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**CONFERENCE ON FUNCTIONS OF REGISTRAR  
(VIGILANCE/INTELLIGENCE)**

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**PROGRAMME REPORT – P-949**

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## Session 1

**Dr. Geeta Oberoi:** Very good morning to all of you. I was thinking before we start introducing the subject and topic and to chairpersons, resource persons, I was thinking we will have introduction from all of you it's a small group we should all know about each other so maybe we can begin.

I just want to inform you that almost ten days back we had another programme for registrar vigilance it was coordinated by Shivraj and what we learn from that programme I just thought to sum-up before what we have understood that there is a need for structural reforms to make vigilance cell more effective you may agree or you may not agree, but these are the finding from that course actually. The composition of vigilance cell is not uniform in some High Courts vigilance cell has only one registrar vigilance in other court vigilance cell has deputy registrar vigilance, assistance registrar vigilance to assist registrar vigilance and other high court registrar vigilance is supported by registrar confidential, registrar litigation and some high court there are also practice for deputing special officer (OSD) to assist registrar vigilance like Allahabad High Court. We also learnt that from our participants that corruption in judiciary is not rampant as it is projected but tapping the corruption where judicial officer are involved is very very difficult and tough as judicial officer those of them who indulge in corruption do not take directly or indirectly, you have to established a chain a link so all this we establish a chain and then link it requires expert from vigilance team which registrar vigilance do not have at the disposal some high court are also having special police teams to asses vigilance cell that was in Gujarat in case of need they can take help of state expert agencies with prior approval of chief justice of High Court. Six hour court stated that they don't have any expert to assist them also in corruption charges against judicial officer and staff most of the time the electronic device are used but these cannot be ceased unless and until registrar vigilance take permission form the chief justice of the High Court. so many registrar vigilance asked us in that conference that how should we go about it, do we have power in Crpc of

search and seizure this was one question that was post to us I mean we don't have any answer we are also thinking about those issues some high court reveal that they have adequate IT facility and infrastructure which is at available for registrar vigilance to take and some high court say that they have no such help there is no IT infrastructure with them then about the number of complain what we have learn that Allahabad high Court receives around fifty complains in a month and there is no response as to number of cases requiring further pro Chhattisgarh high court receives twenty complains out of which fifty percentage of complain required further pro likewise High Court of Karnataka receives twenty five complaints per month out of which they felt that only two percentage of complain require further pro, High Court of Uttarakhand and told us that they receive only five to six complains per month and only ten percentage of cases require further pro, High Court of Punjab and Haryana receives about one hundred fifty cases per month and they felt that fifty percentage of cases require further pro, High Court of Gujrat receives more than fifty cases in a month and they felt that only seven percentage of case require discreet enquiry similarly High Court of madras told us that they receive one hundred twenty complains on a monthly basis out of which fifty percentage of complain require further pro, High Court of Madhya Pradesh also receives around hundred complains per month and participant felt that five to ten percentage of case require further pro, High Court of Himachal Pradesh receives only three case per month and finds that only ten percentage of cases are genuine complains requiring further pro, High Court of Tripura being very small it only receives one complaint in a month and it finds that may be these in three to four months they can think about taking complains require further pro. So vigilance actually consider if you see all over India the number are I mean sufficient and it varies from ninety eight percentage to fifty percentage where they feel that cases require further pro and most of them are otherwise baseless. so this was about this also we thought that to provide this information to you that for twenty one hundred judicial officers which are working under the jurisdiction of Allahabad High Court the vigilance cell at the High Court level receives only fifty cases per month and the reason is because there is district level vigilance which looks after the substantial number of complains and very few are very

serious complains are only directed to chief justice by the registrar vigilance or OSD at the High Court level, also we ask that there is a guideline not guideline actually but a circular issued by Hon'ble chief Justice of India in year 2014 which is dated 3rd October 2014 that all complains or which make allegation against judicial officer must be accompanied by dually sworn affidavit of complainant and verifiable material to substantiate the allegation made there in so we sought their responses on this that are they following this practice many High Court said that they are not following this practice in fact they said that we don't know actually this practice is not followed at least about eight High Courts. Then about the training we had asked so out of ten only two registrar were given some kind of training related to vigilance functions otherwise judicial officer just posted at headquarters. we also found one more complain that registrar vigilance informed that they are also given some additional functions which have nothing to do with vigilance functions, so they had this feeling that why you are delegating unrelated functions to registrar vigilance because this will reduce the efficiency of registrar vigilance well therein is recommendations also from the past conference like.

You have to establish vigilance cell at the district level and they have to establish police wing attach with the vigilance cell, then equipping vigilance cell with the IT infrastructure and staff was another. There was also one of the suggestion that there is a need to formulate precise and adequate empowering rules which will actually clearly tell what registrar vigilance is supposed to do, what the office of registrar vigilance is supposed to do, what kind of procedure he or she is supposed to adopt and how they are about to go investigating these complaint. they also ask the responsibility relating to vigilance should be taken away from them and their office made should be more independent and it should be isolated from the other registry offices in the High Court itself and yes off course adequate training should be given in how to conduct discrete enquiry and all so with this learning we now going for the second conference this is what has been our learning off course you will add in these three days more to our learning we expect that we get more views will enrich this paper more and please

if you have given you the response which prasidh would be giving proforma please fill that because it will enhance this paper and it will be for your benefit only because whatever we are doing actually we are thinking that may be there can be some kind of uniformity because somewhere some other practices if we can give kind of recommendations to that effect this is what is aimed and this is what the main objective principal of these conferences with this I handover to chairperson Justice Mukhopadhaya to start his deliberations.

**Justice Mukhopadhaya:** Good morning to all of you in fact about the registrar vigilance I have an idea of about 20 year I can say plus as a judge I have watch at least in four High Courts. I know about some more High Courts yesterday I was discussing that what is role of vigilance officer the session which was divided by National Judicial Academy. I am sharing the session along with my brother Justice Kaushal today and two session from tomorrow therefore, I may overlap one session will be other session and I prefer an interactive session with you people, because you have the first hand idea and we get every idea even as a sitting judge of High Court we are feed with these ideas by the officers. When I call of officers generally the registrar vigilance is an officer on the rank of district judge generally not necessarily they are the senior most officers so even a junior officer may be registrar vigilance looking after the character role of a senior most officer will be tomorrows High Court judge so that is in many cases some sort of psychological pressure is there in that matter of their functioning they may not know how to function I was telling the director yesterday in the night that I felt that registrar vigilance think that they are the post office the complaints are coming there is going to administrative judge, Zonal Judge whatever the judge will call it and everything is done by them a character role at the zonal judge, administrative judge or any other judge whatever the name may be he is writing it is coming before him you have no power to review it so you are some sort of officer without any power that is my feeling. But I told the director yesterday who was knowing the power of election commissioner before T. S Seshan when he took up the matter he is shown that what is the power of election commission, what was the power of CAJ audit but Mr.

Vinod Rai the last CAJ has shown what is the power of position and I expect that a day will come when one of you will show that what is the power of registrar vigilance. A power has to be derived you have to take up the matter in such a manner that without any power can derive a power given to you and exercise it such a manner that you superior judge knows as inspecting Judge or the standing committee who is taking up the matter or full court who is taking up the matter or the chief justice of the High Court will bound to accept whatever the note you are giving so for that purpose we will be going on and will discuss with you with you aid that how we can empower our self as a registrar vigilance I will be requesting Justice Kaushal to give a little bit opening remark in the matter so that subsequently we can interact with them.

**Justice Kaushal:** Thank you your lordship and good morning to all of you registrar vigilance as lordship says they are among the judicial officers on whom he is supposed to vigilance work an element of burning is always there against him from amongst his colleague strength of registrar vigilance is always depending on the vision and strength of chief justice strong and transparent will be the chief justice, strong and effective will be the registrar vigilance. impeccable integrity and fairness because in all are working for judicial system which is based for litigants to take care of the interest of the litigant is the paramount consideration and we know that society has not been harmed much by the real incidence of crimes rather it has been more harmed by the false complain. another aspect of registrar vigilance because I entered in High Court I worked as a district Judge Khadwa for three years then I came to registry as a registrar vigilance but certain policies..... Nobody likes to be accused nobody like to be disciplined on his own .... few examples only the exception we can see and say that discipline is our hobby it is our life style so and we can't doubt each and every person this is also against the system because in the fashion of this vigilance if you destroyed your progress because if you are not passing judgment and litigant are not getting their dues it will certainly failure of the judiciary. we are not here to suggest to become more and more emphasized on that treatment part so a result of side effect the progress

is curtail so vigilance cell is really you can say that life of High Court because culture should be that anonymous or named or supporting by affidavit complain is after all a complain there should never be a dust bin culture and even for dust bin culture somebody has to be there to open the envelop whether he may be Pune or he may be the chief justice who so ever he may be envelop should be open it should be looked into whether it is written in Hindi or English or in any other local language though as mam says that no action should be taken without affidavit supported complain it is a good proposition but as preliminary homework High Court is duty bound at least to see the daak(post) what has been received you can't ignore it at district level we are all government servant govern by civil servant conduct rules having our own rule with classification of appeal and etc. every state has its own rules and set of working if any other government servant is subject to inquiry of complains then why judges cannot be so to expect affidavit from each of the complaint is though may be desirable but on the contrary the chilly effect on the complainant also because the requirement of the system is if you not curing yourself then somebody else will be there to cure you and you can't ignore the facts, you can't afford to say no to the truth normally judicial officers are working in very challenging and tough condition in that atmosphere having the adversarial system they have no friends in every case so at last very conveniently and comfortably.

He plays and other still protect they blame the judge that either he does not know anything, lacking of knowledge is also a joint venture of vigilance also because academicians and vigilance they are sharing very beautiful and very useful also what I felt and suggest is every academy there should be profile of judge also state academy so that every academy should have the bio data of judge along with the photograph and along with the family member photograph because nature of complaints are very wide what I felt is even anonymous complain are true and even a complain supported by affidavit are false they are coloured they are motivated they want to take the revenge from judicial officers so what I felt is complain should be attended there should be register every complain should be recorded and it must be filed so as per statics are

says that more than 90 percentage of compliant are false but one was there whenever because the complainant are very clever shrewd and resourceful also they don't send complain to the chief justice or to the judge they send it to the president and chief justice of India every corner where they want there are factory running for drafting the complains we know it but those were making complain are not getting salary we are getting salary so we are duty bound to perform our duty as per law and as per rules within the frameworks that is why we don't throw it we keep it and we read it we try to find substances and only case number is given fax has been narrated which is supported by the record will you ignore it definitely you have to read it this is not the way that we are hurdling the judicial working of a particular officer because the main allegation on the registrar vigilance is made the they are creating obstruction on judicial work we will take to the task of contempt of court act fine enough, but we can read the mind of judge also and we are reading the mind of complainant because every complaint was I felt is as a judicial officer also and as a registrar vigilance also that every complainant is having a symptom we have to diagnose where is the problem no body waste paper and time just for nothing.

Sir we had a function on mediation last month what interesting thing we were found we appreciated best mediator who successfully disposed of twenty five mediation case. We try to ask him what was your formula so he said he was civil judge having a five year senior only but he was mature whatever he is reading on plaint and FIR is not the truth, so we ask the part to come with them and discuss and ultimately we try to find that why this plaint and why this FIR was lodged and we discuss with the person separately then we definitely find that know truth is something different but in judicial system protocol requires, Crpc requires, CPC requires, to be written a thing in a particular manner so all feedback has been given by the experts in thane (police station) who write FIR he has a tremendous and better knowledge and human reading experience in his mind irrespective whether he is fifth pass or tenth pass but he knows all ingredient of the offence, he will always insert all ingredient because of his tremendous experience of the life working with. so this was the problem and same was

the solution's that why he succeeded to dispose of more and more cases in mediation because we knew that in the mind cause of problem is something else it is not that what has been written because a dispute between spouses definitely it will result into a package of five case one for maintenance ether section 13 of Hindu marriage act or section 8 whether restitution or divorce it also will be there and domestic violence one case of domestic violence will also be there so these all four and five cases and continuous 127 recovery custody of child if you read the mind of either of the spouse or both collectively then definitely you can get rid of these five cases together.

So the role of registrar vigilance what I should say is definitely it based on the human mind we have to read the minds certain element of spirituality enough and in next session will discuss the theme in elaborate manner thank you.

Justice Mukhopadhaya: I suppose we should confine to the subject of decision role of registrar vigilance maintaining judicial accountability of district judiciary. So your role in maintaining the judicial accountability in the district judiciaries, so what will be your role I will be asking to each of you to give me one point but before that I will telling you the story somebody ask me what is character role I said go to film and see Amitab Bacchan means hero, Iftikar means police officer, Ajit means villan so the role is such that you can find out the character so character role is such role from which you can find out the character of an officers and we talk of an role of vigilance we find out what is your role you know at one stage will.... vigilance officer does not mean a policing if it is not policing then what is the role and that to about the accountability of district judiciary so may I ask the question starting from this side to each of you give one or other point about the role in play yes mam: one role you play, first we want to know what role you are playing we have to understand I am on the subject concern role of registrar in judicial accountability of the district so for example you may say my one of the role is taking the complaint or accepting the complaint I am giving you an example the she will say about another role, the third will say about

the another role so I accept your version that is the complaint received by you about the judicial officers you tell us what is the other thing what is the other role?

what is your role to get the information because it's a complain hoe you can explain what note you can give before the judge to explain about him good bad, no knowledge, average, can explain will coming because it's not a class we are taking you know just we are interacting understanding it you give another role not related to complain go to the another point

One role is accepting the complaint next to see whether this complain has some basis

**Justice Mukhopadhaya:** Please I am stopping you don't use the word complain go to the next discrete inquiry so you are on discrete inquiry there is another called preliminary inquiry so you are taking of preliminary inquiry alright, I am going one by one first is the complaint then discrete inquiry is preliminary inquiry yes you may add anything you want to add except complain what you want to add in preliminary inquiry.

Next you say punctuality and performance alright you want to add something how will we keep this general vigilance sitting in the headquarter in the High Court so you will be feeded by the district judges only and if district judge is a bias then? Will discuss this things actually these are the matters which require the discussion for that reason we just want to know from each of you.

Yes if you can add to it counselling of an judicial officer no we are taking of your role don't exceed your role and we will never allow you it will amount to exceeding the jurisdiction so counselling will not be coming any other point

Another participating judge suggested surprise inspection

Justice Mukhopadhaya: Surprise inspection alright surprise inspection one point we will be discussing thereafter

Another participating judge: collect the data base of the officers

Justice Mukhopadhaya: data base of the officers ok alright

Another participating judge: guiding the portfolio judge

**Justice Mukhopadhaya:** Alright these apart is there any other function like I am giving you an example anything about the leave of an officer's do you maintained? you don't maintained what I will coming to that leave of an officer for example an officers goes on an unauthorized leave without asking any permission from the High Court so leave of an officers what will be the question we will be raising then have you heard the word permanent character role PCR no ? Ok we will be discussing about permanent character role is there anything which is relate to the matter of disciplinary inquiry that means framing of charges, charge-sheet etc. whether those are the subject which come before you or not? then what about the finance which is being given to the officers their accountability will look into the matter that means a laptop given, book given, library given the officer retires do not return misuse, do not use so any fund allocation and its use whether you also looking into these matters? No, do you looking to the matter relating to promotion because promotion has a direct nexus with the service record you are practically looking to the service record of an officer because when you taking of the role of an officer in maintaining judicial accountability of the district judiciary so an officer is bad and I maintain the record in such a fashion that even a bad officer is promoted so anything related to promotional aspect that means the maintaining of the service book and promotion that that mean whether it will be affecting or not what about the note of an inspecting officers, note of an judicial officers registrar vigilance to the inspecting judge, portfolio judge, zonal judge, administrative judge whatever you call what about the noting and drafting.

Do you go for the inspection of any district? Whether a team is send by you for the inspection of a district? How do you about the functioning of the district without inspection of a district

**Participating Judge:** inspections are carried out

Justice Mukhopadhaya: Therefore inspection of district is also your duty in some of the courts in some of the High Court, I am taking of an annual inspection so nutshell the different topics we have discussed so when we look into the matter of role of registrar in maintaining judicial accountability of the district judiciary I think these are the basics things which requires to be noted so you can note down these thing if you so required and get the advantage in future.

One is about complain and its disposal

Second is preliminary and discrete inquiry

Third is departmental inquiry including suspension?

