VIDYAVARDHAKA SANGHA®

VIDYAVARDHAKA LAW COLLEGE

SHESHADRI IYER ROAD, MYSURU-1

IQAC

Organizing

SPECIAL LECTURE ON "JUDICIAL ACTIVISM" TO MARK 100TH BIRTH ANNIVERSARY OF JUSTICE P. N BHAGAVATHI

Distinguished Speaker

Dr. S.Nataraju
Principal
JSS Law College
Mysuru

DATE: 21ST DECEMBER 2021

TIME: 10:30 AM

VENUE: ROOM NO.9

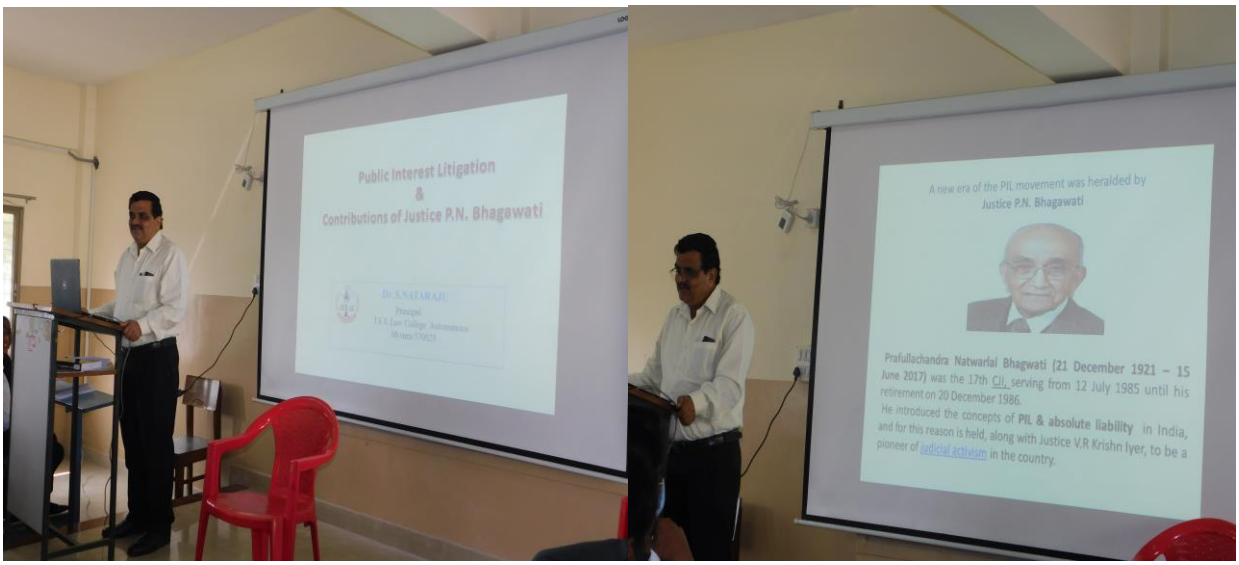
Prof K.B Vasudeva	Dr. Deepu.P	Dr. Sridevi Krishna
Director of Legal Studies	**Principal**	**Coordinator**

ALL ARE CORDIALLY INVITED

REPORT ON SPECIAL LECTURE ON JUDICIAL ACTIVISM

On 21st December 2021 100th birth Anniversary of Justice P.N Bhagavathi was celebrated. In this occasion a special lecture on Judicial Activism was organized. Dr. S. Nataraju, Principal, JSS Law College spoke on 'Judicial Activism'. Addressing the gathering he said the concept of judicial activism found its roots in the English concepts of 'equity' and 'natural rights'. The root of judicial activism in India is very difficult to find. For a very long time, the Indian judiciary had adopted an orthodox approach to the very concept of judicial activism. It would be wrong, however, to say that there have been no incidents of judicial activism in India. Some scattered and stray incidents of judicial activism have taken place from time to time. But, they did not come to the fore as the very concept was unknown to India.

The history of judicial activism can be traced back to 1893, when Justice Mehmood of the Allahabad High Court delivered a dissenting judgment which sowed the seed of judicial activism in India. Judicial activism, as the modern terminology denotes, originated in India much later. This origin can be traced to the Theory of Social Want propounded by David McClelland. It was due to executive abuses and excesses that the judiciary had to intervene during legal proceedings. Let us look into the rationale behind such intervention. After independence from the British Raj, the executive has always looked upon the judiciary as a hostile branch of the State. This view gained more momentum and popularity when the bureaucracy degenerated into a system for personal and not public gains.



Citing some of the major judgments he said the first major case of judicial intervention by social action litigation was the case of the Bihar court which was Hussainara Khatoon Vs State of Bihar. In 1980, in the form of a written petition under Article 21, some law professors exposed the barbarous conditions of detention at the Agra Protective Home, followed by a lawsuit against Delhi Women's Home filed by a Delhi Law School student and a social worker. In 1967 In Golak Nath v. the State of Punjab, the Supreme Court held that the constitutional rights of Part III of the Indian Constitution could not be modified, even though there was no such limitation in Article 368, which only included a resolution of a two-thirds majority in both Houses of Parliament.

