

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.

1. 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) :

This Branch is mainly concerned with giving advice to all Government Departments in the Mantralaya and also giving opinion/advice to the Head of Departments in Greater Mumbai in respect of matters pertaining to Constitutional Law. Administrative Law, Tenure, Services, Local Government, University Laws, etc.

(A-1) Litigation and Conveyancing Wing :

The work is done in following three parts :-

(1) Criminal Litigation - “A” Branch deals with Criminal Litigation of State in which Appeals against Acquittal and for enhancement of sentence, Review application, application of Habeaus Corpus etc.

(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 Court (Appellate Side), City Civil Court and Small Causes Court. This Branch also gives 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 appeals 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 Litigations 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 Officers and

the president and the members of the Bar are contacted and the matters relating 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).

2. 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 26th June 1862, Bombay High Court was established and it was inaugurated on 14th 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 Act, called 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 Re-organization 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 Reorganisation 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, Aurangabad and Panaji (Goa).

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

The High Court has two wings, *viz.* The Original Side and the Appellate Side.

Original Side :-

The Courts on the Original Side exercises various jurisdictions as conferred by the Letters Patent and other statutes and also dispose of 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 Priginal Side extends to matters, 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 Mumba., and all other authorities within the meaning of Article 12 of the consitution of India including Public Interest Litigation and all miscellaneous matters pertaining to appointment of guardian of minors in Greater Mumbai, aned all other matters pertaining to Foreign Adoptions, IndianGuardianship petition and Matrimonial jurisdictionunder 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) Petition 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 testaments of Deceased Persons as well as Petitions for Heirship under Section 2 of Bombay Regulation Act, 1827 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;

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

The Courts on the Appellate Side dispose of Appeals-

1. Civil

(a) Appeal

(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 vakalamama or for deposit or withdrawal of moneys and for refund of Court Fees.

(d) Applications under the Companies Act, 1956, and proceedings thereunder.

(e) 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 application for consent decrees or orders under Order XXIII, Civil Procedure Code.

(f) 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.

II. 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.

1) 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 67 companion 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.

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 38 sanctioned posts of Judges at Mumbai, 14 at Aurangabad, 13 at Nagpur and 3 Posts at Panaji (Goa). The administrative work at benches is looked after by Registrar (Adm)

J. O. T. I. Nagpur & M. J. A. UTTAN, Thane Vision Statement

“Striving to do better” is the vision statement of the Academy. The Object is to provide continuous judicial education [o the Judicial Officers and the other Stakeholders in trier Justice Delivery System. The Academy has been making genuine efforts to develop the professional competence and judicial excellence of the Judicial Officers in the State of Maharashtra and Goa through various stimulating training programmes. The Academy is striving to provide the Judges with new resources and education materials so as to ensure that Judges of all the Courts are able to keep abreast of new developments in the law. The Academy has endeavored to develop the skills and judicial awareness of the Judicial Officers with emphasis on the practical aspects of judging. Till date 300 training programme have been held at the Academy through which training has been imparted to more than 11,500 Judicial Officers, in future, the Academy intends to increase its training programmes including staff training.

The Academy is intending to set up an independent research wing for the conducting reserch for judicial reforms. High speed internet connectivity is provided to the Academy by National Knowledge Network (NKN) which is being used for various legal educational programme by theAcademy.

The Academy is spread over 5.00 Hectors of land situated at Village Uttan on a beautiful site surrounded by hills ami lake. The land admeasuring about 13.78 Hectors is sanctioned to the Academy by the Government of Maharashtra & process of obtaining possession there is going on. It has excellent infrastructure and amenities so as to ensure that the Judicial Officers remain comfortable during the period of training.

The Academy has a beautiful garden maintaining pleasant ambiance in the premises with multicoloured flower plants.

Judicial Officers Training Institute Mah. Nagpur

For imparting training to the Judicial Officers, this Institute has been reestablished at Nagpur from 12-01-1987. This is a Training Institute with hostel facility where it is compulsory for the trainees to stay during their training period.