Fourth is the assessing the character role and surprise inspection or annual inspection which will look into various question like punctuality, performance, noting and drafting for the purpose of writing the inspecting judge , portfolio judge, administrative judge, zonal judge whatever you call for giving and instant reply keeping a data base of an officers. If a permanent character role I am giving an example character role of a particular year annual confidential report character role whatever you call it then at different subjects different items will be going in session wise while going on these different subjects there may not be any column with regard to complaint and there is no mentioning about what punishment he had received in the earlier year so a person has been.....for the punishment of stoppage of promotion for three years in the earlier year will not be recorded in the confidential report of the present year so that is a permanent one am I clear a person who has been punished and a person who has been granted promotion are the permanent thing which is to be recorded in a character role that he has been granted promotion all the item or he has been superseded once or he was punished at one stage these are the things which are permanently there on the record, so if that is also not reflected simultaneously which is known as PCR they use

to maintain during British period because that is already there in the record nobody can wipe it out so permanent character role is or confidential record and the others thing which you must record because not it is out of record that is rom the record so we will be discussing while you will be giving a note now we are coming to complain complain you suggest what will you do yes what will you do as my lord said that try to verify whether it is anonymous, try to find out whether affidavit has been enclosed with that so all those things and also caution that most of the places the complaints are.....I am just thinking two things I have seen a state I will not name where in a particular district is known as a bad district so I am a bad officer I am a corrupt officer so if am punished by posting in that bad district nobody looks into what I am doing over there so he plays his own game there similarly another staff is not functioning in one district is administrative decision is also posted there so punishment posting make a bad posting of the bad judges and the staffs and is a place for corruption building that I have seen in one of the state there I find whenever an honest officer is posted the complaint will come against the honest officers and when dishonest officer are posted then there will no complaint. Therefore you understand the value of and complain qua reputation of a district I am not talking of a judge of a district reputation of the lawyers of the district who is from south? Anybody from madras? you know about the reputation of the lawyer is one or other district which district lawyer all the time ..... application and which is the district and which types of lawyers are not indulge in these cases.

anything more you want add in the matter of complain a judge has written a judgment, judgment may be wrong or right, he may be corrupt or may not be corrupt how from a judgment we can decide whether the judge is corrupt or not? judge is a fool he has written a very bad judgment and he has dismissed the case which is to be allowed and complaint is writing that my case has been dismissed he must have taken the bribe from the other side merely because his judgment is wrong can we give any note yer reply can you start a proceeding on the basis of wrong judgment? can you start a

proceeding on that judgment is wrong, judgment is bad, appeal has not been filed or appeal has affirmed therefore with regard to a judgment if a complaint is there we are not the appellant authority we are not to sit in appeal what we can keep in mind I am giving you an example there is complain of judge X about his judgment and taking money the same judge is posted in the other district and again the similarly complain, he is posted in the third district there is similar complain so three judgment first complaint is filed second complaint is filed , third complaint is filed what is wrong ? What you can do? can you give a note to the inspecting judge at the time of writing the character role or at the time of his promotion that wherever he is posted there are allegations of taking bribe X,Y,Z those judge will assess that what is the integrity, there is a column about integrity of the officer not based on any evidence whenever I am going there is a complain, just think over this matters I will not be posing my views because application of mind will become your side so this is about complain if complain is found to be correct prima facie how will you start the preliminary inquiry anybody now one thing is appreciated by the director about involvement of police which is disliked when I was the chief justice of Gujarat High Court the reason was that police given the power about the investigation about the judge and you know he police how they go how they will be sitting with a judge what they are taking ( saab app ke khilaf complain hai kya likhegai ) so can you indulge the police in the matter of investigation against the officers and well the police is not empowered under the any act to investigate against the judge without FIR. I can understand that you will refer it to the police to lodge FIR on the basis of complain I can understand this , but can you indulge a police officer for the purpose of preliminary investigation therefore how the preliminary investigation is to be done? therefore first you will be asking of an affidavit if the affidavit is correct then you can enquire form the police whether there is an any existence of this complainant, because complainant may say I have not filed therefore so that is one way if complainant is found to be genuine then what will be you asking him to come and produce evidence in a support this is what you are saying that you will be asking him to produce evidence in support of the allegation alright anything to be added so you can go also there to make an inquiry with the

permission of the inspecting judge or the chief justice whoever may be anything to be added in the matter of the this sort of preliminary inquiry so why we are discussion because this will be keeping in mind because you know everything we don't have experience you have the experience and ones you discuss like this I think this will be in your mind so that in all the courts the procedural will be a little bit common not a one High Court will be going ahead with one procedural the other High Court follow the other procedural so it will be common. now should we go for a tea break now and will be going ahead like this subject wise and if you feel bored then stop me and you will be starting and be interactive we want more to hear from you.

## Session 2

**Justice Mukhopadhaya:** We will be going accordingly complain that which we were discussing earlier anybody wants to add anything something to it because this is interactive session and we want interaction from you anybody wants to add regarding the complaint.

If a complaint is received that he has heard the case number so and so in such and such .....and for last six months he is not delivering judgment and complainant is anonymous will you file it, will you say that there is no name will you call for affidavit for that what you will be doing. we can see whether argument heard or not whether facts are correct or not if it is not correct then it can closed if it is correct then even

without any inquiry one can say that inquiry has been that he has heard and not dispose of so it may not be misconduct but it will be .....of the material because there is there are various things which are in the matter of the disciplinary inquiry one of them is dequestion of the duty so there is no hard and fast actually theory but common system are maintained and more advisable will be if you find out from the record for example when registrar vigilance may give a work to one of the clerk by ex-official ka jitna complain hai na short kar ke likho ) so complains will be on various lines a complain may be ( ke saab vo paisa liya hai) another complain may be( case dispose of nahi hua hai) third complain may be (saab vo bahut gaali deta hai accha behave nahi karta hai ) other complain may be about his affair with some other lady, fifth complain may be about betting the wife so varieties of complain and what is the .....one can just refer such and such complain this and this filed but if you record it now a data is there you are putting in the computer so name of the officers is X complain received is X character role you can put in a chart of different you know subjects what are there in the character role then I think u twill be more advisable desirable so that at one stage whenever you will be giving the note or your officers calls you just tick the chart that there are so many complains mostly about this this this for your information enclose herewith.

Now when we are talking of the complaint petition after that suppose departmental inquiry is to made the judge say initiate a departmental inquiry what you will do?

**Participating Judge:** charges will be prepared

**Justice Mukhopadhaya:** who will be framing the charges? What will the basis for framing of charges? On the basis of allegation and preliminary inquiry report what are known as those factual aspect in the matter of departmental inquiry, for framing the charge the facts which are narrated here what you termed it.

There is one word called imputation of charges and there is an another sentence known as charges so difference between the imputation of the charges and the charges are to

be kept in mind so when you talk of the imputation of the charges it will bear the facts and if two charges are framed then imputation of charges will be two the moment there will be an imputation of charges it is to be followed by two more things number one the evidence what evidence, evidence is documentary evidence and list of witnesses is the other evidence so that is there and how you frame the charge so have got any specific format that you will be framing the charges it is an art that is gist of the imputation of the charges that culminate .. charge the charge may be misconduct now what is the misconduct can any of you say what is misconduct we have heard misconduct I have come late is it misconduct, I have done an act I have disposed of a case acquitting a person is it a misconduct a fact I never a misconduct is whatever is against the conduct rule anything which is against the conduct rule is the misconduct so whatever is the normal circumstance a conduct should be there of an officer if he behaves against that conduct is the misconduct and if does not perform the duty in manner he should perform then it is delinquency of duty there is a third nature your act is not becoming of an officer of the rank of judicial officer act is not becoming there is unbecoming of the act of a judicial officer so you will have to keep in mind very specifically while framing the charges that how this is there I will be requesting the director not here but he coordinator is here by tomorrow because they have a day after tomorrow also some allegation is made and if given I will give you a detail they will try to frame a charge and prepare instead of this library reading computer skill training that.....that is the list of evidence I will preparing and this is the format of charge I will be framing I think that will be more practical it is your commutation of the language it had another ramification in a departmental proceeding are you going to suspend the officer that means if the court decide to suspend him then what will be the position can you say court decide to suspend him what is immediately required? If the court decided to suspend say the chief justice or the full court or the standing committee what is required? So there should be an appointment of an inquiry officer so when will be the inquiry officer should be appointed? where he is the district X whether the inquiry officer will be appointed in district Y or the inquiry officer should always be in the High Court therefore you have to know that during the

suspension period where his headquarter the headquarter where he will be reporting that is where from you will be drawing the travels allowance number one, number two you have to also keep in mind that cannot leave the headquarter without the intimation to the officer you will have to attend the court though may not function that means it's not a holiday you have to report every day, you will also keep in mind that without a substances allowance if you curtail a right of person to get it he cannot defend himself, you will also keep in mind that .... the court wants to give him an opportunity of being defended by a lawyer, you will also keep in mind that show cause notice reply submitted by keep in mind the words you cannot ask for explanation on the charges you to ask for a show cause explanation if you called for the officer does not understand the gravity of the proceeding that mean I will be punished or not you will think that I begin with explanation the explanation may be accepted may not be accepted but a show cause he will understand the gravity of the charges will be punishment therefore the show cause should be why you not punished. so there are various things in the department proceeding one is charge sheet, imputation of charges, list of witnesses, list of evidence, documentary evidence the show cause notice by which you will be sending this now suspension order to be followed or not if the suspension order will be passed with regard to departmental proceeding language will be one if the suspension order will be because of a criminal case a person has been taken in custody the language will be other I have a request to all of you on the officer from your High Court may contact the registrar vigilance from Gujarat he has come here no to forward a copy by email at least a copy of the disciplined and appealed rules I will not be asking you to look into the disciplinary and appeal rules ask them to forward the enclosure attach with the disciplinary and appeal rules enclosure attach with the discipline and appeal rules of Gujarat High Court the rule is of 2011 and will be also requesting you that call for it and circulate to them alright that there you will be getting twenty odd formats the format is there if a person is suspended for department proceeding then what will be the language if a person is suspended because of criminal case then what will be the language, what will be the language about the substance allowance, what will be the language of appointment of an inquiry officer

that so and so you are appointed as inquiry officer to look into so and so that format, what will be the language if non officer is appointed to hold inquiry with regard to two officers so two of us are charge sheet one inquiry officer is engage because the chargers of both of us are common then in that case what will be the language so that will help you in the matter of preparation you know you have a format you keep the format with you so whatever it will be issued you just fill-up the name the language will be same so there will be a common type of format with regard to everything you know a board of inquiry is appointed then what will be the language of board of inquiry, what are things to be given everything is there departmental inquiry after the report is submitted what you are supposed to do? after the inquiry report is submitted hearing etc. is given by the inquiry officer he submit an inquiry report, now inquiry reports come to you because it is to be placed submit the copy will have to give a note, you will have to noting and drafting I said then you have a noting what noting you will be giving anybody? Yes madam what will be the noting? You cannot propose punishments, you cannot propose punishment.

What note you will be giving I am asking you what note? suppose report has come and in the inquiry report I find that the inquiry officer has a exonerated from all the charges but he has discussed many thing but he has not taken into consideration may evidence we have placed he has ignored statement of A, B and c which are against him is completely ignored and he give an acquittal report will you keep your eyes close so you will be a post office before the judge so keep it in your mind.

Number one you have to give a note what were the charges against the officer and then will have say to give a remarks that what is the finding of the inquiry officer so charge against him is X finding of the inquiry officer is Y exonerated not exonerated from guilty like that if there is any evidence which were in record has not been noticed verified evidence them may you point out that from the plain reading of the inquiry report we find that these evidence were recorded where on record and goes against the accused but appears that the inquiry officers could not see the records or

ignored or not go through it better language don't say ignored say misplaced to see it anything like that therefore whether further inquiry to be held on the basis of this inquiry so a question you can put then the judge will actually judge has no time and the full court has no time so whatever the note you will be giving that note should be such which will see that your vigilant am I clear you are vigilant so it is not the you know framing of the charges, charge should be such that which should not be a fact only on such on such date you have to such and such place and therefore misconduct a fact cannot be a charge so in a departmental proceeding after this will you write also that as per judgment of so and so the copy of the inquiry report is to be forwarded to the inquiry officer or as per rule so and so it is to be forwarded to the charge employee what language you will be using is another thing you cannot write accuse delinquent you cannot write now a days charge officer delinquent word is inappropriate now a days according to the supreme court judgment therefrom you will have to write charge officer so this is a place where you have to very caution in framing these things if require go through three times four times anything with regard to disciplinary proceeding.

He has been suspended from what work you can give you cannot give another work alright you go and clean my utensils his job is to do judicial function and he has been suspended from the functioning there cannot be any useful work am I clear to you he has been suspended from the work he can perform he can't perform those job than any job you are giving is beyond his duty. I will not teach it's not my job as a judicial officer because he has suspended you understand his ego suspension is not a punishment supreme court says then what it is you are suspending him to perform the duty, duty attached to his post anything you asking him is beyond his duty am I clear therefore no work no no no no we cannot apply our mind till if the court says that during that period but that will be a punishment go and teach is a punishment yes anything I wanted to hear all these thing from you anything thereafter note is given then, inquiry report is given or court says that I differ from the finding if the court differs from the finding for the reason then what can be done?

No audible voice

Let it be interactive session you may be wrong don't bother if you are wrong that more good because if you were wrong then one can take a correction and measure Supreme Court says that, but he has been wrongly exonerated then it open to the disciplinary authority to disagree with the finding and give his own reason for coming to a conclusion that the charge is guilty and give a show cause notice that why I should not disagree with the finding so language will be then, why I should not disagree with the finding of the inquiry officer with regard to the charge number so and so in view of the evidence X, Y and Z is against you which comes to a definite conclusion that you are guilty of the charge so and so and so. Am I clear but in case the evidence has been ignored which are the best evidence evidence A, B and C is against him and inquiry officer is silent then the note will be for further inquiry not a fresh inquiry supreme court says: there cannot be a fresh inquiry for the same charge but there can be a further inquiry that means same inquiry officer the matter is to be remitted that you have not taken into consideration these these evidence which are brought to your notice and therefore give opportunity to the charge officer and give your finding the evidence are already on record so you will be finding a supplementary inquiry report after giving opportunity taking into consideration those evidences so you understand where the question of different with the finding will come and where the question of further inquiry will come am I clear there is a finding of the supreme court that during the period of suspension, a person is absconding during the suspension period he has not reported therefore he is not getting substance allowances and ex-parte proceeding is done whether a separate charge is to framed or not that you are absconding during the period of the suspension not reporting top the headquarter due to which we are not in a position to also give you the substance allowance therefore you explain number one, number two you come and accept the substance allowance from us because that is to be given in spite of that if he does not turn up then he cannot say that no substance allowance has been given and I am being proceed ex-parte what will be the position when for the same charge an departmental proceeding and criminal case is pending?

Yes, no I am asking another question can there be a same charge in a departmental proceeding and a criminal case?

**Participating Judge:** No there are separate proceeding

**Justice Mukhopadhaya:** can there be a same charge in a criminal case and departmental proceeding?

There cannot be a same charge am I clear same offence, same set of fact may constitute a departmental proceeding and a parallel departmental inquiry therefore when supreme court says that for same charge do not think charge for same set offence committed by a person if there is a departmental inquiry and this one then it may go together or it may not go together, but it is for the court to decide whether it will be doing together or not for us if somebody moves before court of law then will say don't proceed and when they will not proceed if the facts are same.

If the witness are same, if the evidence are same so disclosure of the evidence and the witness will prejudice the defense in the matter of his defense before the criminal court in that case the court may say you wait but manual court you are supposed to proceed with on the principle that both can go together anything more about the disciplinary inquiry.....

Brother given you one example an officer committed rape what will be the charge in the departmental inquiry, an officer commits a rape not in duty hour so what will be the charge? so you should not prove there if the evidence is there about the ..... only that can be proved but he cannot be held guilty of 376 that is a different one so while framing the charge you will have to be very cautious that what is to be coined for framing the charges now should we proceed with the next or you want to discuss further or any questions I am not a good speaker better you tell us let us learn

**Justice Kaushal:** Maintaining of administration can you suggest something, maintaining court administration what the National Judicial Academy want to mean

by maintaining court administration can we maintain court administration in fact you cannot maintain court administration you can report about the maintenance of court administration am I clear so we should take it as chapter role of vigilance officer in maintaining court administration means in the matter of maintenance of court administration in the subordinate judiciary clear so when we talk of maintaining the court administration so theirs come inspection there comes how the court is functioning please if you suggest?

