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JUDICIAL INDEPENDENCE AND ACCOUNTABILITY: A CRITICAL ANALYSIS

Kamaljeet Singh
Research Scholar, Rajiv Gandhi National Law University, Patiala

"……..If anybody suggested the period of three years or some other period, my first reaction would have been that the period is too long. Why should we wait so long for this. It might be brought about much sooner that that." (Jawaharlal Nehru – Debate in the Constituent Assembly: 25th November, 1948)

(I). INTRODUCTION

Independence of the judiciary is the cornerstone of our Constitution. Maintenance of Separation of Powers has been held to be a part of the inviolable "basic structure" of our Constitution.[1]Independence means non-dependence, in appointment control, supervision, security of tenure, salary and pension, removal, suspension and dismissal and liberty to discharge the duties in free, fearless and accordance with allegiance to the Constitution, institution and conscience. It does not include liberty to surrender office of judge for personal gains.In Democratic country like India, the system is managed by the representatives elected by the people. To ensure these representatives work effectively and to control misuse of powers by them, the government has three separate organs. The three main organs of the Government are Executive, Legislative and Judiciary. The Executive executes the law, the legislative makes the law and the Judiciary interprets the law. The main task of the Judiciary is to deliver justice. Administration of justice is the primary function of the Judiciary. However the judiciary has other functions also which are non-judicial in nature. Judges have the responsibility to make decisions regarding fundamental rights of the people, their freedoms etc. The Judiciary has the responsibility to uphold the Constitution and assure that the rule of law envisaged in our Constitution will always prevail.Thus the concept of independence of judiciary was implemented in the Constitution so that it can discharge its duty effectively.

Before independence, judges were appointed by the Crown, yet they had independence from it. After independence, this principle was taken seriously and it became a part of the Basic Structure of the Constitution, which cannot be amended. The independence is guaranteed by the Constitution which holds that the judges of the Supreme Court and the High Court hold office till he attains 65[2]and 62[3]years of age. The parliament is authorized to prescribe the privileges, allowance, leave and pension of the judges of the Supreme Court.[4]The Constitution prescribes for high qualifications for the judges.[5]The concept of Independence of judiciary needs a panoramic view. The concept of judicial independence continues to hold a remarkable place in all the modern democracies. An independent judiciary is guaranteed by the Indian constitution and is an inevitable element for a free society and constitutional democracy. It also aims at the stability of the society. The independence of the judiciary does not mean just the creation of an autonomous institution free from the control and influence of the executive and the legislature. The underlying purpose of

*Kamaljeet Singh, Assistant Professor of Law at School of Law, Galgotias University, Mohali. The author can be reached at advkamaljeetsingh@gmail.com.

[1] *Keshavananda Bharati v. State of Karnataka*, AIR 1973 SC 1461

[2] Art 124(2) of the Indian Constitution

[3]Art 217(1) of the Indian Constitution

[4]Art. 125 of the Indian Constitution

[5]Art. 124(3)of the Indian Constitution

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the independence of the judiciary is that judges must be able to decide a dispute before them according to law, uninfluenced by any other factor. For that reason the independence of the judiciary is the independence of each and every judge. Today, an entirely judiciary-driven process of selection of persons for appointment to higher judiciary is in place in which the Executive has neither any say nor any veto power. The principle of independence of the judiciary has also been laid down in various human rights instruments, including the Universal Declaration of Human Rights.[1]

The Independence of the Judiciary helps to ensure the proper functioning of the organs of the Government and keep proper checks on them. It also helps the courts to interpret the provisions of the Constitution. The framers of the Indian Constitution ensured that there should not be misuse of powers in the future. Hence if the judiciary is not independent, the other organs may pressurize the judiciary to interpret the provisions of the Constitution according to them. Judiciary is given the power to interpret the judiciary according to the constitutional philosophy and constitutional norms. Judiciary is competent to interpret the Constitution. Lastly to deliver the effective justice courts must act in an unbiased manner. It should consider all the evidences, facts of the situation. Independence of Judiciary ensures that the Judge decides the matters applying the provisions of the Act and deliver justice accordingly without any fear.

