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# **COMMON CAUSE**

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**VOICE OF COMMON CAUSE**

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**SUMMARY AND ESSENCE OF TOTALITY  
OF  
ACTIVITIES OF COMMON CAUSE**

**25 YEARS' ACTIVITIES  
OF  
COMMON CAUSE  
THEIR GLIMPSE & ESSENCE**

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## COMMON CAUSE

### ● A ROMANCE WITH PUBLIC CAUSES

Innumerable grievances and problems of the people, of individuals, of localities, of a city, town or village, and sometimes of people in general, arise from time to time. These may be man-made or caused by nature or by governmental functioning. These call for redressal, removal of their cause, avoidance of their recurrence, and provision of compensation where necessitated. Numerous organisations, institutions and Non-Government Organisations (NGOs) have got created for assuming responsibility of amelioration and removal of these grievances and problems. These organisations and institutions have been created by individuals and groups motivated by considerations of providing service to the people, for which they either charge some fees or are reimbursed and authorised by the society or Government or some individual organisation. Quite a number of NGOs have taken over responsibility by providing free service for taking up problems of the people for redressal, by seeking directions from the Supreme Court or a High Court or other institutions such as National Consumer Redressal Commission, District Consumer Forums, Lokayuktas and Upa-lokayuktas etc.

COMMON CAUSE is one such NGO which has been pursuing the objective of seeking redressal of common and collective problems and grievances of the people by seeking directions through the instrument of filing Public Interest Litigations (PILs) before the Supreme Court or Delhi High Court or by taking them to the National Commission for Consumer Disputes Redressal. COMMON CAUSE was established 25 years ago on the initiative taken by Director H. D. Shourie after retirement from the Government of India service and also after a stint in the United Nations. The organisation has filed about 100 PILs which are termed Writ Petitions in normal terminology; through these Writ Petitions it has been able to solve issues and problems which have benefited some millions of people. It has

wide membership, for which only a token fee is paid, for enabling the organisation to send to the members quarterly Periodical communicating to them the account of its services and the PILs filed and pursued.

The name COMMON CAUSE was taken up by the Director from an organisation of same name in USA. A communication was first sent to the USA organisation to ascertain whether they had any objection to this name being given to the organisation proposed to be set up in India, making it clear that there will be no affiliation between the two organisations and that only the name, which is based on the dictionary words, is proposed to be utilised. COMMON CAUSE of USA was generous enough in sending reply that there was no objection to this name being utilised for the organisation proposed to be set up in India, and it also confirmed that there will be no affiliation between the two organisations. This has been the only exchange of letters between the two organisations.

The task taken up and continuously performed by our COMMON CAUSE in India has been to seek redressal of the common and collective problems of the people, ranging over practically every field, from matters of persons of retired government functionaries, to accidents on the roads, to steps required for checking corruption, to deal with Universities which are fake, to wrongful allotment of petrol pumps, to the curse of religious fanaticism, to requirement of curbing crime and violence, to huge pendency of cases in the Courts of the country, and numerous others.

We have also pursued with the concerned governmental authorities of the Centre and the States problems which come to notice and which need to be sorted out by them. Where the governmental authorities fail to solve the problems or give assurance of action taken, we utilize the preference of taking those matters to Courts for securing issue of directions to the concerned authorities. In this issue of our Periodical, being published on the eve of completing 25 years of our functioning, we have briefly outlined some of the cases taken to the Supreme Court of India and others. We have briefly put before the people samples and outlines of the Writ Petitions

and other matters which have been taken up by COMMON CAUSE. Outcome of each of these Writ Petitions has not been possible to mention in this brief enumeration. Detailed information about these Writ Petitions and other matters and activities of the organization has been brought about in an excellently printed book of about 170 pages entitled "COMMON CAUSE – A ROMANCE WITH PUBLIC CAUSES", which is being published by the Publisher M/s Rupa & Co. 7/16, Ansari Road, Darya Ganj, New Delhi-110 002 and will be available in the bookshops and at the address of the Publisher. Price of the book will be Rs. 195/-. The Publisher has been kind enough to agree to provide copies of the book to Members of COMMON CAUSE at special concessional price of Rs. 150/- including postage. Members may kindly write to the Publisher giving the membership number, with copy to COMMON CAUSE. Crossed Cheque of Rs. 150/- should be sent to the Publisher. We have separately sent to the Publisher list of members.

In this issue of the Periodical it is obviously possible only to provide a brief glimpse of the contents of the Publication "A ROMANCE WITH PUBLIC CAUSES". We have reproduced the gist of three of our earliest Writ Petitions submitted to the Supreme Court in 1980's and have thereafter made very brief mention of the various other Writ Petitions and contents of the book. We have also provided in the last pages a sample of Writ Petition and also a communication on an important subject, which has recently been addressed to the Prime Minister, all Ministers, and all Members of Parliament (Lok Sabha and Rajya Sabha).

## PENSIONS

The first matter of primary importance taken to the Supreme Court was the one relating to pensions, which attracted notice all over the country and benefited 2.5 million pensioners. In 1979 the Government of India had introduced a measure of liberalisation for its pensioners, altering the formula of calculation of pension and thereby according a substantial increase, for further relief to the pensioners, of the civil as well as defence establishments, against the developing inflationary pressures. In issuing the orders of liberalization, however, the government restricted the benefit of this measure only to those who retired after 1.4.1979. The then existing pre-1979 pensioners naturally raised objections, submitted representations, but to no avail. We took up the challenge.