**Participating Judge suggested:**

Punctuality of the officer

Timing of the bench

Court maintenance

Maintaining of the court diary

The court diary is really effective in a way to whenever you go for the inspection this a tip to all of you you just open the case diary and call all the file mentioned plus you should also go to the order sheet it is a matter of ten minutes only so it will show you whether number one whether really he is maintaining court diary or not, he is controlling his staff or not because what do the readers do what do they do normally they maintained the court diary on the same day they come one hour early in the morning in the nine A.M and keep a bundle of file with them and they don't do it at the same day they will post the future date also in the court diary this is a really effective tool devise by English people at that time but a perfect piece of controlling the court if court diary is controlled judges control this is a key for all of you to see the quality and integrity of a person whether he is punctual or not? Place of sitting if every day he is writing eleven, eleven, eleven neither eleven or ten fifty whatever so you can read something what is this eleven why it is written and judgment is delivered on the same day or not it delayed we can see, column of time is also there time devoted in

recording of evidence so two formula are there to have a fair grip on the entry of the court diary of particular day it will show that what does he do during ten to six and another way of controlling is call for record of a particular month suppose January, February, march, April any of the month disposed of cases send by particular officer in the record it includes everything bail order of one page or six lines to eighty pages judgment. It will also the view the overall working of a month of particular officer and if these two test are applied so within a duration one or whole day alone one page of court diary of a particular date of all files and what manner the order sheet have been written and record of only one month random basis you will really come to know that what is the matter in that office.

**Justice Mukhopadhaya:** you see we will be dividing in two session when we talk of the maintaining the court administration one will be a judge who is administration his own court I am a judge this court is in my charge the staff are in my charge and whether the records are maintained in the proper manner the record are in proper manner the court is clean or not, the court documents are there or not, office attach with the court has been properly maintained or not when we talk of maintaining the court administration one is time management how is managing the court with his bench clerk his transport staff his PA so various staff how he is maintaining his administration and simultaneously his chamber is clean or not, his chamber may be dirty, his gown is not proper he has come with a red shirt without gown he is sitting variety of judges and variety of judges and court administration I don't have time to come in time I come in time at 10 am but I remain in my chamber for hours there may be two reason one that I am looking for civil side all the important lawyer are busy in the bail matter civil lawyer one or two appearing before a senior judge and in spite of cases nobody will come no lawyer is sitting. So I am not in a position to go to court there may be genuine difficulty there may be a difficulty created by the officer so while maintaining the court administration if a person goes and sits in time everyday no lawyer I am going and sitting on time today no lawyer is there lawyer will come after 10 minutes and go through the record may come after half an hour but tomorrow they will start looking

that ohhh judge is there or not so maintaining court administration so whether he has hold over the staffs, whether he has in his tips on hand how many cases are in court, how many witnesses are to be recorded which case is or hearing, which case is for witness, which case is simply to be adjourned time to be given because many petition come for time so how he is over all maintaining the court is one part the second part is the principle district judge is maintaining the court in general how he is maintain the court? he is not giving promotion for two years though post are vacant and he is thinking when my promotion will be there the officer is thinking my turn post is vacant my promotion is not given but he is not bothering that what two year I not giving promotion to my staff he is insensitive in the matter of confirmation of staffs he I insensitive in looking into the you know the growth of the staff which they are supposed to get every year or alternatively year. The administration of the court is not properly maintained so for these purpose you cannot submit any report without visiting the place or you have to make it team of staffs will be visiting and submit the report on these these issues how the cleanness is there whether they are in the proper fashion, whether the staffs are in dress, whether the judges are in dress, whether the court is clean, neat so these are the things you have to look after and you cannot go there is a system at Bihar and also in Jharkhand we have the system of inspection, I am the inspecting judge or juvenile judge I will go for inspection so before that a team will go the team will see everything including audit how the records are maintained including the monetary record etc. everything will be done for seven eight days they will submit a thick report about each and every court about management of each and every office and about overall including the promotion etc. given on timely or not and then they will highlights the point A,B,C,D these are the defects and these are to be appreciated both the things which are the things to be appreciated which are the thing which require some attention then the inspection judge he goes after going through that and they know that inspecting judge is coming juvenile judge administrative judge whatever you call it so they will make it clean you know when the judge is coming they will come with a clean gown etc. judge will be sitting by the side who is holding the court for half an hour so I will be going and I will be sitting for half an hour so

today I sit with six judges like that so they will be a rehearsal like thing that a lawyer will come and start arguing there also we use to watch what type of question he is asking whether simply he is hearing, whether he is interacting, whether he is trying to impose so many things the behaviour attitude is also seen during that drama period though it is a stage made drama but even in you can understand the person is talkative like me or he does not interact so many things are to be seen and then the judges use to write the character role so inspection you will have to say what else to say system is not there you will have to give a note to the officers make him understand ke sir ek baar kar lijiye inspection, ek baar team bhej dijeyai hum ka kar ke vo zila ke dekh lege that registrar vigilance may not go, so if the clerk are send honest clerk so those thing you can do in these matter that you can send best of the staffs but please take permission and request the zonal judge to get at least one inspection in a year and if that type of three four team you prepare the three four team may cover all the districts in total 365 days or two hundred forty days in your court working day so you can start it when the system is not there you may request you may also ask the officer to do something on that you also go if you don't go send a team but please remember you don't go with final nothing on the base of this correct ones it has go it had a direct ramification the court administration, the character role of a person what is there in character role what are the subject which are written in character role in a general format.

Let us look into one of the format I was in Jharkhand and I was the acting chief justice when they did all the mischief so judgment is there without any reasoning this is nothing new I know two three more state and I know one High Court also actually proper inspection is not necessary that the officer is to go if the staff are filled why we are discussing this because you have a team of staffs and you can also make a team of staff as done in Jharkhand, Bihar that from department X there is department who is dealing with finance in the High Court there administration who is dealing with the matter one good staff who are honest another staff who is looking in the vigilance cell so two three staffs who are experienced matured, honest if there team is send and you

say that take this A, B, C on these reports disposal etc. etc. everything so it will be cluster clear that how the administration is going on this is not there in all High Court that will not allow you to go but will persuade what I saying start it what is said in the beginning that you can be Mr Rai who will start with it and show the power so request them and you can do like that and tomorrow people will know vigilance is doing an excellent job.

So if he is absent from duty without any basis which can be termed to be unauthorized leave that is punishable then to be filled up by officer name of the spouse any immovable property acquired you know they are supposed to give their assets in every year so property statement they will write here any movable value more than so and so

shares debentures, transfer dispose of any appreciation so all these thing they will fill up and the number of cases dispose of criminal, bail, etc. they will fill up so they are giving the that you know, you give the format so you are not suppose to do so they will be giving only it requires verification simultaneously then to be filled up by the reporting authority that means your judge now here disposal of cases due you agree with the information, knowledge of law and procedural, knowledge of law and procedural one can see from the judgment and one in during the inspection also he judges can see you, you cannot help in this matters, level of knowledge related to instruction and their application followed to what extent officer is dedicated, motivated, his judgment is well written or clearly express, attitude of behaviour with superior/colleague so how he is behaving, he is a honest officer but he is very arrogant you know even for senior he is saying anything, sub ordinate staff, his behaviour with the subordinate staff, litigant, witness then member of the bar what is the behaviour please suggest recommend the field subject of the officer may need more training for further improvement so you cannot fill up one is filled by them and one is filled by reporting authority.

**Justice Kaushal:** In case of Magistrate I think zonal judge will be the session judge?

**Justice Mukhopadaya:** no here everything is a High Court judge, district judge will be sending one report ACR, but this is filled up in normal way when you will be preparing a note you will be framing you know every data, behaviour is a very big part so you say his behaviour is rough please highlights it if you find that his you know there is huge variation in his income highlight it so prepare a chart about the officer of every year so you can compare what was his earning, share etc. total income in crore or lakhs and now how it is increasing and compare it with the other officer of the same rank that whether in other office case, if one lakh rupees increase in case of one officer it is ten lakh rupees increase so have it got it from then in laws, so who are those in-laws you have to find out ok so these are the things where you can developed your own mechanism a system and a comparative term and which you can highlight while giving the note because you have no role to play in the matter of character role, character role will be written either by the district judge or by the judge and rest will be filled by them but please do not say generally what registrar vigilance will do this year A+, B+, C+ no according to me that is not the duty you are vigilant, you are not supposed to give your A+,B+,C+ you are supposed to highlight integrity doubtful, integrity average, integrity excellent so if the excellent integrity becoming average whether you can highlight if the disposal is coming down you can highlight, if the disposal has gone up another year it has come down you can highlight, because those are the comparative report now a days it is very easy because the moment it has come you are feeding it so every year the comparative charge so every topic has one head is behaviour with superior 2011, 2012, 2013, 2014, 2015 going on this is integrity and in the end complain 11,12,13,14,15 complain about so and so nutshell so a chart is there I give this chart to my officer sir the graph shows that his disposal is coming down, the graph shows that he is assets his increase in this proportion not disproportion these are the things where you can excel in you field you have to come out some innovative measure because that has a direct nexus with the court administration that will be reflect on their court administration in the matter of disposal of cases, maintenance of record, because they will be knowing that this is being reflected there so the character role also reflect that and there I was saying that from that character ole you can find

whether he is hero or villain or sometime somebody is a police officer. There are officer who think that all are dishonest I am alone honest and he will be actually abusing everybody behaviour will be rough so suggestions?

### Session 3

**Justice Mukhopadhaya:** Field based network and overall reputation of the judiciary what do you mean by network? Network is field based network so which are the sources of information when we talk of field based network? Members of the bars, litigant, stakeholders, that judicial officer, staffs, therefore you develop yourself when we are talking of the field based network, field based network, and you have to put ABCD in field for the purpose of network am I clear? Then you first develop that how you can derive and through the information from the source ABCD yes you can develop next one can develop one source when we talk of advocate which type of advocate? I'm giving you one example thinking myself there are lawyers who don't have practice but only agitates. There are lawyers who come do practice and go back, there are lawyers whose practice is give and take, there are lawyers who are only agent catching hold of a litigant taking money you give X money for so and so the matter is done you give money for the PP you give this money for the judge matter will be settle so there are when we talking of lawyers, lawyers have also types so when will you be talking of these categories and you are going to get derive some sort of information what will be about a doubt lawyer, what about a lawyer having no practice except to agitate Madras you will say.....

Therefore we are just discussing can we depend only on the association, can we depend only on the bar council state bar council or district wise members of the bar council, so who will be the best source in this matter? then you are talking of a source advocate, another source is staff, a third source is another offices, fourth source is litigant I am a vigilance officer will you open your mouth I am discussing about an officer who is district judge and senior to me if I ask subordinate officers that I have become High Court judge he was inquiry about you.....so how the discrete inquiry can we made out from these sources?

now this side will you say something I am talking in English because my friend from Tamil Naidu also so even if it is a broken Hindi English you can say you can say otherwise it will be a (kapalbhoding) I don't mind for that you understand English you understand otherwise there will be (kapalbhoding) yes anything just develop how you will know that suppose you have gone this is the place and they are the lawyers, they are the staffs, they are the litigants, they are the judges how will they get information just drama like situation create a drama like situation so you say try to give the information in general not specific alright anything you want to add first table the topic is importance of field based network to access overall reputation so you have gone to the network network consisting of ABCD now how will you be assessing the reputation what will you be communicating with the officers? You are assessing from his statement I am talking of a network from which you have been deriving the assessment? example he has given an idea no I'm putting in a different way you have gone how many people know that you are a judicial officer in district x I am asking you first question you are from which state Maharashtra so you go to Pune how many people know at Pune that you are a judge so if you don't go with your dress and know just move around for a day how many people you can meet to how many people you can offer tea, what is a matter I have also a case so who is the judge who can take money and complete it can't you discuss with a lawyer that is there any judge who I have a case who can deal with the matter can take money can I discussed with another person that he has stated that you have taken the money and you will get

it done the other lawyer that he will say that other lawyer is an agent or that lawyer just give a false so incognito if you go buy while going incognito you can also go to the judges and say brother,big brother,Chota Bhai, Badi bhai, kaisa hai.

Then you can say what is going on now a days then from discussion weather some information what is going on in judiciary in district I'm just thinking a manner that how we can get it so can you develop this? Just explain you know just like drama you that I can do this no you have gone without any information you're just trying to access what is assessment not necessary that you have to find out with something wrong please don't take it that I have to find out something wrong that some officer I have gone I am assessing the reputation

**Justice Kaushal:** I went to Satna as a registrar vigilance.....(not audible)

I'm giving you another example because you cannot do many thing which a High Court judge does because of yours stature will have to see that you are not being unnecessary target by others you know otherwise what will happen group of people start targeting you so you will have to be very cautious and you have to see that being a registered vigilance unnecessarily you should not develop enemies I went to a district in Bihar Nevada my car was outskirts not near the court I send one of my friend with my staff not High Court staff with another staff just to find out that at 11:30 or 11 how many courts are functioning (kya chal raha hai Dekhu)he goes there at 11 this is going on and so and so is not there at 11:15 is there or not and then they are getting certain information then casually somebody goes and talks with the lawyers (bhai Hamara cases hai kaha paisa waise) where I will be paying money to get it clear so he may give some idea but don't actually Really on them, then you may try from the third lawyer so five lawyers are pointing out only 1 persons you go for a cup of tea in the house of one of the judge so there may be you know there are various small things you start discussing all the things are going on so sometime they started opening their mouth against one another so various information you gather from which you can find out that these are the things on the basis of which something is there or

actually they are beating and nothing is there so litigants you can talk only if you go Incognito lawyers who can talk if you go as a litigant colleagues you can meet them Not In their court but better In their residence go and talk sorry how are you sir I am there yes yes you are a registrar vigilance alright come on how are you so you may have a cup of tea in place of half cup of tea in five places so this is one way of thinking I'm not saying that I am definitely but only assessment with regard to reputation who can made and put it down for the purpose of your convenience do not give this noting to your officer am I clear I know ABCD for me I know that this officer has little bit.....but this is all for my pocket for my consumption or my utility in future now when any complaints is coming so my network based enquiry I will be looking into the complaint from that angle because I have a first hand idea with regard to that judge otherwise the second hand idea nearly on the basis of complainer looking into that matter so I will not complain do any judge I'm not like what we call that simply I go and complain before the judge because I may be incorrect I may not got the correct information my information maybe tented one because for the person of one and another this is one way anything you say about the network of asses overall reputation so when is this personal plus complaints another any document, the data base so simultaneously if I see the database which I have kept about the reputation, his behaviour with the superior and behaviour in the court so all this thing if I try to find out then what I have heard what I have seen in the record which are actually on the record I can have a total assessment corresponding to all this things therefore you understand now the importance of the complain the importance of keeping the data base on the basis of ACR of years together one person he is you know he is fight with everybody very arrogant there are some judges may be honest so the reputation is he is not cordinal with staffs and you go and you find actually so you may highlight sometime you highlighted by red ink while you are giving a note to the judge concern let's say last 5 years a read mark to highlight what is negative. but there is a positive one that he has a very good disposal of cases please don't to give the credit, give the credit so Green Marking he has great number of disposal of the

cases am I clear because you are independent you are vigilant, you are vigilant officer so you have to highlight both the merit and demerit because that is the reputation, what is the reputation? reputation is a judge.....bad reputation about his behaviour am I clear, but there is an officer who is very good, very honest, but less disposal so when we talk of character role I was Saying that you can find out the character of the person what is actually coming in front of you, what you are assessing please highlight similarly any other things for example judgement what you can find out from the judgement if you go through to the judgement and where will be getting about judgement from where getting about the judgement for the purpose of reputation? you cannot access the judgement is good or bad what I am asking from where you will be that quality of judgement therefore annual confidential report again the data quality of judgement disposal of cases inspecting judge or the zonal judge or the administrative judge has written therefore quality of judgement very good are we giving a green signal that last four years he has very good disposal of cases green when I am giving my note during the last three years there are reports about his misbehaviour with the subordinates or the behaviour with the lawyers so I am giving a note so I am highlighting give another example

My brother and sisters we wanted to hear from you I am less experience you are more experience you are much more experience (boliye ) you tell us madras, Tamil Nadu you should explain have you heard any office taking a little bit liquor and coming to office you have not heard? You have not visited all court in madras is there any court where many of the lawyer coming with the liquor? There are courts can you derive on those lawyers for the purpose of reputation etc. you understand that what are the things to be eliminated, what are things to be taken into consideration.

So when you will be giving that will be assessing the overall reputation so various factors can someone add to it?