(II) JUDICIAL INDEPENDENCE AND DR. B.R. AMBEDKAR'S LEGACY

The concept of Judicial Independence was always of paramount concern before the drafting committee. As at that time the house was point of view that our judiciary must be both independent of the executive and must also be competent of itself. For the first time the debate on separation of judiciary and executive took place on November 25, 1948.[2]As at that time Article 39 A (Presently Article 50) was introduced as a draft article which requires *the separation of judiciary from the executive to be completed within three years*[3] but on the very next day Dr. Ambedkar moved with another amendment which erased the idea of limitation of three years. The major reason was that the separation need not wait for even three years. Though this initiative was criticized by Dr. H.N. Kunzru that the government is not keen for separation and was interested in the executive having judicial powers so that they can make the appointment of judicial officers of their choice.

At that time the motion was supported by the Prime Minister Sri Jawaharlal Nehru who intervened to remove such suspicions and make it clear that the three year limit was removed because *it was intended that the separation was must be completed even before three years*.[4] In his speech addressed to the house, he said that the sooner it is brought about the better, if anyone suggested the period of three years or some other period, my first reaction would have been that the period is too long. Why should we wait for so long for this, it should be brought sooner. Hence Article 39 A was changed with the wording where the period of limitation was removed and not it was stating that "the State shall take steps to separate the judiciary from the executive from the executive in the public service of the State."

From the very beginning the Dr. B.R. Ambedkar was not in favour to lead appointments by the President without any kind of reservation or limitation that is to say merely on the advice of executive of the day. There were the chances of the appointment being influenced by the political pressure and political

[1] Art 10 of Universal Declaration of Human Rights states that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in determination of his rights and obligations and of any criminal charge against him. Whereas Art 14 of the International Convention on Civil and Political Rights 1966, states that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

[2] CAD Vol VIII A pg 582-593. Also available at http://parliamentofindia.nic.in/ls/debates/vol7p12.htm lastly visited 30.12.2017

[3] Article 39 A of the draft constitution read as under: That State shall take steps to save that, within a period of three years from the commencement of the Constitution, there is separation of the judiciary from the executive in the public services of the State.

[4] CAD Vol VIII A pg 589

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considerations.[1] He said that the relationship between the Executive and the Judiciary is separate and distinct. There is hardly any chance of influencing the judgment of the judiciary.[2]According to him judiciary is not concerned with the Executive, it is concerned with the adjudication of the rights of the people and to some extent the rights of the Government of India and its units.

The three major proposals were kept before Dr. B.R. Ambedkar with regard to appointment of judges. Firstly the judges of the Supreme Court must be appointed with the concurrence of the Chief Justice, Secondly the appointment of the Judges should be made by the President which should be subject to the confirmation of the two third votes of the Parliament and thirdly they should be appointed with the consultation of the Council of States. Coming to the first issue Dr. Ambedkar was point of view that there should be consultation of persons who are ex hypothesi well qualified to give proper advice in the matter of his short and the Chief Justice is a very eminent person for this. In light of the above proposals two models of appointment process was discussed in the house. Firstly the reference of Great Britain was kept before the chairman where it was stated that in Britain the appointments are made by the crown without any limitation which means the Executive of the day whereas the opposite system prevails in the United States where as the office of the Supreme Court shall be made only with the concurrence with the Senate in the United State.

Lots of discussion took place before drafting committee while enacting the provisions of Supreme Court and High Court. An amendment no 1845 was moved by Mr. Kamnath which proposed the issue that "even the jurist may be appointed as the judge of the Supreme Court"[3] He raised the appropriate amendment by changing the word "distinguished" with the word "eminent" which was more suitable and relevant towards the provision. On this Dr. B. R. Ambedkar wonderfully passed the motion in the hands of the Drafting Committee to decide that weather the above words should be changed accordingly or not.[4] Latter the drafting committee was convinced with the amendment and decided to pass the amendment with flying colours.

