

Oral mentioning in Supreme Court to be removed

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Manifest Pedagogy

Judiciary has become an important issue this year due to many landmark judgements (Sabarimala, Adultery, Triple Talaq) and also many important cases lying with it (Ayodhya issue). The other aspect of Judiciary in news over the past few years has been the related to the burden of cases and pendency. The above article is related to the second aspect. Oral mentioning becomes prominent when linked to Article 145 which has been in news owing to CJI being the Master of the Roster issue.

In news

Supreme court has done away with oral mentioning

Placing it in the syllabus

Structure, organization and functioning of the Executive and the Judiciary

Static dimensions

1. Issue of pendency of cases in Judiciary
2. Powers of Judiciary under Article 145

Current dimensions

1. Recent steps taken to address the issue of pendency
2. CJI as the Master of the Roster
3. Oral Mentioning and its removal

Content

What is oral mentioning?

Oral mentioning is a convention by which lawyers short-circuit the long-winded filing procedures and make a direct appeal to the CJI, who is the court's administrative head and Master of Roster, for early hearing.

Importance

1. Doing away with oral mentioning will help to save time, for example for over an hour everyday, the CJI is made to read the case papers just to see whether a case mentioned is important enough to deserve an urgent hearing this is a waste of judicial time.
2. Double payment of fees by the litigant is not required, in the process, the litigant suffered two sets of fees, one for the 'mentioning' and the other during the admission hearing. In many such matters where urgent interim orders are to be obtained, the litigant often requests for engaging senior counsel to present his case thereby quadrupling his litigation expenses.

What is it now being done ?

1. As mentioned by CJI, the practice of oral mentioning is to be done away with
2. Concerned lawyers could make mention before the Registrar to have their cases listed
3. The Supreme Court has notified new norms for listing of cases, as informed by a circular issued by the SC Registrar. According to the circular :
 - Fresh matters verified on Friday in the post lunch session and also on Saturday, Monday and Tuesday (till pre-lunch session, i.e till 1 PM) will be listed on next Friday.
 - Fresh matters verified on Tuesday in the post lunch

session and also on Wednesday, Thursday and Friday (till pre-lunch session, i.e till 1 PM) will be listed on next Monday.

What is Article 145 ?

- Article 145(1) of the Constitution provides that subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the court.
- As head of the Supreme Court, the Chief Justice is responsible for the allocation of cases and appointment of Constitutional benches which deal with important matters of law. In accordance with Article 145 of the Constitution of India and the Supreme Court Rules of Procedure of 1966, the Chief Justice allocates all work to the other judges who are bound to refer the matter back to him or her (for re-allocation) in any case where they require it to be looked into by a larger bench of more judges.

CJI as the Master of the Roster

- The Supreme Court of India consists of Chief Justice of India and its other puisne judges. It is well settled that in discharge of judicial functions, the CJI and other judges exercise the same powers. The CJI is always the senior-most judge of the court. It has, therefore, been said that on the judicial side, the CJI is only first among equals. But following the judgment of the three-judge bench in Prakash Chand, it has further been held that as far as the roster is concerned, which is an administrative function, **the Chief Justice is the 'master of the roster' and he alone has the prerogative to constitute the benches of the court and allocate cases to the benches so constituted.**
- As the **'master of the roster'** CJI is empowered to make

norms or rules for the functioning of the Supreme Court
as well as oral mentioning in the court