of the Judicial Officers of the Court of Small Causes, Mumbai is 44, which includes the Chief Judge, 10 Additional Chief Judges and 33 Judges. However, the working strength as on 31<sup>st</sup> December, 2021 is 40, which includes 1 Chief Judge, 8 Additional Chief Judges and 31 Judges.

3) The "**Head of the Department**" of this Court is the "**Chief Judge**". As per the provisions of Section 13 of the Presidency of Small Causes Courts, Act, 1882, the "**Registrar**" is the "**Chief Ministerial Officer**" of this Court. Besides, there are 4 Additional Registrars on the establishment of this Court. The Registrar and Additional Registrars to look after the Administrative Side. The Registrar is also empowered to hear and dispose off undefended suits and interlocutory applications and matters under section 9(i) (aa) of the Presidency Small Causes Court Act, 1882. He also exercise Judicial Powers like Judge under Sections 14, 33, 34, 35, 53, and 61 of the Presidency Small Causes Court Act, 1882. The Registrar also dealt with Rent Act matters up to the stage of filing of Written Statement by the Defendant/s.

The **Chief Judge** of this Court is **Controlling Officer**, whereas, **Registrar** is **Drawing and Disbursing Officer** of this Court.

The **Registrar**, Court of Small Causes, Mumbai is the **Public Information Officer** and the **Additional Chief Judge**, Court of Small Causes, Mumbai is the **First Appellate Authority**, as per the provisions of The Maharashtra District Court Right to Information (Revised Rules), 2009 framed by the Hon'ble High Court under Right to Information Act, 2005.



4) **Powers exercised by the Judges of the Small Causes Court at Mumbai :** The Judges are empowered to hear and dispose off the money suits, wherein, the claims does not exceed Rs. 10,000 subject to exception laid down under Section 19 of the Presidency Small Causes Courts Act 1882. The said Pecuniary Jurisdiction of Rs. 10,000/- has been enhanced to Rs. 25,000/- by the Government of Maharashtra, vide Maharashtra Act. No. XV of 1987. However, the said Act of enhancement of Pecuniary Jurisdiction of Bombay City Civil Court and Court of Small Causes, Bombay has not been implemented till today. They are also empowered to hear and dispose off suits under Section 41 of the said Act. As per the provision of Section 38 of the Presidency Small Causes Court Act, 1882, the Full Court Applications are heard by a Bench consisting of two Judges of this Court. The Bench consisting of two Judges also hears the Appeals and Revision Applications under Section 42 of the Presidency Small Causes Courts, Act, 1882.

5) The Court of Small Causes, Mumbai has exclusive Jurisdiction under Section 28 of the Bombay Rents, Hotel and Lodgings House Rates Control Act, 1947 irrespective of value of the subject matter and as such, hears all the suits under the said Act in Greater Mumbai. An Appeal/Revision from a decision of a Judge under the Bombay Rent Control Act, 1947 is heard by a Bench consisting of the two Judges under Section 29 of the Mumbai Rents, Hotel and Lodgings House Rates Control Act, 1947. The Court of Small Causes, Mumbai hears all applications under Section 11 of Bombay Rent Control Act for the fixation of the Standard Rent and all application under Section 24 for restoration of Essential Service or supply. This Court has also exclusive jurisdiction in the matters under the Maharashtra Rent Control Act-1999 which came into force with effect from 31<sup>st</sup> March, 2000.

6) (a) Appeals and proceedings under Sections 217, 218-A, 218-B, 218-C and 394 (5) of the Bombay Municipal Corporation Act, 1888 are heard by the Chief Judge or any of the Additional Chief Judge. The applications under Sections 503, 504 and 507 are also heard by the Chief Judge or any of the Additional Chief Judge. Similarly, the Election Petitions under Section 32 of the said Act are heard and disposed off by the Chief Judge or any of the Additional Chief Judge.

The Government, vide its Notification, Law and Judiciary Department, No.SSC-2964/2175-H, dated 3<sup>rd</sup> January, 1968 has empowered the Additional Chief Judge to exercise the powers and duties performed by the Chief Judge.

(b) The Chief Judge is empowered to hear and dispose of applications and Anti Corruption matters under the provisions of Section 3 read with Section 4 of the Criminal Law (Amendment) Ordinance, 1944.

7) Appeals under the Payment of Wages Act, 1936 are heard by single Judge of this Court. The said Appeals are being assigned to Court Room No.9 of this Court.

8) The Court of Small Causes, Mumbai has also following Jurisdictions:-

(a) Section 12-A of the Maharashtra Ownership Flats (Regulations of the Promotion or Construction, Sale, Management and Transfer) Act, 1963.

(b) Section 23 of the Maharashtra Debt Relief Act 1975.

(c) Appeals under Section 42 of the Mumbai Rents, Hotel and Lodging House Rates Control Act, 1947, from an order passed by the Controller.

(d) The Judges of this Court have also exercised the powers to entertain and try the Applications under the Displaced Persons Act, 1954.