Another part of discussion which took before house was regarding Art 108 A of the draft Constitution which deals with the sitting of the Supreme Court which shall sit at Delhi. The question was raised by Mr. Kamath that why the word "Delhi" should occur on which Dr. B.R. Ambedkar replied that the Supreme Court must have a defined place where it shall sit and the litigants must know where to go and whom to approach. The question was also raised that what if the capital of India was changed, then we would have to amend the constitution in order to allow the Supreme Court to sit at such other place which the parliament may decide as the capital. The other question was raised by Shri Jaspat Roy Kapoor, will it be open to the Supreme Court so long as it is sitting in Delhi to have a circuit court anywhere else in this country simultaneously? To this Dr. Ambedkar replied yes, certainly. A circuit court is only a bench

(III) CONSTITUTIONAL PROVISIONS CONFIRMING INDEPENDENCE OF THE JUDICIARY

- ***Jurisdiction and powers of the Supreme Court – (Article 32 and 226)*** - Powers of the Supreme Court cannot be taken away. The Supreme can issue orders or writs in particular cases as mentioned in Article 32 of the Constitution and the High Court under Article 226.Any citizen who finds his fundamental rights are infringed can go to the Supreme Court under Article 32. This makes the judiciary independence.
- ***Salaries and allowances(Article 125(2)*** - The salaries and allowances of the Judges are fixed and not subject to alter in any situation. Moreover the judges of the Supreme Court are charged from the Consolidated Fund of India and the judges of the High Court are charged from the Consolidated Fund of

[1]Dr. Babasahed Ambedkar, Writings and Speeches. Vol 2. Pg 183; also available at http://www.mea.gov.in/Images/attach/amb/Volume_13.pdf Lastly visited on 26.12.2017

[2] Dr. Babasahed Ambedkar, Writings and Speeches. Vol 13. Pg 591 also available at http://www.mea.gov.in/Images/attach/amb/Volume_13.pdf Lastly visited on 26.12.2017

[3] CAD. Vol. VIII 24t May 1949. Pg 244.

[4]Dr. Babasahed Ambedkar, Writings and Speeches. Vol 13, pg 625 also available at http://www.mea.gov.in/Images/attach/amb/Volume_13.pdf Lastly visited on 26.12.2017

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the State. Under Article 125(2) it is mentioned that the salaries of the judges cannot be altered to their disadvantage except in case of emergency.

- ***Tenure- the Judges of the Courts have been given the security of the tenure (Article 124(2) and 217(1)).*** - The Judges remain in the office till their retirement. They cannot be removed from the office unless an order from the President of India under proven misbehavior and incapacity. Article 124(2) says that judges of the Supreme Court can remain in the office till the age of 65 years. Article 217(1)says that judges of the High Court can remain in the office till the age of 62 years. A judge can be removed from his office only through the process of impeachment.
- ***Restriction on discussion in the Legislature (Article 211)*** - No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties. It lays down that no discussion shall take place in Parliament with respect to the decisions made by the judge of Supreme Court or High Court in the discharge of his duties.
- ***Power to punish for contempt (Article 129 and 215)*** **-** In this provision it has been laid down that the Supreme Court is the court of record and has the powers to punish for contempt of itself.[1] Article 215 says that the High Court has the power to punish for the contempt of itself.
- ***Separation of Judiciary from Executive (Article 50)*** – Under Directive Principles of State Policy, Article 50 says that the State should take steps to separate the judiciary from the executive in the public services of the State.[2] This makes Judiciary Independence.