- (1) Assistant/Additional Public Prosecutors for 2 weeks.
- (2) Newly recruited Assistant Public Prosecutors for 5 week.
- (3) Special Training programme on Cyber Laws and Stress Management & Communications Skills for 3 days
- (4) Newly recruited Ministerial Staff Member of High Court/District Court for 2 weeks.

Construction of new hostel building and expansion of the existing building is completed so the capacity to accommodate about 60 trainee officers at a time is there.

Posts of Three Officers i.e. One Director and Two Joint Directors all time for imparting Training to the Trainee Officers.

In the year 2011-2015 this institute has given training to 1190 Additional/Assistant Public Prosecutors nominated by Director of Prosecution, State of Maharashtra Mumbai.

In the year 2013 & 2015 this institute has given training to 173 Ministerial Staff member of Hon’ble High Court, Nagpur Bench, Family Court, District Court and Sub-ordinate courts.

In a very near future the training process for District Court employees, training to Supervisory Staff and the newly recruited ministerial staff of the High Court shall be conducted. Training to Court Managers even that will be imparted in future to the Court Managers after their appointment.

FAST TRACK COURT**OFFICE NOTE**

Government of Maharashtra vide Resolution dated 23/03/2011 continued the Fast Track Courts scheme for 100 Courts for 5 years from 31st March, 2011. As per the directions of the Hon'ble Chief Justice, the letter dated 16.05.2012 has been issued to the Principal Secretary & R.L.A., Government of Maharashtra, with a request to move the Government to continue the Fast Track Court Scheme for 100 Courts till 31st March, 2016 as announced and thereafter the same as a permanent feature in the State Judiciary.

At present, 80 Fast Track Courts (including 2 Courts of M.A.C.T) are functioning in the State of Maharashtra. These Courts disposed of 33776 (Civil and Criminal) cases from 01.01.2015 to 31.12.2015.

Directions have already been issued vide High Court letters dated 20.03.2010, 06.09.2011 and 08.10.2012 to all the Principal District Judges, Principal Judge, City Civil and Sessions Court, the Chief Metropolitan Magistrate, Mumbai to ensure speedy disposal of cases in which women are victims and having regard to the pendency of cases, such cases be entrusted to the Fast Track Courts.

Directions to allot the Cases under SC/ST (Prevention of Atrocities) Act, 1989, Crime Against Women (Atrocities on Women), Prevention of Corruption Act, 1988, Motor Accident Claim Petition, Land Acquisition Cases, to the Fast Track Courts were given vide Government Resolution dated 23/03/2011. As regards monitoring of cases related to Differently-abled persons. Senior Citizens, Marginalised Sections of Society and Prevention of Corruption Act cases in the State of Maharashtra/ Goa and Union Territories of Diu/ Daman & Dadra and Nagar Haveli at Silvassa/ it was also decided to direct the Principal District and Sessions Judges, Principal Judge, City Civil Court at Mumbai, the Chief Metropolitan Magistrate, Bombay and Goa and Union Territories of Diu/ Daman and Dadra & Nagar Haveli at Silvassa, to instruct the Judicial Officers working under their control to give priority to the cases relating to Differently-abled persons/ Senior Citizens/ Marginalised Sections of Society and Prevention of Corruption Act cases, and to ensure reduction of pendency of these cases".

By High Court letter dated 17th July, 2015 the abovesaid directions are already communicated to all Principal District and Sessions Judges and Principal Judge/ City Civil Court at Bombay/ the Chief Metropolitan Magistrate, Bombay, Goa and Union Territories of Diu, Daman and Dadra & Nagar Haveli at Silvassa/ accordingly. The Solicitor-cum-Joint Secretary, Government of Maharashtra, Law and Judiciary Department/ Mantralaya has forwarded a letter bearing no. ^ppn-wv^.w/wrf-^ dated 13th October/ 2015, stating that looking to the present situation of pendency of Civil and Criminal matters in the State of Maharashtra/ the Fast Track Courts is require to be continued/ and it is necessary to give extension for the next five years beyond 31st March/ 2016 i.e. April, 2016 to March, 2021.