9) **Head Office and Branch Office :**

**A) HEAD OFFICE :** Head Office of this Court is situate in Old and New Annex Building, at Dhobi Talao, Lokmanya Tilak Marg, Mumbai - 400 002. The Territorial Jurisdiction of Head Office is from Colaba to Mulund on Central Suburban Railway Side and upto Mankhurd on Harbour Railway Side and upto Mahim on Western Suburban Railway Side.

There are 31 Court Halls, which includes 5 Appellate Benches, 26 Trial Courts including Registrar's Court. Appellate Bench, Court Room No.2 is a Special Court for Matters of Bonafied Requirements.

The cases under MCGM of Rent Act have been dealt with Court Room Nos. 6 and 7 under the Provision Maharashtra Rent Control Act-1999, Presidency Small Causes Court Act, 1882 and Appeal against passed by Trial Court Room No. 6 and 7 have been dealt with Appellate Court Room No.01. Court Room Nos. 11 and 12 are Special Courts for fixation of Standard Rent and these Courts are 1

designated as "Standard Rent Court". Court Room Nos. 18 and 30 are Special Courts for matter filed under the provisions of Bombay Municipal Corporation Act, 1888 and the said Courts are designated as "B.M.C. Courts". The Court Room No.30 is temporarily vacant. Court Room Nos. 19 and 23 are designated as "Special Court" for matter filed U/s.41 of P.S.C.C. Act, where there is no protection under the Rent Acts i.e. T.E. & T.E.R. Suits. Court Room No.21 is designated as Special Court for trying Money Suits i.e. Summary Suit and Regular Suit etc. Court Room No. 24 is designated as "B.P.T. Court" for matter filed by or against the Bombay Port Trust. Under Section 17 of The Payment of Wages Act, 1936 Appeal performed against the Labour Court has been dealt with Court Room No.9. At present, B.M.C. Court Room No.30 and Trial Courts i.e. Court Room No. 24 and 26 are presently vacant.

#### **B) BRANCH OFFICE :**

The Branch Office of this Court is situated in Bhaskar Building, Anant Kanekar Marg, Bandra (East), Mumbai-400051. In the Bhaskar Building, 3<sup>rd</sup> floor to 8<sup>th</sup> floor are in use, occupation and possession of this Court. The said Branch has been started functioning with effect from 6<sup>th</sup> August, 1990. The Territorial Jurisdiction of Bandra Branch is from Mahim to Dashisar on the Western Suburban Railway Side.

There are 11 Courts at Bandra Branch, Out of which 2 Appellate Benches and remaining 9 Trial Courts including Registrar's Court. Court Room No. 32 is designated as "Special Court" for trying matters filed under Bonafied Requirement under the provisions of the Rent Act and T.E. & T.E. & R Suits under the provisions of Section 41 of the Presidency Small Causes Court Act, 1882. Court Room No. 38 and 40 are presently vacant.



## METROPOLITAN MAGISTRATE'S COURTS MUMBAI.

### INTRODUCTION:

The Courts of Magistrates in Mumbai came in to existence prior to the establishment of Hon'ble High Court in the city of Mumbai. The Courts of Metropolitan Magistrates which were earlier known as the Courts of Presidency Magistrates, are in existence since last about 207 years. These Courts were also known as "**Police Courts**" at their initial stage. These Police Courts were established in the year 1810. There were two such Courts. One was the Senior Court and second one was the Junior Court.

After amendment to the Code of Criminal Procedure, 1898 w.e.f. 1<sup>st</sup> day of April 1974, the designation of the Presidency Magistrates was changed to "**Metropolitan Magistrates**".

The Chief Metropolitan Magistrate, Additional Chief Metropolitan Magistrates and Metropolitan Magistrates are required to deal with different types of Remand applications, Bail applications, Notices and Miscellaneous Applications and Criminal cases. The sanctioned strength of Judicial Officers in the Metropolitan Magistrates Court, Mumbai is 77 i.e. 1 Chief Metropolitan Magistrate, 14 Addl. Chief Metropolitan Magistrates, 61 Metropolitan Magistrates & 1 Metropolitan Magistrates (Juvenile Court) and they are working in the following 16 Centers of courts in Greater Mumbai as follows :

- |                    |                               |
|--------------------|-------------------------------|
| 1. Esplanade       | 2. Mazgaon (camped at Sewree) |
| 3. Girgaum         | 4. Dadar                      |
| 5. Bandra          | 6. Andheri                    |
| 7. Borivali        | 8. Kurla                      |
| 9. Vikhroli        | 10. Mulund                    |
| 11. Ballard Pier   | 12. Mumbai C.S.T.             |
| 13. Mumbai Central | 14. Vile-Parle                |
| 15. Shindewadi     | 16. Juvenile, Umarkhadi       |

Previously the posts of Metropolitan Magistrates were filled in by nomination through MPSC. After implementation of Shetty Commission report as approved by the Hon'ble full House, the cadre of MM is equated with the cadre of CJSD/CJM and since then the post of MM is filled in from amongst the Judicial Officers of the Cadre of CJSD. Besides the court of Metropolitan Magistrates, there were also Special Metropolitan Magistrate Courts

functioning in the Morning Session and which are popularly known as "**Morning Courts**". These courts were functioning upto 31.10.2010.