Field based network not sitting in the home (participant voice not at all audible.....) so can you ask the senior lawyers to suggest to give some suggestion for the betterment

of the judiciary and while you will be asking the seniors lawyers to give certain suggestion for betterment of judiciary whether they will be opening their mouth or not?

you talk to a senior lawyer that what betterment can be done then he will be highlighting you that what are the demerit of judiciary they are the person who knows, they will be unbiased, they will say in general we find that judgement was not signed for ten days, judgement is not released for one month, I have filed 100 Rs they are asking 500 rupees so various complains and from that complain you will be knowing the reputation for example if a judgement is.....and not given for 5 days 6 days or in place 100 rupees if 500 rupees is charged I can understand that 100 is for tip but if somebody is asking 500 rupees can it reflect on reputation of any officer staff is not giving and staff is charging, staff is doing all this mischief.

May be on the district judge who have no administrative hold so he is reputation so far as administration is concern one may say that his capacity of administration is not good, not up to mark we are talking of reputation does not mean integrity honest will be talk of what are the four corner of honesty in our judiciary will you use the word honest and integrity.

**Justice Kaushal:** I prepared a note and a journalist was in a habit of making of complain of two and three courts that DJ is having some illegal financial relation with some officer like that I prepared a note and his tool to publish a news item if fake type of newspaper having some page ( shayad 10 or 12 copy print hote) and I prepared a note and found that DJ was partly found guilty and one of the officer was transferred and six officers were exonerated like that it was a balance report and then journalist fellow asked for copy of the note in RTI and to my surprise my CJ was ready and he told just give him the copy I said sir aaj tak kabhi nahi hua it never happened that a confidential note and CJ told ke de dijiye copy usko and we gave copy to him par vo itna balanced note nikla then complain are stop coming it was a calculated risk, but meaning there by while developing a mechanism one should be ready for receiving

information from any and every copy you should have that image that everybody is like to help you and you should use a balance approach, so if you note leaked for any purpose even then you are not at the problem so these four or five point should be kept in mind and reputation and image of vigilance cell should be very very clean and shining.

**Justice Mukhopadhaya:** I asked the question that what are the four corner of the honesty? What do you mean by honesty? you said that he should be transparent in the matter of honesty yes anything to be added yes adherence to the rules, decision in time, consistency, that means it is not the physical dishonesty of taking bribe but it also talks of a mental dishonesty an officer should not be mentally dishonest or lack in working and dishonest in delivering the judgement you know sound officers they are dishonest in delivering the judgement how so one month has passed now everybody will be accusing me so this and this finish it without application of mind. dishonest way of writing a judgement some officers the argument is going on.....dishonest way of hearing the case, pretending it as if I am hearing, dishonest way of dealing with the lawyer so dishonest mean we look into his mental dishonest and integrity part, dishonesty related to integrity so while you be going so please look into these aspect also if you are in the assessment on the basis of network you are going somewhere subject to permission by your officers and don't go without the permission of your judges and I think if you can peruse your judges they may allow you sir app bhe chaliye na app chaliye hum apko khoj kar ke batayege or sometime you may accompany when judges are visiting you can get down separately you may move separately with the permission of Hon'ble Judge to asses other aspect like spy but again it should be verify by the documentary evidence which is on record the assessment when you talking of any other thing with regard to reputation.

Do any of you know what is the values of judicial officers? What is the value of the judicial officer very awkward question I am asking you? Can you say what is the value of your judgement how much rupees. So it price less so there are two type of rules in

the life one has a price tag and one is priceless value of my father, my mother, my children are priceless not for sale so you understand the value of a judicial officer is priceless, so you should not touch in the integrity of you know price less judge why I am saying because the sensitive you should not play with their character in a very light manner. Therefore these are the serious things and priceless therefore to giving a tag if a you know price tag you know my judgement is 20,000 or one lakh rupees that price tag judge if you want to stamp him that means he is a corrupt judge please pay very care in the matter of this assessment on the basis of network. Further you will elaborate other will be feel bore or I will be sleeping my brother is also said that I will be keeping monk but both of us are talking tell from your experience you know?

So therefore you are saying that property statement which includes movable and immovable property the graph in the matter of this movable and immovable property is also to be noticed for the purpose of assessing the reputation of the judicial officer alright, bank statement do you think we should take bank statement from every officers? Or you only ask for the annual income and property asses. so if he is an income tax payee you can't say bank why you have collected this much of money provided that he has shown because there are various thing which we can't do, in which we can't help then what about the leave many officers do not report on Saturday and Sunday they are not in the headquarter and those officer I have nothing to say though it is also not permissible without the permission of the High Court one should not but if you find that every week this is going on is it a matter to be noticed or not? The matter should be reported and generally these type of office also sometime \.....I come back and give a leave application casual so I am asking for earned leave in advance I am asking for earned leave after my coming which one is permissible advance or later on? So whether that can be also those are matter to be noted so about this anything

Do you recall anything about antecedent of the officers prior to the appointment that is taken or not that is taken care of do you keep it on record or not in the permanent character role if there is nothing against him and I am keeping it record and then the graph shoes that there are complains wherever he goes there is a complaint and complain is same similar and you know he is womaniser in district A, district B and District C and antecedent that nothing against him reputation we are talking of reputation has you know different facet not only money, corruption, and this and that the behaviour on becoming of the designated post he is holding. so can I request all of you that like this session just you jot down certain points in one of the white paper, white sheet and handover to hear so that judicial academy can also get the idea from your suggestion and they can prepare their own note and if that note is given then judicial academy in a better position to address the issue whenever the new comer will come because of your experience which we are hearing now if you give your ideas in writing that will be advantageous to judicial academy because training not for you, training is for registrar vigilance to come in future also and today which experience of you will be a dividend for them. So they can also prepare some set of a note that these are the suggestion given by the registrar vigilance of such and such High Court.

I am just telling you that I am the chief justice of Gujarat High Court and that time twenty judge were removed from service they were the fast track judges so instead of allowing them to continue for five years they were removed after one year I just try to find out the similarity why they were removed why other additional fast track judges were not removed only direct recruit are removed then I....that those district judges were appointed and the fast track judge by a chief justice who was not like by others it was the internal rivalry between ex-chief justice or some senior judges resulted in a removal of those judges during when acting chief justice who is a local the case came in the judicial side and I found the lawyers has made out a zero case no case made out in their favour I had to call for the reports and I personally look into their service record of the three years or two years character role written and comparative chart prepared including the number of cases disposal by them and every you know items like

behaviour in the court with the superior with junior, a complete chart I prepared and I have shown that everything is at par that those comparison to promote are there the promotee have lesser disposal but they have been retained and you understand the case was allowed except two persons rest has restored what I am just showing that these report I asked my vigilance department to prepare for my consumption vigilance department prepared very nice manner filed all data you know you have to labour hard but in these data if prepared and feed it through your clerks who are there in the office this is very important to your colleges unnecessary hitting below the belt by any person with a bias view that will not be there so you will be protected also you are not there only to find out the fault with the judges you also there to protect the judges who are the best of the judges the honest judges they are the best breed the best breed ought to be protected and you will have to see that there should not be any scare in their face we should not touch or write anything that I will become scare in their face in future so you have a little, but caution in these matter and to find out the reputation of the judicial officers I do not know who will be looking into your reputation can you assess the field based assessment of overall of the Judicial officer it includes vigilance also, it includes you and when eleven of you are sitting in front of us we know all of you are honest and that is the reason you have been not honest, all judges are honest but efficient to deal with the matter and therefore High Court has a trust on you and posted you as judicial officers vigilance very you know this a position which a prestigious because many seniors will come ( bade bhai kaise ho chote bhai kaise ho) because you are holding a very very lucrative post some of the High Court vigilance is also dealing with posting and promotion matters so if the promotion and posting matter is dealt with, so if your note is balanced note with red and green signal that these are the highlights then will be one thing but if your note is tilted one this officer he has a bad reputation about his disposal he has less reputation in last year I am not highlighting the other goods things in another case similar disposal and I am highlighting he is very good his assessment is B+, B+, B+ I am not highlighting the officer is B+ so if balanced to be maintained between you people and to ensure that other should not suffer you add it please do not allow us to stop our mouth.

If your note is balanced note with red and green signal that these are the highlights then will be one thing but if your note is tilted one this officer he has a bad reputation about his disposal he has less reputation in last year I am not highlighting the other goods things in another case similar disposal and I am highlighting he is very good his assessment is B+, B+, B+ I am not highlighting the officer is B+ so if balanced to be maintained between you people and to ensure that other should not suffer you add it please do not allow us to stop our mouth.

In inspection it can be highlighted that he district judge deals with so and so disposal so and so you know I am giving a data good bad I cannot write motor vehicle cases 90 cases, session case 0 bail 200 then I am clear and send a copy to them and portfolio judge also to ask district judge that your session trial is zero you cannot write that he is not disposing of you know you cannot write but you can say this is the disposal highlights the facts, you cannot issue the circular what is not in my hand we should not think about that there are many things which chief justice should do or the zonal judge should do or the standing committee should do we cannot say you do this what we can do will have to find out the innovative methods to show him I am telling you this started in Patna High Court when I was a lawyer prior to 1994 so I was a lawyer some people very bad reputation about the disposal they were transferred anybody from UP Allahabad High Court seven judges were transferred to Patna High Court and those seven judges as a lawyer we found that they are load on the judiciary no disposal they will hear counter, rejoinder three weeks you will not file counter then I will allow the case you don't find rejoinder then I will dismiss the case so in many case adjourn so after my alleviation the chief justice asked what to be done I said simply you do one thing everyday disposal you reflect against the name of all judges so thirty judges today disposal of rate is zero, this is this total disposal this it used to be circulated and against their name zero zero zero it continuous three days and finally found that they are starting dispose of the cases many thing you may not be position to say but many things you can just prepare it and this is the formula I had given you with regard to the disposal matter and now it time for coffee.

## Session 4

**Justice Mukhopadhaya:** Should I read half of this session Registrar vigilance as a communicator and the rest you will be reading and you will be communicating am I clear as a communicator we want you that you communicate something about the adverse remarks and entry what is to be done?

You will be communicating the adverse remarks about the disposal you see you said that you will be communicating the poor good very good excellent whatever the remarks of the disposal of the cases you will be communicating it in what for you will be communicating your excellent remark?

So you know what you will say, what you will say a person has excellent remarks against his disposal, another person has good remark about his disposal, another person has poor remark with regard to his disposal so will you communicate in the same fashion all the three?

Will you write the same thing or communicate same thing or there will be some variation in matter of poor and good am I clear because you just read it the topic communicator of adverse therefore there are two type of remarks one is adverse and other will be advisory so what you will be communicating anybody from this side you know this is very short topic I will be communicating we can stop here and we can go for tea again you see the advisory is not by you, you are the communicator but for the purpose of communication yes you have to give some note to your superior officer yes you say..... that I want to know you know because we have lot of time 1 hour will have to waste or otherwise we'll have to sleep there are two ways out kuch toh baat karenge something we have to talk you know they are given me ticket come here, so I have to justified my time adverse remarks, stroke advisory remark what will be the advice in the case

of advisory remark, adverse remarks what will be the advice in the matter of good remarks, what will be the advice in the matter of good remarks what will be the advice in the matter of excellent remark ? so can you just give example that you will be giving this type of note to your zonal judge, administrative judge, inspecting judge whatever the judge you say, so that he will be in a position to tell you that what advisory remark you see I have to communicate adverse remark, poor I communicate but the moment I talked of advisory then there should be some advice and the advice is to be given by my zonal judge for my zonal judge I have to prepare some note and in the note I have to write something on the basis of which he will be forming his opinion as to what advice to be given.

Therefore you will have to look into last few years disposal alright we are just discussing for our purpose that how we will be going so one thing you are saying that look into last few years disposal again further enlarge it what last four year disposal like leave that if his disposal is less because of the leave so that you will be looking into that because of the leave his disposal has gone down alright add something more in this context add something more what you will be looking, because you will be applying your mind I am so trying to apply my mind though process should begin.

**Participating Judge:** Whether the officer was having any family problem?

**Justice Mukhopadhaya:** Can you get it any record he will not report that I had a fight with my wife or my husband was not here so I was very unhappy?

**Participating Judge:** but if it is a health problem it will be there

**Justice Mukhopadhaya:** leave from leave you will be getting

**Justice Mukhopadhaya:** leave from leave you will be getting form which record you will get it, you know you are going to give advisory you have some document with you records please please we are not here for inquiry why it has gone down you know you are sending him let us be confine to the topic that you are only communicating,

you are a communicator you are not vigilance officer to inquiry into the inquiry part we have already looked into you know where discrete inquiry about the allegation the performance etc. that we have already discussed now the performance etc. what we have discussed you have already have something in your pocket about the individual officer plus you have the record what are the record with you one he's at leave how many days he has taken the leave is one, how many cases he has disposed of during the last few years so whether it has come down certainly and any other suggestions that I will also be looking in this aspect.

Whether there is any complaints during that particular period?

If you get a complaint then what will you say? From looking into complaint what you will derive yes punishment mean do you want to say that that, if punishment has nothing or observation is nothing to do with this, but I can understand that in a departmental proceeding he was suspended so he was under suspension for six months. So natural his disposal will be less so punishment in that sense that there is a penal order passed of a suspension because of which, so therefore I will looking into his PCR which I was saying that permanent character role that whether he was under suspension or proceeding or not that it has fall down so one is leave another is five years record that how much cases he has disposed of third is whether he was under suspension or not next

**Participating Judge:** Nature of cases disposed of

**Justice Mukhopadhaya:** Nature of cases disposed of, so if a person is disposing a case nature which is like case suppose a CBI matter is pending before a judge which is like a scam matter thousands of witnesses can he will be in a position to dispose of the number of cases. Therefore nature of case is to be looked into plus what else is to be looked into when you are talking of nature of cases I said CBI case is pending this is there scam matter

What post he is holding? a judge who is holding post of a district judge his nature of disposal will be varying from the judge who is in CBI Court his disposal will be varying who is in the labour Court, so nature of post one of the other holding is one of the criteria next

**Participating Judge:** Whether he is a new in the judiciary or person promoted?

**Justice Mukhopadhyaya:** so years of experience that means if it is a first year of experience in the Indian Judiciary so that will be looked into the matter anything

So, whether he has given any additional charge like no other court because disposal will be there like Administrative job, Registrar of a Civil Court who is holding some court as well as some administrative job he's doing. So nature off duty he is performing is to be looked into yes anything more from you, geographical area that means pendency is less, number of pendency is less therefore there is no scope of disposal of more cases so geographical area and pendency is less or more is to be looked into good please note down this thing because when will be asking you that please give a report even in four, five, six repeated but these are the best ideas you are giving you know noted it down simultaneously so that they may get it think of the next batch also next generation also.

**Justice Kaushal:** Folders of ACR yearly was collected by ok ultimately kept by register vigilance registrar vigilance secretary of certain committee also including one of the unit committee in which how many work done how much unit will be provided for what work so he is getting continuous feedback for that and also on the basis of it process of revision is always going on there it should go on because nature of laws are different some new type of cases require from lot of work so we keep on changing the unit prescribed and we always taken into consideration the work done by particular judicial officer so between 10 to 6 whatever he is doing should be

taken into account for his assessment if it is reflected by units so you should be positive in awarding the unit also you should have a constant watch on the nature of work because you are the communicator or link between the judicial officers and the High Court because Pains and problem of judicial officer are well known to you you are one of them and vision and point of view High Court is also very much clear for that because chief justice is always from outside the state some of the senior judges they have their own priority and problems so that for the benefit of judicial fraternity you are the best person to do and to say for them and insofar as this communication is concern. I was saying that bunch of ACR was received from in case of magistrate or ADJs also it is written by session judge self-assessment and then note of it then it is registrar vigilance in person at the most he can take help of because one thousand ACR are there, five hundred are there number of judicial officer it depends on it so with the help of some additional he practically carefully produced the item and point out with red ink which part probably can be dealt as adverse.

