

**CHAPTER-IX**

**THE ADMINISTRATION OF CIVIL JUSTICE**

## CHAPTER-II

### THE ADMINISTRATION OF CIVIL JUSTICE

The administration of Civil Justice in Kolhapur State on the eve of the accession of Shahu Chhatrapati to the gadi of Kolhapur on April 2, 1894<sup>1</sup> had two main facets :

- A) Civil Courts in Kolhapur Proper.
- B) Civil Courts in the Feudatory States.

The hierarchy and the jurisdiction of the Civil Courts in these two broad areas can be studied as follows :

#### A) CIVIL COURTS IN KOLHAFUR PROPER :

##### i) The Court of H.H. the Maharaja

After the accession of Shahu Chhatrapati to the gadi of Kolhapur this court came into existence. Before 2nd April, 1894, there was a Regency Council from 1884 to 1894.<sup>2</sup> As the Kolhapur State was not headed by Chhatrapati, this Court did not exist from 1884 to 1894. Instead there was the Court of 'Council of Administration', which came to be abolished,<sup>3</sup> on 2nd April, 1894.

The Chhatrapati had traditionally been the highest Court of Justice in the Maratha State.<sup>4</sup> In the Kolhapur State Shahu Chhatrapati after his accession became the Supreme Court of the Kolhapur State.

The Court of H.H. Chhatrapati Maharaja enjoyed, "powers of a High Court in all Civil matter except as regards original suits."<sup>5</sup> This Court had original jurisdiction in certain cases.

The Court of H.H. Maharaja had appellate jurisdiction also. This appellate jurisdiction was similar to the appellate jurisdiction exercised by the Council of Administration.<sup>6</sup> By an order to 20th July, 1895, the period of appeal over the judgements given by the lower Courts was fixed at three months.<sup>7</sup> Later on, on 31st October 1906, the same period viz. three months was fixed as the period for appeal before Court of Chhatrapati of Kolhapur.<sup>8</sup>

Chhatrapati had the power to issue instructions to the Civil and Criminal Courts. An example would make this clear. "New Controlling Board" was established by an order of Chhatrapati of Kolhapur on 26th May, 1919.<sup>9</sup> The Board consisted of a number of honorary members, out of which three members were advocates by profession.<sup>10</sup> In this Board there were three persons - Thamankar,<sup>11</sup> Indulkar<sup>12</sup> and Karmarkar<sup>13</sup> - who were advocates by profession. As the work of the Board was of public nature and as the three honorary members were advocates by profession, the work of the three advocates in the Courts of law was bound to suffer.<sup>14</sup> Shahu Chhatrapati by an order to the different Courts requested that the suits in which these advocates were involved should not be tried in their absence.<sup>15</sup> The convenience of the three advocates should be



taken into consideration as they were working not only as advocates but also as the honorary members of the Board of Control.<sup>16</sup>

ii) Court of the Chief Judge

The Court of the Chief Judge, Kolhapur, had the, "powers of a District Judge in British Districts as regards appeals and original suits and superintendence of proceedings of the Subordinate Courts."<sup>17</sup>

This court was immediately below the Court of H.H. the Maharaja of Kolhapur. There were some occasions when the court of H.H. the Maharaja transferred some its pending cases to the Court of Chief Judge. The Office of the Court of the Chief Judge of Kolhapur was held by the following Chief Judges,<sup>18</sup> during the rule of Shahu Chhatrapati of Kolhapur.

Chart No.2.

Sr. No.	Name of the Chief Judge	Period From-To
1.	Justice Mr. Balwant Naryan Joshi, B.A., LL.B.	Upto 23-2-1898
2.	Justice Mr. Krishnaji Narayan Panditrao, B.A., LL.B.	1898 to 1911
3.	Justice Mr. Vishwanath Bahlal Gokhale, B.A., LL.B.	1-7-1912 to 1921
4.	Justice Mr. Annasaheb Babajirao Chougule, B.A., LL.B.	23-1-1922 to 30-5-1931

iii) Court of the Assistant Judge of Kolhapur

The Court of the Assistant Judge of Kolhapur enjoyed, "powers of an Assistant Judge as prescribed by the Bombay Civil Courts Act XIV of 1869."<sup>19</sup>

iv) The Court of the Sadar Amin Kolhapur

This Court had, "Ordinary powers to try suits not exceeding rupees 10,000/- in amount or value arising in the town of Kolhapur with a special jurisdiction over the other parts of the Kolhapur territory to try suits exceeding rupees 5,000/- but not exceeding rupees 10,000/- in amount or value."<sup>20</sup>