There are large number of cases under Fiscal Laws like Customs Act, Foreign Exchange Regulation Act, Central Excise and Salt Act, Income Tax Act, Sales Tax Act, E.P.F. Act etc. which are tried in the Courts of Metropolitan Magistrates in Mumbai. Besides these cases, the cases under the Indian Penal Code, various State & Central Acts and Cases under Protection of Women from Domestic Violence Act 2005 are tried in these Courts. The Metropolitan Magistrates are also trying the cases under the Bombay Municipal Corporation Act and the Indian Railway Act. There are 6 separate Courts for dealing with the cases under Bombay Municipal Corporation Act and the Indian Railways Act. There is one separate Court for exclusively dealing with the cases filed by C.B.I. Also, in the year 2007 three Special Courts were established under the control of this Office. Out of these three courts, two courts were dealing with trial of cases in respect of riots in the year 1992-93 and their work was concluded in August 2008. A separate special Court at Mazgaon (Sewree), Mumbai deals exclusively with cases under MPs/MLAs Special Court and cases under "Prevention of Immoral Traffic Act". Besides, one more court at Mazgaon has been assigned the additional work of disposal of cases under PITA.

There is a separate section in this office under the control of Addl. Chief Metropolitan Magistrate, 3<sup>rd</sup> Court, Esplanade, which looks after the work under Press and Books Registration Act 1867. The work is done in consultation with Registrar of Newspapers for India, Ministry of Information & Broadcasting, Government of India. The Courts of Metropolitan Magistrates in Mumbai are also required to decide the application under section 145 of Criminal Procedure code and cases under Section 138 N.I. Act and now from the year 2006 out of 75 Courts, 6 Courts are exclusively dealing with the cases under section 138 N.I. Act.

In order to expedite judicial procedure, funds to the tune of Rs.3,47,54,508/- was allocated by the 14<sup>th</sup> Finance Commission to the State of Maharashtra vide letter no. F-32(1) FCD/2010 dt.30.06.10 issued by Joint Director, Finance Department, Government of India, New Delhi for Establishment of Morning and Evening Courts for the period 2010-2015.

Morning Courts/Evening Courts Rules have been framed; and initially in all 10 Evening Courts & 20 Morning Courts were established since March 2010 & August 2010 in the city of Mumbai under the control of Chief Metropolitan Magistrate, Mumbai. Cases u/s 138 Negotiable Instruments Act, 1881 were tried in these Morning & Evening courts. 20 Morning Courts and 10 Evening Courts were functioning on rotation basis as per



Notification no.A-3905/2015 dt. 22/12/2014 respectively issued by the Hon'ble High Court, Bombay upto 31.03.2015. It is the policy of the Government and the Hon'ble High Court to reduce the pendency of cases u/s 138 N.I.Act.

Every year Special Drives are organized periodically in all the Courts of Metropolitan Magistrates as per the directions of the Hon'ble High Court to reduce the pendency of cases. Maha Lok Adalat and Mega Lok Adalat are also held in all Courts as per the direction of Maharashtra State Legal Services Authority. In the year 2013 for the first time National Lok Adalat was organized on 23.11.2013 as per the direction of National Legal Services Authority and this year National Lok Adalat was organized on **01.08.2021, 25.09.2021 and 11.12.2021** which has caused to reduce **20389** pendency of cases considerably.



## **9. SHERIFF OF MUMBAI**

### **(i) INTRODUCTION:**

**Sheriff of Mumbai:** The duties of the Office of the Sheriff of Mumbai are to serve and execute processes such as Writ of Summons, Notices, Warrants issued by the High Court and the City Civil Court through Bailiffs. The Sheriff attaches moveable and immoveable properties in execution of the decree lodged by the decree holders and realizes the decree by public auction. The Office also collects lodging fees on process issued by the High Court and recovers poundage on realization of decrees of the High Court.

In addition, under the admiralty jurisdiction, the Sheriff executes warrants of arrests on ships and/or the Cargo and if warrants of sale are issued, the Sheriff also auctions the cargo. The processes issued by the High Court under its admiralty jurisdiction are also served by the Sheriff. As a public functionary the Sheriff, whenever requested by the Government, has to receive and see-off VIPs at the Airport, Sheriff also calls public meetings of the citizens, if a requisition is addressed to him in that behalf by large number of citizens from all walks of life.

## **8. ADMINISTRATOR GENERAL AND OFFICIAL TRUSTEE**

### **(1) INTRODUCTION :**

The Functioning of the Office of the Administrator General and Official Trustee, Maharashtra State, Mumbai is for Public Welfare and it is being regulated under the provisions of three Central Government Acts viz. (a) The Administrator General Act, 1963 (b) The Official Trustee Act, 1913 and (c) The Treasurer of Charitable Endowments, Act, 1890.