(IV) RELATIONSHIP BETWEEN JUDICIAL INDEPENDENCE AND ACCUONTABILITY:

In simple terms, accountability refers to taking responsibilities for your actions and decisions. It generally means being responsible to any external body. The word "accountable" as defined in the Oxford Dictionary means 'responsible for your own decisions or actions and expected to explain them when you are asked'. Accountability is the sine qua non of democracy. Transparency facilitates accountability.[3] No public institution or public functionary is exempt from accountability although the manner of enforcing accountability may vary depending upon the nature of the office and the functions discharged by the office holder. The judiciary, an essential wing of the State, is also accountable. Judicial accountability, however is not on the same plane as the accountability of the executive or the legislature or any other public institution. The administration of justice is the chief task of the judiciary, comprises the third organ of the governmental machinery and thus the welfare of citizens greatly depends upon speedy and impartial justice.

On this point, some may insist vehemently on accountability to principles or to oneself rather than to any authority with the power of punishment or correction.[4]In India, judiciary is a separate and independent system. Legislature and Executive are not allowed by the Constitution to interfere in the functioning of judiciary. The courts on the other hand check the acts of these two bodies. The functioning of judiciary is independent but it doesn't mean that it is not accountable to anyone[5]. In democracy the power lies with the people. The judiciary must concern with this fact during their functioning. Judicial accountability is in fact a corollary of the independence of the judiciary. Simply put, accountability refers to taking responsibilities for your actions and decisions. It generally means being responsible to any external body; some may insist accountability to principles or to oneself rather than to any authority with the power of punishment or correction. Since accountability is a facet of independence the Constitution has provided in Article 235, for

[1] Article 129 of Indian Constitution

[2] Article 50 of Indian Constitution

[3]*S.P. Gupta v Union of India*, AIR 1982 SC 149

[4]Retrieved from David Pimentel, 'Reframing the Independence vs. Accountability Debate', p.15, inhttp://www.clevelandstatelawreview.org/57/issue1/Pimentel.pdf, lastly accessed on 22.5.2017.

[5] Gareth Griffith, (1998) 'Judicial Accountability', NSW Parliamentary Library Research Service http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/0/61b8a818dbcd9defca256ecf000ac6f8/$FILE/bp01-98.pdf

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the 'control' of the High Court over the Subordinate Judiciary clearly indicating the provision of an effective mechanism to enforce accountability. Thus entrustment of power over subordinate judiciary to the High Court preserves independence as it is neither accountable to the executive or the legislature.[1]

The major merit of judicial accountability is that it promotes the rule of law by deterring conduct that might compromise judicial independence, integrity and impartiality.Further it promotes public confidence in judges and judiciary and lastly it promotes institutional responsibility by rendering the judiciary responsive to the needs of the public it serves as a separate branch of the government.[2] In order to ensure accountability in the Judiciary and to give effect to Articles 124 and 217 of the Constitution, the Judicial Enquiry Act, 1968 was enacted, which lays down the procedure for investigation into allegations of misbehavior and incapacity of a Judge of the Supreme Court or the High Courts. Unfortunately, as is the case with most of the coveted tenets set out in the Constitution of India, there is a wide chasm between Independence of the Judiciary envisioned in the Articles of the Constitution and the actual working thereof.

Within the framework of parliamentary democracy and federalism, judiciary plays an important role in the governance of the country. The constitution of India provides many privileges to maintain the independence of judiciary. If the Preamble to our Constitution be regarded as the reflection of the aspirations and spirit of the people, then one thing that even a layman will note is that among the various goals that the Constitution-makers intended to secure for the citizens, "JUSTICE- Social, Economic and Political" has been mentioned before the rest." No person, however high, is above the law. No institution is exempt from accountability, including the judiciary. Accountability of the judiciary in respect of its judicial functions and orders is vouchsafed by provisions for appeal, reversion and review of orders.

(V) THE MAJOR REASONS WHY THERE IS FAILURE OF ACCOUNTABILITY IN INDIAN JUDICIAL SYSTEM?

