



KAMARAJ IAS ACADEMY
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Gram Nyayalayas

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Why in news?

Recently, the **Supreme Court** expressed that it would consider the question as to whether establishment and effectuation of **Gram Nyayalayas** by States/UTs is mandatory under the **Gram Nyayalayas Act, 2008**.

Background of the Case

- **Public Interest Litigation (PIL)** seeks the establishment and implementation of Gram Nyayalayas under the Gram Nyayalayas Act, 2008 in 2019.
- Gram Nyayalayas aim to provide **speedy, affordable justice** in rural areas.
- **Key Legal Issue:**
- **Question:** Is it **mandatory or optional** for states to establish Gram Nyayalayas under the 2008 Act?
- **Section 3(1)** of the Act uses the term "**may**," raising debate over whether it implies **discretion or obligation** for states to set up these courts.

Supreme Court's Directions

- States must provide **detailed information about the status of Gram Nyayalayas** after consulting High Court **Registrar Generals** within six weeks.
- The **Union Government** is directed to file a fresh affidavit regarding **compliance with the 2020 Court order**, especially concerning **funding and financial support** for these courts.
- **2020 Order:** **Right to justice includes the right to affordable justice**
- It **directed the states**, which had not yet issued notifications for **establishing Gram Nyayalayas**, to do so **within four weeks**, and asked the **high courts to expedite** the process of consultation with state governments on this issue.
- The Court will examine whether **reestablishing Gram Nyayalayas is mandatory** in a separate hearing.

About Gram Nyayalaya

- **Origin:** The **Law Commission of India**, in its **114th Report**, had suggested the establishment of **Gram Nyayalayas** for providing **affordable and quick access to justice** to the citizens at their doorsteps
- **Establishment:** **Gram Nyayalayas Act, 2008** has been enacted to provide for the establishment of the Gram Nyayalayas at the **grassroots level**
- **Statutory and Quasi-judicial body.**
- The Act extends to the **whole of India**, except to the States of **Nagaland, Arunachal Pradesh, Sikkim**.
- **Definition:** Gram Nyayalaya shall be a **mobile court** and shall exercise the powers of both **Criminal and Civil Courts**.
- **Purposes:** The purpose of Gram Nyayalayas is providing access **to justice to the citizens at their doorsteps** and to ensure that opportunities for securing justice are not denied to any citizen due to social, economic or other disabilities.

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- **Appeal Procedures:**
- **Criminal Cases:**It shall be taken to the Court of Session.
- **Civil Cases:**It shall be taken to District court.

Supporting Provisions in Constitution

- **Article 39A:**Added by 42nd CAA 1976 in **DIRECTIVE PRINCIPLES OF STATE POLICY (Part IV)** of Indian constitution directs the State “to ensure **equal justice** on a basis of **equal opportunity** and shall provide **free legal aid**”.
- **Part IX (Panchayats):**Emphasises **decentralisation of power** and grass-roots level governance, which Gram Nyayalayas support.
- **Timely Disposal of Appeals:**Appeals in both cases have to be **heard and disposed of within six months**.
- According to the Department of Justice, Currently, **only 15 states/UTs** have notified Gram Nyayalayas.
- There are **only 313 operational out of 481 notified Gram Nyayalayas** across the country.

Features of Gram Nyayalaya

- **Jurisdiction Notification:** The **State Government, in consultation with the High Court**, notified the **boundaries of the area under the jurisdiction** of a Gram Nyayalaya. It can also alter such limits at any time.
- **Mobile Court Sessions:** It can hold **mobile courts in villages** falling under its jurisdiction and the State Government shall extend all required facilities.
- **Presiding Officer:**The Gram Nyayalaya shall be **Court of Judicial Magistrate of the first class and its presiding Officer (Nyayadhikari)** shall be appointed by the State Government in consultation with the High Court.
- **Appointment Process:**The **State Government** shall appoint a presiding officer called **Nyay Adhikari for every Gram Nyayalaya** in consultation with the **High Court**, who will be a person eligible to be appointed as a **Judicial Magistrate of the First Class**.
- **Seat:**Seat of the Gram Nyayalaya will be located at the **headquarters of the intermediate Panchayat**, they will go to villages, work there and dispose of the cases.
- **Establishment in every district:**The Gram Nyayalaya shall be established or every Panchayat at **intermediate level or a group of contiguous Panchayats at intermediate level** in a district or where there is no Panchayat at intermediate level in any State
- **Initial Proposal:**The Gram Nyayalayas were initially proposed to be set up at the **intermediate panchayat level** with a one-time budget of **Rs. 18 lakhs for non-recurring expenses**
- The Central Government also **covered 50% of recurring expenses for the first three years**.
- **Trial Jurisdiction:**Gram Nyayalayas are authorised to handle **criminal cases, civil suits, claims, or disputes** as outlined in the **First and Second Schedules of the Act**.
- Offences **not punishable with death, imprisonment for life or imprisonment for a term exceeding two years**.
- **Summary Procedure:**The Gram Nyayalaya shall follow summary procedure in criminal trials.
- **Not Bound by Indian Evidence Act:**The Gram Nyayalaya shall **not be bound** by the rules of evidence provided in the **Indian Evidence Act, 1872** but shall be guided by the **principles of natural justice** and subject to **any rule made by the High Court**.
- **Conciliation Methodology:**The Gram Nyayalaya shall try to settle the disputes as far as possible by bringing about **conciliation between the parties** and for this purpose, it shall make use of the **conciliators to be appointed** for this purpose.