We consulted some friends in the legal profession and were advised that a Writ Petition challenging the liberalisation order of the government could be filed alleging that grant of benefits only to post 1979 pensioners and depriving the pre-1979 pensioners of these, considering that all were living in the same circumstances of rising costs, was violative of the Articles 14 and 21 of the constitution. We prepared the draft of our Writ Petition. Fali Nariman, senior advocate, was kind enough to vet the draft, introduced legal phraseology and added "prayers" to it. P.H. Parikh, advocate, and his associates, dealt with the procedural matters and the senior advocate Anil Dewan handled the case in court. COMMON CAUSE had the privilege of help of these legal luminaries, for the general cause of pensioners, without having to make payment of any fees. In view of the importance of the case it was referred by the Supreme Court to its Constitution Bench of five Judges. The case had a number of hearings wherein government continued to resist our claim. The writ petition filed in 1980 was eventually decided in 1982, the court holding that pensioners form one class and that no discrimination in the matter of pensionary benefits can be caused among them merely on the basis of date of retirement. Government was directed to apply the revised formula of calculation of pension to all pensioners, irrespective of the date of retirement. The government filed a review against the decision of Constitution Bench; the review was rejected.

This decision of Supreme Court became applicable to all central government pensioners, civil and defence. In the writ petition we had included a civilian pensioner and a defence pensioner besides the organisation, as petitioners; the name of civil pensioner D.S. Nakra was placed at no.1 in the list of petitioners. COMMON CAUSE was petitioner no. 3; a senior retired defence officer was petitioner no. 2. The Supreme Court decision, in accordance with the practice of the court, is thus known as D.S.Nakra & others VS Union of India, cited in legal parlance as 1983-(2)-SCR-165 in S.C. reports. Orders were issued by the government in 1983 directing revision of pensions in accordance with the prescribed formula, also entitling them to the payment of increase from 1.4.1979, the date from which the liberalisation had been effected. We thereupon ensured that the revised formula was made applicable also to the pensioners of state governments; its applicability got further extended to pensioners of all institutions and organisations including local bodies etc. Overall benefit by this decision of the Supreme Court, arising from the initiative taken from the platform of COMMON CAUSE, was that millions of pensioners all over the country benefited from it, involving the additional payment of over Rs. 300 crores besides enhancing their pensions for remaining life time. This historic decision was taken note of by the Guinness Book of Records and they wrote to say that according to their information no other single case in the world had directly benefited such a larger number of persons through one decision. This case is now being cited everywhere in the country as criticism of arbitrariness embodied in a government decision whereby discriminations are caused among the same class of persons. (1983-(2)-SCR-165)

### PENSION COMMUTATION

Two other important decisions relating to pensions were later secured by COMMON CAUSE from the Supreme Court. One related to pension commutation, and the other to family pensions. These too have benefited hundreds of thousands of persons all over the country and it is worthwhile stating basic facts relating to them. When a person retires from government service he is entitled to seek the benefit of commutation of a portion of his pension, thereby taking payment of a lumpsum amount, equivalent generally to about ten years' calculation of the commuted portion of the pension, based on actuarial calculation factor according to age of the pensioner.

The pension correspondingly gets reduced by the commuted portion. The commutation rules, in operation for many decades, had decreed that pension will remain cut by the same commuted portion throughout life of the pensioner. This was felt to be grossly unfair for the pensioners who lived long. We sent out letters-to-the-editors and asked for information through newspapers from pensioners of long life to communicate information about the amounts received on commutation and the amounts that had got deducted out of their pensions in the long years. We got replies from a large number of very old pensioners. A retired Post Master of 94 years wrote to say that he had received the amount of Rs. 3600 on commutation of one-third of his meagre pension of Rs. 90 and the government had taken away from him over Rs. 14,000 during the years since his retirement at the age of 55 years. Many other similar hard cases were placed before the Supreme Court, praying that the operation of these rules led only to "unjust enrichment" of the government and the rules are of arbitrary nature, violative of the fundamental rights. The court eventually gave decision in favour of the pensioners, laying down that full pension in each case should be restored after fifteen years from the date of retirement; this was subsequently altered to fifteen years from the date of commutation because in some cases commutation takes place considerable time after retirement. The period of fifteen years was determined taking into account the fact that the commutation factor in the case of defence personnel superannuating at younger ages. This decision forthwith restored full pension to hundreds of thousands of central government civil and defence pensioners who had already completed 15 years; and it started being applied also to the pensioners of state governments and institutions etc. This case is cited as COMMON CAUSE vs Union of India based on writ petition no. 3959-61 of 1983; its judgement is quoted as AIR 1987 SC 210.(W.P. No. 3959-61 of 1983)

#### FAMILY PENSION

The case relating to Family Pension is of equal significance and importance. When a pensioner passes away his widow is now entitled to a family pension, the amount of which was previously very meagre but has now sufficiently increased. The family pension scheme was introduced in 1964, with the orders that it will have application only to those persons who retired after 1.1.1964. We felt that this decision of the government, taken

many years ago, was patently discriminatory, depriving the widows of pre-1964 pensioners of its benefits. There could obviously be no justification for any discrimination between a widow of pre-1964 pensioner and the widow of post-1964 pensioner. On the passing away of pre-1964 pensioner his widow was deprived of the benefit of this pension. We wrote to the government to remove the anomaly and discrimination, but to no effect. Thereupon a writ petition was filed in the Supreme Court from the platform of COMMON CAUSE, highlighting the deprivation caused to the widows of pre-1964 pensioners. This case was decided in our favour, the Supreme Court directing the government to give pensions to widows of pre-1964 pensioners on the same basis as decided for pensioners retiring after 1.1.1964, and also to pay them arrears from 1977 when rules relating to the family pension had been revised. This decision, likewise, was later followed up by all the state governments. The result of this decision has been that hundreds of thousands of old widows, who had never dreamt that they would be made entitled to any pension, started getting pensions, and were paid as arrears, a hefty amount by all standards, from 1977. We received letters of blessings from numerous old widows, through their families, for the gift of pension and arrears they received; it raised their status in the families and brought them within the household from the nooks and verandahs where they had been for long relegated. This decision is known by the citation as Smt. Ponnammal & Ors Vs Union of India, (AIR 1985 SC 1196) based on our writ petition no. 13181/84; although the decision is based on our writ petition there was already some petition of a widow which was pending before the court, and in accordance with their procedure the decision derives its name from the previous petition. (AIR - 1985 - SC - 1196)

A very large number of problems of individual pensioners, as well as pensioners of some institutions and organisations, keep coming to COMMON CAUSE from all over the country. These are referred by us to the concerned authorities of the central government, including the pensions department concerned with civil pensioners, Railway Board in the case of railway pensioners, the Adjutant General's office for defence pensioners, and also to state governments and concerned institutions. Often these references have yielded positive results, and have brought blessings of the pensioners to COMMON CAUSE.