Carefully produced the item and point out with red ink which part probably can be dealt as adverse suppose in some of the Colum it has been written he can do better whether this is an adverse or advisory because a person has a capacity and occasion to do more work but he is doing less work as lordship pointed out in earlier deliberation maybe you have right cases worth decision but after deciding ten cases unit quota is complete you have touched the very unit criteria then deliberately they adjourned six cases for next month is that it will utilized in next month these small things on the basis of that his session judges is given a comment that he can do better or she can do better whether it is to be communicated or not this decision taking at the stage of registrar vigilance if he or she puts a red line on it that this is the worth communication then it will sorted out and pointed out a chart will be prepared for each and every officer it has to be placed before the committee or the judge or the zonal judge and it was counter signed and these information will be communicated relationship, health problems these are the general remarks these are under the

complaint based these are the reasons of ..... ACRs it is a home work of finalization of ACRs it begin in the month of January itself as soon as we received the ACRs we growing through it we pick the portion of ACRs comments of session judge or in case of magistrate and ADJs and we sent gist of that particular ACRs to that particular officer he sent his remark after receiving it registrar vigilance himself he go through examine the comments also of judicial officer and only after that the stage of communication arise it was the practice because adverse remark and comment came from session judge in ACR it was communicated to him this is the ....his explanation was taken into consideration and then final remark that it is to be decided by committee it was not in the domain of registrar vigilance he is a processor and ultimately the communicator rest of the things are between the regional officer.....high chief justice and its committee chief justice use to make the committee for different purpose and different type of committees so the role of a registrar vigilance is to communicate the problems felt by the judicial officers while earning the units number one, number two his periodical inspection an lapses found there in, lack of punctuality.

.....from the regular inspection on the site and after deliberation and communication with the bar members and staff members and random communication we received so many information regarding with that station also and regarding particular officer also there are district different approaches there should be for district judges and reaming officers district judges should be dealt with great care because they are some superior to you and most of them are equivalent to you so and this is also equally important then they they all have the right to have a copy of your note also whatever you are writing should be well based on facts its language should be balanced nothing should be hidden nothing should be unnecessarily exonerated indicating of real facts situation of that particular matter whether based on complaint or whether based on inspection, whether based on previous year ACRs normally these are the three sources of registrar vigilance and I already told you that complaint may be anonymous may be deemed but we came to know only after publication in newspaper and after all after hearing a particular officer taking his point of view also anything adverse done against you it is

only after giving opportunity so the balanced approach and you should ensure that before making or any comment or taking any action his point of view always on record if you are keeping it it will create some problem and it should be unbiased also share account as lordship says that in green line you must point out his better qualities should also be highlighted because there is one instance in Indore itself that session judge acquit the accused and released from jail without writing the judgement he was the accused of 302 and session judge was busy in marriage in family, so he thought he will write, but he could not write and vigilance cell captured the file it was not keeping the judgement on it. So suo moto that order sheet that he has been acquitted was taken from judicial side this order was set aside and hearing was directed and another session judge because there was no judgement so there can be no appeal on the fact we did not know and he acquitted the order sheet mentioning the fact of acquittal and send the release warrant to jail on the basis of that order sheet alone without judgement and made a case for inquiry and ultimately it was heard by another session judge he found the case of conviction in matter of 302 if accused has been released if after writing the judgement it would have been done then it was different on judicial side appeal could have been there so without writing the judgement it is a very serious so we counter this type of situation also but remedy is always there you should be very innovative and very positive also if you are getting some information against them you are not supposed to give any relaxation to that because you are working for yourself also for your satisfaction also and.....you are working for chief justice or working of administration judge or number two because in those days registrar vigilance was mainly working for satisfaction of chief justice alone even if number two judges also saying to do something we use to inform at least chief justice that someone is told so that if you lost the confidence of chief justice you lost everything so long you are enjoying the confidence of chief justice so long you are perfect registrar vigilance because this is a way of controlling or having the knowledge or having the control over the overall affairs for chief justice to have the control of each and every aspect because he has to see ultimately fifty lakh litigant also, twenty thousand advocate also, ten thousand employee also class three employee, two thousand judges also because no

doubt chief justice has different kind of sources also he is not dependent upon your information he has different impute and sources also of being informed but he mostly relies and believes on registrar vigilance this is the final version and for the version of registrar vigilance even the chief justice fight from the entire world it never happens that any fair note of registrar vigilance is ever under relevant because against whom we are writing they have also there lobby and resources because as soon as you suggest any negative thing or any action against particular judicial officers they all become one and they will try to think in collective way because in those time we felt very difficult situation we faced where the selection of ADJ office three entry we have to made number one from the promotion of the civil judges and 25 percentage from the direct bar and out of 25 percentage from general promotion now this promotion is reduced to 10 percent I think but exercises are same so we have to conduct the examination so what happened that at least more than 50 percent of the ADJ went into litigation because promote they never like entry of bar direct from bar but they can avoided they can stop it it will go on but ultimately that they got the ration of jumping promotion reduced because in jumping promotion a person originally listed hundred name below he just come above them and result of certain examination at face value policy was good what I mean to say the the meeting of registrar vigilance is you are the best person to know the grievances and pain and problems of local judicial officer also you know there reputation also but unless you can on the particular facts set of facts to the High Court or the feeling or decision of the High Court to that judicial officer you will....in your duties so stage of communication I again come back to the point that your experience of life, your dedication for the work and ultimately as a registrar vigilance what I felt is a sense of spirituality and dedication to the god is very necessary because CJ are keep on changing administrative judges are keep on changing so mere working for our satisfaction and we are dedicated for god unless that feeling is there so your every action is now will be fair and unbiased and for that after giving proper opportunity of hearing and ensuring real fact situation a comment should be passed and communication of remark advisory and adverse it is I think for High Court and judicial officer whether it is advisory or adverse in advisory.

**Justice Mukhopadhaya:** Now I will be coming back again to the topic adverse and advisory should I request you to go to the page number 45

you see for district and session judges at page 45 there are points given in many of High Court they do it like that and again next page for CJM, civil judge junior division, civil judge senior division the points are given alright then come to page 50 one of the High Court in self-assessment the officers are filling up how many cases they are disposed of and the basis of the points what are the points they are getting and I clear so an officer may find that on the basis of the points he is grading below 20 or above 20 so he making self-assessment poor or adverse or anything whatever may be good very good next page if you see zonal officer zonal judge, zonal judge is asked do you agree with the information that means he has also the right to say to say something about the disposal then attitude towards the work you know behaviour the judgement well written or not and the next page general assessment efficiency other quality and then outstanding etc. etc. He will be giving a tick, now you communicate whatever the adverse remark or the remarks is there don't communicate only the disposal the disposal has come down then you have said that we will be looking into these parameters that why what was the earlier disposal or the present disposal therefore in the matter of giving a note so that advisory remark can give one will be the person he had average in the last year and this is good this year it is good this note I give to may zonal judge, zonal judge gives the advisory ask him to improve, so advisory will be that you earn so and so and this is good the advisory will be you improve so your noting before the zonal judge is a big factor but about the reputation if the zonal judge writes integrity is doubtful, am I clear that also to be communicate his behaviour with the subordinate staff is not good nor cordial these are also adverse and very good is not adverse but are you supposed to communicate everything if you are supposed to communicate everything as per the judgement of supreme court then in which cases this advisory will be there advisory will be there where there will be either adverse or there is a chance of improvement am I clear, a person is doing excellent no advice the advice can be keep on keeping the pace

of outstanding or excellent performance is appreciated so advisory what sort of advisory should go I think what is your job you cannot write a character role character role is already there you will be communicating it, so whether good bad whatever the disposal whatever his attitude with the sub ordinate and superior whatever his court craft in the court whatever his integrity or honesty you have no role to play and if you say communicate you are communicating to everybody then here they say adverse and advisory then an advisory remark you will have to play the role of registrar administration to give a note to your superior judge that is the zonal judge and there you will have to give like disposal of the cases you have given four five parameters that this has to be taken into consideration and there it may be pointed out to the zonal judge that you have given c grape poor but actually the officer is posted in CBI so he has no.....so when you are giving the note it is not advisory so he may also correct himself before the communication of the concern officer asking the question does not arise the question of representation will come only after you communicate why the supreme court says communicate, communicate every remarks the reason is those who are doing good they should be encouraged that you have been given excellent so he will be encouraged those who are very good they can be communicate that you can also be excellent tomorrow those who are good they can be ask to improve those who are poor they may be warned so what will be the advisory so you will have play a role in the matter of giving a note I am just asking a question to myself what note I will give if the officer about him it is written his behaviour attitude and behaviour with the subordinate staff and litigants are nor cordial its bad if the zonal judge writes that what sort of note you will be giving for the purpose of advisory officer concern?you have to give a note because advisory you can only send if the zonal judge say so so what note you will be giving he has already written anybody I am just thinking in what case what type of note can be given?

No judge has already assessed you know keep it in mind there is no previous, no complain but presently judge has already given his opinion the zonal judge his behaviour, he has come to know from somewhere subordinate staff is not cordial.

Please I am saying whatever may be there the judge has formed opinion you know one thing is what I said before writing the confidential you have given everything there are stages that chapter we have already discussed that you keep it on record before his character role is written to give those feeding to the judge to give the feeding to them judge whatever you have ..... up the character role then same thing is not to be followed that discussion we have already completed now he has given his opinion on the basis of everything on record.

What advisory note a judge can give? What is the language you will put before the judge you are noting before the judge he may be advised to behave properly inside the court with the subordinate and litigants with the lawyers he may be and if the judge says yes then you will be communicating that advice Hon'ble court has advised you ....on these points these are the advice given by normal court behave well with the subordinate so and so so and so in future theirs should not be such remarks because we will be giving such note and then your officer may change it or....as proposed so this is one about integrity if judge says from knowing somewhere that integrity is doubtful what note you will be giving?

What note you will be giving to Hon'ble zonal judge for the purpose of communicating the adverse remark with advisory he should be given some advice also can I give a note like this I am talking of note only that your lordship is already assess the integrity as doubtful whether an advisory should be given to him to correct his behaviour and other thing, so that in future there should not be any comment and in future, if such remarks are repeated may take removal and compulsory retirement etc. you give a note because integrity doubtful he may be compulsory retirement alright, so you are giving a note to your zonal judge say no only communicate my opinion or give advice careful in future he will change it no only

write this the remark given for your information you be careful in future so he will be giving you the advice for the purpose of the advisory to the concern, but you must bring the fact to the notice of the zonal judge for the purpose of communicating the advisory you are not a post office in the very beginning I said that you should not function like a post office it has come I communicate he should be intimated either the appreciation or the improvement which he can achieve or what he should stop similarly knowledge of law and procedure poor what you will do. If the knowledge of law and procedural is poor you see you are giving a communication and communication is an opportunity because you will be representing against the adverse remark, why supreme court says that you communicate it, so that he may know you are giving this opportunity but while giving the opportunity why communication only for that purpose not that you read it and sleep he may you know therefore it is not a punishment it is not a show cause notice that first give a show cause no I have given this communicating means if he has anything to say let him say for.... villan of judiciary or hero of judiciary in the very beginning I said whether amitab bacchan or ajit you understand the system you have to followed you can't question and you have to therefore I am saying if a person has a poor knowledge of law and procedural if level of knowledge related to instruction he has no knowledge about the instruction...he has been asked to dispose of the X type of cases and he is not talking the X type of cases has dispose of Y type of cases instruction has been given by High Court that is also reflected so while giving the note what type of note you will be giving that we are only asking yes

What about the knowledge of law and procedural if it is said poor if a person knowledge of law and procedural is poor what note you will be giving yes?

**Participating Judge:** Sent for training

**Justice Mukhopadhaya:** training? ok

Let him be sent for training in the judicial academy to improve his knowledge of law and procedural with regard to the disposal of cases or one may say being the advisory that the district judge, the principal; district judge may be requested to take care that so and so procedural he will bring it to the notice if necessary one hour he will be discussing the matter for about a week.

You take care of your brother judge and the High Court say so what we are saying that whatever the manner you count it the language you use it High Court judges very simply give as proposed they will be happy ohhhh so and so has done a very good job and he will take credit you know my High Court is doing like this you do allow your zonal judge to take credit but be satisfied that you are the basic person was giving best in the note. what we want to induct in you in the confidence in changing the you know so called procedural of old system which is going on no something new something innovative we are just thinking you do it let your colleague say ohhhh he is trying to be very smart let your zonal judge say what you are writing you are becoming very smart ok sir I will not be writing I just thought to bring to your notice there are other side also but don't bother do your job because that is your duty to communicate but communication should be fruitful communication for what purpose I am communicating I am communicating an excellent character role, for what purpose why a paper will be wasted High Court paper will be wasted by writing a note number one how will be keeping in record so that in future will be knowing in the matter of promotion what is it his character role number two an appreciation will be simultaneously will be there that is known as commendation so advisory will be to him that he has done excellent job for the judiciary please keep it up encouragement and I am telling you when you are posted in the district as judicial officer done something very good and if you get a commendation first what will be you doing you will go to your spouse husband or wife dekho High Court se cheeti a gay mera you know this encourages the officer so encouraging is also apart of our vigilance not only damaging the judiciary, but the encouragement to our judiciary who are performing the job by doing the best thing give then encouragement you are very good I know Mr.

so and so the Hon'ble judge stated that you are very good but Hon'ble judge court has also high hope on you that you will be doing outstanding in future so a note goes like that I am very good now High Court said I know that you can do so it will encourage so encouragement in one part and discouraging the people who are really worst in the other part or in the matter of integrity but encouraging in the matter of poor disposal let him come to the threshold let him compete with others therefore disposal and please come at par with your colleagues so you will be knowing that his colleagues are doing good I am not performing well now add to it yes anybody wants to add because I am tired you have to add it yes for betterment yes that way add what further thing can be done, that we already discuss what more can be done apart from this.

**Justice Kaushal:** Another way of communication like that in the....in column number ....Hon'ble zonal judge has given following remarks

Justice Mukhopadhaya: why we are saying so because I do not know whether for communication of the remarks adverse or good whether any note is given to the superior judge for further you know advisory am I clear my feeling is that none of the High Courts are giving the commendation to their officers not in practice and if eleven of you start doing it will be trend in the country to encourage the officers also discourage the officers to be careful in future and that you can do by giving a small note to your zonal officer get a seal of it and send it a system will have to evolve if eleven High Court evolves like that rest eighteen High Court will follow how many High Court 29 or 22, 24 so rest 13 will follow yes anything you want to add something. I am telling you in Bihar there are 1400 judicial officers when I was there at Patna High Court there are 700 hundred judicial officers at Jharkhand when I was in the Jharkhand High Court I was knowing each and every officer by face and name 1400 there 700 there, Tamil nadu confusion of the name I was not successful you know that interaction is also not there with judges except me and Gujrat also as a chief justice majority of the judges I was knowing why I am saying that if you are in a contact with the judges as friendly contact what happens you know human psychology, human

psychology is what do you knew mam Ms. Chotopadhya and what is your name Mr. Chandrshekar if two of you are regular coming to me I know what type of officer you are so when I will be writing a character role I will be bias vis-a-vis those who are not coming before me am I clear for them average, good you know I cannot give you outstanding to everybody so I am writing good, very good, so it is like head or tail and I am writing very good or excellent about two of you so this human psychology of the Hon'ble judges will always be there and there you can take care by giving a note suppose disposal is poor....whether it is to be communicated or your lordship will also take care of this that total disposal is 60 which comes in the category of very good so judge may think twice he may say no whatever I have given communicate that fellow will be writing....that I have dispose this one so I should get very good not poor am I clear any other suggestion one minute is there I have to spend that time I think all of you are tired now, tired of hearing only one person brother is also keeping numb thank you so much why I am saying to you for tolerating me for hours together.

## Session 5

**Justice Mukhopadhya:** Good morning to all of you. The topic is registrar (vigilance): function and utility of this post. The function in fact as part of the functions we have already discussed yesterday the utility of post is also there. I will be requesting brother justice B A Khan to address the gathering for about 5-10 mins and then thereafter we want to interact with the those delegates who are here.