#### **(a) AS THE ADMINISTRATOR GENERAL:**

Under the Administrator General Act, 1963 the Administrator General Maharashtra State is created a Corporation Sole appointed for the State of Maharashtra and his functioning is of judicial nature. He can himself administer the estate not exceeding Rs.10,00,000/- as per the provisions of Act ibid as amended by Act 12 of 2002 and may obtain order of the Hon'ble High Court for administration in case of assets left behind by the deceased are beyond Rs.10,00,000/

Any person can appoint the Administrator General the sole executor of his Will. Administrator General can apply for Letters of Administration immediately on being informed by the next-of-kin to take up the administration of the estate. Where the next-of-kin are outside India or where they have no time or for other reasons are not willing to take up the administration of the estate. Any private executor or administrator may with the consent of Administrator General transfer to him any assets vested in such executor/ administrator by virtue of Probate or Letters of Administrator. The Administrator General can administer the estates of persons other than "exempted" (An exempted person means an Indian Christian, a Hindu, Mahomedan, Parsi or Buddhist or a person exempted by the Provincial Government under Sub-Section (I) of Section 3 of the Indian Succession Act-1925 from the operations of that Act). If the persons interested in the administrator of the estate e.g. the next-of-kin or the executors or legatees under a Will fail to apply for the Certificate to the Administrator General in respect of the estate of the deceased person not exceeding in value Rs.10,00,000; the administrator General can himself administer the Estate as if Letters of administrator has been granted to him. In case of assets of the deceased person exceeding Rs.10,00,000/- as per the information received from the Police department or other sources, the administrator General can take charge of the assets and then obtains the Letters of administrator from the Hon'ble High Court in a short time and at low cost. Such estates are being handed over to the legal heirs of the deceased, after due ascertaining and in case of minor legal heirs of the deceased, the estates are being administered till the minor attains majority. The Administrator General under an Order of the High Court of Bombay can administer the estate left behind by the deceased within the local limits of the Ordinary Original Civil Jurisdiction of the Hon'ble High Court where there is eminent danger of misappropriation, deterioration or waste. Any person interested in such administrator General himself may move the Court for an order directing the Administrator General to apply for Letters of Administrator of the estate of such deceased person.

The Administrator General under Section 29 of the said Act, can also grant Certificate in respect of assets of the deceased person not exceeding Rs.10,00,000/- in value (excluding money deposited in Government Savings Bank or Provident Fund to which the provisions of Provident Fund Act, 1925 apply) on the application of the executor, widow or other person/next-of-kin entitled to administer the estate of the deceased.

#### **(b) AS THE OFFICIAL TRUSTEE:**

Any Member of any community can create a Trust by a Deed of Trust or settlement and appoint the Official Trustee with his consent the trustee of property; the Official Trustee can administer the estate and act as a Trustee under the Will where he is appointed the sole Executor as well as Trustee under the Will. Any member of any community can appoint a private person as executor of his Will and the Official Trustee as trustee of the trusts contained therein. The Official Trustee with his consent can be appointed a Trustee where there is no Trustee willing or capable to act or in place of Trustee desirous of retiring, a trustee of the share or gift or legacy of an infant or a lunatic and a Trustee of Public, Semi-Public funds viz. Provident Fund, funds of Caste Institutions, funds of Charitable or Philanthropic Associations etc.

#### **(c) AS THE TREASURER OF CHARITABLE ENDOWMENTS:**

In addition to the above, since 1st February, 1977; the Administrator General and Official Trustee, Maharashtra State, Mumbai, has been appointed as the Treasurer of Charitable Endowments, Maharashtra State, Mumbai and as an Agent of Treasurer of Charitable Endowments for India in place of Charity Commissioner of Mumbai and the funds have been vested with him. He collects the interest on debentures/term deposits and distributes it to the Administrator of the Endowments.

Any member of any community can apply to the concerned Government Department for creating such (i.e. for Educational purposes with Education Department, for medical purposes with Health Department) and afterwards the funds are being vested with the Treasurer of Charitable Endowments. The income on such vested funds is sent to administrator concerned to carry out the purpose of such endowment.



## 10. LEGAL ADVISORS AND COUNSEL

### (I) INTRODUCTION:

#### (A) Law Officers:

(I) For the conduct of Government Litigation, Law Officers have been appointed under the Maharashtra Law Officers (Appointment, Conditions of Service and Remuneration) Rules, 1984 and the Rules for the Conduct of the Legal Affairs of Government, 1984 as shown below :-

(II) Appointment of Law Officers:- Appointments of all the Law Officers are made by Government and they hold office during the pleasure of Government. However, according to the rule 30(3) of the Maharashtra Law Officers (Appointment, Conditions of Service and Remuneration) Rules 1984 and the Rules for the Conduct of the Legal Affairs of Government, 1984, all Law Officers, except the Advocate General are appointed generally for a term of Three years. They are not regular Government Servants. They are eligible for re-appointment after the expiry of the term provided that their work is found satisfactory. However, generally, no Law Officer is continued in office after he attains the age of 60 years. However, by rule 30(6)(a), the appointment of any Law Officer though at the pleasure of Government, can be terminated, at any time, by giving him one month's notice.

(III) The Advocate General for State is appointed under Constitution of India. His duties are laid down in the Law Officers Rules, 1984.

