

---

**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

---

**ACCLIMATIZATION OF THE JUDICIARY AND  
HARMONIZATION OF THE CONSTITUTIONAL VALUES BY  
HON'BLE MADURAI BENCH OF MADRAS HIGH COURT DURING  
PANDEMIC**

- K.Pushpavanam & M.Mehala<sup>1</sup>

**Introduction**

“The true source of right is duty. If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed we run after rights, they will escape us like will-o'-the-wisp, the more we pursue them, the farther they fly” are the words of our ‘Father of Nation’. As stated by Gandhiji, a citizen must dispense his duty to the fullest so that he/she shall not need to run after rights. In this context, especially during the time of pandemic, where the Union government had invoked ‘The Disaster Management Act, 2005’ and ‘The Epidemic Disease Act, 1897’ to tackle the Covid-19 which eventually vested supplemental power with the ‘Executive’ and left very little space for the ‘Legislative- elected representatives’ who cannot exert any commendable pressure on Executives, if the citizens of this democracy were deprived of their Constitutional Rights, the only ray of hope is ‘Judiciary’ which is discharging its duty to the fullest, so that the rights of the citizens will not be far to seek. This essay highlights how the ‘Hon’ble Madurai Bench of Madras High Court’ played a role in harmonizing the gap between the citizens and their rights during this pandemic, and explains how it acted as a crusader of constitutional rights for the people from 13 Southern districts of State of Tamil Nadu in this challenging time. At a time when social distancing is being emphasized as the only way to slow down the spread of COVID-19, the spectre of crowded court premises continues to haunt litigants, lawyers and Judges alike, the Madurai Bench of Madras High Court adopted to the mode of e-court like several High Courts and Hon’ble Supreme Court of India, even though some of the Hon’ble Judges contracted Covid-19 and few staffs were succumbed to Covid-19, and ensuring that the citizens are not deprived of

---

<sup>1</sup> Assistant Professor of Law at The Central Law College, Salem Respectively.

For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>

their rights at the same time ensuring that the measures to steepen the Covid-19 curve is taken effectively.

### **Arrival of New Normal.**

While the nationwide lockdown was imposed as a combative strategy regulated by guidelines under the 'Disaster Management Act, 2005 (DMA)' and Covid-19 was also declared as a 'notified disaster.' The Union government started issuing various directives to the States. Among the list of directions, the most vital and primary direction was to invoke the 'Epidemic Disease Act, 1897', a colonial legislation within their respective jurisdiction to effectively contain the spread of Covid-19. Hence the two legislations namely '**Disaster Management Act, 2005 (DMA)**' and 'Epidemic Disease Act, 1897' had put the whole nation in stall. Ironically these two legislations have imposed restriction in the functioning of the 'Parliament of India' itself which enacted them. Furthermore these two laws lead to the closure and restricted functioning of the 'Judiciary' all over the nation. But these legislations have given a supplemental power to the 'Executives'. Hence it can be summarized that the invocation of these legislation had altered the extent of operation of the 'Three pillars of the democracy'. i.e Legislature, Executive and Judiciary.

Over and above this scenario led to the accumulation of power with the 'Executive' and deprivation of power from the 'Judiciary' and 'Legislature'. In the absence of the effective and full fledged function of the judiciary, we the people of India having solemnly resolved to secure Justice, Liberty, Equality and Fraternity were deprived of our various constitutional and statutory rights. Furthermore it also lead to one of the most dismayed events of this nation like the 'Migrant Labour Crisis' and various other events.

### **Acclimatization of the Judiciary to the New Normal:**

George Bernard Shaw an Irish political activist once said that 'When will we realize the fact that we can become accustomed to anything, however disgusting at first, makes it necessary to examine carefully everything we have become accustomed to'. True to his words, once the Hon'ble Supreme Court had adapted and acclimatized to the new normal and came into the action for the rescue of the migrant labours through the *Suo moto Writ Petition (Civil) No(s). 6/2020 "In re : Problems and Miseries of Migrant Labourers"*, the adequate transport

arrangements, food and shelters are immediately to be provided by the Union and State governments free of costs.

Before the arrival of the Judiciary in action, the migrant labourers were deprived of their Fundamental rights guaranteed under the Part III of the Constitution of India like Food, Shelter and transport facilities. In pursuant to the arrival of the Hon'ble Supreme Court of India in action, the migrant labours were assisted in a timely manner. In the words of the Hon'ble Supreme Court of India *"In the present situation of lockdown in the entire country, this section of the society (migrant labours) needs succor and help by the concerned Governments especially steps need to be taken by the Government of India, State Governments/Union Territories in this difficult situation to extend helping hand to these migrant labourers."*

But this process of acclimatization of the Judiciary to the new normal was not an undemanding or a trouble-free process. While the phantom of overcrowded court halls haunted the legal luminaries and legal accolades all over the world in this challenging situation, the Hon'ble Supreme Court of India and Indian Judiciary upon through and careful consideration started functioning in an restricted manner through the Physical as well as Virtual manner.