Accordingly, by High Court letter No. A(Spl)2015/56/2015 dated 31st October, 2015, requested to move the Government for continuing the Fast Track Courts for the period beyond 31st March, 2016 i.e. April,

2016 to March, 2021 and for making a provision of funds of Rs. 2/34/65/00/000/- and Rs. 46/50/000/- for recurring/non-recurring expenditure respectively. Subsequent Reminder is also issued on 2nd December, 2015 to the Government.

As regards to establish one special court presided over by Direct and Additional Sessions Judge, for Speedy Disposal of cases are pending relating to differently abled persons, senior citizens and marginalised sections of society, the reminder is issued to the Government vide High Court letter No. A(Spl)2015/65/2015 dated 2nd December, 2015.

High Court is monitoring progress of disposal of cases relating to Atrocities on Women, offences against targeted groups, senior citizens, minors, disabled, other marginalized group by issuing necessary directions from time to time to the Principal District & Sessions Judges in the State.

3. Civil, Sessions and Criminal Courts

(1) INTRODUCTION :

(a) **City Civil and Sessions Courts, Mumbai-** The Mumbai City Civil and Sessions Courts 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 1,00,00,000 and Misc. Applications such as and Notice of Motions, Misc. Appeals under the Public Premises Eviction Act as 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 upto Rs. 1,00,00,000/-. Provisions of sections 1, 2, 3, 5, 6 and 7 pf the said Act came into force from 1st Sept.2012 and provision of section 4 of the said Act came into force from 1st October 2012.

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 Revision Applications in cases tried by the Metropolitan Magistrates in Greater Mumbai and Bail Applications therein. There are 82 sanctioned posts of Judges including the Principal Judge and two Additional Principal Judges and presently 54 Courts are functioning in the Main Branch of Bombay City Civil & Sessions Court at Fort, Mumbai. The sanctioned posts of 82 judesinclude 2 Judges who are appointed to conduct the cases under MOCCA at the Arthur Road jail premises. As proposed by the Honble Prime Minister Govt. of Maharastra has established 4 C. B. I. special courts in Mumbai which are functioning in this court.

Mumbai City being a premier commercial and industrial city, the litigations in this Court are 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 20th February 2007, in consultation with the High Court of Judicature of Bombay, has created with effect from 19th September,2007, Borivali Sessions Division at Dindoshi (Goregaon) for the area comprising Goregaon, Malad, Kandivali, Borivali and Dahisar.

The Government of Maharashtra *Vide* Notification dated 30th September, 2015 has altered the limits of the Borivali Sessions Division at Dindishi by including therein the local limits of Andheri and of the areas of the Police Station 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 unto himself or assign to any other Court of Competent Juidisdiction, the cases from the said Sessions Division or to assign unto the Additional Sessions Judge at Goregaon, Dindoshi any such cases, as he thinks fit. Presently 11 Court are functioning at Borivali Sessions Division.

Sessions Court tries Sessions cases committed to it by the Metropolitan Magistrates for trial, cases filed under and by C.B.I., N.D.P.S., MOCCA, ATS, Corruption cases etc.

In view to wipe out pending Sessions cases speedily, Fast track Court at Sewree has been commenced from 17th October 2003. Since the building where Fast Track Court was functioning is vacated for the Mazgaon Court, all the Fast Track Courts alongwith all its Departments have been shifted to the Bombay City Civil Court to function.

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.

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.

(b) Civil and Sessions Court in Mofussil (known as District and Sessions Court) :

(i) The Principal District Judge's Court is the highest judicial authority in a district. In Addition to this Court, there are Courts of District Judges and Civil Judges of the Senior and Junior Division and of the Chief Judicial Magistrates. The District Judge's Court are located at the Head Quarter town of the District and also at some taluka place and the Courts of the Civil Judges, Senior Division and of the Chief Judicial Magistrates are also situated likewise. The Principal District Judges supervise the Courts of the District Judges, Civil Judges of both the Divisions and Chief Judicial Magistrates.