Justice B A Khan: I think there shall be more of interaction then address. Since the audience is limited... ultimately it has come up so well. As far as the topic is concerned, I don't have those goody goody views on subjects pertaining to judiciary. Sometime I am vocal in spreading disaffection because of working on many fronts. So as far

registrar (vigilance) is concerned... see what's happening in judiciary is that off let there is a growing demand for judicial accountability and we have been wording it off one pretext or the other. Now judicial accountability debate which has been going on suggests that all is not well in the judiciary. So how far ostrich approach we may adopt the fact remains howsoever we may go on hiding the facts remains that judiciary is not free from all the ills that are affecting others system including the corruption. There is in fact a public perception that judiciary is as bad as any other organ of the state would be only difference is that we act hypocritical and say no no and say ours is not that bad. there is no....when Dr. mohan gopal was director, he has written an article on data available on corruption in the registry in this judiciary and one time if you recall there was justice Baroacha, who publically announced that 20 % in the higher judiciary are corrupt. Thereafter we have been having disappointing reports. What all I am saying is that once we are attacked for our failings or for our wrong doings we take a cover and say we have our own mechanism. In case of higher judiciary, what is that mechanism? The result is that public does not come to know. They know through lawyer, they know through intermediaries. But when it comes to action, we keep it under the the tap. It will infect independence of judiciary if we disclose it or why can't be transparent. If a complaint has come if Chief Justice of India appoints a committee he must make report of the committee public. So people will come to know there was an error or not. The covering makes all the more worse. People think something is wrong and they are covering it up and that we have been doing all the way. Now about district Judiciary or subordinate judiciary we have our own mechanism and what is that mechanism? And that is Registrar vigilance. I believe all of you are Registrar vigilance. If this was the mechanism to check wrong doing in judiciary and this mechanism should be institutionalized somewhere. If you ask yourself honestly, all of you are Registrar vigilance I have worked in 3 High Courts I have seen a Registrar judicial, Registrar vigilance is the one who is side-lined. In most of the High Courts this is same. The registrar vigilance posted on this post least wanted otherwise in any other activity. Nokia is taken in the selection. Whosoever bad he may be is put on this post and what does he do? Have you seen these rules of different High Courts? It is

supposed to be the key figure in checking the wrong doing in subordinate judiciary under the High Court. High Court enjoys the power of control under Article 235 unregistered Vigilance and registrar vigilance supposed to be supervisory authority in the district judiciary. Can any of you honestly tell me that he do so? We have created are intermediary agency.

So in my view, though Registrar Vigilance is a post which is supposed to keep a vigilance on the subordinate judiciary the staff of the subordinate judiciary has a very crucial role to play. He can make hell of a difference if we allow him to operate if we make use as an institution. We have different rules in different High Courts. If you read Himachal rules, Registrar vigilance is also legal secretary of legal service committee. He is to discharge duties which are entrusted to finance department of the High Court. There is a long list of duties which you suppose to know. All I am saying that there is no doubt that the utility of this post or keeping a vigilance otherwise we have to give this to external agency. But keeping it within our self then is it not our duty to making it institutionalized. It is not our duty to make it effective, is it not our duty to make it an instrument or projecting the image of judiciary before the public. I don't know what is there in your High Courts but in the three High Courts I have seen poor fellow has to borrow some assistance from some other section for typing or recording of statement or some other things. But if he has no investigating apparatus and if does not have his staff also he is put to routine duty. There some complaint, the complainant come to the chief justice, the chief justice mark it to the registrar vigilance. The registrar will sit over it for one year or two years after two-three years a new administrative judge will come and will say close it. Had he been created as an institution, had he been something like a vigilance commission, had he been enjoying all independent powers and only subjected to reporting to the chief justice. He had a utility. He was an insider. So insider will very much know or better off in detecting and coming to know what is going around and what is not. So as far as his duty of examining complaint is concerned it is a routine clerical duty. That examination of complaint leads to know result very often and assume for a moment that it process the

situation gets him a formal departmental enquiry. This man has no apparatus to pursue that departmental enquiry and prove a charge against delinquent officer and his report is all worth. Whatever report he may make is subject to other check and references. What does his report goes through? If you all have a broader outlook prevailing the High Court, I call when I was in Madhya Pradesh High Court we dismissed 16 officers in two years. Most of them were just granted overnight bearing in the narcotics matters that we have that time strong will chief justice. No non-sense in judiciary who make it a point to see the officer out. But we don't have that practice prevailing everywhere. It is left to individual choice. He may make a registrar vigilance strong. But where you don't have you don't have most often it comes to not. So these things need to be institutionalized. It needs to be broad based. He has to be made autonomous and the organization has to make out that. He has to be given full investigation powers. I would only be knowing through some supervisory mechanism if it was created somewhere. So what is that supervisory mechanism, is the registrar efficient enough and what registrar, is a single person sitting in his chair if at all he is given an office or a chamber. He has no other means to know whats.....

{ Audio not clear }

So he must be given as a separate investigating agency. I think in Karnataka...in Kerala, there is attached investigating agency headed by DOISP but in no other promotional courts you will not find. Where is that investigating agency? Similarly it has to be coordinating with other intelligence agencies prevailing in that particular place. So now the input is that who is doing what. There is no worthwhile mechanism which we can say is our in-house mechanism. Then these reports must have some respect and credibility if you are choosing an officer and first that selection has to be proven man of integrity and it must be made by the collegium of the High Court of a person who commands respect, who is known within his community that he is the most honest person we have, whose reputation must be that he is not amenable to any influence. That person must be selected and after his selection his enjoy credibility. Whatever he says must go through unless he is deliberating committing a mistake.

Those reports always gather dust and there have to be some time schedules like I have seen strange cases wherein the enquiry is going on for 12 years and officers is getting promotion after promotion and after 11 years some judge tell the registrar that close it. The result is that there is no result. Two things I would strongly admit here one there must be you must have seen that chief justice resolution on 2007, 2008, 2015 is there a word of creating a vigilance organization, is there a word of how it should be strengthened, is it not routine only. So what I would strongly advocate is that if there is a outlook somewhere, there is a good sense prevailing somewhere if there is a determination to check the wrong doing in the judiciary which is the last hope which we call people to tell. Then this vigilance organization has to be broad based, it has to be strengthened, it has to be made autonomous, it has to be given infrastructure. Its recommendation has to be accepted mostly. Then there has to a uniformity in all High Courts this vigilance organization shall be an institution not a post of the...where you post a person whom you don't like, post a person to whom you sideline. With that I will leave it to your thoughts and honestly introspect you may find some agreements with what I have said if you are important to differ at some stage please let me know.

**Justice Mukhopadhya:** I think there is no Question of Disagreeing with you. You were on the facts, in the present situation. But the basic fact is that what others will think, what future will be done, we will do it. Are we entitled for only that? We know what the position is, what is our strength as on today, where I am posted for what purpose. They may not have desired to do something about the institution. No chief justice is thinking about the institution. No common agenda is there for all High Courts. But still we have to progress, still the judiciary will have to be corruption less. Single person, I have given example of Mr. T S sheshan yesterday and Mr Rai, who has shown what is election commission. It is individual person who can make a change. Yesterday we have pointed out that if you want how to do enquiry into the matter. You may not have the strength. You can request the chief, you can request the other registrar to have best of the officers like accountancy finance like the PA for the

purpose of typing etc. and other stuff for the other vigilance like making the inspection like you go and what is being done in some of the High Courts, I have said about Patna High Court, I have said about Jharkhand High Court and I can say it can be followed in all High Court. Patna and Jharkhand...I was in 4 High Courts I have 20 plus years of experience as a judge and I have seen as an individual officer. If the individual officer is honest, dedicated they can change the complex. 42 officers were dismissed-removed in 2002 in Jharkhand. In Jharkhand, nobody thought they can be transferred because they are district cadre. But giving administrative reason they were transferred. Who are the best officers? Who want transfer? And all the inputs were given by the Registrar Vigilance. They took 6 months' time 200 hundred staffs from different district who were worst are to be transferred. Justice Altamas Kabir was the chief, justice kabir asked me Mr. Mukhopadhyaya they will go on strike. I said no body will go on strike because in place of 200 persons, 200 person are going to have a choice posting. They will not go on strike, they will go and join. The thing happened, 200 and odd persons were transferred on punishment basis and 200 and odd equal persons were posted giving the boundary. But the idea evolved from whom? The registrar vigilance. I came to know from whom? Registrar vigilance. I told to my chief justice, he came to know from me because the eye of the High Court so far it relates to the sub-ordinate judiciary is registrar vigilance. If the registrar vigilance is honest, dedicated, has vision, has effective applies his mind and systematically progress in proceed in the matter. Even in this system I sure that all of you can make a change. What is required is the inspiration. If you have difficulty in targeting two -three district, then target one district at a time. As judicial officer, your posting in one or other district you have an experience of that district and you have experience and idea of the officer that were posted there. Who is good, who is bad, who is corrupt, who is not corrupt, and who is honest. Today, you have gone to the post of registrar vigilance and officer of the district judge rank, you have experience of how many years??

All of you must have experience of 6 years and what is the position. Position is that with that experience you know about one, two, three district. Target, find out, and

make assessment during your lifetime you do for 2 district is enough. Let the other will come. So what you have done as a registrar vigilance till yesterday is not the factor before me, what will be doing as registrar vigilance after going from here is the concern. Therefore, I will be requesting you tell one by one what your view, utility is. From this side you will say one utility then next next next we want to know the utility..utility you may relate to a particular function. That I can be utilised in this fashion then we can know that how you change your mind for the purpose of utility in the matter of function as registrar vigilance. Will you start or should I start from this side....can I ask you from this side....relate to your function that I can be utilised for this function...You can say I can be utilised for the function A, you can say I can be utilised for function B, you can say I can be utilised for function C. We want to know your mind set.

Participant: {Not Audible}

**Justice Mukhopadhaya:** whether you chief justice keeps confidence on you or not is not the factor. In Madras High Court you may say my chief justice has a confidence on me in another High Court they may say that chief justice is not hearing.....That chief justice is sitting idle, he is thinking of his elevation in Supreme Court. Therefore yesterday what we were saying it is not the question that what the others will do. I am clear to you. We cannot control my chief justice. I cannot control my zonal judge, inspecting judge, administrative judge whatever the judge you may name. I cannot control my judges of the High Court or the standing committee or the final decision that will be taken by the full court. My report will be with thrown. Somebody may say what nonsense you are reporting. You don't know he is my officer, he is my person. But that is not your job. If you compromise you service, your character role, your promotion then I am telling you, you cannot write a judgment. Because if you write a judgment that may also tell upon your health...many people may not like that if a

judgment is relating to one of the politician what you will do? you will adjourn and adjourn and adjourn till the other officer is posted. There there is one thing that let me just pass my time. This you can do. You will be getting the salary but if you have courage if you have good sense place it on record and place it before the chief.

Participant: {Not Audible}

**Justice Mukhopadhaya:** So you will be weighing the nature of allegation. Not suggestion. This is what you will do. What I am saying I will be utilising like this. This is what you will do. Others will do or not..they are just hearing you. We are leaving everything on others. If a judicial officer makes a complaint where did it goes? Who receives it? Judicial officer is making a grievance generally which department looks into the matter. You are talking about complaint means complaint leg of the judiciary include the staff etc. everything. So, if somebody is writing to the High Court about these are the deficiency in my court that will not come before you. It does not come. Next you say about your utility in the matter of assessment of character role. We have said now let us say your utility in the matter of assessing the character role.

**Justice B A Khan:** Who does it? Does any of the vigilance registrar recording any...

**Justice Mukhopadhaya:** No. The character role is forwarded to you and thereafter you have to place it before the zonal judge. So yesterday we were discussing that you are not a post office were you come and posting.

**Justice B A Khan:** Is the uniform practice in High Court?

**Justice Mukhopadhaya:** No. There is uniform practice, we are talking of tomorrow. We are not talking of yesterday. They will start it.

**Justice B A Khan:** Because I have seen High Courts were a full court records an ACR. I have seen a full court knows nothing about the officer and it is all subjective. On

judge like the fellow, will give a. I being the next judge indifference to that senior judge....unless there is an established principle/practice which in assessment of ACR with vigilance registrar then vigilance registrar report have the performance of that judge must exist somewhere.

**Justice Mukhopadhaya:** They cannot write anything with regard to character role. They don't have power. Either it has come from district judge about the sub-ordinate judge or judiciary or it is the portfolio judge who is writing. Now the assessment will come at two stage. Assessment will come if a munsiff or junior division his character will come and retain by the district judge has come then it is to be placed before reviewing authority the zonal judge/inspecting judge/High Court judge. One thing is that it has come I will place it before lordships for...another thing is that this is the record - these are negative and these are positive as per this. I am giving you example that if somebody has written excellent - highlight excellent that he has been highlighted here but in the matter of disposal it is poor- highlight that so that it will not go unnoticed before the zonal judge. Zonal judge sometime act just as so and so that is there. You can also highlight past 5 years what is the position that in past 5 years these are the positive note and these are the negative note. So that when you will be reviewing the matter you keep in mind what has been stated if a judge was honest last 5 years why he has become dishonest today. If he was dishonest for last 5 years how he has become honest today. Therefore, these can be done. Nobody can say why you have given last 5 years highlighted nobody can say why you have highlighted. Let them say this is not being followed. I am saying try to follow it. See what is the result because you cannot write anything beyond what is written over there but still you can say sir this is the...have you seen secretaries of ministers, have you seen the personnel secretary of the chief justices. What they do? Sir, this is this. The just say one two three. They highlight it and majority of the chief justice I have seen that they don't apply their mind alright. So at least if you highlight it by your note so they can some of them can take cue from that while reviewing the order that in what manner the

review order is to be passed because most of them don't know the judge. They don't know the judge. Yes. Yes brother.

**Justice Mukhopadhya:** Therefore I am giving that you can do it. Then nobody will say that why you have given me 5 years this remark. Highlight it. Please do it and let it be reviewed by the judge. If you have that this time his performance is this and this. I am talking about the best and the worst. And you say that last 5 years this is this for your lordship perusal. Please try it. Try it because other are not doing it is not going on there that is why I will not do it. I am against that theory. Personally I am against that theory. If you don't do it somebody will do it in future, somebody will have to start it. One High Court two High Court they are doing it. Somebody started it. Therefore continuing it. Somebody will start there. Don't bother whether the High Court judges will do it. You have to dance only at the tune of the judges. You have your own mind. If have been given vigilance post what they will do? They will transfer. Let them transfer. Do your job, highlight because you have been given this post otherwise why the ACR will come to you. If you have nothing to do. Let the postal peon give it to the judge. Why registrar vigilance is required. And this topic today is your function and utility. If anything is sent before you as per the High Court rules ACR has to come before you as per High Court rules then you must have a function corresponding. If the rules says ACR will go before the registrar vigilance then you must have a function and you must show your utility. If you don't show the function and utility then simply you will be post office. Choice is yours, suggestions of both of us are before you what is to be accepted what is not to be accepted for a judge to decide because you are independent. You have your own application of mind either you will decide to go for it or not for it but now this is the time for coffee.

**Justice B A Khan:** I say reporting authority is the district judge. He records for civil judge junior then does it comes to vigilance registrar. Suppose..

**Justice Mukhopadhaya:** In how many courts it routes through vigilance? Raise your hands. Rest of the places it does not route to. So these is not for you people. Here everything is given.

**Justice B A Khan:** Sir, what I was saying is that a uniform practice shall be established and rule should be made that ACR should be routed through regional registrar and that vigilance registrar must have a power to give his note appended to it then it

**Justice Mukhopadhaya:** Is this is the only complain in your cases. Other High Courts? Only complain? No. nothing else is sent. Only complaint. So complain is there, ACR is not there, ACR does not reflect that the nature of job if he is dishonest and the judge says that he is dishonest so that it will not come before you. Alright. So after the tea.

Session 6

**Justice Mukhopadhaya:** Next topic is scrutiny of assets of judicial officers role of registrar vigilance in all High Court it is there no so for those High Court where it is not there it is not meant for you, you can only learn it learning is a process whether it is there or not

Who looks into this scrutiny of assets?

**Participant Judge:** In Punjab and Haryana it is with the registrar

**Participating Judge:** It is registrar vigilance in Chhattisgarh High Court

**Justice Mukhopahaya:** So which are the High Court where the assets of judicial officer are Chhattisgarh or any other High Court, Punjab and Haryana, Andhra Pradesh so three High Court, Delhi High Court, so out of eleven

What is the assets of the judicial officers?

**Participating Judge:** integrity, reputation, character

So those are the assets which are not to be scrutinized but to be appreciated those are the assets to be appreciated not to be scrutinized in general discussion don't bother who is dealing with the matter or not. What are the subjects they mentioned in their assets statement as a judicial officer what you write in your statement of assets

Number 1: about whom and what are the things which are being mentioned one by one

**Participating Judge:** In Andhra Pradesh

Justice Mukhopadhaya: no no no forget Andhra Pradesh one officer is filing his statement of assets one is movable and immovable property of officer, spouse and dependent family members so those are the things in the assets which are being filed by them no they do not give the what is the assets since long last one year is one thing that is every year when you are filing so once they will be filing the assets statement of the judicial officer now they write about themselves their spouse and the dependent children now what are the statements that are given in the assets statement.