(IV) The Government Pleader, High Court (Original Side) deals with all types of cases filed in the High Court (Original Side) and the Additional Government Pleader, High Court (Appellate Side) deals with Writ Petitions in the High Court on the Appellate Side, respectively. In addition to the Government Pleaders, the Assistant to Government Pleaders, the Hon. Assistant to Government Pleaders, there are two separate Panels of Counsel called "A" and "B" Panel for conducting cases in the High Court (Writ Side). An Advocate with at least standing practice of 15 years and experience in constitutional matters is appointed as "A" Panel Counsel, while the Advocate, with not less than 7 years practice to his credit, is appointed as Counsel on "B" Panel. presently, there are 170 the Government Pleader Appointed.

(ii) The Government Civil Litigation in City Civil and Sessions Court, is looked after by the Government Pleader, City Civil Court, Mumbai, with the help of Assistant Government Pleaders and Criminal Litigation in Sessions Court is looked after by Public Prosecutor, Greater Mumbai with the help of Additional Public Prosecutors and work of Small Causes Court is looked after by the Government Pleader, Court of Small Causes, Mumbai. At present, total 42 the Government Pleaders and Public Prosecutors presents are working in above mentioned Court.

(iii) In Mofussil District Government Pleader with the assistance of Assistant Government Pleader and Honorary Assistant look after the Government's Civil Litigation in the District. The Sub-Government Pleaders appointed at Taluka places conduct cases on behalf of Government in Taluka Civil Courts.

### (IV) PUBLIC PROSECUTORS:

(a) The State Government makes an appointment of Public Prosecutor or Additional Public Prosecutor in the High Court or Courts in the District under Section 24 of the Code of Criminal Procedure, 1973, for conducting criminal cases on behalf of the State in such Courts. The Advocate so appointed should have not less than 7 years practice, but in case of appointment in Courts in the District, the Advocate should be from the Panel prepared by the District Magistrate with the approval of Government.



(b) Besides Public Prosecutor/ Additional Public Prosecutor in Greater Mumbai there is also a Panel of Advocates, having practice of not less than 10 years constituted for appointment of Special Public Prosecutors in Mumbai for conducting the cases in Sessions Courts and Metropolitan Magistrates Court, Mumbai.

(c) Appointment of these Advocates as Special Public Prosecutors is required to be notified by issuing a notification under Section 24(8) of the Criminal Procedure Code, in each case.

**(V) Appointment of Special Counsel/Special Public Prosecutors:-**

In important cases Government appoints Special Public Prosecutors/Special Counsel to conduct the cases. They are paid special fees, i.e. more than the fees laid down in the above mentioned rules.

(VI) The Government Litigation work Of Maharashtra Government in Supreme Court is looked after by the Government Advocate, Additional Government Advocate. There are Panels of Counsel and the Advocates included therein are entrusted with the briefs by the Senior Government Advocate, Supreme Court, to conduct cases on behalf of the Government of Maharashtra.

(VII) The Government Litigation work in the Maharashtra Administrative Tribunal is looked after by the three Chief Presenting Officer and 21 Presenting Officers.

**(B) THE MAHARASHTRA STATE LEGAL SERVICES AUTHORITY.**

Considering the object of the provision contained in para 39-A of Indian Constitution that any citizen is not denied the opportunities for securing justice by reason of economic or other disabilities, the Government of India enacted as Legal Services Authorities Act, 1987 (Act, 39 of 1987) and made it mandatory on the State Government is to constitute Legal Authorities. In exercise of power conferred by Section 28 of the said Act, the Government of Maharashtra in consultation with the Chief Justice of the Bombay High Court has framed Maharashtra State Legal Services Authority Rules, 1998 which came into force from 14th January 1998, accordingly Maharashtra Legal Services Authority was constituted by abolishing the Maharashtra State Legal Aid and Advice Board, in March, 1998. The Authority, provides legal aid and advice to the economically and socially weaker section of the community in rural as well as urban areas in the state. For effective implementation of the provision of the Act. The said Authority has constituted High Court Legal Services Committee, Mumbai and 'Sub-Committees at Nagpur and Aurangabad, District Legal Services Authorities in 34 Districts and Taluka Legal Services Committees in 302 Talukas. In order to hold Lok Adalats in State, yearly programme is drawn up. Permanent and continuous Lok Adalats are established. Special Lok Adalats for Pensioners, Accident claims, etc. have also been established for faster relief. In jail also legal services are provide to the prisoners. Preventative and Strategic programmes are been held to bring Legal Awareness among the people. The Scheme of 'Litigation Free Village' is also being implemented.

Free Legal Services are being Provided to those persons whose annual income does not exceed Rs.50,000 p.a. So also, the person belonging to Scheduled Castes, Scheduled Tribes, Women, Children, mentally ill person. Handicapped Person, Prisoners, Labourers and Industrial Workman. Person affected by natural calamities such as draughts and earthquakes are eligible for free legal Services.

**Office of the Government Pleader at New Delhi :-**

To supervise and watch the progress of the State Legislation in Supreme Court, the Department has established an office at Maharashtra Sadan, New Delhi, with effect from 25th March 1985.

