



The on-going COVID-19 public health crisis and the unprecedented nation-wide lockdown, are posing unique challenges for governments, citizens, corporates and businesses. Even as the country is resiliently coping with the unprecedented challenge, the judiciary is also facing a unique challenge of delivering justice in urgent matters while every institution, including the courts and tribunals across the country, remains shut. Access to justice is critical for the common man and a motto our judicial system is committed to.

The lockdown raises an increased focus on contentious issues like performance of commercial contracts, retention of work force, re-assessment of business objectives and targets, valuations and viability of businesses (the latter being especially relevant for start-ups and MSMEs) and business risk management. Resolution of these issues will, in many cases, require increased focus and emphasis on old fashioned values like business ethics, empathic human resource management and corporate social responsibility. It is in our collective interest that the legal system, where we are all equal stakeholders, is sufficiently geared up and sensitised to handle such issues efficiently and with sensitivity.

The Indian judicial system has been very agile and responsive in introducing far-reaching initiatives, in response to the COVID-19 crisis. In this edition, we analyse the key measures enacted by the Indian judiciary and the impact on litigation management and processes in India.

Special Administrative Measures

The Supreme Court of India and the High Courts across the country have, quite expectedly, been at the forefront of necessary

and ingenious initiatives (both on the judicial and administrative side) which have included:

- constitution of special judicial benches;
- hearings only in respect of very urgent motions;
- provision of facilities like e-filings and remote hearings through video-conferencing to dispense with physical attendance of litigants, lawyers and court staff during hearings;
- notification of next dates of hearing in advance on the court websites for the convenience of lawyers and litigants; and
- safeguarding human rights of under-trial prisoners by exempting physical production in courts and decongestion of prisons.

Some of the key measures taken by various High Courts and the Supreme Court of India are summarised at Annexure A.

Additional Legal Dispensations

In addition, the Supreme Court has, in an unprecedented but welcome move, taken recourse to Articles 142 read with Section 141 of the Constitution of India and directed all courts, tribunals, and authorities across the country (including itself) that limitation for filing of proceedings, whether condonable or not, would stand extended with effect from 15 March 2020 until further notification.

By clarifying that limitation under all statutes stands extended during the period from 15 March 2020 up to a date to be specified, the Supreme Court has protected substantive rights of litigants from extinction during the period of COVID-19 induced disruptions in the judicial system. While it is not immediately clear whether this ameliorative measure will extend to filing timelines prescribed by the courts in pending proceedings also, one hopes that such situations are also dictated by a similar benevolent approach.

ANNEXURE

Forum	Measures Enacted
Supreme Court	<ul style="list-style-type: none"> • The Supreme Court of India issued a Circular dated 23 March 2020 to suspend the entry of advocates in the Supreme Court. • Further, hearings in the Supreme Court are now restricted to matters involving “extreme urgency”. An application containing the synopsis of extreme urgency not exceeding one page will need to be sent through e-mail to mention.sc@sci.nic.in latest by 2:00 PM on the day preceding the day of the sitting of the Supreme Court. If accepted, hearings would be held by one bench through video-conferencing (through the ‘Vidyo’ app). • The Supreme Court has issued a judicial Order on 23 March 2020 in Suo Moto Writ Petition (Civil) No. 3 of 2020, extending limitation in filing of all petitions/applications/suits/appeals with effect from 15.03.2020 until further orders which is applicable to all Courts, Tribunals and authorities across the country.
Bombay High Court	<ul style="list-style-type: none"> • The Bombay High Court issued Notices dated 23 March 2020 and 19 March 2020, restricting hearings to only urgent judicial matters through video conferencing. Under notice dated 23 March 2020, the Bombay High Court has designated one bench for hearing criminal matters and one bench for hearing civil matters. The Bombay High Court has extended all the interim orders passed by Courts and Tribunals in the State for the duration of the 21 day lockdown.



