

CHAPTER 21

ORGANISATION OF THE JUDICIARY IN GENERAL

IT has already been pointed out, that notwithstanding the adoption of a federal system, the Constitution of India has not provided for a double system of Courts as in the *United States*. Under *our* Constitution there is a single integrated system of Courts for the Union as well as the States which administer both Union and State laws, and at the head of the entire system stands the Supreme Court of India. Below the Supreme Court stand the High Courts of the different States¹ and under each High Court there is a hierarchy of other Courts which are referred to in the Constitution as 'subordinate courts' *i.e.*, courts subordinate to and under the control of the High Court [Arts. 233-237].

No Federal Distribution of Judicial Powers.

The organisation of the subordinate judiciary varies slightly from State to State, but the essential features may be explained with reference to Table XVI, *post*, which has been drawn with reference to the system obtaining in the majority of the States.

The Supreme Court has issued a direction² to the Union and the States to constitute an All India Judicial Service and to bring about uniformity in designation of officers both in criminal and civil side. Concrete steps in this directions are yet to be taken by the Government.

At the lowest stage, the two branches of justice,—civil and criminal,—are bifurcated. The Union Courts and the Bench Courts, constituted under the Village Self-Government Acts, which constituted the lowest civil and criminal Courts respectively, have been substituted by Panchayat Courts set up under post-Constitution State legislation. The Panchayat Courts also function on two sides, civil and criminal, under various regional names, such as the *Nyaya Panchayat*, *Panchayat Adalat*, *Gram Kutchery*, and the like. In some States, the Panchayat Courts, are the Criminal Courts of the lowest jurisdiction,³ in respect of petty cases.

The hierarchy of Courts.

The Munsiff's Courts are the next higher Civil Courts, having jurisdiction as determined by High Courts. Above the Munsiffs are Subordinate Judges who have got unlimited pecuniary jurisdiction over civil suits and hear first appeals from the judgments of Munsiffs. The District Judge hears first appeals from the decisions of Subordinate Judges and also from the Munsiffs (unless they are transferred to a Subordinate Judge) and himself possesses unlimited original

jurisdiction, both civil and criminal. Suits of a small value are tried by the Provincial Small Causes Courts.

The District Judge is the highest judicial authority (civil and criminal) in the district. He hears appeals from the decisions of the superior Magistrates and also tries the more serious criminal cases, known as the Sessions cases. A Subordinate Judge is sometimes vested also with the powers of an Assistant Sessions Judge, in which case he combines in his hands both civil and criminal powers like a District Judge.³

Since the enactment of the Criminal Procedure Code, 1973, the trial of criminal cases is done exclusively by 'Judicial Magistrates', except in Jammu & Kashmir and Nagaland, to which that Code does not apply. The Chief Judicial Magistrate is the head of the Criminal Courts within the district. In Calcutta and other 'metropolitan areas', there are Metropolitan Magistrates.³ The Judicial and Metropolitan Magistrates, discharging judicial functions, under the administrative control of the State High Court, are to be distinguished from Executive Magistrates who discharge the executive function of maintaining law and order, under the control of the State Government.

There are special arrangements for civil judicial administration in the 'Presidency towns', which are now called 'metropolitan areas'. The Original Side of the High Court at Calcutta tries the bigger *civil* suits arising within the area of the Presidency town. Suits of lower value within the City are tried by the City Civil Court and the Presidency Small Causes Court. But the Original *Criminal* jurisdiction of all High Courts, including Calcutta, has been taken away by the Criminal Procedure Code, 1973.³

The High Court is the supreme judicial tribunal of the State,—having both Original and Appellate jurisdiction. It exercises appellate jurisdiction over the District and Sessions Judge, the Presidency Magistrates and the Original Side of the High Court itself (where the Original Side still continues). There is a High Court for each of the States, except Manipur, Meghalaya, Tripura and Nagaland which have the High Court of Assam (at Gauhati) as their common High Court; and Haryana, which has a common High Court (at Chandigarh) with Punjab. The Bombay High Court is common to Maharashtra and Goa.

As regards the Judiciary in Union Territories, see under 'Union Territories'.

The Supreme Court has appellate jurisdiction over the High Courts and is the highest tribunal of the land. The Supreme Court also possesses original and advisory jurisdictions which will be fully explained hereafter (in Chap. 22).

REFERENCES

1. For a list of High Courts, their seat and territorial jurisdiction, see Table XVII.
2. *All India Judges Assn. v. Union of India*, AIR 1992 S.C. 165.
3. See Author's *Criminal Procedure Code, 1973* (Prentice-Hall of India, 2nd Ed., 1992), pp. 33 *et seq.*