The Government of Maharashtra, has formed a Legal Cell to look after the Supreme Court Cases as well as the records pertaining to Supreme Court cases of the State and the said Legal Cell's Office is situated at Maharashtra Sadan, New Delhi and known as Government Pleaders Office, Law & Judiciary Department, Supreme Court.



## Charity Organization

### Preface: -

- Under the administration of Charity Organization, Charity Commissioner, Maharashtra has been created to implement the Public Trust Act, 1950. Under this Act, public trusts in the state, institutions registered, registered under the Societies Registration Act, 1860, public institutions or religious institutions, or both, are kept in control. According to the Maharashtra Public Trust Act, 1950, Charity Commissioner is the head of Charity Organization and is a corporation. In addition to the specific provisions related to the legal work in the law, the Charity Commissioner is required to supervise and administer justice to the general functions and judicial functions, especially as provided in the Act. The Charity Commissioner and his officials have to take action against such administrative and judicial proceedings under the law. Apart from this, as the Chief of the Charity Organization and in the State of Maharashtra, the government duty is carried out as the Guardian and Preserver of all public trusts. In such a way, the charity commissioner has to work as an inquiry officer and a judicial or judicial authority.
- Joint charity commissioner, deputy charity commissioner and assistant charity commissioner assist to Charity Commissioner in judicial and administrative matters. Director of Accounts and Assistant Director of accounts help in administrative and accounting work of organization.
- If some trustees to commit losses due to betrayal, mismanagement, hijacking or negligence, then charity commissioner has the right to hold the trustees responsible for the failure, to temporarily impose a new trustee. It also has the right to formulate plans for the trust, to order prohibition, to hear appeals, to consider the revision application etc. In their judicial and administrative duties to allow trust funds to invest, to protect the property of the trust, to allow the trustees to raise and take loans, to order the special audit of the accounts of trust, order to give proper administration of trust, to protect money or to protect their property, to initiate an inquiry into the working of a trust, against trustees of trust or related person to initiate or to file a criminal complaint, against the trustees and so on, including works to report a complaint in the District Court. The charity commissioner has to maintain the supervision on which temporary committee of Pandharpur temple. He also maintains the work of Devasthan Managing Committee, Western Maharashtra, Kolhapur.
- The Charity Commissioner is also the Registrar of Institutions registered under the Societies Registration Act 1860 and supervise the functioning of registered organizations under that Act.
- Charitable organization have been reconstructed from 13-01-2000 and 36 regional offices have been set up so that public trusts can be guided and provided better services for smooth functioning of charity trusts. Joint charity Commissioner, Deputy Charity Commissioner and Assistant Charity Commissioner work and perform their duties as per Maharashtra Public Trust Act, 1950 and Government orders.
- The funds generated by fees recovered by above Act, fees charged to trusts for other administrative work/ contribution, other fees, recoveries as per Act are used to reimburse to government for the wages and allowances of the Charity Commissioner and their staff, for the expenditure, as per the Act. But in the P.I.L 40/2007, under clause 41 C of the Maharashtra Public Trust Act, 1950, Hon. High Court has given stay order to recovery of 2% contribution / fee. A civil application has been filed in the High Court (Mumbai) for reinstating recovery of 2% contribution the amount of public trust act funds is decreasing day by day and in future it will be difficult to meet out expenses of employees' salaries / allowances.

- The Maharashtra Public Trust Act, 1950 has been circulated to Hyderabad Charitable donation exchange, 1349 crops, and most of these Charity donations have been registered as public trusts. However, management of these charitable donations will continue through the revenue administration until the plan is submitted to the charity commissioner, Maharashtra State, Mumbai by the committee.
- Procedure for making place available for charity organization's regional offices: - At present 13 district offices are on the lease. The number of districts offices in the administrative / government building are 4. The number of district offices holds own building are 17. The number of districts having own and rental buildings are 2. A table showing the status of the district offices in the state has been attached. (Appendix-A)

Proposals for 12 districts are pending with the Revenue Department for getting place for the offices under the Charity Organization. Nagpur, Pune, Akola, Kolhapur, the place for these offices is enough. Construction of the new building of Ahmednagar, Aurangabad, has been completed and the daily work has been started in this building. Bhumi puja of the Jalna office has been done on 28/11/2018. Palghar's office has taken possession of the premises and the Palghar office will be operational soon. The Mumbai office is functioning in the headquarter building and the structural audit of the headquarter building has been done. Veer Jijamata Technical Institute has given report that building should be vacated as soon as possible as it is in dilapidated and danger condition and building should be reconstructed at the earliest. The correspondence has been sent to the General Administration Department for providing alternate government accommodation to the office as the Mumbai office and the headquarter occupy a total area of 2500 sq / ft in the same building,

- Hospital Scheme: - Medical treatment provided by hospitals run by registered trusts to patients with poor and weaker sections for free and discounted rates respectively;

In in the writ petition (PIL) No. 3132/2004 under the section 41C of the Maharashtra Public Trusts Act, 1950, Hon High Court, Mumbai approved the scheme to give medical treatment at the Charitable Hospital / Medical Center for free and Discounted Rates respectively to the poor and weaker sections. This is implemented from 1st September, 2006. Under the scheme following patients are eligible.