**Participating Judge:** All immovable property whether acquired

Justice Mukhopadhaya: So immovable property acquired or inherited ok including the shares, undivided share, so immovable property of his spouse will be have also they will show that what is the share of the spouse in his or her property in the parental property

**Participating Judge:** yes

**Justice Mukhopadhaya:** They show it that is required to be shown and what about the movable property? all movable property 10,000 and above should be declared now what about the....they are also reported so if disposed of and out of the amount comes which is less than 10,000 rs then need not be more than the amount then it is to be reported

**Participating Judge:** There is another column which we had in all the investment made by him, share, debenture, last all the account held by them

**Justice Mukhopadhaya:** Therefor they give the bank, branch, bank statement, they give the account number etc. so they give the name of the bank, branch, account number, and you also asked every year to give the statement similarly of the spouse also and children.

**Participating Judge:** we also ask for any weapons?

**Justice Mukhopadhaya:** so weapon is also a assets that has any valuation is there or no valuation, weapon is variety of weapon, no they have said what type of weapon it should be a chopper

**Justice B. A. Khan:** voice is not clear.....

**Justice Mukhopadhaya:** I think it is to be related with complain, if any so if any complaint is made that he is holding also these properties then one can verify corresponding the property already given and inquiry whether he holds those property or not only then

**Justice Mukhopadhaya:** suggestion is required because all of you not deal with this except three or four High Court the other high are not dealing but this is the subject will have to deal with the subject any case you are giving the assets, statement now in that case the scrutinize of assets of judicial officers and role of registrar vigilance forget role of the registrar vigilance where vigilance is look into the matter the registrar will be looking into the matter so what will be and how this scrutiny will be done and what role can played if you suggest one or other can suggest that this is the how the scrutiny can be done, what type of scrutiny and you role will be there for the purpose of even High Court..... that this can be done like this because they will be noting the national judicial academy and national judicial academy can send their views that please all chief justice should considered this if necessary in the chief justices conference that

these are the important factors for eradication of the corruption in the judiciary and this is required you know the conference when goes on in the conference your mind set if you open the innovative idea if you give they are the person I said yesterday please note down and give a note to them whatever your suggestion so that they may compile it so that they may compile it and after compiling it they can give it to the your chief justice and also to the supreme court to take up the matter in the conference.

So you suggest about the scrutiny of assets number one and the role of registrar vigilance yes

**Participating Judge:** it should be digitized

**Justice Mukhopadhaya:** digitalised means, the assets are not digitalized in your computer

**Participating Judge:** no it come in the physical format

**Justice Mukhopadhaya:** No whether the High Court are taking it there website or not like judges like us as a Supreme Court Judge I have to give my statement as a chief justice I had given by statement as a .... judge I had given my statement but these type of statement are not put in the website so one of the thing is that you want that it should be also put in the website so that there should be an transparency about the assets of the judicial officers please these are the things which we want that you should note down and give the suggestion because our deliberation here is that how we can put things are not there, innovative idea is required to proceed further.

Next please you can find my assets and you can see it from the website....no no no account number etc. cannot be given. We are talking of the assets statement in fact in your High Court is doing something wrong the wrong is committed that one should not be asked to give the account number,

**Participating Judge:** In our High Court also account number is asked

**Justice Mukhopadhaya:** na na account number also it should not do, because now a days bank and branch I can understand state bank of India such and such branch, such and such place but not the account number so that should also be noted. alright this is how will you scrutinize suppose a assets of one judicial officer comes before you what you scrutinize, like a lay man I am asking a question, when there is a heart burning of one judge and another judge can you say I see that your assets is ten crore and mine is ten lakhs then there will be a heart burning immediately you start scrutinize what is there is it from ancestor property and if he has earned by earning five crore in this side why I could not earn it, because three or four of you are doing this things what actually you will be scrutinizing? You can go for inspection let's say what they have given and then what role is to be played in that case one is just give it in the website the other.

Participating judge:.....Voice is not clear

**Justice Mukhopadhaya:** That means spending is not the factor, spending of amount is not the factor, factor is not spending I have received salary of 70,000 rupees and I don't spend the salary and I am survived

What will be the charge, what can be charge that can be framed? no if somebody is not spending you I know I withdraw one lakh rupees today and then for two months I do not withdraw money if somebody spend 10 percent so income tax generally assess that minimum 30 percent should be spend what you say 10 percent is less what charge can be framed against him?

I know one or two judge who do not take... in both the time yes

**Justice B A Khan:** or wife spending

**Justice Mukhopadhaya:** first of all what charge can be framed for not spending then the explanation will come I am just thinking of utility or the you know this exercise, no no no we are just applying our mind

**Justice B A Khan:** you are registrar vigilance what is your suggestion and what are the difficulties you are facing so discovery of a benami transaction or a cash transaction and if you come with a suggestion that I need this type of support

**Justice Mukhopadhaya:** Disproportionate will be always it will be proportionate to the income not proportionate to the expenditure am I clear proportionate to the income the normal presumption is that you will be spending 30 percent and rest you can you know rest of the amount you can retain and naturally proportionate is seen an what would be your assets and what would be your income I am giving one example that today I find that he has not said I have acquire this much of money and you find there is another assets what will be the position because they give one asset statement at the time of initial appointment alright, initial appointment if somebody gives a statement and in that statement somebody something is missing and you find that some statement has been given for purchasing the assets, a new assets do you simultaneously correct the initial statement now his total assets is A+B do you do so? hmmm I am not talking of prior information or later information suppose he has taken prior information intimation, permission given he purchase the property, it has been reflected at the time of my appointment do you again prepare a statement adding A+B no no a property statement I think I am not clear.

last year I purchased one property last year and I have given my initial statement 10 years back or 5 years back so I have a property A now property B have been purchase do you prepare a fresh statement adding A + B is the property, so they add A+B therefore it is not only what they purchase, they repeat the mixture of the earlier one and total property statement which is practically independent one alright this is independent one. suddenly he gets a gift or he finds that his ancestor property is not there but somebody has given a will and he has got it so that is also reflected.

**Participating Judge:** yes it is reflected

**Justice Mukhopadhaya:** reflected so what you do after scrutiny? after scrutiny what you do generally keep it what role can be played by judicial officers in that matter.

What about the shadi mai gift milta hai...no I am talking of marriage you know in the marriage people are coming with the gift so that it is also reported no body can give a prior permission no I don't know who will be so later on they are reporting it. Generally it is not reported

what brother was actually saying that in the matter of corruption nobody... you know you deposited five lakh rupees in my account either it will go by hawala or by cash but generally it is in the name of somebody who is not a dependent my son is working so is there any other way to find out all those things

**Justice B A Khan:** why can't you in most of the High Courts not have?

**Justice Mukhoipadhaya:** I am not talking of dependent mainly the money corrupt money goes through the children who are not dependent my son is practicing and his practice goes up because of me, because my client has given him is there any other suggestion you can give that even with regard to those who are not a dependent there professional income or other income is disproportionate or not that is to be looked into any ideas somebody can give and how to do it.

how the corruption actually deals in the subordinate judiciary for the purpose of vigilance cell general knowledge in every state you have seen that one or other officer is corrupt how they earn you don't know because if you know then you would have been an very bold officer like them there are earning and their earning source is a not a legal way.

**Justice B A Khan:** what are the difficulties you faces while discharging your duty.....voice is not clear

**Justice Mukhopadhaya:** Brother srivastava you know you have given the different topics the last session which was there and this session also and some of the topic are not related to one or other High Court related to one or other High Court. So please find out from them that which are the matter not given to the registrar vigilance and required to be interested to registrar vigilance because assets matter must have an exception because registrar vigilance is nothing to do with finance matter or other registrar. assets matter, character role roles reflect his integrity and complaint is coming so many things are to be seeing whether that is to be there for, so you can make some suggestion and after the suggestion that general deliberation which is been held here with the there suggestion as I suggested yesterday you recommended to all the chief justice, just forward that this is our view whether they accept or not so you get the matter place before the full court of the High Court and you can also send a proposal to the Hon'ble CJI to take up the matter in the next chief justice conference I think that will be your role that this is the difficulty that we are facing in training the judges because of this is not been given to all judges separately given so that you find out.

Now with regard to this what further suggestion you give regarding corruption and assets yes please give the suggestions no no not only to us again write down two three suggestions as I suggested yesterday with regard to each topic with regard to complaint, with regard to ACR, with regard to assets you know you just give two three suggestion each of you so that they can forward it.

I understand what you say that I have taken four lakh rupees loan for purchase of car I am not supposed to show that loan has been paid and how I have paid it my client has paid or not that I don't know this is what you say.

**Justice Sunil Ambwani:** There is one more suggestion that you can incorporate see recently I found that some of the judicial officers are undertaking foreign trips it's a new trend earlier there is not that much salary so they are going with their spouses and two three months back I got three four request to go for vacation to foreign countries

now there is no column perhaps in any of the High Courts the about the trip person has taken and sources from they derive the money. normally a person suppose let us assume person is got some different sources of income other than the salary on which we have some doubt normally where the person spend acquire property, buy jewellery, share bonds and one other thing is spending lavishly as you say

But I found that the column which are there in the property statement are not sufficient because see property are normally bought undervalued , market value of the property is different, the valuation of the property is entirely different it is everybody experience, if you don't buy a flat from a government sector or if you buy from private builder he will take every builder takes 30 or 40 percent under the table money so there should be one more column what is the market value of, you purchased the property alright. you purchase the property worth fifteen lakh you have taken 7 and half lakh loan and 7 and half you have saved what is the market value of the property

**Justice Mukhopadhaya:** Market value has a bad experience, bad experience I am telling you in Noida and greater Noida the valuation of a newly coming building if you go to purchase it is somewhere you say a greater Noida west three thousand four hundred rupees but valuation circulates is five thousand five hundred so you are purchasing for three thousand four hundred but paying the stamp for five thousand so if you say that market valuation is five thousand five hundred and you have purchased for so and so and therefore a margin then I will also be an injustice, because majority of the places now objection is that for the last two years the price is not going up but the valuation are being increased this is everywhere this complaint id there therefore I think that may not be required that what is the valuation, what is the cost in which you have purchased, now a days government is talking care of this black money

Yes other suggestions from this side yes

**Participating Judge:** Bank statement from all judicial officer and their family members should be made compulsory

**Justice Mukhopadhaya:** No that is taken care that is taken care I think they are noting it and when we have said that you give your suggestions please put in that also give suggestion that account number should not be asked for only bank and branch should be asked for not the account number statement you are getting you know but otherwise what will happen that it will reflected you say that it should be put in website for transparency but account number should not be given.

**Participating Judge:** receipt of the bank transaction.....voice is not clear

**Justice Mukhopadhaya:** just give this note but I do not know whether possible in all cases or not

**Justice B A Khan:** broadly what he says a set up I required

**Justice Mukhopadhaya:** yes a setup is required actually the High Court we are doing it they are taking from there branch of expert knowledge so these are the things where expert knowledge is concern give a suggestion on that a team should comprising of these these things a person having knowledge of the investigation in a sense inspection of records so those persons are required complaint. Because complaint whenever is coming with regard to money I think that simultaneously one should scrutinize the assets vis-a-vis the complaint.

A complaint that he is earning such and such place so next year again one can file it, but tomorrow when you find the assets then you find that yes something disproportionate

**Justice B A Khan:** That in every High Court subordinate judiciaries, transfer and posting should be before that registrar vigilance required should we.....

**Justice Mukhopadhaya:** In the matter of promotion and posting, posting wise there are some lucrative district, district where in Gujarat

**Justice Sunil Ambwani:** many judicial officer has requested that every year filing a return, property return may be very cumbersome so in Uttar Pradesh I remember what is your recommendation whether it should be one year or two year? Off course with reporting of buy any new assets and reporting that's a different thing but it should be one year or two year?"

**Justice Mukhopadhaya:** best thing will be website publication, best thing will be website publication and make all the necessary correction, addition and also subtraction suppose some property sold and then taken then tax given because they have to give tax I some matter where the capital tax in required.

**Justice Sunil Ambwani:** one simple statement that nothing can be added

**Justice Mukhopadhaya:** no no let the people add to it you can't say don't save it

**Justice Sunil Ambwani:** Uttar Pradesh it was done for two years because registrar service says it's not possible for me to scrutinize 1800 statement every year we don't have that much of staff, very difficult

**Justice Mukhopadhaya:** Assistance may be taken before recording any ACR please please note down and give it we have already ask you to note down each point you know give two, three, four suggestions are given by all of you so five suggestions by eleven judges means fifty five suggestions yesterday when we are discussing all these thing should be jotted down give it that will be the advantage and even they prepare a good report you know that report for general knowledge give to the chief justice that this the suggestion so A,B,C,D like that

Yes any other suggestion yes what is the general tenure of registrar vigilance three years it must be secret tenure

**Justice B. A. Khan:** Tenure of registrar vigilance must be secret, three years he should be subject of any transfer and any transfer can be made only on the advice of chief justice

**Justice Mukhopadhaya:** generally what I have seen that it all depends on judges if a judge is of the nature of giving pressure whether it is three year or one year give a note in this fashion so I said that give a note in this fashion you are not transferred in three years but you will be keeping in mind this this fellow go up the rank of so and so and therefore pressure tactics you have to keep your mind open that strength is required, if you have the strength or convicting a criminal who is a murderer he must have the conviction anybody anything will say that do this thing from me will you do that, if I say change a judgement will you do that so pressure the moment you hold the post of a judge you must keep in mind that you are not a under pressure that is that strength is to be developed.

I will never say that you go with that mentality that I will be pressurize no that your service job is that you will be transferred from one district to one district to day you are in a good district tomorrow you will be in a bad district that's all you will have to develop your courage I am not saying that fight giving a note is an art the note should be such which cannot be altered if a fact is written is not your opinion the fact anything more.

**Justice B A Khan:** what should be a time frame for completing an inquiry? An inquiry should be completed within time frame

## Session 7

**Justice Sunil Ambwani:** Now we are in session number seven tools for speeding and effective disposal of departmental inquiry let me introduced myself I am Sunil Ambwani I joined bar in 1976 in Allahabad. except for seven years which I was in supreme court and advocate on record from 1995 then went back to Allahabad 2001 I was elevated served in Allahabad as a permanent judge for 13 years and four months and then went as chief justice of Rajasthan High Court I served there as a chief justice Rajasthan High Court for about thirteen months and very recently retired. I have little experience in departmental inquiry special intervention justice A.N Ray from Calcutta came to Allahabad as chief justice and he use to get lot of request from the judges suspend this officer, he is accused of taking bribe of five lakh rupees and since the amount of five lakh is too high therefore a departmental inquiry should be instituted almost every month he will received two or three request. there are 1800 judicial officer in Uttar Pradesh and at the time there are 80 to 90 judges so it's very difficult so he formed the committee with me and other judges and the committee to rationalized his opinions on the request made by administrative judges for suspension and departmental inquiry against judicial officers in that process in about two years we received about 97 or 98 cases of such request by the judges out of that we found about 85 to be baseless and we recommended by giving the opinion after examining the records, after going through the statement sometime also calling the officers and interrogate them, sometime calling the complaint also in very serious matter. This experience I took in Rajasthan, I was also inquiry judge in couple of matter in Allahabad. In Rajasthan I found completely different scene, completely different scene, I was told by the judicial officers are very good there are around 800 judicial officers.

The registry is very powerful, the lawyers are horrible when I reached there was complete strike that was on 9th of July the strike was so so enormous and so ferocious that they didn't not even allow me to take oath in the courtroom I went there as acting chief justice I replaced Justice Amitabh Roy.

The lawyers in Rajasthan were given a freedom for last twenty years to such an extent that they were completely ruling the judiciary. I am sorry to say but the chief justices earlier had been there chief justices two of them are supreme court they were completely in the hands of lawyers if suppose a president of the bar association would come and tell them that..this district judge is not good that enough for his transfer

When normal chief justice who in now in Supreme Court ordered 90 departmental inquiry in two years when I reached there about 40 and 50 departmental inquiry were pending. There were about five hundred and fifty complaint which are were pending against the judicial officers. the situation was such that judicial officers were not allow to write an independent order suppose he did not grant bail then lawyers will come court room in chambers ask him to rewrite the order.

likhiya ismai that argument are not concluded and if you don't grant bail you get transferred completely terrorized. there was one judicial officer very stubborn in Jaipur he refused he call the execution warrant for disposition of lawyer who was trespasser in a flat there was decree against him no judicial officer have the courage to grant so he happen to do that and on that he was mobbed by the lawyers in Jaipur. Jaipur lawyers are ruling the entire state and he was asked to recall he say I will not recall I look into the matter strike now that strike was not only in Jaipur entire Rajasthan, the entire subordinate courts, High Courts both the benches Jodhpur and Jaipur, all tribunals, all revenue courts, all tax courts everything stand still.