- ***There exists a strong sentiment in India against Judicial Accountability:*** Such sentiment is can be seen almost in all the common law countries. In India, people trust judges more than their representatives. The other reason why Indians believes in Judge than Politician is that because Judge is not political and is deemed to be having values of integrity, fairness and Justice. Law for the common man is nothing but Justice and Fairness and according to the common man judges being educated are well versed in laws. Thus, for the layman they are dummy god, always addressed as Lord. With such a high esteem given to the judges, inherent in Indian culture, there exists a strong sentiment against Judicial accountability.
- ***Judiciary has itself created a protective wall around itself which seems impregnable:*** In this regards appointment in the Judiciary has taken control from hand of Executive to itself.[3] Similarly, in case of transfer of judges where, according to judiciary, appointment carries with it power of transfer. The judiciary has taken such power in its hand by scheme of "Collegium of Judges"[4] from the hands of Executive. Except the guidelines of Supreme Court in various cases (i.e. response from judicial wing) there has been no coherent policy evolved with by legislative wing of the state. Thus, it remains as an *ad hoc* exercise. In this regard reference may be made to *Vishwanath Prasad v. Union of India*[5]where the policy of transfer of judges was challenged through PIL Court held that it cannot be challenged on the basis of Arbitrariness.
- ***The extent of every act or omission of Executive and Legislature is determined by judges by means of "Judicial Review", which is basic feature of the Constitution:*** It is now well established that no act of

[1] J.S. Verma, 'Mechanism for judicial Accountability', p.1.

[2] Mona Shukla, 'Judicial Accountability: an aspect of judicial independence'' in Judicial Accountability, Regal Publications, New Delhi, 2010, p.4.

[3].*Supreme Advocates on Records v. Union of India,* (1993) 4 SCC 441

[4].Opinion values and composition of Collegium of Judges.

[5].AIR 2002 Raj.412

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Parliament is beyond the Power of Judicial Review. Even the Subjective satisfaction of President in various cases[1] is not final and power of Judicial review can be exercised in that regard. As regards matters of Policy the reference can be made to following cases. I*n Madhav Rao Scindiya v. Union of India*[2], On September 6, 1970, the President of India passed a laconic order in respect of each of the Rulers of former Indian States. The order read as, "In exercise of the power vested in him under Article 366 (22) of the Constitution, the President hereby directs that with effect from the date of this Order His Highness MaharajdhirajaMadhav Rao Jiwaji Rao Scindia Bahadur do cease to be recognised as the Ruler of Gwalior." Writ petitions under Article 32 of the Constitution were filed by some of the Rulers. They asked for a writ, direction or order, declaring the Presidential Order to be unconstitutional, *mala fide*, ultra vires and void. The Supreme Court held the presidential order as illegal and inoperative. Interpreting the doctrine of political question doctrine court held, *"Constitutional mechanism in a democratic policy does not contemplate existence of any function which may qua the citizens be designated as political and orders made in exercise whereof are not liable to be tested for their validity before the lawfully constituted courts.*"

