

**SPEECH OF THE HON'BLE PRESIDENT OF INDIA, SHRI PRANAB
MUKHERJEE AT THE VALEDICTORY FUNCTION OF
SESQUICENTENNIAL CELEBRATIONS OF THE MADRAS HIGH COURT**

CHENNAI: 08-09-12

It gives me great pleasure to be in Chennai today to deliver the valedictory address on the occasion of the 150th anniversary celebrations of the High Court of Madras.

2. The Madras High Court has an illustrious history. It was one of the three Courts established in India by Letters Patent issued by Queen Victoria after the Calcutta High Court on July 1, 1862 and Bombay High Court on August, 14, 1862.

3. The historical context in which the Madras High Court was established merits a recall. The death of Tipu Sultan and the fall of Srirangapatnam in 1799 eliminated the only Indian kingdom of the South that challenged the British. By the mid 1800s, the power of the British was running high with a direct impact on the growth of the East India Company's operations in India. Consequently, the Company rapidly gained strength as a political power. To dispense justice in an organised and centralised manner, the company started the process of unifying the judicial system with the establishment of the Supreme Court of Madras in 1801 and subsequently, the merger of all Courts of Law into the Madras High Court on August 15, 1862 by Letters Patent issued under the Indian High Courts Act, 1861.

4. It is interesting that the High Court of Madras was formally inaugurated on August 15, 1862, exactly 85 years before India attained Independence.

5. The Madras High Court has many firsts to its credit. It was this Court which had the first Indian, Sir T.Muthuswami Ayyar, appointed as a Judge of a High Court. The first Indian Advocate General, Sir V.Bashyam Iyengar was also from here. Madras High Court was the first to have an Indian Chief Justice, Dr. P.V.Rajamannar, who served for over 13 years.

6. The Madras High Court was a pioneer in the enrolment of women. B. Ananda Bai and Seeta Devadoss joined the Bar much before women were permitted to appear in other Courts of law in the country.

7. As a matter of fact, I can trace a very special connection between Calcutta and Madras. It was Sir Sankaran Nair, a member of the Madras Bar who fought for the autonomy of Calcutta University when the struggle was on between Sir Ashutosh Mukherjee and Sir Henry Shaw. He later became an Advocate General before getting elevated to the Bench. This was recollected by no less a person than Dr. Sarvepalli Radhakrishnan, the then President of India on the occasion of the centenary celebrations of this very High Court on 6th of August, 1962.

8. Yet another connection that Calcutta had with Madras High Court was the appointment of a member of the Madras Bar, Eardley Norton as the Special Public Prosecutor in the famous Alipore Bomb blast case in which Shri Aurobindo was one of the accused. Though Eardley Norton was a barrister of the Madras Bar, the British Government had hired his services as a Special Public Prosecutor in the year 1908 for this case.

9. There was yet another connection – Sir Frederick William Gentle was the Chief Justice of this Court when India attained independence. Before being appointed as the Chief Justice of this Court, he rendered valuable service as a puisne Judge of the Calcutta High Court from 1941-47, after serving here as a puisne Judge from 1936-41.

Ladies and Gentlemen:

10. The High Court of Madras has an unusual architectural feature, a 175 feet high Tower of the Light House overseeing the city of Chennai. This tower symbolizes the role this High Court has played for over a century and a half. It has been a guardian and a watch tower for the rule of law, seeking to secure for our citizens justice—social, economic and political—as enjoined in the preamble to our Constitution.

11. The High Court of Madras has, over the years, earned fame as an institution of high standards with strong traditions and ideals. Its Bench as well as Bar has been well known for legal erudition and intellectual acumen. Independence and fairness has been its hallmark. Land mark decisions of this Court have contributed greatly to the strengthening of the legal and constitutional framework of our country.

12. Many luminaries from the Madras Bar have contributed to the national movement and politics of independent India. Sir C. Sankaran Nair was Advocate General, then judge and finally Member of the Viceroy's Council. He abandoned the Membership in the Council and joined the Indian National Congress and became its President in 1897.

13. Shri C. Rajagopalachari or 'Rajaji' as he was popularly known, had a successful career in law at this Bar, before he gave up practice and plunged into the freedom struggle. Rajaji served as Governor General of India from June 21, 1948 to January 26, 1950.

14. My eminent predecessor, Shri R. Venkataraman, was also member of this Bar and went on to serve the country in various capacities such as Minister of Finance, Minister of Defence, Minister of Home Affairs and Vice President of India before becoming the President of India from 1987 to 1992.

15. Sir C.P.Ramasamy Iyer is a name etched in our memory. He not only had a lucrative practice and later became the Advocate General of this Court, he was also the leader of the Home Rule Movement along with Dr. Annie Besant.

16. Shri V.Krishnaswami Aiyar is another name that deserves to be recalled, both for his contribution to this Court as well as to society at large. He was a close friend of Gokhale and Surendranath Banerjee and highly respected by Sir Phirozeshah Mehta, all of whom represented moderate views of independence movement.

17. Other legal luminaries recognized for their brilliance over the years include Sir T. Muthuswami Iyer, Sir C. Madhavan Nair, Justice M. Pathanjali Sastri, who later became the Chief Justice of India, Sir V.Bashyam Ayyangar, Shri T.R. Venkatarama Sastri, Shri T. R. Ramachandra Ayyar, Dr. Alladi Krishnaswami Ayyar and in more recent times, Shri M.K.Nambiar and Shri Govind Swaminathan. Shri K. Parasaran and G. Ramaswamy from this Bar have served as Attorney Generals and Shri V.P. Raman and Shri K.K. Venugopal as Solicitor Generals of Independent India.