### **Acclimatization of the Hon'ble Madurai Bench of Madras High Court to the New Normal:**

By the last week of March 2020 unprecedented outbreak of Covid-19 and the public announcement of nationwide complete lockdown by the Union government had led to the immobilization of public at large. In pursuant to the directions of Union government, Hon'ble Madras High Court have also restricted it's functioning and the functioning of Madurai Bench of Madras High Court and the sub ordinate judiciary in the State of Tamil Nadu as well for 3 weeks. Later the said restriction was suspended for another 3 weeks. The lawyers were also requested not to operate from their chambers and they are requested not to invite the litigants inside the precincts of the court or chambers unless it is absolutely imperative either for their social personal presence that may be required on orders of the court or for such personal verification as per the directions of the registry. Also the lawyers were requested to limit the filing as far as possible except only in the extremely urgent matters.

For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>

This limited and restricted functioning of the court was extended in the 'Madurai Bench of Madras High Court' till the May 3, 2020.

In the mean time, while the Hon'ble High court bench had dispensed its duty even during the challenging time, number of court staffs, law officers and Hon'ble Judges were also tested positive for Covid-19. Eventually the Hon'ble Madras High Court decided that it shall close down all the court halls for sanitization and that judicial proceedings in extremely urgent cases will also be held through video conferencing. Since this move, Hon'ble Madurai Bench of Madras High Court had adapted to new normal. i.e Virtual courts and ensured that the constitutional values were harmonized within its jurisdiction.

### **Harmonization of Constitutional values by Madurai Bench of Madras High Court:**

#### **(i) Constitutional Right of Speedy Justice and Right to life under Article 21 of Constitution of India.**

Even though the court proceedings were being conducted in an virtual manner, the Madurai Bench of Madras High court ensured that the 'Writ of Habeas Corpus' which is a great and efficacious writ in all manner of illegal confinement is being heard in an uninterrupted manner. Apart from the formal procedure, the Hon'ble Judges of Madurai Bench of Madras High Court had also visited the 'Central Prison, Madurai' in person and released 58 prisoners who were involved in bailable offence that were not grave in nature from the Madurai Central Prison to avoid the overcrowding in the prisons as a measure to avoid the Covid-19 spread among the prison inmates. Similarly 21 prisoners from 'District Jail, Theni' were also released after the due consultations with the concerned station inspectors and magistrates. Hence it is ensured by the Hon'ble Madurai Bench of Madras High Court that the citizens were not in an illegal confinement by hearing the Habeas Corpus petitions everyday, and also commenced e-filing of bail petitions also to ensure that no citizen is in illegal confinement.

Even during the abnormal times, Hon'ble Madurai Bench of Madras High Court had harmonized the Constitutional values as well as Constitutional rights like 'Right to speedy disposal of the cases' and 'Right to speedy Justice' of the citizens hailing within its jurisdiction. i.e 13 Southern districts of Tamil Nadu namely Kanyakumari, Theni, Tirunelveli, Tuticorin, Madurai, Dindigul, Ramanathapuram, Virudhunagar, Sivagangai, Pudukottai, Thanjavur, Tiruchirapalli and Karur.

For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>



**(ii) Sathankulam Custodial Death Case.**

On June 22, 2020, two traders P. Jayaraj, aged of 60 years and his son J. Bennix, aged 32 years died in judicial custody after Sathankulam police arrested both of them on June 19, 2020 for violating Covid-19 related lockdown restrictions at Sathankulam town and remanded them the next day at the Kovilpatti Sub Jail. This custodial death raised a furore across the country and even around the world over police brutality. This Sathankulam case was even compared to the 'Murder of George Floyd, in the United States of America'.

Hon'ble Madurai Bench of Madras High Court took suo moto cognizance in this custodial death and appointed a one man commission to look into the issue. And also conducted the hearing in an effective manner by taking Suo moto cognizance and ensured that the 'Right to free and fair trial' is available even during the nationwide lockdown.

**(iii) Right to Education.**

Since the introduction of the 'National Eligibility cum Entrance Test (NEET)' in the year 2017 for the entry into 'Medical Education', only 14 students from the Government Schools of State of Tamil Nadu have got admission in the 'Medical colleges' after clearing the 'National Eligibility cum Entrance Test (NEET)' exam. 'National Eligibility cum Entrance Test (NEET)' exam kept the medical courses out of bound for the children hailing from the disadvantaged sections of the society and students hailing from the rural outskirts, as they cannot afford for any special coaching classes and crash courses.

In this regard, the State government of Tamil Nadu had enacted a bill to implement 7.5% horizontal reservation for the students from the Government schools who have cleared the 'National Eligibility cum Entrance Test (NEET)' exam. But the said bill was pending before the Hon'ble governor of Tamil Nadu. Eventually the Hon'ble Madurai Bench of Madras High Court stressed the State government of Tamil Nadu to take quick action. Eventually, after the timely intervention of the Hon'ble Madurai Bench of Madras High Court, the State of Tamil Nadu had issued a 'Governmental Order (G.O)' to provide 7.5 % horizontal reservation for the students hailing from the Government Schools.