(ii) There are 220 posts of the common cadre of District Judges out of which 55 posts are converted into Selection Grade District Judges. There, are at present 348 posts in the combined cadre of Civil Judges(Senior Division) and Chief Judicial Magistrates and 1118 posts of Civil Judges(Junior Division) and Judicial Magistrates in the Mofussil Judiciary.

(iii) The District Judge exercises two kinds of jurisdiction (1) original and (2) Appellate. The District Court is the Principal Court of Original Civil Jurisdiction in a District. It is also a Court of Appeal, in which an appeal can be referred.

(iv) District Judge tries original cases. The pecuniary jurisdiction of District Judge is unlimited. The Civil Judge, Junior Division has been empowered to try suits up to the value of Rs.25,000 while the Judges of Senior Division, can try suits up to any pecuniary limit.

(v) The District Judges are also the Sessions Judges for the Districts concerned and as such they try criminal cases also. In this work they are assisted by the Additional Sessions Judges who are also invested with Sessions powers. They are the highest judicial authority in districts. The Sessions Judges try cases which are committed to them by the Magistrates after preliminary inquiry and also hear appeals against decisions of the Subordinate Magistrates.

(vi) A Sessions Judge or an Additional Sessions Judge can pass any sentence authorized by law but any sentence of death passed by any such Judges is subject to confirmation by the High Court.

(vii) An Assistant Sessions Judge can pass any sentence authorized by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years.

(viii) A Chief Judicial Magistrate can pass any sentence authorized by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

(ix) The separation of the Judiciary from the Executive has been effected in. the Maharashtra State. Consequently, the Criminal Courts are now subordinated to the High Court. The Government of India brought into force the new Code of Criminal Procedure, 1973 with effect from 1st day of April 1974 and under section 12 of the new Criminal Procedure Code, appointment of Chief Judicial Magistrates in every District was required to be made. In order to implement the provisions of section 12, the State Government, on the recommendation of the High Court, created 29 posts of Chief Judicial Magistrates, one for each District and two posts of Additional Chief Judicial Magistrates one each for Pune and Nagpur Districts, respectively. These posts have been treated on par with the posts of Civil Judges, Senior Division.

(c) Family Courts:-

As per the provision of Family Court Act 1984, the family court has been established at Pune, Mumbai, Aurangabad, Nagpur, Akola, Amravati, Thane, Nashik, Solapur, Kolhapur and Nanded respectively on the date 27.1.1989, 7.10.1989, 20.2.1993, 22.2.1996, 29.11.2009, 21.12.2009, 22.4.2010, 23.10.2010, 8.9.2012, 2nd March, 2013, 28th March, 2013 In these courts, no. of sanctioned post of judges are respectively 5,7,4,2,1 1 1, 1, 1, 1, & overall totaling to 25. The main function of Family Court is to promote conciliation & to secure speedy settlement of dispute relating to marriage& family affairs which are covered under Chapter III Sec 7 of the Act. The Jurisdiction of Family Court, Pune covers Pune city, Pune Municipal Corporation, Cantonment Board area & Khadaki. Right from beginning, the family court, Pune is situated in 7th & 9th floor of Bharati Vidyapith on rental basis. The Jurisdiction of Family Court, Mumbai covers Greater Mumbai Municipal Corporation area. The Jurisdiction of Family Court, Aurangabad covers entire Aurangabad district. The Jurisdiction of Family Court, Nagpur covers Nagpur Municipal Corporation area, Kamathi & Cantonment Board area. The Jurisdiction of Family Court, Akola, Amravati, Thane, Nashik, Solapur, Kolhapur & Nanded covers Municipal Corporation area of each district.

