

Lecture-21



Judicial Plan of 1780, First Indian Civil Code Prepared

Warren Hastings knew that the judicial plan of 1774 was not perfect, and when Warren Hastings again got the chance, he made changes to the judicial plan of 1774. On April 11, 1780 new plan was introduced.

As per the plan of 1780 judicial and executive functions were separated.

Adalats – Function to do civil justice, no revenue work.

Provincial Council - No judicial work, only revenue related work, collection and revenue cases.

But with this plan the problem was that, the area was vast and adalats were few to administer those large areas, because of this, cases were more, time was limited with the judges and thus arrears piled up in every adalat.

2nd problem was that witnesses had to travel lot to reach the adalats .

For eg. There was only one Adalat in the whole of Bihar.

Because of this people thought it better not to file the cases in courts, as filing cases in court meant delayed justice, physical harassment, waste of time and money.

As per the judicial plan cases up to Rs.100 were referred to the person who stayed near the place of litigant ,but before this it was compulsory to file the case in the Adalat, and 2nd problem was that the person who worked as judges has to work as a honorary judge and did not get any salary . The Zamindar or public officer acted as an honorary judge and they charged money for this and also zamindar got the chance to do corruption as he became the honorary judge.

Warren Hasting was not satisfied with the plan of 1780 and always thought about improving the judicial system in India.

On 29th September 1780 Warren Hastings proposed in the Council that chief justice Sir Elijah Impey be requested to accept the charge of the office of the Sadar Diwani Adalat.

Impey accepted this offer.

He remained in Sadar Adalat for a year but he introduced a lot of reforms in sadar adalat. Impey drafted many regulations to reform the adalats.

On November 3, 1780 first reform, regulation was passed to regulate the procedure of the diwani adalats.

As per this rule , the Mofussil judge had to decide the facts , he was allowed to take the help of Hindu Pundits or Muslim Mulla if it was necessary to understand the cause or case.

Impey compiled a civil procedure code for the guidance of the Sadar Adalat and mofussil diwani adalats. It was the first code of civil procedure to be prepared in India .

It was promulgated by the Council on July 5, 1781 in the form of a Regulation.

It was the digest of the civil rules

The code consolidated at one place a detailed civil procedure.

The code contained 95 clauses and with it all the previous regulations relating to civil procedure were repealed.

The code of 1781 clearly defined the functions, powers and jurisdiction of Sadar Diwani Adalat.

This code was translated in Persian and Bengali language that time.

In India, Impey was doing a great job, but in England people were not happy with Impey because of following reasons –

Impey was appointed as the Supreme Court judge to monitor the Company affairs in India. But in India Impey started to work as a company servant when he accepted office as the Judge of Sadar Adalat. Accepting this violated the Regulation act.

Because of other job, they believed that Impey would not do the justice with the job of Supreme Court.

Because of all above reasons , on 3rd May 1782 in England House of Commons adopted a resolution requesting the crown, king , to recall Impey to answer the charge of having accepted an office and violating the Regulating act.

After this Impey left India on 3rd December 1782.

Regarding criminal justice system Warren Hasting took certain steps.

Machinery was created for the purpose of arresting criminals and bringing them before the fozdari adalat for the trial. This system never existed in India before this.

A new department, office of the Remembrancer was created at Calcutta to keep watch on the functioning of criminal adalats.

The department was to work under the Governor General. The head of the department was known as Remembrancer of criminal courts.

All criminal courts were required to send periodical reports to this department. Everything was done as per the Muslim criminal law and Warren Hasting was not happy with many things, and wanted to reform them, he tried his best but company heads did not accept his views. Because of this in criminal justice system, everyone made money using the corrupt ways.