31 March 2020

Forum	Measures Enacted
Calcutta High Court	<ul style="list-style-type: none"> The Calcutta High Court issued a Notification dated 24 March 2020 declaring that the functioning of the Calcutta High Court will remain suspended from 25 March 2020 to 9 April 2020. The Calcutta High Court has also extended all the interim orders passed by it for the duration of the 21 day lockdown.
Delhi High Court	<ul style="list-style-type: none"> The Delhi High Court has issued Office Order dated 23 March 2020 directing that the functioning of the Court will stand suspended until 4 April 2020. In case of any fresh matter of extreme urgency, the Registrar/Joint Registrar (Filing) and Registrar/Joint Registrar (Original) of the Court can be contacted telephonically. The Delhi High Court has also passed an Order on 25 March 2020 directing that interim orders passed by the High Court and all subordinate courts subsisting as on 16 March 2020 that have expired or will expire thereafter shall automatically get extended until 15 May 2020.
Other High Courts	<ul style="list-style-type: none"> The Gujarat High Court has issued a Circular dated 25 March 2020 directing that the judicial as well as administrative work in the High Court would remain suspended until further orders, subject to matters of extreme urgency being taken up by the assigned Benches through the methodology of e-filing and video conferencing. The Jammu and Kashmir High Court has issued a Circular dated 26 March 2020 directing access to all the court complexes in the Union Territories of J&K and Ladakh to remain closed during the period of the 21 day lockdown. Any exceptionally urgent matter would be heard from the residence of the Hon'ble Judge through video conferencing. Further, as per Circular dated 23 March 2020 issued by the High Court, in case of urgent matters, parties/counsel shall, after informing the opposite parties/counsel, send an urgency memo through email to the concerned Registrar Judicial by 3.00 pm of the previous day of the date on which the matter is listed and upon satisfaction about the urgency, the Court may hear such matter through video conferencing. The Karnataka High Court has issued a Notification dated 24 March 2020 that the High Court will remain closed down until 6 April 2020 and hearings would be restricted only to extremely urgent matters before the designated benches through video conferencing. This facility is available at all three Benches of the High Court in Bengaluru, Dharwad and Kalaburagi. The Kerala High Court has issued a Notice dated 23 March 2020 providing that habeas corpus, bail, suspension of sentence and custody cases would be automatically listed. Other matters would be heard through video conferencing only if they are very emergent and cannot be deferred until 8 April 2020. All the interim orders passed by Courts and Tribunals in the State have been extended for the duration of the 21 day lockdown. The Orissa High Court has issued a Notification dated 25 March 2020 suspending the functioning of the High Court and its offices until 15 April 2020. However, mentioning memos of extremely urgent matters which cannot await until 15 April 2020 can be filed before the Deputy Registrar through e-mail. The functioning of the sub-ordinate courts and offices will remain suspended until 15 April 2020. All the subordinate courts in the State are to restrict hearings to matters related to production, remand and urgent bail applications, through video conferencing.
Tribunals	<p>Various Tribunals have also issued certain Orders/Circular/Notifications to deal with the current situation:</p> <p>a National Consumer Disputes Redressal Commission ("NCDRC"):</p> <ul style="list-style-type: none"> Vide circular dated 16 March 2020, the Hon'ble National Commission has resolved to adjourn all matters, including the matters listed before the Registrar court, until 15 April 2020. Further, vide circular dated 23 March 2020, it has provided for constitution of three benches to hear urgent matters, which will hear the urgent matters on 30 March 2020, 07 April 2020, and 13 April 2020. Further, vide an official Order dated 24 March 2020, the limitation of filing complaints, revision petitions, appeals, review applications, executions appeals and all other miscellaneous applications, has be extended w.e.f. 15 March 2020, until further orders. <p>b National Company Law Appellate Tribunal ("NCLAT") :</p> <ul style="list-style-type: none"> As per notification dated 20 March 2020, with effect from 21 March 2020 till 01 April 2020, only urgent matters will be listed upon mentioning as per roster being issued separately. Premises of the Appellate Tribunal shall remain locked during this period except for the days when the Bench will meet to hear urgent matters, upon mentioning.



Forum	Measures Enacted
Tribunals	<p>c National Green Tribunal (“NGT”) :</p> <ul style="list-style-type: none"> As per circular dated 23 March 2020, all pending matters till 31 March 2020, shall be adjourned to dates, as mentioned in the notification. <p>d Debts Recovery Tribunal (“DRT”) :</p> <ul style="list-style-type: none"> DRT Allahabad, vide notice dated 23 March 2020, adjourned all matters listed between 23 March 2020 to 25 March 2020 to future dates. DRT Dehradun, vide notice dated 23 March 2020, adjourned matters listed between 23 March 2020 to 31 March 2020, to future dates, as mentioned in the notice. DRT Kolkata, vide notice dated 24 March 2020, adjourned all matters listed between 23 March 2020 to 27 March 2020. DRT Chennai, vide notice dated 23 March 2020, provided that hearing of only most urgent matters would be held. Once e-filing is done and diary number is generated, an email explaining the urgency in the matter is to be sent.
District Courts	<ul style="list-style-type: none"> The Delhi High Court, vide Office Order dated 23 March 2020, directed the functioning of the Delhi High Court and Courts subordinate thereto to be suspended till 4 April 2020. In a public notice issued on www.delhidistrictcourts.nic.in, the litigants are requested not to appear and next dates for all matters will be uploaded on the website. The Bombay High Court, vide circular dated 23 March 2020, provided that all subordinate Courts will only hear extremely urgent matters between 24 March 2020 to 31 March 2020. The Punjab and Haryana High Court, vide Order dated 23 March 2020, restricted the functioning of all District Courts until further Orders. The Calcutta High Court, vide Notification dated 24 March 2020, resolved to adjourn all matters listed between 25 March 2020 to 9 April 2020. In the said notification it has clarified that the respective District and Session Judges shall prepare a roster of Magistrates for dealing with remand. The Gujarat High Court, vide Circular dated 25 March 2020, directed the closure of all the subordinate Courts across the State of Gujarat till further orders, except Police remands and bail application which would be dealt with as per prevailing practice. The Madhya Pradesh High Court, vide Circular dated 25 March 2020, prohibited entry into all subordinate Courts till 14 April 2020, subject to the specific permission of the District Judge/ Principal Judge/ Family Court or Incharge Officer thereof, as the case may be.

Disclaimer

This article is provided by Shardul Amarchand Mangaldas & Co for informational purposes only, and is not intended to provide, and does not constitute, legal advice.

© Shardul Amarchand Mangaldas & Co