



RAMA UNIVERSITY

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Lecture-4



HISTORY OF THE LEGAL PROFESSION IN INDIA

LECTURE 4: History of Legal Profession in India

HISTORY OF THE LEGAL PROFESSION IN INDIA

INTRODUCTORY

The Legal Profession is an important limb of the machinery for the administration of justice. Without a well-organized profession of law, the courts would not be in a position to administer justice effectively as the evidence in favor or against the parties to a suit cannot be properly marshaled, facts cannot be properly articulated and the best legal arguments in support or against the case of the parties cannot be put forth before the court. “A well-organized system of judicial administration postulates a properly equipped and efficient Bar.” It is, therefore, in the fitness of things to take note briefly of the development of the legal profession in India.

The history of the legal profession in India can be traced back to the establishment of the First British Court in Bombay in 1672 by Governor Aungier. The admission of attorneys was placed in the hands of the Governor-in-Council and not with the Court. Prior to the establishment of the Mayor’s Courts in 1726 in Madras and Calcutta, there were no legal practitioners.

MAYOR’S COURT

In the Charter of 1726, which established the Mayor’s Courts at the three Presidency Towns, no specific provision was made laying down any particular qualifications for the persons who would be entitled to act or plead as legal practitioners in these courts. Presumably, it was left to these courts to regulate this matter by rules of practice which these courts were authorized to frame. No change was effected in this position when a fresh Charter was issued in 1753. No organized legal profession came into being in the Presidency Towns during the period of the mayor’s Courts. They who practiced law were devoid of any legal training or any knowledge of the law. They had adopted the profession in the absence of anything better to do. Quite a few of these so-called lawyers were the dismissed servants of the Company.

MAYOR’S COURT IN 1687 and 1726 :

Before 1726 there were diverse legal frameworks working in the British Settlement, which were expanded in number by 1726. Therefore the hirelings of the many, working at such unique settlements were liable to various arrangements of courts. There was, hence an absence of consistency in the British settlements, for a similar offence which involve unique and once in a while Contrary Penal Consequence. There was additionally another factor which constrained the Company to have a uniform law. There were very vital recognising highlight between the

Company's Mayor's Court and the Crown's Mayor's Courts built up under the Charter of 126. The principle contrasts are given underneath,

(1) the Mayor's Court under the Charter of 1687 was made by the Company while the Mayor's Courts under the Charter of 1726 drew their energy straightforwardly from the Crown. Along these lines the last were on a predominant balance than the previous

(2) The Charter of 1687 made just a single Mayor's Court at Madras, it didn't contact the legal framework winning in different settlements, administrations under the Company. The Charter of 1726 made Mayor' Courts at all the three administrations that is Madras, Calcutta and Bombay consequently, out of the blue, building up a uniform legal framework.

(3) The Mayor's Court built up under the Charter of 1687 appreciated both common and criminal ward. While the chairman's courts set up under the Charter of 1726 leader's Courts set up under the Charter of (were given ward in common issues including testamentary and probate of wills locale, Criminal issues were left to be chosen by am inside the purview of, Governor-in-Council which went about as a court I such issues.

(4) The Charter of 1726 made, out of the blue, an arrangement for a moment request to the King-in-Council which turned into a forerunner of the Privy Council later on. Therefore under this Charter, the main interest could be recorded before the Governor-in-Council and the second (despite the fact that now and again) offer could be taken to the King-in-Council in England. The Charter of 1687 did not make such arrangement. The interest from the Mayor's court could be documented under the steady gaze of the Admiralty Court.

(5) The Mayor's Court built up under the Charter of 1687 made an arrangement for the portrayal of the locals on the court. The Crown's Mayors Courts did not have any such portrayal, however there was an arrangement I for the same in the Charter of 1726.

(6) No uncertainty, the Crown's Mayor's Courts set up under the contract of 1726 were unquestionably unrivalled courts so far as their status is concerned, yet in strict legal and legitimate way, the Company's Mayor's Court was better prepared, for there was an arrangement for a legal counselor part who was to be known as the Recorder. The Charter of 1726 despite the fact that it implied to enhance the legal framework in India, did not make any such arrangement. . Hence the Courts set up in 1726 were for the most part made out of Company's government workers who did not have adequate involvement in lawful issues.

(7) There was yet another imperative qualification between the two Mayor's Courts. The Company's Mayor Court developed its own method and apportioned equity as per the standards of presence of mind, value and great inner voice. It dodged the complicated procedural details. Yet, the Charter of 1726 which brought the British laws into India brought all the legitimate details of the British Courts of law. In this manner the whole extent of British laws and its strategy were foisted on the Courts built up under the Charter of 1726.

(8) The Charter of 1726, as it were, got rid of the idea of partition between the official and the legal in criminal issues. The Governor-in-Council went about as the criminal court while the

Mayor's Courts taken care of just the common issues and testamentary and probate of wills cases.

Then again, the Mayor's Court at Madras was contributed with energy to deal with all polite and criminal issues and bids from its choices went to the Admiralty Court instead of the Governor-in-Council.

The Charter of 1726 likewise constituted a Mayor's Court for every one of the administration towns comprising of a Mayor and nine Aldermen. Three of them i.e., the Mayor or senior Alderman together with two other Aldermen were required to be available to frame the majority of the Court. The Mayor's Courts were proclaimed to be available to fan the majority of the Court. The Mayor's Courts were announced to be Courts of record and were approved to attempt, hear and decide every single common activity and supplications amongst gathering and gathering. The Court was likewise allowed testamentary locale id energy to issue letters of organization to the legitimate beneficiary of the expired individual. It was approved to practice its purview over all people living in the administration possess and working in the Company's subordinate production lines.

SELF-TEST QUESTIONS

S.N O	Question	Option (a)	Option (b)	Option (c)	Option (d)
1	First British Court in Bombay in by Governor Aungier	1672	1673	1674	1702
2	First British Court in Bombay in 1672 by ...	Governor Aungier	Governor Salmond	Governor austine	Governor jems
3	In the Charter of....., which established the Mayor's Courts at the three Presidency Towns,	1726	1727	1728	1729
4	The Charter of made just a single Mayor's Court at Madras	1687	1688	1689	1690
5	The Mayor's Court built up under the Charter ofmade an arrangement for the portrayal of the locals on the court.	1687	1688	1689	1690

Answers: 1-(a),2-(a), 3-(a),4-(a),5-(a)