## **BRIEF MENTION OF SOME OTHER WRIT PETITIONS FILED IN THE SUPREME COURT**

### **PROPERTY TAX**

System of assessment and levy of Property Tax had been hitherto based on the determination of "annual rental value". This system was alright fifty years ago when it was introduced but it is now riddled with shortcomings and inadequacies which lead inevitably to enormous lot of anomalies, discriminations and distortions in the assessments, and which give rise to great lot of grievances, foul play and scope for corruption.

Largely the existing system consists of the provisions that the Rateable Value (on which the calculation of Property Tax is based) is the "annual rent on which such land or building might reasonably be expected to let from year to year. COMMON CAUSE filed a Writ Petition in the Supreme Court in which these anomalies and discriminations had been highlighted in assessment of Property Tax.

### **ENHANCEMENT OF RATEABLE VALUE**

Notices numbering tens of thousands were issued in a most arbitrary manner to owners of residential and non-residential properties by Delhi Municipal Corporation and New Delhi Municipal Committee in their jurisdictions, proposing to increase the Rateable Values of properties 10 to 20 times and in some cases even 30 to 40 times, giving no specific reasons.

COMMON CAUSE filed petition under Article 32 of the Constitution of India praying for issuance of direction to the Commissioner of Municipal Corporation of Delhi and administration of New Delhi Municipal Committee to withdraw the notices.

### **LAWYERS' STRIKES**

Courts in this country are already reeling under the enormous accumulation of backlog of cases. To this scenario has been added, over the past few years, the further dimension of strikes resorted to by the lawyers, bringing the functioning of the courts to a grinding halt. The strikes by lawyers have been undertaken for multifarious and variety of causes.

COMMON CAUSE filed a writ petition in the Supreme Court against the strikes by lawyers. Our contention in the petition was that the disruption of the cases in courts, by resort to strikes by lawyers, causes serious damage to the interests of their clients and affects their right of securing speedy

justice which is held by the Supreme Court to be a fundamental right enforceable under Article 21 of the Constitution.

### **PENDING CRIMINAL CASES**

There are presently about three crores cases pending in the courts of the Country. Out of these about one crore are criminal cases. A comprehensive writ petition on the subject of pending criminal cases was filed by COMMON CAUSE in the Supreme Court (1128 of 1986) on this important subject.

Specific suggestions for dealing with the old pending cases were made in the writ petition seeking suitable directions. The directions issued by the Court brought about the termination of hundreds of thousands of cases all over the country and have released large number of persons who were for long languishing in prisons

### **IMPLEMENTATION OF CONSUMER PROTECTION ACT**

Consumer Protection Act was enacted in December 1986. For the first time there was in it the provision of seeking redressal in respect of deficient "services" and against faulty "goods". Under this Act it was made mandatory

that in each district of the country there shall be established a district forum.

We filed writ petition in the Supreme Court in late 1988 seeking direction from the court to the Government of India and State Governments to fulfil this basic and essential requirement of the statute, contending that its non-fulfilment affects the fundamental rights, particularly enshrined in Articles 19 and 21 of the constitution of the country.

### **CORRUPTION - LOKPAL**

An important writ petition was filed by COMMON CAUSE in the Supreme Court on the general subject of corruption prevailing in the country, emphasising the importance and requirement of establishing the LOKPAL. It has been prayed that in view of the above the Hon'ble Court may direct the government to persuade the Parliament to give consideration to the Lok Pal Bill and to enquire from the Parliament as to whether and when the

enactment of this Bill may be expected. Further, the Union of India may be asked to request the remaining State Governments of the country to pass Lokayuktas/Up-Lokayuktas Acts wherever these have not yet been enacted.

### **CANCELLATION OF ALLOTMENT OF PETROL PUMPS**

An off-shoot of this important case, relating to allotment of petrol pumps by the Petroleum Minister, was decided by the Supreme Court vide judgement delivered on 25th May, 1996 and subsequent order dated 4.11.96 (writ petition (C) No. 26/95). The Hon'ble Court directed Capt. Satish Sharma to pay a sum of Rs. 50 lakhs as exemplary damages to the Govt. Exchequer. The Court also directed CBI to register a case against the Minister. Another Bench of the Court wrote off the direction of payment of damages but the main contention of the case was upheld.

### **OPERATION OF BLOOD BANKS**

There were for long serious complaints that the operation of blood banks was very unsatisfactory; most of them continue to operate without any prescribed licence; they operated in very unhygienic conditions; they depended primarily on donation of blood by professional donors who are generally poor unemployed persons with low levels of haemoglobin and prone to diseases, who were exploited for the purpose by middle men; they were not equipped with testing facilities and laboratory equipment etc.

We prepared a writ petition contending that inadequacy of action for improvement of blood banks is violative of the fundamental rights of life guaranteed under Article 21 of the Constitution for those who will be the recipients of infected or poor quality blood. In the writ petition the Drug Controller of the Government of India, and the Health Departments of all the State were impleaded because the licensing and operations of blood banks come within their purview according to the Rules framed under the Drugs & Cosmetics Act which has been on the statute book for decades.

### **TAX DEDUCTION AT SOURCE**

A writ petition was filed by COMMON CAUSE in the Supreme Court against mandatory directions issued by the Government of India to all the banks in the country to effect deduction of Income Tax from the interest accruing on all deposits made in the banks when the amount of interest earned by any depositor was more than Rs. 2500 in the year.

## POSTS & TELEGRAPHS

An important writ petition was submitted in 1984 from the platform of COMMON CAUSE about inefficiency and failures of the system of telephones. We highlighted various areas of inefficiency of the operations of the telephones in the writ petition. We submitted how the department was making huge profits due to the malfunctioning of telephones, earning revenues out of wrong calls and the failures and defaults of the system.

