

Issues with Lower Judiciary

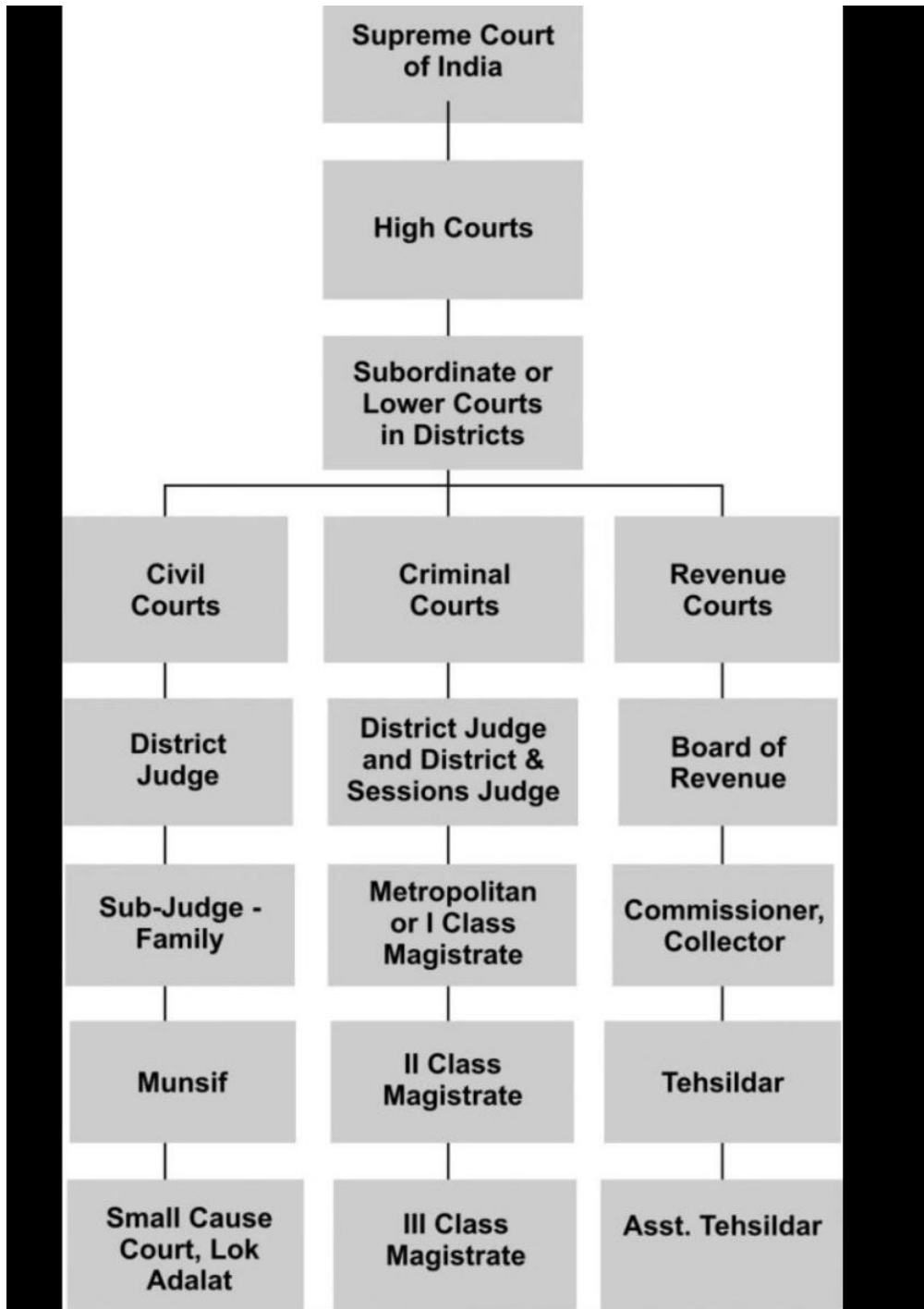
Mains: GS - II - Polity & Governance | Judiciary

Why in news?

A Constitution Bench of the Supreme Court of India has recently linked the sense of stagnation in the subordinate judicial service to prolonged litigation and the huge pendency in India's courts.

What is the structure and role of the judicial system in India?