18. Special mention also deserves to be made of Mohan Kumaramanglam, a leading criminal lawyer of the Madras Bar, who served as Minister for Iron and Steel Mines before passing away at a young age.

19. Lawyers of the High Court like V.L. Ethiraj, Shri Subbaraya Iyer and Shri P.S. Sivasamy Iyer, have also made contribution to the spread of education in the state by setting up several top class educational institutions.

20. The illustrious lawyers and Judges of this Court have also contributed to nation building and advancement of social justice.

21. The case filed by Champakam Dorairajan paved the way for the first amendment to Article 15 of the Constitution. Clause (4) enabling the State to make special provisions for the advancement of any socially and educationally backward class of citizens or of Scheduled Castes and Scheduled Tribes was inserted in Article 15 of the Constitution by the first Constitutional Amendment Act 1951, after the decision in this case.

22. Similarly, the insertion of the Ninth Schedule to the Constitution for grouping legislations that would fall beyond the pale of judicial review was the brain child of a member of Madras Bar, Mr. V.K. Thiruvengkatachari, who served as Advocate General for 13 years. When legislations relating to Zamindari abolition and land reforms were struck down by the Patna and Calcutta High Courts as unconstitutional and violative of Articles 14 and 31 of the Constitution, Shri Thiruvengkatachari suggested the insertion of Ninth schedule and the inclusion of the legislations regarding land reforms in this schedule.

Ladies and Gentlemen:

23. Let me now turn to some of the issues that dominate the legal discourse in our country today.

24. The independence of our judiciary is widely recognized and a matter of pride for every citizen of our country. The Indian Judiciary has enlarged the scope of fundamental rights, increased the space for democracy, while maintaining the quality of justice delivered. We must do everything possible to preserve and protect the independence of our judiciary from any form of encroachment. At the same time, the judiciary, as an important pillar of democracy, must also keep reinventing itself through a process of introspection and self-correction.

25. The separation of powers, long established as one of the basic features of our Constitution, ensures that each organ of government operates within its own sphere and none takes over functions assigned to the other. It is the Constitution that is supreme. The laws are enacted by the legislature, the executive does the implementation, and the judiciary is the final interpreter of these laws. The delicate balance of power enshrined in the Constitution should be maintained at all times.

26. Our judges, through innovation and judicial activism have contributed enormously to expanding the frontiers of justice and

providing access to the poorest of the poor of our country. Taking into account the special circumstances of a developing country, our Supreme Court has expanded the common law principle of '*locus standi*' when it comes to violation of the fundamental rights of our citizens. A post card or newspaper article has been sufficient to trigger the intervention of the Courts in support of individual rights. Today, our Courts permit any person, acting with *bona fide* and having sufficient interest in maintaining an action for judicial redress for public inquiry, to put the judicial machinery in motion.

27. However, a note of caution needs to be sounded. Judicial activism should not lead to the Constitutional principles of separation of power getting eroded. Judicial pronouncements must respect the boundaries that separate the Legislature, Executive and Judiciary.

28. The principle of separation of powers is equally a principle of restraint. While the exercise of powers of the legislature and executive are subject to judicial review, the only check on the judiciary's exercise of powers is the self-imposed discipline and self-restraint.

29. Judging the judges is a delicate and sensitive topic and one which has been viewed with some concern by jurists. Legislation which carefully balances the independence of the judiciary with the need to protect and preserve its credibility is a useful complement to the judiciary's own efforts. Ultimately, the credibility of the judiciary

will depend on the quality of the judges who man the various Courts of the country. Therefore, the process of selection and appointment of judges should conform to the highest of standards and should be based on well established principles.

30. Justice delayed is justice denied. Administration of justice must be quick and accessible to all. Despite various challenges, the judiciary in India is working hard to reduce back-log of cases and provide speedy justice. Our courts must be strengthened with additional resources and the Government is fully engaged in this task. A National Mission for Justice Delivery has been launched, the Constitution is being amended to raise the retirement age of High Court Judges and efforts are underway to create an All India Judicial Service.

31. The filling of vacancies in courts across the country is a matter that must be taken up as a priority by all concerned. We must make haste in this regard but without compromising on quality.

32. The judicial system in our country should not only be accessible but also affordable. The fact that litigation is time consuming and expensive is well known. To address this, alternative dispute resolution mechanisms such as mediation and arbitration should be encouraged. This will help ensure timely and effective justice, and ease judicial pendency. The judiciary has a crucial role to play in the administration of the Legal Services Authority Act which has multiple

objectives. Greater efforts are also needed to spread legal literacy across the nation.

33. Article 39A of the Constitution provides that:

“The State shall ensure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes in any other way, to ensure opportunities for securing justice are not denied by reason of economic or other disabilities”.

34. The Government, judiciary and lawyers through their voluntary efforts must make this Constitutional dictum a living reality for the common man.

35. Improving the quality of legal education and inculcating the right values in aspiring and young lawyers is the need of the hour. Lawyers of Madras, have unhesitatingly accepted judicial office even if it involves substantial monetary sacrifice. Bar Associations of the Madras High Court have also utilised their knowledge and expertise to assist in the development of the law. The Madras Bar has provided valuable inputs on many bills and legislation, such as the Code of Civil Procedure and the Criminal Procedure Code. This is certainly a tradition worth emulation by other Bar Associations of India.

36. The great traditions and vitality of the Madras High Court exemplify the high sense of duty that has animated the judiciary and

the legal profession of this state. I am confident that the Madras High Court will continue to uphold its glorious heritage of 150 years. It will enhance its contributions to the development of law, justice and jurisprudence. It will at the same time ensure that administration of justice continues to be carried on with dedication and commitment to the common man.

I congratulate the Hon'ble Judges, members of the Bar and the staff of the Madras High Court for their past achievements and wish them the very best in their future endeavours.