- ***Existing Impeachment Procedure is Inadequate and Fragile:***The first case which went up to the Supreme Court in connection with an inquiry under that Act was the case of Justice V. Ramaswami, former Judge of the Supreme Court. In that case, there was a Motion in the House of the People (Lok Sabha) on 28th February, 1991 and the Speaker of the House appointed Justice P.B. Sawant Committee on 12th March, 1991 after admitting the Motion. The Committee gave its Report on 20th July, 1992, holding some charges proved. Before the Committee started functioning, the 9th Lok Sabha was dissolved and it was contended that the Motion in the House lapsed. This plea was rejected by the Supreme Court in *Sub- Committee of Judicial Accountability v. Union of India*,[3] After the Committee prepared the Report, a plea was raised that the Judge was entitled to a copy of the Report before it was submitted to the House. This was rejected by the Supreme Court in *Mrs. SarojiniRamaswami v. Union of India*.[4] It was held that the Judge can question the Report only in case an order of removal was passed by the President. Thereafter, there were two other judgments of the Supreme Court in connection with the same learned Judge as reported in *Krishna Swami v. Union of India*[5] and *Ms. Lily Thomas v. Speaker, Lok Sabha*.[6] However, when the Report of the Justice Sawant Committee came up finally for discussion and voting in the House of the People (Lok Sabha), the Motion for removal did not secure the requisite majority and, therefore, it failed. These sequences of events show the inadequacy of impeachment procedure to be initiated on a motion.
- ***Ineffectivity of in-house Procedure****:* This procedure revolves around the Chief Justice only.[7] If any person can file a 'complaint', the Chief Justice of India, who is the administrative head of the entire Judiciary, becomes vulnerable to unscrupulous complaints. This will not augur well for the Judiciary which enjoys a high degree of confidence among the people. The Supreme Court, in *Supreme Court Advocates–onRecord Assn. v. Union of India*,[8] observed that the Chief Justice of India has been given a 'centre stage' position under the Constitution. In the case of *Veeraswami v. Union of India*,[9] the

[1]*Minerva Mills v. Union of India,* AIR 1980 SC 1789; *Waman Rao v. Union of India,* AIR 1981 SC 271; *L.Chandra Kumar v. Union of India,* AIR 1997 SC 1125.

[2]. (1971) 1 SCC 85

[3]1991 (4) SCC 689.

[4].1992 (4) SCC 506

[5].1992 (4) SCC 605

[6].1993 (4) SCC 434

[7]. Judges (Enquiry) bill, 2005

[8]. 1993 (4) SCC 441.

[9]. 1991 (3) SCC 655.

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Supreme Court referred to the primacy and importance of the office of the Chief Justice of India.[1] In *Sub-Committee on Judicial Accountability v. Union of India*[2] the primacy accorded to the Chief Justice of India was again reiterated. In C.K. *RavichandranIyer v. Justice A.M. Bhattarcharjee*,[3] the Supreme Court referred to the Chief Justice of India as the 'head of the Judiciary in the country. The Chief Justice of India is the first among the Judges"[4] and Code of Conduct as developed by Judges themselves is voluntary in nature.[5]

- ***Prevention of Corruption Act does not apply to Judges****:* Reference may be made to *K. Veeraswami v. Union of India*[6], It was held that no action can be taken against any judge unless prior consent of the Chief Justice of India is taken. This shows the existence of *peer fidelity* i.e. try to protect peer group. E.g. Politician try protect politicians this is inherent in human nature.[7]
- ***Contempt of Court Act:***The Court never allowed it to be very effective instrument of judicial criticism. While the purpose of the Act[8] is to allow "healthy criticism." The healthy criticism no doubt helps in growth of any Institution be it Parliament as criticizedby Judiciary or be it Judiciary itself criticized by Media or any other person. No institution can be accurate and to err is in human nature.[9]
- ***Right to Information Act 2005 vs Judiciary:***Judiciarynot allowing Right to Information to have its full play in so far as judiciary is concerned. The Bar Council of Supreme Court of India has argued that Judiciary should not be taken out from the purview of Right to Information Act, 2005. Such view must be supported because people in process like SC lawyers know the existing lacunas better.
- ***Unlce Judges Syndrome***: The Law Commission of India in its 230th report has already mentioned the matter of appointment of Uncle Judges in the High Courts, wherein it is said that the judges whose kith and kin are practicing in a High Court should not be appointed in the same High Court.[10] Apart from this it is believed that the judges should keep themselves detached and have less local connections so that their contacts may not be such as to embarrass them in the discharge of their duties or they be considered impartial by reason of their contracts or considerations.[11] In 2003, the Bar Council of India demanded that all judges whose close relatives practiced in the same courts be transferred. In a report the Bar Council of India had then forwarded to the Union ministry a list of 131 "Uncle Judges" out of total 449 in 21 high courts and 180 advocates with their names and nature of relationships. At least sixteen of the forty seven judges in the Punjab and Haryana high court have kith and kin practicing law at the same place. Either these relatives have private practice or the Punjab and Haryana governments have accommodated them in respective advocate general offices[12].The Indian Courts have taken

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[1]. 195th Report, Law Commission of India, *The Judges (Enquiry) Bill, 2005*, p.385.