(d) Fast Track Courts :-

As per recommendation of 11th Finance Commission, Hon. High Court has prepared an action plan for the State of Maharashtra to expeditiously dispose of pending trial cases. This action plan has been implemented from 3.4.2001. The Central Government has issued direction to state of Maharashtra to establish 187 Fast Track Court. Accordingly 187 Fast Track Court has been established in the state. Central Government has issued extension to these courts up to 31.3.2011. It was decided that there will be no central funding for Fast Track Courts beyond 31.3.2011. Accordingly State Government has decided to continue 100 Fast Track Courts for next 5 years from 1.4.2011 from State Government Fund, vide G.R. dated 23.3.2011. At present there are 70 Fast Track Courts are functioning & these courts disposed of 287837 (Civil & Criminal) cases from 1.4.2011 to 31.01.2015.

6. SMALL CAUSES COURTS

(1) **Court of Small Causes, Mumbai.**—The Court of Small Causes, Mumbai is established under the provisions of 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 Code of Civil Procedure, 1908, as it is applicable to this Court, and by the rules framed by the 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 1st January, 2015 is 41, which includes Chief Judge, 10 Additional Chief Judges and 30 Judges.

(3) The “**Head of the Administration**” 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. Beside, 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 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 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 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 the Small Causes, Mumbai is the First Appellant Authority, as for the provisions of The Maharashtra District Court Right to Information (Rivised 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 increased to Rs. 25,000 by the Government of Maharashtra, *vide* Maharashtra Act, No, XV of 1987. However, 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. Under Section 38 of the said Act, 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 Revisions under Section 42 under 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 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 Bombay Rents, Hotel and Lodgings House Rates Control Act, 1947. The Small Court of 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 matter under The Maharashtra Rent Contral Act, 1999 which came into force with effect from 31st March 2000.

(6) (a) Appeals and proceedings under Sections 217, 218-A, 218-B, 218-C and 394(5) of Mumbai Municipal Corporation Act, 1888 are heard by the Chief Judge or any of the Additional Chief Judge. Also the applications under Sections 503, 504 and 507 are heard by the Chief Judge or any of the Additional Chief Judge. Similarly the Election Petitions under Section 33 of the said Act are heard and disposed by the Chief Judge or any of the Additional Chief Judge,

The Government *vide* its Information Law and Judiciary Deptmt, No. SSC-2964/2175-H, dated 3rd January 1968 has empowered the Additional Chief

Judge to exercise the powers and performed the duties of the Chief Judge.

(6) (b) The Chief Judge is empowered to hear and dispose of applications, 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.

(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 try the Applications under Displaced Persons Act.

9) Head Office and Branch Office :

(A) **HEAD OFFICE :** Head Office of this Court is situated 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 Suburbs Railway Side and upto Mankhurd on Harbour Railway Side and upto Mahim and Western suburbs Railway Side.

There are 32 Courts Halls, which includes 5 Appellate Benches, 26 Trial Courts and 1 Registrar's

Court. Appellate Bench Court Room No.2 is a Special Court for Matters of Bonafied Requirements.

Court Room Nos. 10 and 16 are designated of Special Courts for Matters of Bonafied Requirements. Court Room Nos. 11 and 12 are Special Courts for fixation of Standard Rent and these Courts are designated "Standard Rent Court". Court Room No. 18 and 30 are Special Courts for matter filed under the provisions of Mombay Municipal Corporation Act, 1888 and the said Courts are designated as "B.M.C. Courts". Court Room Nos. 19 and 23 and are designated as "Special Court" for matter filed under Section 41 of P.S.C.C., Act, where there is no protection under Rent Acts i.e. T.E. and 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. Out of the Trial Courts Court Room Nos. 24, 25, 27 and 28 are vacant.

(B) **BRANCH OFFICE :** The Branch office of this Court is situated in Bhaskar Building, Anant Kanekar Marg, Bandra (East), Mumbai-400 051. In the Bhaskar Building, 3rd floor to 8th floor are in use occupation and possession of this Court. The said Branch has been started functioning with effect from 6th August, 1990. The Territorial Jurisdiction of Bandra Branch is from Mahim to Dahisar on the Western suburban Railway side.