## DISCRETIONARY QUOTAS

There has for many years been a general tendency in various Ministries of the Government of India as well as of the State Governments to utilise some inherent powers of the Ministers and legislators to accord certain benefits and privileges on out-of-turn basis, ostensibly to please their constituents and also to generally pacify the claimants. We filed a Writ Petition in the Supreme Court against this practice.

## PENSIONS OF MPs

We found that it was obviously never contemplated by the framers of the Constitution that members of Parliament and the legislatures of the States should receive pensions, taking into account the nature of their duties and responsibilities as well as their normal tenure. We accordingly filed a writ petition in the Supreme Court challenging the legality of pensions being given to Members of Parliament.

## EXEMPTION OF PSUs FROM MRTTP

In this Writ Petition we had submitted that Section 3 of Monopolies & Restrictive Trade Practices Act was unconstitutional in-as-far as it exempted from operation of the provisions relating to unfair trade practices of the public sector undertakings of Central and State Governments.

## OUT-OF-TURN ALLOTMENTS BY MARUTI UDYOG LTD.

We filed a writ petition challenging the procedure adopted by Maruti Udyog Ltd in making out-of-turn allotments out of a discretionary quota. This petition was filed before the Supreme Court early in 1984. There was at that time a scramble for allotments of this new car.

### **PRIMARY EDUCATION**

It is laid down as Directive Principle in the Constitution that within 10 years of its adoption all children up to the age of 14 years shall be given free and primary education. The Constitution was adopted in 1949. We are still very far from the attainment of this specified target.

On the failure of the Government of India and State Governments to attain this important target, a Writ Petition was filed from the platform of COMMON CAUSE in the Supreme Court highlighting the defaults of Government in the matter of primary significance which has bearing on the progress of the country.

### **ELECTIONS AND POLITICAL PARTIES**

A very important Writ Petition was filed from the platform of COMMON CAUSE in the Supreme Court, on the failure of political parties to comply with the statutory requirement of maintaining accounts, record of all contributions received by them above a prescribed limit, and getting the accounts audited. Main contention in the Writ Petition was that the political parties were not maintaining accounts on the lines made mandatory under Section 13A of the Income Tax Act and Explanation I under Section 77 of Representation of People Act.

### **TOO MANY HOLIDAYS**

An initiative was taken and a civil writ petition filed in the Supreme Court from the platform of COMMON CAUSE. The Apex court was inter-alia requested to direct the government to lay down specific days which need to be included in the list of national holidays and the days which need to be included in the list of restricted holidays. And to lay down procedures which should be followed on the demise of a dignitary, including the flying of the national flag, observance of two minutes silence, passing of Resolution, observance of national mourning and to prescribe that no holidays or closed days should be declared on any such occasion.

### **TWO TIME ZONES**

This country has, for over one hundred years, since the British period, been observing one Standard Time, based on the longitude passing through Allahabad which at that time was adjudged to be suitable for the purpose.

Longitudinal spread of our country, comprising over 30 degrees of longitude, necessitates observance of two Standard Times, because each 15 degree means one hour difference.

This necessarily has affected the life pattern and productivity etc. in the far-east. Our requests to the concerned governmental authorities remained unfruitful; we, therefore, filed a Writ Petition on this important subject in the Supreme Court.

### **POST AND TELECOM WORKERS STRIKE**

Post and Telecom Workers throughout the country struck work resulting in veritable paralysis of the nation in the matter of communications. COMMON CAUSE filed a Writ Petition in the Supreme Court seeking to impugn the actions and inactions of the respondents as a result of which the Postal and Telecommunication services throughout the country came to grinding halt thereby paralysing business, industry and the day to day affairs of the people.

### **APPOINTMENTS ON BOARD FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION**

COMMON CAUSE filed a petition in the Supreme Court of India seeking to impugn the provisions of Section 6 (2) of the Sick Industrial Companies (special provisions) Act, 1985 (hereinafter " the SICA") which deals with the term of office, conditions of service etc. of the Chairman and other members of the BIFR.

### **APPOINTMENT OF COMPTROLLER & AUDITOR GENERAL**

A Writ Petition was submitted to Hon'ble Supreme Court under Article 32 of the Constitution of India, by way of Public Interest Litigation, raising a public grievance with respect to the arbitrary and unfair manner and procedure being adopted by the Government of India in making appointment to the office of the Comptroller & Auditor General of India (hereinafter referred to as CAG). The Petitioner sought directions by the Court to the Government of India to follow certain guidelines, including guidelines as to the requisite qualifications, in the matter of appointment to the aforesaid office.

## **RESERVATIONS IN EDUCATIONAL INSTITUTIONS AND SERVICES IN TAMIL NADU**

A public interest writ petition was filed, referring to the arbitrary, unreasonable and ultra vires provisions of the Constitution (Seventy-sixth Amendment) Act, 1994

## **TRANSFER OF OFFICERS**

There has been a general impression about severe deterioration in the standards of administration in the country, for which an important cause is the absence of any specific guidelines or provisions in the Government Servants Conduct Rules of the Centre and the States in regard to the matter of transfers of officials. Undermining of morale of the services which are the pillars on which the entire structure of administration rests, and any weakening of which can be catastrophic. These issues formed the subject of a Writ Petition filed before the Supreme Court.

## **MPs LOCAL AREA DEVELOPMENT FUND**

We took this matter to the Supreme Court highlighting report of the Comptroller & Auditor General of India wherein deficiencies had been pointed out in utilisation of this fund, also contending that this measure inevitably involved elements of discrimination against those who will be contesting the election against the present MP in the next election.

## **NON-PERFORMING ASSETS (NPAs)**

There have been reports of large-scale misutilisation of funds of the Banks for advancing huge loans to the industry and business, which loans remain unrefunded and are later conveniently categorised as "Non-Performing Assets (NPAs)". We took this matter to the Supreme Court.