As a result of this timely intervention by the Hon'ble Court, 405 government school students have admitted in the Medical colleges under the 7.5% quota horizontal reservation. It is to be noted that 14 students from the Government Schools have got admission before the implementation of 7.5% horizontal reservation.

For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>

Hence the role of the Hon'ble Madurai Bench of Madras High Court was instrumental in implementing 7.5% horizontal reservation and ensured that the students hailing from disadvantaged sections of the society were not deprived of their Right to Education guaranteed under Part III of Constitution of India.

**(iv) Right to Health**

While hearing the various Public Interest Litigations, Hon'ble Madurai Bench of Madras High Court had issued several direction to the State government and the Bureaucrats to make certain that the citizens were not deprived of their 'Right to Health' during this pandemic period. Simultaneously Hon'ble High Court Bench had also ensured that the Frontline warriors in the war against the Covid-19 had properly provided with the Personal Protective Equipment (PPE).

If the frontline of defence is in a commendable position, it is easy to win in any war. Likewise, it is necessary to hold our frontline of defence in a strong position to win this war against Covid-19. Hon'ble Madurai Bench of Madras High Court is ensuring that the frontline of the defence is in strong position, so that the Covid-19 can be tackled effectively and numerous lives can be saved.

**(v) Right to Clean Environment.**

River Vaigai, flowing through Madurai district and 5 other Southern districts which is the lifeline of Pandya dynasty was never a perennial river, but its flow was once augmented by tributaries and under the British regime, in the year 1898 a drinking water project was set up and the Vaigai water flowed through out the city. But nearly for the past 10 years the catchment areas in the Megamalai forests of Theni district which is the main source for the Vaigai River is affected by the destruction of the natural grasslands in the name of cattle grazing. Hon'ble Madurai Bench of Madras High Court had issued notice and conducting the hearing in the Public Interest Litigation in W.P(MD) No.8466 of 2020 and ensuring that the grasslands was not destructed in Meghamalai region.

Northern Palk Bay, in the Ramanathapuram District which is nearer to the 'Gulf of Mannar Biosphere Reserve' was a home to various Schedule-I animals of 'Wildlife Protection Act, 1972' like Dugong and many other animals. And also known for its seagrass beds. But the dumping of the Thermal Power Plant waste into the sea possessed as a grave danger for the entire environment of the Sea. Hon'ble Madurai Bench of Madras High court in a Public

For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>

Interest Litigation issued notice to the government related to this issue and the said matter is pending before the Hon'ble Court till now. Right to Environment is a guaranteed constitutional rights for the citizens of India.

Our father of Nation once said that "The earth. The air, the land and the water are not an inheritance from our forefathers but on loan from our children. So we have to hand over to them at least as it was handed over to us". Hence Madurai Bench of Madras High Court is dispensing its duty to the fullest to safeguard the environment from the Mountain regions to the Sea and Ocean regions as per the sayings of our Father of Nation.

### **Conclusion:**

Since the unprecedented arrival of the Covid-19 and especially during the lockdown period, the rights of the citizens all over the world were at stake, as they need to sacrifice some of their rights in order to contain the spread of Covid-19. But the role of the judiciary is to ensure that there is a balance while containing the Covid-19 without the deprivation of the fundamental rights guaranteed to the citizens as per the law of the land. To summarize, it is the role of the Judiciary to safeguard and protect the guaranteed rights to the citizens during this war against Covid-19. In this essay it was proved that the Judiciary effectively dispensed its role as a 'Protector of Rights' even during those challenging time. And this claim was supported by the facts and events that we have witnessed before Hon'ble Madurai Bench of Madras High Court as mentioned in this article.

### **References:**

1. Tanvi Nigam, 'On the Legal Front, How Prepared Is India for the Next Public Health Emergency?', "The Wire" <https://thewire.in/science/india-covid-19-legally-prepared-next-pandemic-epidemic>
2. Inre : Problems and Miseries of Migrant Labourers. SUO MOTU WRIT PETITION (CIVIL) No(s). 6/2020 on the file of Hon'ble Supreme Court of India, order dated 26.05.2020
3. Prachi Bharadwaj, 'SC takes suo motu cognisance of problems and miseries of migrant labourers; Issues notice to Centre and States/UTs'. Published on SCC online dated 26.05.2020.
4. 'HC to hold proceedings through video conferencing', The Hindu, dated 19.04.2020.

For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>

5. '58 Prisoners released from Madurai prison to avoid Covid-19 spread', The New Indian Express dated 22.03.2020.
6. Ilangoan Rajasekharan, Sathankulam -Terror in Uniform, published in 10.07.2020  
<https://frontline.thehindu.com/the-nation/sathankulam-terror-in-uniform/article32040900.ece>
7. Web order of Hon'ble Madurai Bench of Madras High Court in W.P(MD) Nos.8355/2020 and 8466/2020.



For general queries or to submit your research for publication, kindly email us at [ijalr.editorial@gmail.com](mailto:ijalr.editorial@gmail.com)

<https://www.ijalr.in/>