[2]. 1991 (3) SCC 655.

[3] 1995 (5) SCC 457.

[4]. For a recent reiteration of this view see *Union of India v. Kali DassBatish* (2006) 1 SCALE 190 @ 196, para 14

[5]. Code of Conduct for Judges, 1999.

[6]. (1991) 3 SCC 655.

[7]. *See,* KENNING, THE PSYCHOLOGY MANUAL, Vol. II, p.334 (Oxford University Press, 2000)

[8]. Contempt of Court Act, 1971.

[9]*R. v. Metropolitan Police Commr., ex p Blackburn (No.2)* (1968) 2 All ER 319.

[10] Reforms in the Judiciary, 230th Law Commission of India Report (2009), Para 1.3, Pg. 9

[11] Reforns of the Judicial Administration, 14th Law Commission of India Report (1958) Para 71 Pg. 103

[12] http://www.hindustantimes.com/punjab/every-third-hc-judge-is-uncle/story-emvLdM8SlnlknyCQ4A7uLM.html Lastly visited on 21.5.2017

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tremendous steps in the controlling the Uncle Judges practices. In the case of *Bacchu Singh v State of Delhi*[1] the Delhi High Court recently stopped the practices between kith and kin of high court judge and also pulled the Delhi Legal Services Authority to stop giving the matters to the wards of judges. In this case the Delhi Legal Services Authority has transferred number of matters in the account of advocate whose father was a judge in the same High Court. It is the duty of the Legal Services Authority to scout for talent and offer the best to the accused, under trials and convict. It must desist from concentrating in the few hands. Wherein in *Dalip Singh Gill v Union of India and others*[2] also the Punjab and Haryana High Court explained the importance and need of faith in Indian judicial system. In this case also the writ petition was filed under Article 226 of the Constitution where the petitioner challenged the work of judges whose kith and kins are practicing in the High Court or working in the Advocates General office.

(VI) CONCLUSION

In a democratic country like India, the judiciary plays a vital role. The judicial system has a duty to deliver justice. History has taught us that Judges are considered as "God". Their decisions are final and cannot be questioned. A Judges has a moral as well as legal duty. Sometimes in some circumstances, a judge has to decide a case with the help of moral principles or ethics. Judges have the duty to interpret the laws and Acts correctly and use it wisely.Independence of the Judiciary ensures the rule of law. The Judges have the duty to deliver justice. Any interference with their work can disturb the justice delivery system. Independence of the judiciary is a basic feature of Indian Constitution. Independence of judiciary is always read with judicial accountability. Judicial immunity also helps the judiciary to discharge its duty quickly and effectively.

Although judicial non- accountability has been questioned now a days. However the concept of judicial review will be void if the judiciary will be made accountable for its acts. The separation of powers is also linked with the independence of the judiciary.The judiciary's management of resources and internal administration should be subject to review and audit; this is the aspect of financial accountability. Thus, lawyers, judges, court clerks etc should also be equally subjected to the established code of conduct and also simultaneously subject to prosecution and be made liable for punishment and damages as ordinary people for their wrongful conduct, this will cover the aspect of legal accountability.[3]

[1] 2005 Indlaw Del 1429

[2] AIR 1993 P&H 263

[3] Hammergren, Linn, "Judicial Independence and Judicial Accountability: The Shifting Balance in Reform Goals," in USAID *Guidance,* note 10, *supra,* pages 149-157; Chapter 3, "Accountability and Competence of Judges," in Transparency International, *Global Corruption Report 2007,* note 6, *supra*, pages 40-66.