## **RAILWAY ACCIDENTS**

There have been reports of quite a number of railway accidents. Some of these have involved great loss of life. It is unfortunate that such accidents are taking place, and apparently there have been defaults in the maintenance of railway tracks, wagons, and connected equipment. We filed a writ petition seeking direction to the Government for urgent modernisation of traffic management of railways.

### **FAKE UNIVERSITIES**

● We have filed a comprehensive writ petition in the Supreme Court. In our writ petition we have impleaded Ministry of HRD, University Grants Commission, Medical Council of India and All India Council for Technical Education. We have sought directions to the respondents to indicate what steps are proposed to be taken to effectively check the menace of mushrooming and proliferating incompetent and non-accredited "teaching shops".

### **NON-BANKING FINANCE COMPANIES**

We filed a comprehensive writ petition before the Supreme Court on this important subject. We had not taken up the issue in relation to any particular companies. Our plea was on the wider issue of these finance companies having defrauded hundreds of thousands of persons of their life's saving and now having either wound up their operations or locked up their premises.

### **COMMUNAL HARMONY**

A Writ Petition has been submitted to the Hon'ble Supreme Court requesting the Hon'ble Court to direct the Respondents, Union of India and the named State Governments, to take immediate and effective steps, to create an atmosphere of peace and harmony in the country and avoidance of any future inter-communal conflicts.

### **CRIME AND VIOLENCE ON T.V.**

This Writ Petition aimed at presenting to the Supreme Court a situation that has arisen in the country by the continuously mounting tendency of presentation and adoption of scenes of violence and sexual abuse in the programmes and serials which are being telecast for the viewers of TV in India, for seeking issue of directions of the Court to Ministry of Information & Broadcasting and Ministry of Home Affairs, to examine in their respective spheres the need to undertake measures for enforcing appropriate guidelines and norms for adoption by TV channels.

### **TELEPHONE FREEBIES**

A writ petition has been filed in the Supreme Court wherein we have sought directions to the respondents to re-examine and re-consider, for cancellation, bounteous concessions which are reported to have been



announced as the decision will involve sizeable loss of revenue to the Union of India.

### **RITUAL OF BURYING OF CHILDREN IN SOME VILLAGES OF TAMILNADU**

The ugly ritual of burying grown-up children in Tamil Nadu for short while, for propitiating some Gods and Godesses, was taken to the Supreme Court through a Writ Petition.

### **SLAUGHTER HOUSES – POLLUTION**

In this Petition we had pointed out the extent of environmental pollution and the danger of epidemics occasioned by disposal of animal wastes and slurry on the land or in the sewer systems. We also pointed out the employment of children in slaughter houses and in roadside vends.

### **ACCIDENTS ON ROADS & HIGHWAYS**

Taking into account the frightening statistics of accidents, fatalities and loss of property, COMMON CAUSE has filed in the Supreme Court of India a Petition under Article 32 of the Constitution of India for issue of appropriate directions directing the Respondents, keeping in view the enormity of accidents that are taking place on the roads of cities, towns and national highways, leading to causation of enormous number of fatalities and injuries to people, besides causing huge loss of property, to initiate activities and procedures of the nature of improvement of licensing regulations and training methods of motorised vehicles and drivers of the vehicles, provision of appropriate infrastructure on the roads of cities, towns and highways, including scientific analysis of each accident that takes place on the roads, education of the users of roads, to ensure ready availability of ambulance for taking injured persons to hospitals.

### **LARGE – SCALE ADVERTISEMENTS IN NEWSPAPERS PROJECTING IMAGE OF POLITICIANS AND POLITICAL PARTIES.**

COMMON CAUSE has filed in the Supreme Court of India a petition under article 32 of the Constitution of India for directing the Union of India in the Ministry of Information and Broadcasting to determine the steps that can be taken to check profligacy in the placement of big-sized advertisements in the newspapers for projecting the image of politicians and of political parties.

## FREQUENT ELECTIONS

The Vice-President of India, Shri Bhairon Singh Shekhawat is reported to have made certain suggestions for ensuring that functioning of the governmental system is not adversely affected by the processes of elections.

In our Writ Petition it has been submitted that the political parties and Governmental functionaries of the Central Government in consultation with the States/Union Territories should constitute a high-level Committee for examining the entire matter and to analyse in detail the suggestions made by Vice-President of India. The Committee should submit its report within a period of three months and the report.

## MAINTENANCE AND AUDIT OF ACCOUNTS BY POLITICAL PARTIES

COMMON CAUSE feels very concerned about the default of most of the political parties in strict compliance with relevant provisions of the law, and accordingly a Petition has been filed in the Supreme Court of India under Article 32 of the Constitution of India for directing the Respondents to place before the Hon'ble Court the status of compliance by political parties and enforcement by governmental authorities of provisions of sections 13(A), 139 (4) (B) and 142 (1) of the Income Tax Act and Section 293 (A) of Companies Act as enunciated by this Hon'ble Court in CWP/24 of 1995 (AIR-1996 – SC-3081) because continuing default in this regard by the political parties named as Respondents, is violative of the Articles 14 & 21 of the Constitution of India.

## CONDITIONAL ACCESS SYSTEM

Various problems were analysed and presented in a Writ Petition, requesting the Hon'ble Supreme Court of India to issue direction to the Ministry of Information & Broadcasting for dealing with the problems presented in the Petition and to postpone introduction of CAS till satisfactory arrangements can be made to manufacture STBs in the country instead of importing them which will involve enormous lot of expenditure of foreign exchange.

### **PREVALENCE OF AIDS IN THE COUNTRY**

COMMON CAUSE has submitted a Writ Petition to the Hon'ble Supreme Court to bring to its notice the havoc that is being caused in the country by wide prevalence and continuing spread of the dreaded disease AIDS. COMMON CAUSE feels that there is absence of effective monitoring of the entire Project operated under the auspices of NACO, that there is inevitable apprehension of further spread of the dreaded disease, and that substantial funds provided for the purpose are being extensively misappropriated.