There are 11 Courts at Bandra, out of which 2 Appellate Benches and remaining 9 Trial Courts and 1 Registrar's Court. Court room No. 31 and 39 are Appellate benches. Court room No. 39 is presently vacant. 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.

7. METROPOLITAN MAGISTRATE'S COURTS, MUMBAI

INTRODUCTION:

The Courts of Magistrates in Mumbai came in existence prior to establishment of Hon'ble High Court in the city of Mumbai. The Courts of Metropolitan Magistrate which were earlier known as the Courts of Presidency Magistrates, are in existence since last about 202 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 Courts and second was the Junior Court.

After amendment to the code of Criminal Procedure, 1898 w.e.f 1st day of April, 1974. The designation of the Presidency Magistrates was changed **Metropolitan Magistrate**.

The Chief Metropolitan Magistrate, Additional Chief Metropolitan Magistrate and Metropolitan Magistrate are required to deal with different types of Remand applications, Bail application, Notice and Miscellaneous applications and Criminal Cases. The sanctioned strength of Judicial Officers in the Metropolitan Magistrate Court, Mumbai is 75. i. e. 1 Chief Metropolitan Magistrate, 14 Additional Chief Metropolitan Magistrates and 60 Metropolitan Magistrates and they are working in following 16 centres of Greater Mumbai :-

- | | |
|--------------------|-------------------------|
| 1. Esplanade | 2. Mazgaon |
| 3. Girgaon | 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, Umarchadi |

Previously the posts of Metropolitan Magistrates were filled in by nomination through M.P.S.C. After implementation of Shetty Commission report as approved by the Hon'ble full House, the cadre of MM is equated with the cadre of C.J.S.D./C.J.M. and since then the post of MM is filled in form amongst the Judicial Officers of the Cadre of C.J.S.D. Besides the court of Metropolitan Magistrates, there are also Special Metropolitan Magistrates Courts functioning in the Morning session and are popularly known as "**Morning Courts**".

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, P.F. Act etc. which are tried in the courts of Metropolitan Magistrates in Mumbai. Beside these cases, and the cases under the Indian Penal Code are also filed. The Metropolitan Magistrates are also trying the cases under the Bombay Municipal Corporation Act, and the Indian Railway Act, There are 5 separate Courts for dealing the cases under Bombay Municipal Corporation

Act and the Indian Railways Act. There is one separate court dealing with the cases filed by C.B.I. Also, in the year 2007 three Special Courts have been established under the control of this office, out of these three courts, two courts were dealt with trial of cases in respect of riots in the year 1992-93 and now the both the courts are abolished. A Separate court at Mazgaon, Mumbai deals exclusively with cases under "Prevention of Immoral Traffic Act".

There is a separate section in this office under the control of Addl. Chief Metropolitan Magistrate, 3rd 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, Ministry of Information & Broadcasting, Government of India. The court 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, 22 Courts are exclusively dealing with the cases under 138 N.I. Act.

In order to expedite judicial procedure, funds to the tune of Rs. 297,57,00,000 have been allocated by the 13th 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; in all 10 Evening Courts & 20 Morning Courts have been 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 are tried in these Morning and Evening Courts. Presently 20 morning courts and 11 have been functioning on rotation basis as per Notification No. A-3905/2014 dt. 30/06/2014 and A3901/2014 dt. 30/06/2014 respectively issued by the Honourable High Court, Bombay. 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. As said above, rules have been framed by Law & Judiciary Department, Government of Maharashtra vide order No. MCJ-0810/856/CR-165/Desk-11 dt. 19/10/2010 in respect of Morning and Evening Courts.

