**THE SUPREME COURT AT CALCUTTA**

***INTRODUCTION***

British come here as merchant for doing jobs, slowly they establish their factories and increase the territorial area under them because their factories provide a lot of opportunity of employment for Indian and they started shifting near the factories which later called as mofussil area and then slowly British take control over the native people. Because of increasing trade and business, they require a proper management of the system and a regular system for suppressing the wrong activities. Slowly this process of management led to such a vast system of administration.

Charter by charter their system and administration criteria enhanced and development in the system of administration all over the country takes place. This also give us a sense a proper administer, by the flaws in the system, it gives us idea to improve the system. Among these the Enactment of the Regulating Act of 1773 and the Act of Settlement were two major enactments in the Indian Legal History.

The Supreme Court of Judicature at Fort William, Calcutta was founded in 1774 by the Regulating Act of 1773. It replaced the Mayor's Court of Calcutta and was British India's highest court from 1774 until 1862, when the High Court of Calcutta was established by the Indian High Courts Act 1861.

From 1774 to the arrival of Parliament's Bengal Judicature Act of 1781 in June 1782, the Court claimed jurisdiction over any person residing in Bengal, Bihar or Orissa. These first years were known for their conflict with the Supreme Council of Bengal over the Court's jurisdiction. The conflict came to an end with Parliament's passing of the Bengal Judicature Act of 1781 which restricted the Supreme Court's jurisdiction to either those who lived in Calcutta, or to any British Subject in Bengal, Bihar and Odisha, thereby removing the Court's jurisdiction over any person residing in Bengal, Bihar and Odisha.

The courthouse itself was a two storied building with Ionic columns and an urn-topped balustrade and stood by the side of the Writers’ Buildings. The building also served as the Town Hall of Calcutta at one time. It was demolished in 1792 and replaced by the present building in 1832.

***The Court's first judges were:***

* Sir Elijah Impey, Chief justice from 1774 to 1783 on his recall to England for impeachment.
* Stephen Caesar Le Maistre, Puisne judge from 1774 to 1777 on his death.
* John Hyde (judge), Puisne judge from 1774 to 1796 on his death.
* Robert Chambers, Puisne judge from 1774 to 1783, Acting Chief Justice from 1783 to 1791. Chief Justice from 1791-1798, on his resignation.
* Sir William Jones, Puisne judge from 1783 to 1794 on his death.
* Sir William Dunkin, Puisne judge from August 14, 1791 to unknown.

***SUPREME COURT OF JUDICATURE, 1774***

On March 26, 1774, a Charter of Justice was granted for the establishment of the Supreme Court at Calcutta King George III. The Supreme Court was established on 22nd. October, 1774, and began functioning In January, 1775. It is the 1st attempt in creating a separate and independent judicial system in India.

This Supreme Court consisted of one Chief Justice and three other regular judges or Puisne Judges. The Judges had to be Barrister-at-Law of England or Ireland of not less than five years' standing. The charter appointed Sir Elijah Impey as the chief justice and Robert Chambers, Stephen Caesar Lemaitre and john Hyde as puisne judges who were appointed by the king.

Also, under Clause XVIII of the first Charter ordained that 'the Supreme Court should be a court of equity, and shall and may have the full power and authority to administer justice, in a summary manner, as nearly as may be, according to the rules and proceedings of our High Court of Chancery in Great Britain'. This court had the power to exercise of all the cases related to civil, criminal, admiralty, and ecclesiastical matters. Especially in criminal cases, the court has to act as court of oyer and terminer and goal delivery for the Town of Calcutta and the factories subordinate thereto, and was to use grand jury as well as petty jury consisting of British subjects residing in the Town of Calcutta.

***JURISDICTION OF SUPREME COURT OF JUDICATURE 1774***

The jurisdiction of the court is only to the Calcutta region but can extended to the people residing in the Bengal, Bihar and Orissa, if- they are British and His Majesty's subject.

Person, directly or indirectly, employed by the company or under the services of his Majesty's subject.

Person voluntarily submited to the supreme court. The similarity between the legislation of 1773-74 and the Charter of 1753 is obvious.

Cases exceeding the limit of 500 rupees.

But the problem was that neither the Regulating Act 1773 nor the Charter of 1774, stated or give any hint related to the law, which should administer by the court especially in those cases which involve Indian as well.

The governor general and his council fell outside the jurisdiction of the Supreme Court and not under its ambit to hear anything against them for any offence committed by them in Bengal, Bihar, Orissa except in cases of the felony and treason.

Under the Regulating Act 1773, the King's Bench was eligible to hear cases of crime, misdemeanor and offences committed by Governor General or any member of his council or by any judges of supreme court and also these high officials are indemnified from the imprisonment under the supreme court's order.

The court of King's Bench could likewise require the Governor-General in Council to examine witnesses in India and to send the records to England lie when cause of action involved the Chief Justice and other puisne Judges of the Supreme Court at Calcutta. When the proceedings were by Bill in Parliament concerning any offence committed against the Regulating Act of 1773, or any other offence committed in India, the Chancellor or the Speaker of the House of Parliament could issue warrants for the examination of witnesses in India. Parliaments power of requisition extended even in cases of capital offences, whereas the King's Bench could not order for the examination of witnesses in India when the evidence in question related to some capital offence. In criminal cases, court decided cases with the help of jury both the Grand Jury and Petty Jury.

***Legislative Power***

Supreme Court has authorized to make his own procedures and rules which help it in exercising his jurisdiction. But these rules were subject to the King-in-Council's approval. Governor General and Council has the power to make laws but that law should be registered under the Supreme Court and should be reasonable in nature and that law become effective only after the registration is done.

***Miscellaneous Provisions***

With the Regulating Act 1773 another change in the provision takes place that is, the Governor General and council and the Judges or the Supreme Court would not accept any kind of present; and no persons who is holding a civil or military office under the crown or the company, would accept any present. But this was not applicable to the cases of the Councilors, Surgeons or Physicians.

Procedendo: the ability of the Supreme Court to order the lower court to procced to the judgment of the cases without specifying.

It was also a court of equity and court of record.

***Ecclesiastical Jurisdiction***

SC issue probates of bill for the British subjects who reside in Bengal, Bihar and Orissa for the British Subjects who resides in Bengal, Bihar and Orissa. Sc also had the power to issue the letter of administration if no executioner of the will is present then the SC had the power to appoint an executioner. With this it also had the power to appoint the guardians of the infants and insane children.

***Admiralty Jurisdiction***

The court had the power to try the civil maritime causes or the crime that has been committed upon the high seas in these cases petty jury sit to take the decision and crimes which takes place at offshore or on the ship at the offshore of the Bengal, Bihar, Orissa, such cases tried by the SC who come under direct and indirect employment.

***Appellate Jurisdiction***

Appeal from all the courts present at that time went to the SC and from here the appeal went to the kings-in-council if the case was of value more than Rs.1000.