### **EDUCATION FOR POOR CHILDREN**

COMMON CASUE, considered it necessary to approach the Hon'ble Supreme Court of India and has accordingly filed a petition under Article 32 of the Constitution of India for directing the Union of India to initiate positive and effective measures for imparting primary education to all children within a period of ten years till they reach the age of 14 years, as embodied in the New Article 21-A of the Constitution of India. The case is being pursued in the Supreme Court.

### **TWO-CHILD NORM**

COMMON CAUSE filed in the Supreme Court a Writ Petition for directing the Union of India to further strengthen its operations for effective control of expansion of population of the country besides the introduction of incentives and disincentives and propagation for the use of contraceptives, inter-alia by ensuring the adoption by all States of Two-Child Norm under their Panchayat Acts, and also to explore the avenues for enactment of similar measures by the Higher-level legislatures.

### **JUMBO CABINET IN UTTAR PRADESH**

COMMON CAUSE considered it necessary to submit a Writ Petition to the Hon'ble Supreme Court for seeking an expression of views of the Hon'ble Court that creation of such Jumbo Cabinet in the State is contrary to the general spirit of the relevant provisions of the Constitution even though specific provision does not exist in the Constitution limiting the size of a Cabinet.

### **INFRACTUOUS INVESTMENT ON NON-FUNCTIONING AIR-PORTS**

In our country there has been considerable wastage of public fund in relation to setting up of certain Airports at unimportant and unnecessary places, ostensibly on demands made on political considerations and not for economic requirements. It is evident, that there is urgent need to restrict the creation of new airports without analyzing economic viability based on traffic volume and consent of airlines to operate in the sector. COMMON CAUSE has filed a Writ Petition in the Supreme Court.

### **FUNCTIONING OF JUDICIARY**

A writ petition was submitted before the Supreme Court where-in we have expressed concern of the people about the functioning of judiciary in the country and have sought a direction from the court to lay down specific guidelines and norms in relation to certain aspects of functioning of the judges in the High Courts as well as judiciary in the districts.

### **EUTHANASIA**

In this Petition submitted to the Supreme Court of India we have raised the important issue of serious problems which are encountered when a patient is suffering from incurably body ailment and has approached the state of imminent death, and decision has to be taken in a hospital whether his life should be terminated or whether he should be allowed to continue to suffer the agony and pain.

### **LOTTERY SCAM**

Outlook magazine exposed the existence of a Lottery Scam. We requested the Union of India vide letter dated 9<sup>th</sup> Nov. 2004 for effective steps to check this malaise. No reply was received. We, therefore, filed a Writ Petition in the Supreme Court seeking suitable directions to the Respondents.

WRIT PETITIONS FILED IN THE DELHI HIGH COURT

APARTMENTS OWNERSHIP ACT

ELECTRICITY BILLING - DEFECTIVE METERS

CONVERSION OF LEASEHOLD INTO FREEHOLD

ELECTRICITY LOAD

LOAD SHEDDING - THEFT OF ELECTRICITY

PHASING OUT OF BLUELINE BUSES

UNAUTHORISED COLONIES

POST RETIREMENT MEDICAL FACILITIES UNDER ESIC ACT.

STRIKE THREAT BY NTPC EXECUTIVES

RENT CONTROL

MIS - USE OF FARM HOUSES

PROPERTY TAX

RELAXATIONS FOR ALLOWING  
ADDITIONAL CONSTRUCTIONS IN DDA COLONIES

ILLEGAL HOARDINGS

ANIMAL HAZARDS ON ROADS

CHANGE IN BILLING SYSTEM OF MTNL

CONDITION OF MORTUARIES

SALE OF SUPRIIOUS DRUGS

SALE OF ILLICIT LIQUOR

INFRASTRUCTURAL FACILITIES IN BURNS WARD OF  
SAFDURJUNG HOSPITAL

RECRUITMENT OF INELIGIBLE LAB TECHNICIANS IN  
SAFDARJUNG HOSPITAL

FAST METERS – INFLATED ELECTRICTIY BILLS

OPERATION OF BEAUTY PARLOURS / MASSAGE PARLOURS

INSTALLATION, MAINTENANCE AND REPLACEMENT OF WATER  
METERS.

COMPLAINTS FILED BEFORE  
NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

AIRLINES AND AIRPORTS

COMPENSATION FOR AIR CRASH VICTIMS

INTRAVENOUS FLUIDS

IODISED SALT

ELECTRICITY SUPPLY

TELEPHONES

STRIKE BY AIR INDIA FLIGHT ENGINEERS

PRINTING OF MAXIMUM SALE PRICES ON PACKAGES

PRINTING OF SALE PRICES ON FILM PACKAGES

REFUND OF DEPOSITS BY SCOOTER SUPPLIERS

MEDICAL NEGLIGENCE – IT RESULTED IN A SIGNIFICANT  
JUDGEMENT

## **A WRIT PETITION (AS SAMPLE) PENDENCY OF CASES IN COURTS OF INDIA.**

A Writ Petition on the subject of pendency of cases in courts and strength of Judges vis-à-vis population has been filed in the Supreme Court. The Law Commission of India as long ago as 1988 recommended the increase of ratio of 10.5 judges per million population to at least 50 judges per million; this to be done within a period of 10 years so that subsequently target of 107 judges per million is attained in due course. Even after 16 years of this recommendation the present ratio is only about 12 judges per million people. The Writ Petition is reproduced below:-

IN THE SUPREME COURT OF INDIA  
CIVIL EXTRAORDINARY JURISDICTION.  
WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2004

In the matter of

COMMON CAUSE,  
(A Registered Society)  
A-31, West End,  
New Delhi - 110 021  
through its Director  
Shri. H.D.SHOURIE  
Petitioner

Versus

Union of India,  
Ministry of Law and  
Justice, Shastri Bhawan,  
New Delhi - 110 002.  
Through its Secretary,  
Respondent

A PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS AND/OR ANY OTHER APPROPRIATE WRIT, ORDER/DIRECTION DIRECTING THE UNION OF INDIA, MINISTRY OF LAW AND JUSTICE TO INFORM THE COURT OF THE STEPS TAKEN TO FILL UP EXISTING VACANCIES OF JUDGES, AND TO SANCTION ADDITIONAL POSTS OF JUDGES IN VARIOUS COURTS SO AS TO ACHIEVE THE RATE OF 50 JUDGES PER MILLION POPULATION AS WAS RECOMMENDED BY THE LAW COMMISSION IN 1988 AND THE SUPREME COURT OF INDIA IN ALL INDIA JUDGES ASSOCIATION CASE (2002) IN ORDER TO REDUCE BACKLOG OF PENDING CASES AND TO EXPEDITE DISPOSAL OF CASES IN THE CONTEXT OF FUNDAMENTAL RIGHTS OF THE PEOPLE GUARANTEED UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA.