**Poor patients:** - Those who have an annual income limit of Rs. 85,000 / - treatment for free at Charity Hospital / Medical Center.

**Weaker section patients :** - Those who have an annual income limit of Rs.160,000 / - get medical treatment at the discounted rate of in the Charity Hospital / medical center .

Two films have been produced for publicity of scheme of medical treatment free and discounted rate for the patient of poor and weaker sections, on television, AIR, mobile, cinemas.

**The details of beneficiaries of the scheme are provided in Appendix B.**

On 24/8/2015 Chief Minister inaugurated the hospital module, which is go-live under the e-Governance program of the Charity Commissioner's office to get information about the scheme and the scheme's benefits to maximum beneficiaries. So that the general public gets the necessary information of charitable hospitals easily. On this module one can get the necessary information like how many beds are available, contact person's name, contact number etc.

As per G. R. Dated 27/1/2016 of the Department of Law and Justice, to get maximum benefits and



information of the scheme and the benefits of the scheme, monitoring of the hospital module under the e-Governance program under the Charity Commissioner's office and the appointment of health workers in the Charity Hospital, State Health Guarantee Societies Gandhi Jivanwadi Health Scheme Society) has been authorised. Accordingly, in the first phase, health workers 25- Mumbai, 8 Pune district and 3 Nashik district charitable hospitals have been appointed.

Smart TVs have been set up in the following municipal and government hospitals of Mumbai district as a pilot project for obtaining information on bed availability on real time basis.

- St. George Hospital 2) Sion Hospital 3) K.E.M. Hospital 4) Nair Hospital 5) JJ Hospital  
Charity Commissioner has given surprise visit to Nanavati Hospital and filed a criminal complaint against the trustees of the hospital for faults and been charged fine of RS 5 lakhs which have been deposited in the Chief Minister's relief fund. On 4/1/2011 and 3/12/2017 through the special drive of "Dharmaday Rugnalaye Garib Rugnache Dari", free health check-up of 67000 poor, slum and pavement patients of Mumbai and Maharashtra was examined.
- According to Article 22 (3) (a) of the Maharashtra Public Trust Act, 1950, Charity Commissioner has deregistered 1,29,652 trusts and institutions which are not functioning in Maharashtra State by special drive.
- A special drive was implemented to speed up the settlement of change report applications received in the Charity Office.
- **Shri Vitthal Rukmini Temple Committee, Pandharpur:** - Proposal for benefits and facilities to the permanent and temporary employees on the establishment of Shri Vitthal Rukmini Temple Committee was submitted to Government of Maharashtra for the formation and service conditions on October 13, 2015. In this case, the Government of Maharashtra had issued the order to get approval for the formulation and terms of service rules from hon High Court and Commissioner of Charity. Charity Commissioner sanctioned the concept by taking a hearing and observing each of the terms and conditions of the rule. Therefore, the employees of the temple committee will get all the benefits and benefits of the government.

**12. CHARITABLE ENDOWMENT****(1) INTRODUCTION :**

(A) The Commissioner, Aurangabad Division, Aurangabad functions as Custodian of Religious and Charitable Trusts which are vested in Government or Management of which is vested in Government from Marathwada area under the delegated powers under Hyderabad Endowments Regulations and Rules, 1349, Fasli. The Commissioner gives sanctions under the said Regulations and Rules in the followings matters:-

- (1) Creation and abolition of the Devasthan Committee.
- (2) Estimates of construction and repairs to the building of Religious and Charitable Institutions upto Rs. 10,000.
- (3) Expenditure from the Trust balance upto Rs. 5000.
- (4) Annual Budget of Endowment under supervision of Government.
- (5) Compulsory expenditure from the Trust balance upto Rs. 2500 only.
- (6) Appointment of members of establishment upto a maximum salary of Rs. 300.
- (7) Auction.

The main function is to keep watch on the expenditure of institutions which are under Government supervision and to supervise the work in respect of demand collection. In addition, the work done in respect of payment of 2/3 loans amounts to the Wakf Board of the Muslim Institutions and 6 percent payment of Wakf Fund, is also attended to, through Collectors by him.

The Hyderabad Endowments Regulations, 1349 Fasli, has been replaced by the Bombay Public Trusts Act, 1950 and most of these Charitable Endowments have been registered as Public Trusts. However, they will continue to be managed through revenue administration, until a scheme is framed by the Charity Commissioner, Maharashtra State, Mumbai, for entrusting the Management to a Committee.

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## ::REGISTRAR OF FIRMS, MAHARASHTRA STATE, MUMBAI::

### INTRODUCTION:

Prior to 1932, Chapter XI (Sections 239 to 266) of Indian Contract Act, 1872 (Act IX of 1872) contained the law relating to Partnership in India. As these provisions were not exhaustive it was considered expedient and necessary to separate the law relating to partnership and to embody it in a separate enactment. Hence, India Partnership Act (Act IX of 1932) is enacted. This Act is based mainly on the English Partnership Act, 1890, which codified the common law relating to partnership.

2. Since the inception of the partnership Act, 1932 till 1958 it was administered by Central Government. At that time the post of Registrar of Firms, and Registrar of Companies was held by same officer as both these Acts were administered by Registrar of Companies.