This Court thus had jurisdiction within the town of Kolhapur and over the other parts of Kolhapur State in cases in which the amount or value was less than rupees 10,000/-.<sup>21</sup>

v) Munsiffs Courts

The Munsiffs Courts were immediately below the Court of Sadar Amin. All the Courts mentioned above were single on 2nd April, 1894, but there were "Twelve Courts Presided over by stipendiary Munsiffs including those of the Feudatory Courts."<sup>22</sup> The information regarding the stipendiary Munsiffs Courts in the Feudatory Courts would be studied later in this Chapter. In Kolhapur State proper there were four stipendiary Munsiffs Courts. These four Munsiffs Courts were located at Gadhinglaj,<sup>23</sup> Karveer,<sup>24</sup> Shirol,<sup>25</sup> and Katkol.<sup>26</sup> The Court at Katkol was as

as Katkol Mahalkari's Court but it enjoyed the powers of Munsiffs Court. The Munsiffs Court had, "powers to try suits not exceeding rupees 5,000/-."<sup>27</sup> AS most of the cases in those days were about money or value not exceeding rupees 5,000/-,<sup>28</sup> it was necessary to have more than one Courts of this nature in the Kolhapur State in 1894.

There were two Honorary Munsiffs Courts one was Nagojirao Patankar Court and the other was Ramchandra Joshirao's Court.

The Court of the H.H. the Maharaja, the Court of Chief Judge, the Assistant Judges Court, the Court of the Sadar Amin and the Munsiffs Courts mentioned above were having permanent tenure, in addition to these permanent Courts some Courts or Boards or Benches with judicial powers were established upon the orders of Shahu Chhatrapati whenever the occasion arose . These temporary and additional Courts were (i) Revenue Inquiry Bench, (ii) Bank Liquidation Bench, and (iii) Board of Supply.

#### i) Revenue Inquiry Bench

A Revenue Inquiry Bench to decide cases relating to revenue matters was established with Mr. Mandlik, Mr. Banne and Mr. Khandekar as its Chief Officials.<sup>29</sup> The new Bench was to enjoy the same powers as enjoyed by the Revenue Bench.<sup>30</sup>

The details regarding the expenditure of the special Revenue Inquiry Bench are available.<sup>31</sup> These details of expenditure throw some light on the salary of Judges, Clerks

and Peons in a judicial establishment. The expenditure on account of special Revenue Inquiry Bench can <sup>be</sup> given in a Table form as below :

**Table No.1**

Sr. No.	Name	Monthly salary	Monthly Allowances	Amount of expenditure for six months
1.	Ganpat Raoji Mandlik	80	-	480
2.	Ganpat Parshram Banne	50	-	300
3.	Damodar Govind Khandekar	40	-	240
4.	Karkun (Clerk) No. 1	20	-	120
5.	Karkun (Clerk) No. 2	12	-	72
6.	Pattewala 2 (Belieff) <i>Beliff</i>	14	-	84
7.	Labekari 1	7	-	42
8.	Sadilwar (Miscellaneous)	60	-	60
9.	Batta, Gadi-Bhade, etc. (Daily allowance, Vehicle Charges, etc.)	25	-	150
Total :		258	-	1,548
10.	An advance for expenditure on account of sationary	25		
Grand Total :		1,573		

The six monthly expenditure of the Special Revenue Inquiry Bench rupees 1,573/-. The powers of this Special Revenue Inquiry Bench are given in the declaration <sup>of</sup> 30 September,



1898. The Special Revenue Inquiry Bench headed by G.R. Mandlik, G.B. Banne and D.G. Khandekar was established to inquire in Revenue matters during the period of six months. Out of these three members at least two were required to present at the time of inquiry.<sup>32</sup>

The necessity of this Bench arose because of the number of suits that were filed in the Arbitration Court regarding the Government Shery lands, Deosthan lands and lands of the Rayat, illegally, appropriated by the Kulkarnis.<sup>33</sup> As all these cases filed in the Arbitration Courts were of similar nature this Special Revenue Inquiry Bench was established.<sup>34</sup> The Bench after making the necessary inquiry submitted its reports to the Sursubhe of Kolhapur, who in turn was to submit report with his comments to Shahu Chhatrapati.<sup>35</sup> The Bench was asked to expedite the matter and was to sanction a special grant of rupees 1,573/- for its six monthly expenditure.<sup>36</sup>

ii) A special Honorary Bench  
for Bank Liquidation :