To

The Hon'ble the Chief Justice and His Lordship's Companion Justices  
of the Supreme Court of India.

The Humble Petition of the Petitioner abovenamed,

**MOST RESPECTFULLY SHEWETH:**

1. That the Petitioner is a Society duly registered under the Societies Registration Act, 1860, and is engaged in taking up various common problems of the people for securing redressal thereof. The Petitioner Society has also brought to Court various constitutional problems. The Petitioner has an established locus standi in its capacity as a bonafide public interest organisation for taking up matters of general public importance. The Petitioner is submitting the present public interest Petition for consideration of this Hon'ble Court.
2. That the Petitioner feels concerned about the pending cases in various courts of the country. The litigants have to wait for decades in certain cases before the cases are finally disposed of. In many cases the litigants even die during the proceedings, and the cases are pursued by their children and grandchildren.
3. That Law Commission of India as long ago as in 1988 recommended the increase of ratio of 10.5 judges per million population to at least 50 judges per million; this to be done within a period of 10 years so that subsequently target of 107 judges per million is attained in due course. Even after 16 years of this recommendation the present ratio is only about 12 judges per million people.
4. That the shortfall in the number of judges is primarily stated to be contributing to backlog of cases which are at present to the tune of 2.8 crores. The pendency is not restricted to subordinate courts but also is there in Supreme Court of India and the High Courts of the country. In the Supreme Court there were recently 26,750 pending cases and in the High Courts of the country pending cases are as many as 31,88,000.
5. That there are a large number of vacancies of judges which have not been filled up. It is estimated that there are at least vacancies for about 5,000 judges in the courts of the country including High Courts / Subordinate Courts.



6. That in the judgment known as All India Judges Association Case (2002), the Supreme Court of India had recommended filling up vacancies in courts, increasing judges / population ratio and seeking more finances for strengthening judicial infrastructure to give it more teeth. The Supreme Court had also suggested a normative ratio of 50 judges per million population to be achieved in a phased manner in a period of five years. The Supreme Court had also recommended that all existing vacancies in the subordinate courts should be filled up, if possible by March 31, 2003, in all the States. However, out of 13,204 sanctioned posts of Judges / Magistrates, a substantial number of posts are still lying vacant.
7. That keeping in view the vast population of the country and continuing influx of new cases, it is obvious that we need ten times the existing number of Judges to cope with workload. Referring to the inadequacy of the judges, Chief Justice of India observed recently during Chief Ministers and Chief Justices Conference in September, 2004 that the ratio of 12 judges per million population is the lowest in the world.
8. That it is reported that allocation of funds to judiciary in the 9<sup>th</sup> and 10<sup>th</sup> Plan was only 0.071% and 0.078% respectively. Obviously, there is need to allocate additional funds as was recommended in the judgment relating to All India Judges Association Case (2002).

#### GROUNDS

9. Because there are no signs of reduction in the backlog of pending cases and the people for whom the judiciary is the last resort to redress their grievances and get justice, are losing faith because of long delays in dispensation of justice. The prime reason is the shortage of Judges.
10. Because the Union of India has not taken any result oriented action to increase the Judges/population ratio which remains dismally low.
11. Because the government is presently engaged in preparing Budget for the financial year 2005 – 2006 and there is paramount need of making supportive provisions so as to ensure filling up of existing vacancies, creation of new vacancies of judges and provision of adequate finances.
12. That the above grounds, are being submitted without prejudice to one another and the Petitioner craves leave to add to or to amend the above.

13. That the present Petition is being submitted bonafide and in general public interest.
14. That no other Writ Petition or proceeding has been initiated by the Petitioner in any High Court or the Supreme Court of India on the subject matter of the present Petition.
15. That the Petitioner has no alternative equally efficacious remedy in law for the cause of action being agitated herein.

### PRAYERS

In the above premises, it is prayed that this Hon'ble Court may be pleased:

- (i) to issue a writ, direction or order in the nature of mandamus and/or any other appropriate writ, direction or order directing the Respondent to inform the court of steps taken so far to achieve the ratio of 50 judges per million as recommended by the Law Commission and this Hon'ble Court by filling up existing vacancies / and creating new ones;
- (ii) to issue a writ, direction or order in the nature of mandamus and/or any other appropriate writ, direction or order directing the Respondent to inform the court of the steps taken / intended to be taken to allocate additional funds for strengthening judicial infrastructure to help in reduction of backlog of pending cases;
- (iii) to pass such other and further orders as may be deemed necessary and proper on the facts and in the circumstances of the case.

FOR WHICH ACT OF KINDNESS, THE PETITIONER SHALL AS IN DUTY BOUND, EVER PRAY.

Petitioner

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## PENDENCY OF CASES IN COURTS OF THE COUNTRY

The problem of stupendous pendency of cases in the Courts of the country was also taken up at the administrative and political level by writing to the Prime Minister, Ministers of the Govt. of India and Members of Parliament (Lok Sabha & Rajya Sabha). A copy of the letter was also sent to the President of India requesting him to advise the Council of Ministers in an appropriate manner to take such steps as to ensure that cases are disposed of in courts in a time bound manner. The letter is reproduced below:-

February 20, 2005

To

- 1) Hon'ble Prime Minister,  
PMO, South Block,  
New Delhi – 110 011.
- 2) Ministers of the Government of India.
- 3) Members of Parliament (Rajya Sabha & Lok Sabha)

Sub: Pendency of cases in the Courts.