- **Part VI** of the Constitution of India, deals with the articles related to Subordinate Courts in India.
- The subordinate courts form the backbone of India's judicial system, serving as the primary point of access to justice for millions of citizens.
- **Articles 233 to 237** of the Indian Constitution establish the fundamental framework for Subordinate courts, ensuring their proper functioning, independence, and administration.
- **Hierarchy of Indian Judicial System -**



- **Administrative Control** - High Courts oversee inspections, postings, promotions, discipline and ensure uniform judicial standards across districts.
 - State Governments manage court buildings, financial outlays, personnel support, and help conduct judicial service exams through PSCs.
- **Recruitments - Lower Judicial Service** recruits fresh law graduates (0-7 years' experience) appointed as Civil Judges or Judicial Magistrates.
- **Higher Judicial Service** recruits experienced advocates (7+ years at the bar) appointed as District Judges, bringing professional expertise to higher trial courts.

What are the issues that hinders the efficiency of lower courts?

- **Pendency Crisis** - Massive backlog of cases demands urgent intervention from the higher judiciary, not just procedural tweaks at lower levels.

• According to the ***National Judicial Data Grid*** data as of September, 2025,

- **Total pending cases** - Over 53 million pending cases across all levels of courts in India.
- **Supreme Court** - As of September 2025, the Supreme Court's case pendency stood at 88,625, having crossed the 88,000 mark in August.
- **District and High Courts** - Over 4.69 crore cases are pending in district courts (highest number of pending).
- **Cases over 30 years old** - Over 180,000 cases have been pending for more than 30 years in district and high courts.

- **Archaic Laws** - Outdated legal provisions hinder swift justice; legislative reform is essential to streamline procedures.
- **Judicial Recruitment** - Without appointing competent and experienced lawyers as judges, qualitative disposal and pendency reduction remain elusive.
- **Procedural Burden** - The ***Code of Civil Procedure & Civil Rules of Practice*** prescribe detailed procedures for initiating proceedings, issuing summons, and ensuring party appearances.
- **Time consuming routine task** - Subordinate judges are burdened with routine tasks like calling suits, issuing fresh summons, and receiving vakalathnamas, etc consume significant time of the working day.
- **Lack of experienced Subordinate Judges** - Many newly appointed judges lack prior courtroom experience, making it difficult for them to manage workload or pass effective judicial orders.
- **Skill Deficit** - Some judges are unable to issue orders due to inadequate procedural and legal preparedness.
- **Unintended Consequences of Procedural Statutes** - New statutory provisions are often introduced with the aim of speeding up case disposal, but in reality, they often complicate procedures, leading to delays and increased pendency.
- **Procedural Misuse in Civil Litigation** - Several provisions in the ***Code of Civil Procedure (CPC)***, originally designed to ensure fair trial and due process, are frequently misused by litigants.
 - Despite amendments in 1976 and 2002, the CPC remains outdated in ensuring expeditious disposal, focus remains on trial and appeal conduct, not on quick termination of proceedings.
- **Some of the Procedural Bottlenecks** -
 - Preliminary and final rulings in partition suits delay resolution.
 - Mandatory pre-suit mediation under Section 12(a) of the Commercial Courts Act adds unnecessary delays.
 - Cooling-off period in mutual divorce cases prolongs litigation even when parties are in agreement.
 - Jurisdictional ambiguity due to lack of clarity on oral leases and possession under the Transfer of Property Act.

What need to be done to improve the working of lower judiciary?

- **Structural Separation** - Appoint a lowest-rank judicial officer in each district court to handle ministerial tasks for a specific cadre (e.g., senior civil judges, district munsifs) allowing judges to concentrate on merit-based disposal.
- **Need for training** - Mandate observational training for all newly appointed civil and senior civil judges under various High Court Benches.
- **Procedural simplification** - For ensuring balanced timelines, reducing delays, and enhancing the overall efficiency of civil litigation.
 - Allow a single decree in partition suits or make final decree proceedings automatic.
 - Introduce fast-track execution mechanisms with mandatory asset disclosures.
 - Impose reasonable time limits on plaintiffs for filing suits.
- **Modernize CPC** - Shift legislative focus from procedural formality to substantive justice and efficiency, to ensure amendments are outcome-oriented, not merely cosmetic.
- **Role of higher Judiciary** - Reducing pendency is not solely the responsibility of subordinate courts. Higher courts must also ensure timely disposal of appeals and revisions.

Reference

[The Hindu | Lower judiciary — litigation, pendency, stagnation](#)