Special Court and Liquidators for the liquidated Banks was appointed Dajirao Amrutrao Vichare, Secretary of the Jagatguru Bank Ltd., Kolhapur requested Shahu Chhatrapati to appoint a Special Civil Court for the inquiry of the Bank.<sup>37</sup> In view of this request Shahu appointed Krishnaji Narayan Panditrao, retired Sar-Nyayadhish, as the special District Court to inquire into the affairs of the Bank.<sup>38</sup>

Similarly the members of the Kolhapur Southern Maratha Bank applied to the Kolhapur government that the Bank was not in a position to repay the deposits.<sup>39</sup> Similarly the work of recovering the loan of the Bank was not properly done.<sup>40</sup> This request was made by M.V. Bhide, D.B. Joshi and H.B. Datar who were the members of the Bank. In response to the request the Civil Court declared that the Bank be brought in liquidation. V.B. Gokhale, the Sar-Nyayadhish of Kolhapur therefore appointed S.K. Gadre as the Official Liquidator.<sup>41</sup>

K.N. Panditrao the retired Sar-Nyayadhish was given the powers of the District Judge<sup>42</sup> to inquire into receipts and payments of the Jagatguru Bank Ltd., Kolhapur. He was also given the power to inquire about the financial dealings of the Southern Maratha Bank. Later on, however, the Special District Court under the K.N. Panditrao was abolished,<sup>43</sup> and the inquiry of both the Jagatguru Bank and Southern Maratha Bank was to be made <sup>by</sup> ordinary Kolhapur Civil Courts.<sup>44</sup>

iii) The New Controlling Board, Kolhapur

A New Controlling Board was established by an order of Chhatrapati of Kolhapur on 26th May, 1919.<sup>45</sup> The Board consisted of a number of honorary members out of which three members were advocates by profession.

The necessity for the new Controlling Board arose out of the difficulties in food supply after the first world war. Due to the shortage of the foodgrains it became necessary to control

the food supply. The Board had, therefore, different judicial powers to inquire about food-supply. The Court could summon any person by an warrant and take evidence. It could also order the police to investigate the shops and houses by warrant.<sup>46</sup>

## B) CIVIL COURTS IN THE FEUDATORY STATES

The Pant Pratinidhi (Vishalgad), Joshi-Ghorpade (Ichalkaranji), Pant Amatya (Gagan-Bawada), Ghatge Senior and Junior (Kagal) and Senapati Ghorpade (Kapshi) were the Feudatories of Kolhapur. These Feudatory States had their own Civil Courts, which were under the control of Kolhapur. The nature of Civil Courts in the Feudatories and their relationship with Kolhapur, would be studied here.

### i) Civil Courts in Vishalgad Feudatory

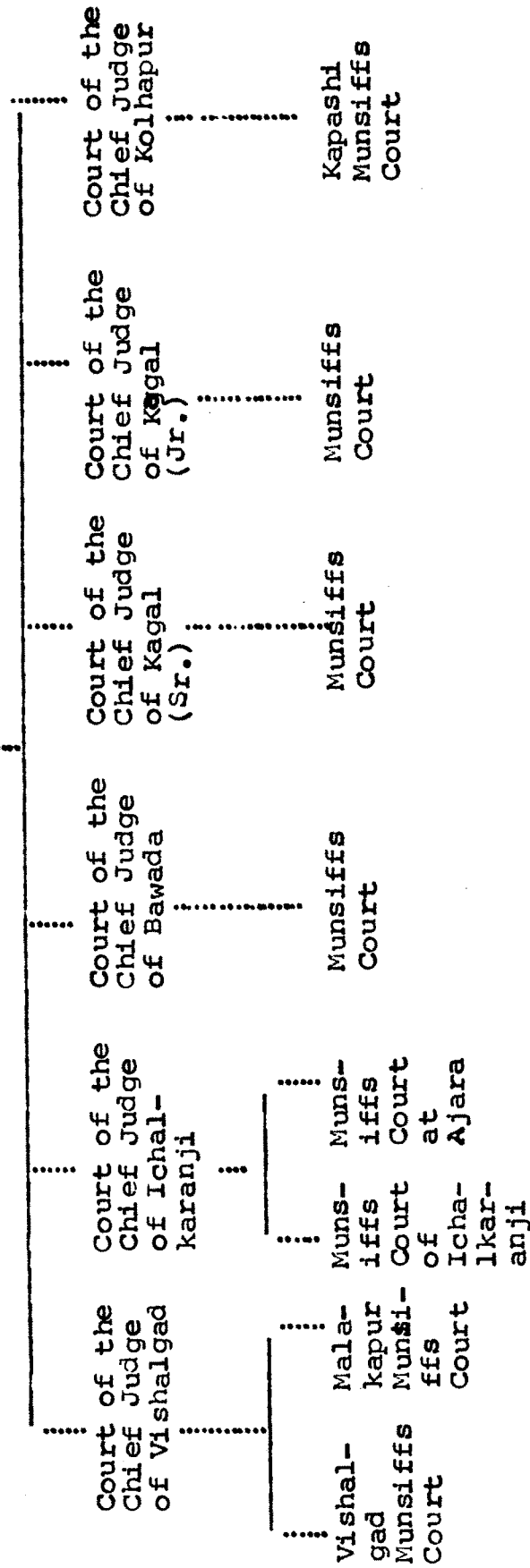
In the Vishalgad Feudatory the highest Court was the Court of the Chief of Vishalgad.<sup>47</sup> The Court had powers similar to those of the District Judge of British India or Chief Judge of Kolhapur. The Court had both the original and appellate jurisdiction.<sup>48</sup> The decisions of this Court were applicable to the H.H. the Maharaja.<sup>49</sup> The Court was situated at Vishalgad which was seat of the power of Pant Pratinidhi of Kolhapur.