Hon'ble Prime Minister, Union Ministers and Members of Parliament,

From COMMON CAUSE we are addressing this letter to distinguished Central Government political functionaries of the country. It is on the important subject of huge pendency of cases in the courts. It is very unfortunate that cases over the years have accumulated to an extent in the Courts that it inevitably highlights the principle that justice delayed is justice denied.

We give below facts and figures of pending cases as reported in the Annual Report 2003-2004 of Ministry of Law & Justice :

Supreme Court	=	24,901
High Courts of the States	=	35,28,868
District & Subordinate Courts of the States	=	2,27,57,693

These are figures of the pendency as on 31.3.2004. The pendency must have further increased during the last 10/11 months in the District & Subordinate Courts. The number of ten years old pending cases are 53,51,580 and those less than three years old are 1,62,73,769.

This huge pendency of Civil and Criminal cases in the Courts inevitably distorts the dispensation of justice. Pendency of three crore cases implies the involvement of three crore individuals/families on one side and similar number on the other side. If each family has about 4/5 members, it would imply that almost 15 to 20 crores people are affected by pendency of these cases i.e., almost about one-fifth of the total population of the country is in some form or the other affected by the pending cases.

We request the Hon'ble Prime Minister, Union Ministers and the Member of Parliament to kindly give consideration to this serious matter for determining ways and means to overcome the delays of dispensation of justice, and to expedite disposal of cases. There has been mention of some Fast Track Courts having been created for the purpose of disposal of long pending cases in the districts. On the initiative of the Department of Justice, the Finance Commission is reported to have recommended a scheme for creation of 1734 additional courts in the country for disposal of long pending cases, particularly those which have been pending for more than two years and those where under-trials are in jails. At present there are stated to be about 2 lakh under-trials in jails, 18 percent having been in jails for more than one year. By the end of 2004, 1652 Fast Track Courts are reported to have been established and they disposed of 3,70,504 cases.

Supreme Court has emphasised in a judgement that huge accumulation of undecided cases in the Courts has been due to inadequate strength of Judges as compared to the population. The Judge strength ratio in India is stated to be 10.5 per 10 lakh people. The Supreme Court is of the view that the strength of Judges should, in the first instance, be increased to 50 Judges for 10 lakh people, and that this increase should be effected within the next 2/3 years in all States, and appointment of Judges and Magistrates should be effected without any delay.

Pendency of huge backlog of cases, and delay in dispensation of Justice, cause extreme exasperations to the people besides bringing bad name to the country. We urge the Hon'ble Prime Minister, Union Ministers and Members of Parliament to kindly give serious consideration to this entire matter and determine the ways and means of remedying these serious problems. It may perhaps be necessary to set up a high-level Commission for making recommendations and taking the decision to ensure that achievement of the target of 50 Judges per 10 lakh people is effected within the next 2/3 years, with direction to them to operate as Fast Track Courts for quick disposal of the pending cases. Monthly Reports should be collected by the Department of Law & Justice about progress made in each district and the matter should be reported to the Parliament every six months.

We hope that our suggestions will be given serious consideration by the Hon'ble Prime Minister, Union Ministers and Members of Parliament and that appropriate and requisite decisions will be taken.

.....

Quite a number of Members of Parliament have sent their replies expressing their concern with the seriousness of the problem of huge Pendency of cases in the Courts of the country. The respondents include former Prime Minister, Mr. Atal Bihari Vajpayee, former Foreign Minister, Mr. Jaswant Singh, among others. Some of them have stated that they will raise the issue of Pendency of cases in Courts in the Parliament. A few members have addressed individual letters in this regard to Mr. H. R. Bhardwaj, Union Minister of Law and Justice.

## HAPPINESS IS NOT RELIGION

" YESTERDAY I WAS STANDING at the door of a temple. Incense was burning and the whole atmosphere was fragrant. Then the bells of worship started ringing and the lamp of propitiation was being waved in front of the idol. Some devotees were there. The entire arrangement was beautiful and was producing a pleasant trance, but all these rituals have nothing to do with religion.

No temple, no mosque, no church, no form of worship, no form of prayer has anything to do with religion. All the idols are stones and all the prayers are nothing but empty words addressed to the walls.

But some happiness seems to be coming from all this – and that is the danger, because it is due to this that a great deception begins and crystalizes. It is in this illusion of happiness that the appearance of truth is born. This happiness is derived through unconsciousness – forgetfulness of oneself and escape from the reality of oneself. The happiness of intoxicants also comes from such an escape. All acts of unconsciousness in the name of religion bring only a false happiness, like that of intoxicants. Happiness is not religion, because it is only the forgetfulness of sorrow, not its end.

What, then, is religion ?

Religion is not an escape from oneself, it is an awakening towards oneself. This awakening has no connection with any external arrangements. It is related to moving inwards and attaining consciousness.

To wake up and become a witness, to become conscious of that which is – religion is related only with this. Religion is non-unconsciousness, and non- unconsciousness is bliss."

OSHO

## COMMON CAUSE

### A Registered Society for ventilating common problems of the people

Everybody is eligible to take membership of COMMON CAUSE. No form is required. Merely send your name and complete address, preferably written in CAPITAL LETTERS. Send it to our any of the two addresses:

- i) 5, Institutional Area, Nelson Mandela Road,  
Vasant Kunj, New Delhi – 110 070
- ii) A-31, West End, New Delhi-110 021

- Membership fee for individuals is Rs.100/- for one year; Rs.500/- for life membership for individuals; Rs.200/- for annual membership of organizations and associations. Send by crossed cheque/demand draft in favour of COMMON CAUSE.

- We receive numerous letters. Replies are invariably sent. On the average our receipt is about 20/30 letters every day. Kindly, therefore, write only when you must; letters received in local language present us difficulties in deciphering.

- Donations to COMMON CAUSE are eligible for exemption available under Section 80-G of the Income Tax Act. Your donations, and those of your friends, will be most welcome.

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