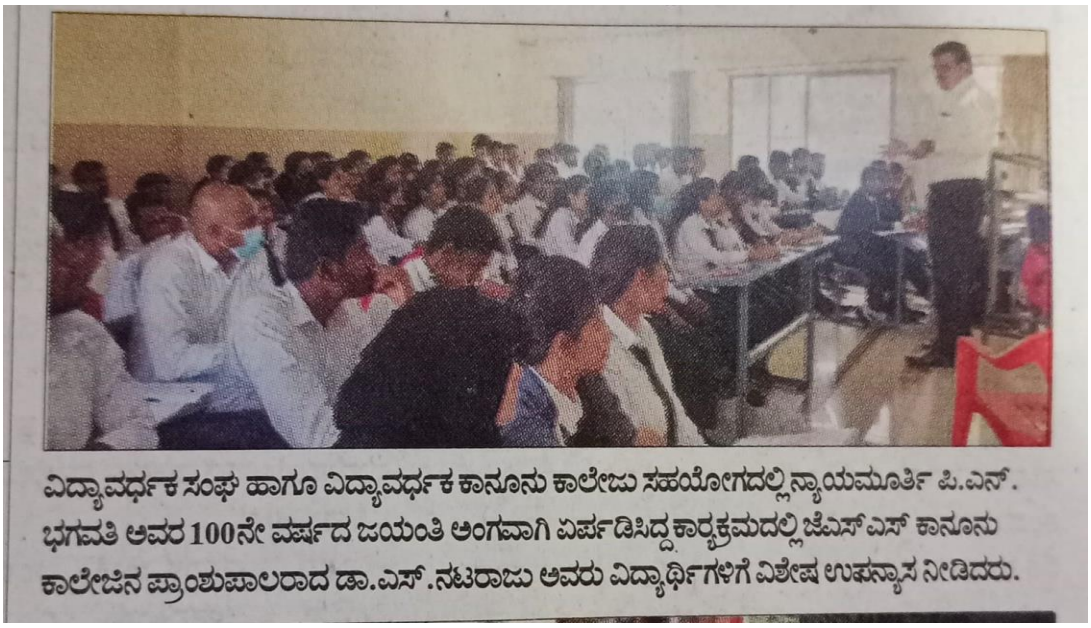
In the well-known case of Kesavananda Bharati, two years before the declaration of emergency, the Apex Court ruled that the government had no right to interfere with the constitution and to change its fundamental characteristics. In Kesavananda Bharati Vs The State of Kerala, 13 Judge Bench of the Supreme Court overruled the Golakh Nath decision but held that the fundamental framework of the Constitution could not be changed. As to what is meant by 'simple structure,' it is still not clear; although some later verdicts have sought to clarify it. The point to be remembered, however, is that there is no reference in Article 368 that the basic structure could not be modified. Accordingly, the decision has amended Article 368. A significant number of decisions of the Supreme Court of India, in which it has played an activist position, refer to Article 21 of the Indian Constitution, and we are therefore dealing with it separately.

Further he said that judicial intervention can be seen in three ways: Firstly, by overturning any statute as unconstitutional, Secondly, by overturning judicial precedents and, thirdly, by reading the Constitution. Highlighting the future of judicial activism he said, Justice is denied to common people because of judicial inertia. Judicial activism will have to get rid of such a delay. This advocacy should be followed with integrity, win the trust, and encourage hope in the future. There have been many laws that are insufficient to be interpreted by the judiciary, and therefore, for this particular reason, the existence of judicial activism in the country must have a good grip on the issues raised by citizens. Judicial advocacy is a central part of the complexities of the constitutional court. It must work for the benefit of citizens but within a boundary.

The programme concluded with the Presidential speech delivered by Director of Legal Studies Prof. K.B Vasudeva. He said that with the aid of a liberal reading of the constitutional clause, the Supreme Court broadens the rights of the people according to the circumstance and condition of the right to equality and the right to personal liberty. It has given the expansive meaning to the word life, liberty, and personality under Article 21 of the Indian constitution. There are various instances of beneficial judicial activism to a large degree in recent times. Whatever criticism of judicial activism, it cannot be disputed that judicial activism has done a great deal to improve the conditions of the people in the country. The greatest asset and strongest weapon in the armour of the judiciary is the trust that it commands and the faith that it inspires in people's minds in its capacity to do even-handed justice and keep the scales in balance in any dispute.

The programme concluded with the vote of thanks proposed by the programme Coordinator Dr. Sridevi Krishna. Teaching staff and students were present in this occasion.

Paper publication of the event @vijayakarnataka



ವಿದ್ಯಾವರ್ಧಕ ಸಂಘ ಹಾಗೂ ವಿದ್ಯಾವರ್ಧಕ ಕಾನೂನು ಕಾಲೇಜು ಸಹಯೋಗದಲ್ಲಿ ನ್ಯಾಯಮೂರ್ತಿ ಪಿ.ಎನ್. ಭಗವತಿ ಅವರ 100ನೇ ವರ್ಷದ ಜಯಂತಿ ಅಂಗವಾಗಿ ಏರ್ಪಡಿಸಿದ್ದ ಕಾರ್ಯಕ್ರಮದಲ್ಲಿ ಜೆಎಸ್ ಎಸ್ ಕಾನೂನು ಕಾಲೇಜಿನ ಪ್ರಾಂಶುಪಾಲರಾದ ಡಾ.ಎಸ್.ನಟರಾಜು ಅವರು ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ವಿಶೇಷ ಉಪನ್ಯಾಸ ನೀಡಿದರು.