3. The Industrial expansion and growth in India after independence was so enormous that the huge industrial undertakings in Public and Private Sectors have come up. To cope up with the industrial need of the time, the Old company's Act, of 1913 was completely repealed and new Act was enacted in 1956 by Parliament. For Administrative convenience the Registrar of Firms and Registrar of Company were bifurcated. Company Act was retained by Government of India and Partnership Act, 1932 was handed over for Administration to State Government by the Government of India.

4. On the suggestion of Registrar of Firms, Mumbai, the Government of Maharashtra referred this Matter to the state Law commission. The Indian Partnership Act was amended in 1984 and brought into force with effect from 1<sup>st</sup> January 1985. The Maharashtra is the first state in India to bring such amendments in Indian Partnership Act.

5. The office of Registrar of firm, Maharashtra State, Mumbai is the Head office. There are three regional offices namely Asstt. Registrar of Firms Pune, Nagpur and Aurangabad under the Registrar of Firms Mumbai. The Registrar of Firms, Mumbai have administrative & Financial control over the office of Asstt. Registrar of Firms, Pune, Nagpur & Aurangabad.

6. Registrar of Firms is also appointed as Registrar of Non-Trading Corporation for the State of Maharashtra. The Bombay Non-Trading Corporation Act, 1959 is a replicate of Section 26 of Companies Act. These Corporations are mainly Non-Trading in nature established for promoting and encouraging commerce, industry, etc.

PTO



7. The Registrar of Firms, Maharashtra State, Mumbai and Pune each receives on an average 40 to 50 applications for registration and 20 to 30 applications for change in constitution per day. People who come to this office for inspection are informed about Registration of Firms and record is also made available to them for inspection. Every day 15 to 20 applications are received in Mumbai and Pune office each for inspection and 10 to 15 certified copies are issued. The number of applications received in Nagpur and Aurangabad offices are comparatively less.

8. If application for registration of partnership firm is not sent or delivered to the Registrar within time specified then the firm may be registered on payment of penalty of Rs. 1000/- per year or part thereof for the delay. Under the provisions of sections 60, 61, 62 and 63 of the Indian partnership Act 1932, if the notice or intimation of change in respect of any registered firm is not sent within the period specified, the Registrar may allow changes in the records to firm on payment of Rs-2000/- per year or part thereof in respect to delay period.

9. Partnership firm are required to submit prescribed form for registration of firm and also for change in constitution of Firms. Form "A" is prescribed for registration of firms and form B, C, D, E, F are prescribed for change in constitution of firms which are required to be submitted along with requisite fees. After taking into consideration of the total expenditure of the office and to increase the revenue the state government has power under Indian Partnership Act, 1932 to make amendment in fees structure which required to be paid to Registrar of Firms. As per the notification of Law and Judiciary Department dated 10.02.2014, which was published in extra-ordinary Part-4 A of Maharashtra Govt. Gazette dated 12.02.2014, the government has increased the rates of fees for different types of notices under Indian Partnership act.

#### **Sanctioned Post**

10. The Headquarter i.e. Registrar of firm, Mumbai has 43+1 (supernumerary)=44 sanction post of officers and staff. The office of the Asstt. Registrar of firm Pune, Nagpur and Aurangabad have 13+1(supernumerary)=14, 9 & 7 sanction posts respectively. As per Government Resolution, Law & Judiciary Department dated 13/12/2019, the Aakrutibandh of total 72+2=74 posts were sanctioned. The detail of the same is mentioned in Chart "A".

11. The details of fees for the Registration, Changes, Inspection and Certified Copy is annexed herewith in Chart "B". The annual income of the department of Registrar of Firm is approximately of Rs. 5,48,00,000/-. The Expenditure of the department is approximately Rs.3,53,00,000/-.

**Computerisation**

12. This department has started Online Registration of Firm & Changes thereof from dated 21/02/2013. Almost 41154 firms are registered online till date in the state of Maharashtra. The entire fees/penalty shall be received by online process only.

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**MAHARASHTRA STATE LAW COMMISSION**

The State Government had constituted the State Law Commission vide Government Resolution dated 30<sup>th</sup> September, 1996, in order to satisfy the changing needs of society, to enact new laws and to suggest amendments to the prevailing laws after considering the changing situations, in order to improve its status. Thereafter the Government has given extension to the Law Commission from time to time. On expiry of extended period granted to the Law Commission i.e. up to 30<sup>th</sup> September, 2008, under the Government Resolution dated 05.10.2007, this department had submitted a proposal for reconstitution of the Law Commission for the approval of Government. In this regard the Hon'ble Ex-Chief Minister had granted extension to the State Law Commission till its reconstitution. The proposal of reconstitution of the Law Commission was under consideration of the Government. On the said proposal, State Government has decided to terminate the present Law Commission and to constitute new Law Commission through transparent process.

In pursuance to the said decision the Maharashtra State Law Commission has been abolished from 13.10.2011 and the services of the staff therein who were appointed on contract have been terminated. At present the department is taking action regarding constitution of new State Law Commission in a transparent manner.

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