Significance of Gram Nyayalayas

- **Access to Justice:** Gram Nyayalayas **bring judicial services close to rural populations**, ensuring **speedy and affordable** justice in remote areas.
- **De-clogging Courts:** By handling **minor civil and criminal cases at the local level**, Gram Nyayalayas can help reduce the burden on overburdened **District and subordinate courts**.

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- District and subordinate courts are the **biggest contributors to pending cases**, with **4,53,51,913** cases pending with them
- **Cost-effective Legal Recourse:** Legal proceedings in Gram Nyayalayas are designed to be **below-cost**, benefiting economically disadvantaged groups.
- **Informal and Efficient Procedures:** They follow a **simplified procedure, with no strict adherence to formal rules** of evidence, which makes the process faster and more accessible for common people.
- **Promoting Local Justice:** Gram Nyayalayas function within rural communities, encouraging **local dispute resolution** with sensitivity to local needs and cultural context.
- **Empowering Rural Governance:** These courts complement the **decentralisation of governance by reinforcing law and order in panchayat** areas, which strengthens the rule of law in rural settings.

Challenges of Gram Nyayalayas

- **Delay in Implementation:** The Gram Nyayalaya Act is of 2008. **Sixteen years** have gone by and we are faced with this situation where **not even four per cent of Gram Nyayalayas have been established**.
- **Lack of Infrastructure:** Many Gram Nyayalayas lack basic infrastructure like courtrooms, technology, and support staff, limiting their effective functioning.
- **Not mandatory:** The Act does not make setting up of Gram Nyayalayas mandatory: **Section 3 of the Act** provides that state governments **“may” constitute Gram Nyayalayas**.
- **Jurisdictional Overlaps:** Conflicts may arise with **existing courts at tehsil levels**, leading to confusion and **overlapping jurisdiction** issues.
- **Overburdening High Courts:** They may end up burdening high courts with appeals and writ petitions.
- **Funding Constraints:** States often face challenges in **allocating adequate financial resources** for establishing and maintaining these courts, especially in rural and less-developed areas.
- **Kerala raised a demand** for additional funds for expanding Gram Nyayalayas, but Kerala government had **postponed disbursement of funds** for courts saying: **‘Deferred for better times’**.
- **Underutilization of resources:** In some regions, Gram Nyayalayas handle **very few cases**, leading to concerns about their **cost-effectiveness and underutilization**.
- Examples like **Karnataka**, where a Gram Nyayalaya handled **only 116 cases in four years**, despite the significant cost of maintaining such courts.
- **Lack of Awareness:** Many **rural populations** remain unaware of the existence and benefits of Gram Nyayalayas, limiting their **reach and effectiveness**.

Way Forwards to Strengthening Gram Nyayalayas

- **Expedited Implementation:** Ensure timely establishment of Gram Nyayalayas in all states as per the 2008 Act. **Monitor and evaluate** the implementation progress **regularly**.
- **Proposed Amendment:** Act should be amended- **Jurisdiction of the Gram Nyayalayas** may be redefined in order to **remove the ambiguities** regarding the jurisdiction of Gram Nyayalayas.

Supreme Court Concerns and Recommendations on Gram Nyayalayas

- **State-Specific Needs:** Establish Gram Nyayalayas based on individual state requirements, with input from the Chief Justice of the High Court and state governments.
- **Focus on Regular Courts:** Prioritize increasing the number of regular courts and improving their infrastructure over setting up new Gram Nyayalayas.
- **Financial Feasibility:** Weigh the financial capacity of states before establishing additional Gram Nyayalayas, as funding regular courts is already a challenge.
- **Prevent Overburdening High Courts:** Gram Nyayalayas may lead to more appeals and writs in High Courts, potentially increasing their caseload.
- **Encourage Regular Courts:** Increasing regular courts with better facilities and more judicial officers may be a more effective solution for reducing judicial backlogs.
- **Uniform Functioning:** Standardise the functioning of Gram Nyayalayas across states to ensure **consistency**.

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- **Adequate Funding and Infrastructure:** Allocate sufficient funds for the establishment and maintenance of Gram Nyayalayas. Develop **proper courtrooms, offices, and other necessary infrastructure.**
- **Initiative to Support Gram Nyayalayas:** Under Gram Nyayalayas scheme (Centrally Sponsored Scheme (CSS), Union Government provides **financial assistance to States to set up Gram Nyayalayas.**
- **Leveraging Technology:** Use digital platforms for **case management, filing, and hearings to improve efficiency.** Provide **digital literacy training** to rural citizens to enable access to online services.
- **Periodic Reviews and Feedback:** Conduct periodic reviews of the functioning of Gram Nyayalayas. Gather **feedback from rural communities** to identify and address issues.

Conclusion

While Gram Nyayalayas have the **potential to improve access to justice in rural India** by providing **speedy, affordable legal recourse**, they face significant challenges such as inadequate **infrastructure, funding issues,** and jurisdictional conflicts. Addressing these challenges is crucial for realising their full potential in **de-clogging higher courts and ensuring justice for all.**