Every year Special Drive is organized in all the Courts of Metropolitan Magistrate as per the directions of the Honourable High Court to reduce the pendency of cases. Maha Lok Adalat and Mega Lok Adalat are also held in all Courts as per the directions of Maharashtra State Legal Service Authority. This year for the first time National Lok Adalat was organized on 23-11-2013 as per the directions of National Legal Service Authority. and this year National Lok Adalat was organised on 13-12-2014.

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.

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.

10. LEGAL ADVISORS AND COUNSEL

(1) 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 30 Districts and Taluka Legal Services Committees in 264 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.

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.

13. REGISTRAR OF FIRMS, MUMBAI

INTRODUCTION :

Prior to 1932, Chapter XI (Sections 239 to 266) of the 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, 1932 (Act IX of 1932) is enacted. This Act is based mainly on the English Partnership Act, 1890, which co-dified the common law relating to partnership.

Since the inception of the Partnership Act, 1932 till 1858 it was administered by Central Government. At that time Registrar of Firms and Registrar of Companies was one and the same Officer as both these Acts were administered by the Registrar of Companies.

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 Companies were bifurcated. Companies Act was retained by Government of India and Partnership Act, 1932 was handed over for Administration to State by the Government of India.

On the suggestion of Registrar of Firms Mumbai, 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 1st January 1985. Maharashtra is the first State in India to bring such amendment to Indian Partnership Act.

The Registrar of Firms, is Head of Department, having State-wise jurisdiction. At present there are four Regional Officer of Assistant Registrar of Firms, at Mumbai, Pune, Nagpur and Aurangabad. The Administrative and budgetary control of these Regional Offices lies with the Head Office of Registrar of Firms, Maharashtra State, Mumbai.

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 replica of Section 26 of the Companies Act. These Corporations are mainly Non-Trading in nature established for promoting and encouraging commerce, industry, etc.

The registrar of Firms, (Maharashtra state) Mumbai receives on an average 50 to 60 cases for registration and 40 to 50 cases for change in constitution per day. People who come to this office for inspection are informed about existence of Firms and record is also made available to them. Every day 15 to 20 parties come to office for inspection and 10 to 15 certified copies are issued. The registrar has power to levy penalty of Rs. 10 per day as per Section 69(A), if the firm has not informed the change in constitution to this office within 90 days from the date of change, under section 60,61,62 & 63 of Indian partnership Act. Before levying penalty, Registrar has to give notice to the Firms for personal Hearing. the reminders are sent to the Firms, who remain absent for personal hearing. After hearing is over penalty letters are sent to the concerned firms. Every day 10 to 15 partnership firms, are called for personal hearing in this office.

Partnership firms are required to submit prescribed forms for registering the firms 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 with prescribed fees. After taking into consideration the total expenditure on the office and their by to make efforts to increase the revenue, the state government has power under Indian partnership Act 1932 to make amendment for the rate of fees to be paid to Registrar of Firms. As per notification of Law and Judiciary Dept., dated 27/10/2009, which was published in extra-ordinary Part-4 A of Maharashtra Govt. Gazette dated 29/10/2009, the government has increased in rates of fees for different types of notices under Indian Partnership Act.

14. MAHARASHTRA STATE LAW COMMISSION

The State Government had constituted Maharashtra State Law Commission vide Government Resolution dated 30.9.1996, in order to satisfy the changing needs of the society, constructing new laws and to suggest amendments in the prevailing laws, after considering the changing situations, in order to improve it's status. Thereafter, the Government has given extension to the Law Commission from time to time. On expiry of the extended period granted to the Law Commission i. e. upto 30th September, 2008, under the Government Resolution dated 5.10.2007, this department had submitted a proposal of reconstitution of the Law Commission for the approval of the Government. In this regard Hon'ble Ex Chief Minister had granted extension to the Maharashtra State Law Commission till its reconstitution. The proposal of reconstitution of the Law Commission was under consideration of the Government. In pursuant to the said proposal, State Government decided to terminate the present Law Commission and to constitute new Law Commission through transparent process.

In pursuant to the said decision 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, constitution of the new Law Commission is under process.