Chart No. 3

The Department of Civil Justice in Kolhapur  
Feudatories (1894-1922)

The Department of Civil Justice

Court of H.H. the Maharaja



In addition to the Court of Chief there were two Munsiffs Courts in Vishalgad Principality, one being situated at Vishalgad Proper and the other at Malkapur.<sup>50</sup> These Munsiffs Courts had similar jurisdictions to the Munsiff Court in the Kolhapur State.<sup>51</sup> There was also Small Cause Court, called Joint Officers Court which was situated at Mahagaon.<sup>52</sup> This Court could try suits involving small Causes not exceeding rupees 100/-.<sup>53</sup>

ii) Civil Courts in Ichalkaranji Feudatory

There were mainly two Courts in the Ichalkaranji Feudatory, one was the Court of Chief of Ichalkaranji. The powers<sup>54</sup> of the Court were same and similar with original and appellate jurisdiction of the District Judge in British India. It could ~~hire~~ cases as Appellate Court on the decisions of Munsiffs Court at Ichalkaranji. Appeal on the decision of the Court of the Chief of Ichalkaranji could be heard in the Court of the H.H. the Maharaja.<sup>55</sup>

There was a Munsiffs Court at Ichalkaranji with the powers to try suits not exceeding rupees 5,000/-.<sup>56</sup> The decisions of the Ichalkaranji Munsiffs Courts could be heard **either** by the Court of Ichalkaranji Chief or by the Chief Judge of Kolhapur.<sup>57</sup>

The territory of Ajara though a part of the Ichalkaranji Jahagir was not physically continuous with Ichalkaranji area. It

was, therefore, necessary to make separate arrangement for Court at Ajara. In the year 1898-99, therefore, a joint Munsiff Court was established at Ajara initially for period of two years only.<sup>58</sup> The Joint Munsiffs Court at Ajara was continued discontinued after two years.

### iii) Civil Courts in Gagan-Bawada Feudatory

In the Gagan-Bawada Feudatory State there was the Court of the Chief of Gagan-Bawada which was on the same status,<sup>59</sup> as the Courts of other Chiefs. In addition the Karbhari of Chief of Gagan-Bawada was given the judicial power of Munsiffs Courts,<sup>60</sup> and, therefore, there was a Munsiffs Court at Gagan-Bawada.

### iv) Civil Courts in Kagal Feudatory

The Feudatory State of Ghatage of Kagal was partitioned into Senior and Junior. The Kagal Senior Feudatory State had like the Feudatory of Gagan-Bawada, the Court of the Chief<sup>61</sup> and the Court of Munsiffs<sup>62</sup> in which the Karbhari worked as the Court of the Munsiffs. In the Kagal Junior there was no separate Court of the Chief still 1898. In 1898-99, however, a District Judge Court presided over by Meharban Dattajirao Ghatge Sarjerao was established.<sup>63</sup> Before 1898 as far as the Kagal Junior was concerned there was only Kagal Munsiffs Court in which the Karbhari presided.<sup>64</sup>

v) Civil Courts in Kapshi Feudatory

In the Kapshi Jahagir of Senapati Ghorpade there was only one Court by. The Munsiffs Court which was presided over the Karbhari of the Chief of Kapshi.<sup>65</sup> It could try Civil suits within the limits of the Saranjam of Kapshi. The appeals on the decisions of this Courts could be heard by the Court of the Chief Judge of Kolhapur.<sup>66</sup>

NOTES

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