

## **National courts of appeal not possible or desirable Centre**

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The Supreme Court asked the Centre on Tuesday to explore the possibility of having national courts of appeal in four regions across the country even as the government opposed the idea saying it was neither possible nor desirable.

Such courts, if established, would decide appeals arising out of high court verdicts — a function performed exclusively by the Supreme Court at present. The proposed courts would be below the Supreme Court and above high courts. Under the present system, litigants go directly to the top court against decisions of a high court, leading to piling up of 60,000-odd cases in the Supreme Court.

A bench headed by Chief Justice of India TS Thakur asked attorney general Mukul Rohatgi to submit his proposed arguments on the move, which the top law officer said would lower the Supreme Court's dignity and take away an individual's constitutional right to approach the apex court.

There is an apparent change in the stance of the Supreme Court, which has consistently rejected demands to set up regional benches. It asked senior advocate KK Venugopal, assisting the bench as a "friend of court", to place his suggestions before the bench which shall frame issues on April 4 and refer the matter to a constitution bench.

"We want to initiate a debate, though the government does not support it. Today 98% of our time is wasted reading files relating to traffic offences or cheque-bounce cases. We might dismiss them finally, but we still have to give our time," the CJI told Rohatgi, who said the top court must not entertain every appeal filed before it.

"The solution does not lie with creating courts of appeal because it would not bring down litigation. The Supreme Court has to exercise restraint on the manner of interference under its constitutional power. Today people take chances and come to Supreme Court on every issue, including challenging an adjournment order," Rohatgi argued, admitting he as a private lawyer appeared in the kind of cases that the SC should not consider.

The demand for creating regional benches of the Supreme Court is quite old, particularly from the southern states. The law commission in its 229th report to the government in 2009 recommended setting up four regional benches in Delhi, Chennai/Hyderabad, Kolkata and Mumbai to deal with appeals arising out of high court orders.

The top court rejected that in 2010 saying dividing the Supreme Court would affect the country's unitary character. A full court comprising all Supreme Court judges reiterated its earlier resolutions passed in 1999, 2001, 2004 and 2006 in this regard.

Puducherry-based advocate Vasanta Kumar has filed a public interest petition in the top court seeking a direction to the government to set up courts of appeal in Chennai, Kolkata, Delhi and Mumbai. He wanted them to be the last court of appeal – above high courts – and their decisions indisputable unless questions of law remained unanswered. Only such unanswered questions of law should be entertained by the SC, he demanded.

Justice Thakur underlined that a spurt in litigation had overburdened Supreme Court judges and it was not feasible to increase the present strength of 30.

“Today, at least one lakh cases are filed every year in the Supreme Court. In the next 20 years it will go up to five lakh. You cannot have 150 judges to tackle the litigation explosion because more judges would lead to conflicting judgments and confusion on the legal position on an issue,” the CJI said.

Venugopal backed the bench’s concern and said the present judicial structure violated a citizen’s constitutional right to access justice. He said statistics revealed that of 10 cases filed, 9.5 belonged to northern states. “Southern states are affected badly because they do not have the means and facilities to reach the SC. For them access to justice is an illusion,” the senior counsel contended.

The top court should ideally focus only on adjudication of issues of constitutional importance, Venugopal said.

*(Hindustan Times)*