When I reached there it was 20th or 25th day of strike they did not allow me to take oath on 6th of August I will made the acting chief justice and lobby of judges also supporting the strike I have come here for one year no ambition further, I am not going

to give up on strike so I had a good experience of dealing with the strikes in Uttar Pradesh all judicial officer in UP were know that few of us are known to be very very tough with dealing with the strikes and on 15th on September after 65 days of complete strike finally the strike was broken they came down on their knees, surrendered and touch wood from 15th September 2014 not a single strike there has not been a single strike thereafter.

What I found for this purpose and this session is except for a few cases we found that almost all the complaint are motivated against the judges. Lawyers these days are not lawyers who most of the lawyer earn their living by influencing, bribe or creating an impression that is why.....

What I found that almost what happen when lawyer losses the case or at any stage of the proceeding he will come and write a complaint to terrorize the judge out of 550 complaint which was pending there and more than two three hundred out of which 99 percent of complaint are false. I was very happy when Chief Justice of India Justice Dattu wrote us letter to that letter was written to all the chief justices and that letter I think is one of the best thing which the Supreme Court has done for the sub ordinate judiciary in the recent past so don't take any action unless the complaint is accompanied by an affidavit, person should be identified and not only that there should be credible material there has to be some material and some record.

All the bar association also the bar council they take the complaint does not make this parameter we are going to reject it. The second thing which I did was each complaint was had to go through my eyes no action will be taken registrar vigilance in Rajasthan was conducting inquiry suo moto or if some judge will say alright he did not bother to take the order from the chief justice. Now there I believe that the chief justice commits the greatest mistake he must go through the complaint himself, his eyes must go through the complaint. I am the only one the Chief Justice now this is the the letter we will circulate the copy there is lot justice Dattu wrote October 3, 2014 this letter was sent to all the chief justice I think you must be knowing we will circulate to you also.

now the second thing which I found was that what has been done was as soon as the complaint is received in the registry it will go to registrar vigilance, some time it was directly addressed to Registrar vigilance and the registrar vigilance will as usual the practice put a number and a file will be opened. Now suppose a complaint is like this the judge misbehaved with me and the file will be opened and the lawyers use to take advantage of that. you see now we made a complaint now the case is pending against hi, now there are judges who came to me and say 10 to 15 complaint come every day so I passed an order on 10th June 2015 recently that also I am circulate that no complain will be registered unless and until it was directed by the chief justice only invert number should be given to that complaint, but it will not be treated to be a registered vigilance case and with my experience of that about 97 cases which I dealt with in Allahabad I could foresee that most of the complaint were baseless except only three departmental inquiry and those departmental inquiry were unfortunately in those cases where the officer himself in his reply admitted. In one case he granted bail to his father in law, in one case the officer were accused very surprising allegation that he has consume drink along with the police officer and collecting money from the trucks in the night

So initially he refused but then as soon as the complaint and there was entry in the case diary in the police station which he could not deny firstly deny he was not there, the whole thing is a false story, then he is saying that why I was there but did not consume liquor, I did not demanding money then there was some evidence then he is saying that I consume liquor also but then I did not go for demanding money so we directed the departmental inquiry. Only three inquiry was initiated.

Another thing with the chief justices do not enter particular time in some of the High Court's departmental inquiry can be ordered by the administrative committee but in Rajasthan there is complete power, in UP also there is complete power to suspend an officer initiated departmental inquiry. That is the first to think to begin with in a departmental inquiry whether to initiate departmental inquiry for minor punishment or

major punishment now I am not blaming but it is your duty to find out when you are taking the matter into that which type of inquiry should be start. so first is the discrete inquiry after the material is collected we call it preliminary inquiry then when the material is collected and something is found in sometime the chief justices when he is doubt he consult his colleague or takes the matter to the administrative committee, but in most of the cases he direct the inquiry there I request you to point out the, just request because you cannot ask the Chief Justice whether to start inquiry or note that is crucial thing in minor punishment officer is not suspended and he knows that the inquiry will be , it is not see all the inquiry in all the state are conducted into

.....where the misconduct is also defined, punishment is also define different procedure are prescribed and thereafter at that is the point of time when you must point out to the Hon'ble chief justice sometime he is in great hurry, very busy so this is the material whether we should initiate the departmental inquiry that will determine the fate of the inquiry to be begin with.

There are variety of allegation made in the complaint allegation of bribe, allegation of favours, allegation of false records, deciding the cases in favour of relative the order which are inconsistent with each other, bails refused by the High Court, bust session judge grant the bail and they rejecting bail in the similar cases what we took care of decision to initiate inquiry is not in your hands but what when it's the matter of judicial functioning normally major punishment inquiry should not be initiated because we have not seen any case in which in the matter of judicial functioning.....and even though one thing very important thing when you are conducting an inquiry against judicial officer in fact as a vigilance officer you are helping and assisting the departmental inquiry or collecting material against him or prosecuting him the person you are prosecuting is your own colleague now this is very important so I request you first of all to treat every complaint very seriously and to have respect towards judicial offices, because they are discharging judicial function he is your own colleague you are also a judicial officer and you will go back many times I have found that officers

are giving very bad treatment they are supposed to wait for hours suppose you want to inspect a document they are treated chivalry. They request for suspension allowance is also not given very appropriately, enactment of suspension allowance or suppose he had some particular difficulty attach to particular place are not being considering. I believe that that this is something much more than the inquiry he may be ultimately acquitted but all the procedure it's a great stress on mind which judicial officer faced.

Now ones a decision is taken to conduct a disciplinary inquiry against a judicial officers the first thing is of the framing of charges I know many judges who taking the list in punishment of the charge sheet but my experience also goes that most of them are not bother about they leave it to you, they leave it to you and when you take that charge sheet to them they will mechanical sigh it. In many High Courts there is also tradition that the ones chief justice has nominated inquiry officer he does not go through which officer again is not the character, the chief justice must I think you know I know that you cannot make any request to that in that regard but you are putting a note we can also make a suggestion in this regard that no charge sheet should be served unless it goes from the eyes of the chief justice, the charge sheet not only the beginning but many a times at the time of framing of charges it is found that there is no material nothing there is only a complaint no basis on it whether that stage also which chief justice can do a lot that he can drop the charges against a particular judge.

Now this charge sheet should you remember one thing whether a charge may result into start with minor penalty may result into major penalty there is no bar, but the charge sheet must satisfy many a time after see again High Court initiate a inquiry against the particular judge the judge who is conducting an inquiry biased and thereafter ones the inquiry initiated one or two years there are administrative committee or the full court also is biased we call it institutional biased. institutional bias in the manner you started the inquiry when the matter goes to judicial side on judicial side the first lawyer argue on the basis of charge sheet, the charge sheet is the basis form where the inquiry starts.

The charge sheet is as it is always says must comply with five requirement this is also the opening statement in a judgement this 4 w and 1 h the rule that what, why, and how we call it w4h1 who,where,what,why last is how the who is the officer such and such, holding such and such post-civil judge junior division and civil judge senior division, chief judicial magistrate, chief metropolitan magistrate and say where and at that time where he or she posted on such and such date then it says what did he do in the charge sheet when you frame say it's not you are accused of you such and such..... such and such date suppose if the charge is like misbehaving with the prosecution witness or expert witness then what did he do and then why would not come there because why has an element of reason but still it says while conducting the case taking as evidence after such and such word to you because charge sheet may not be in form of a giving either any reasons or any explanation to that should have summary nature of a charge and then how and then in the end you say that by doing so you are committed a misconduct which is punishable and sometimes we find that most of the cases I found that there is very mechanical manner you done act and at that stage you do not say because there is no so you say that you may become your misconduct.....and then what follows there are after the charge sheet is that you have to give substance of evidence also, evidence may be of there may be document, statements.

Now many a time what happens is that the person who frame the charges registrar vigilance, who frame the charges and takes to the judge does not go through the fact of the case and there what happens is that is where become a mechanical exercise you have to read the facts very carefully you should read the statement very carefully there will be five witnesses 20 documents now what is relevant document giving to be charge officer so the substance of evidence means the document which have proof of charge and the statement of witness unless you go through the facts, unless you go through what the witness you say, you will not be really able to give them you have to frame the charge not to disclose that material that there is substance on the evidence in that matter you find that the central government inquiry are very carefully

conducted. we have decided many cases for central government now the central government has a very typical way of framing charges and giving and they have....now many times a very long evidence is included along with the charge sheet the difficulty there is that if you give that whatever evidence you give enclosed with the substance of charge the evidence in support of the charges you have to give copies to the charge officer, now this giving of copy is sometimes you know is not possible to give them the entire records so ultimately in the end that I was not given the documents which I does not support the charges and therefore I could not reply to that and whenever you show a charge sheet you must give the chronological order page numbers also should be there the substance of evidence also should be there so that you will not ultimately say that charge sheet contain 100 pages and I got only 90 pages.

As I said it must be approved by the judge who making the inquiry and it should also go through the eyes of the chief justice. Serving of a charge sheet is very very important, the service I don't know service is to be what are the rule of the High Court but it is more advisable to serve a charge sheet through the district judge if he is not under suspension then the district judge serve the notice that he is under suspension and where ever he is attached because in many cases the officer he is suppose.....he try to avoid taking the and at the time of serving of the charge sheet you may record that when the charge sheet is served the receipt may, just not signed, receipt so many pages including the charge sheet as well as substantive evidence.

Not the entire thing but if the page number are there then there will be no mistake by later on and he don't have any opportunity to say then will come an immediately come and say I would like to inspect the records who is normally happens lawyers always advice the officer now please do not consider this stage to be very important stage, because if he cannot, if he does not get the full entire evidence which is support of the charge then you can get off from the charges against the judicial side subsequently so it is at that stage you must be given an ample opportunity to that we want to examine this statement of see sometimes where is the feeling that the preliminary inquiry or

discrete inquiry that report should not be given to the officer, there are decision of supreme court both ways some of the supreme court decision say that well this discrete inquiry was only for forming an opinion to whether it will have any inquiry against officer, but what I believe is that even that document on the basis of that document that proceeding started should also be seen because you may need further evidence much more evidence on discrete inquiry. whether the discrete inquiry, some of the rules prescribe I also recommending that you should also go through the rules very carefully discipline and appeal rule, conduct rule very carefully and you can make out guidelines which are the stages so you cannot miss that stage like giving them preliminary report it must be provided or not. Then the most important thing is as an inquiry officer or vigilance officer, because mostly vigilance officer are directed to help the judges to conduct the inquiry and maintained a very mechanical order sheet many of time the order sheet is not maintained or if the order sheet are maintained, suppose you are asking a person to inspect the document.....not only document what have you inspected and you should also mentioned the time at what time and it is always advisable to sit subject to availability of time with that officer when you are inspecting the records so that you may guide him as to what

We have to look out the records he may not like to go through the records, but he may ultimately say that I have not examine this I have not examine that so it is always better to take note what he has examined. then as it was told to me by justice khan and that is the subject today as to speedy and effective disposal of departmental inquiry, if generally the complaint of the judicial officer in almost all the states that inquiry is take a long time and this entire period, please consider because he is your colleague that why I am stressing upon you, he is your colleague he is suffering an inquiry virtually suffering an inquiry we are not saying that whether he is guilty or not it is not only the officer suffers the entire family suffers his reputation suffer he becomes an object of ridicule in the bar amongst his colleague, even the lawyers you know because he is not suspended they know that an inquiry is pending against the officer he is in the tremendous strain so it is always advisable to have seen suppose we had eighteen

hundred officers in which inquiry is going on against fifty and seventy I consider that they will not giving any result at all you were not expect good work from them, because they are under mental stress and strain. So it is your duty not only being the colleague part of judiciary to see that inquiry is concluded in the speedy manner. I wrote at least five to seven letters to all my brother judges, but still I am sorry to say that twenty six inquiry are still pending I could not persuade them because of the each of district High Court judges Tuesday has tremendous pressure like in Rajasthan sanction strength is fifty where twenty judges, twenty five judges are discharging the work of fifty now to ask them to complete the inquiry also so it's very difficult so it is legged the judicial functioning is linked with the appointment of judges which ultimately effects the inquiry, you cannot pressurize. but one incident I remember very carefully the judge is at Jodhpur, the inquiry is in samai wahav pur it is like across the state east of Rajasthan and west of Rajasthan now witness is not turning he said I cannot travel up to jodhpur even if you give me the expenses I will not come there it was about the it is about conduct of a judge and the judge requested that he will like to travel samai wahapur not it is very vexed question I should allow the judge to go to another district to examine the judge I took a decision send a notice you also have a right to tell the complaint that your witnesses is not turning up which will have an adverse effect in your inquiry. we don't care if the inquiry is dropped or inquiry does not succeed but we will not assume the role of an investigator and to say that person is punished that will depend upon your own chief justice decisions you can always quote my example did not allow, because if the person is not prosecuted it has been persecuted difference is prosecuted means on given evidence you charge and persecuted means you have seeing that he is punished so if a witness is not coming what happens doesn't come or witness turn hostile is the same thing he does not turn up you can gently persuade.....that you cannot ask the inquiry judge to jaldi jalsi date fix karo when you can gently persuade it we can fix a date as it depends upon experience and number of year, but what you can do you can reduce the burden of the inquiry judge by selecting the witness carefully that you can do only when you are gone through the evidence carefully even is one thing there are seven witness name,

then what happens is that sometime the when you are assisted by advocate then it's a different situation advocate mostly you know out of their habit try to delay the proceeding they don't realize the trauma which the judges going through.

You see internally lawyers will feels sadist pleasure if the judicial officer is now undergoing an inquiry let him suffer doesn't make any difference.... now how to reduce that delay first of all when you get date fixed you should get the consent because many a time a date will be given by the judge with consent but that consent should be recorded, the lawyers signature should be obtained from the order sheet will defending the officer then you should make it a point that you may examine only those witnesses which are relevant and whatever defense witnesses are....and cross examination you should take the commitment from the lawyers that he will completed in a very same day that he starts because in those case you know you don't have to proof the guilt beyond reasonable doubt it is in departmental inquiry on probabilities it is the probabilities which the persons there is hardly rarest of rare case specially of bribe very difficult in think very rare cases you get the evidence of it may be the misconduct of the other types where you may have conduct himself...so examine only that evidence and according to you because I have seen most of the judges don't apply their mind as to which evidence is relevant what is sufficient, what will be insufficient most of our Hon'ble judges unfortunately are dealing with these inquiries in a very mechanical manner it is only the you the entire responsibilities is out on you perhaps if I ask a particular judge how many inquiries are pending many a times he could not even answer that, many a times they don't know the date fix, so it mostly the burden is upon you so it a very unless you take an interest of the inquiry to concluded very soon. In Allahabad sometimes the chief justice there has to find out and prepare a chart to which judge has how many inquiry pending some of them are four, five, six so the burden is upon you to deal with your own wisdom, hard work, looking into the files please look into the files at least a day before so what is to be done on that particular day. So about the spot inspection and many a times spot inspection have solved many situation in the inquiries and have curtail the evidence to be brought into it. there is a

long story about spot inspection I will not tell you, but in departmental inquiries many a times spot inspection help you you can take the request from the Hon'ble judge and then if as soon as you conclude the inquiry evidence is over please submit the entire record before the inquiry judge many a time what happens inquiry officer what they are doing is it's all right whenever I need it I will ask for it and that is why the it take long long period of time, please submit the entire record give it to his personal assistance take a receipt from him.

And one thing I would like to request you same thing because I treat I have always treated judicial officers with great respect I have always found that they are discharging the duty which are no different from High Court Judge many a times the charge officer comes with a request and the prosecuting officer presenting officer do not pass the information suppose there is a child is sick..... officer do not pass on the information and I believe that all the judges who are conducting inquiry nobody will refuse that particular request but that you must try to treat it best way and please don't be shy if you go through the file witnesses are not turning up.

He find that nothing but the officer is suffering because many a times complaint of particular judges you should see the overall result of the inquiry we find that not even twenty five percent of the officer are get major punishment so if you find as presenting officer that no witness is coming, documents are not supporting and don't hesitate in going don't be afraid because many time inquiry judge have say that why you have come with such request I will...that particular officer.

Don't be shy of giving any kind of such advice because it it ultimately it is not that fellow officer you are saving it is ultimately there also justice you are doing

Since we are now from different stage and you are conducting and helping in inquiry we would also like your suggestions on this topics is to how expedite the inquiry but also your experiences.

Participating Judge: voice is not clear

**Justice Sunil Ambwani:** see ones the report has come that she is exonerated charge is not established and the chief justice accepted it there was no reason no occasion to call for a reply that chief justice you know even if it is minor penalty he refer the matter to the administrative committee and if it is major penalty matter you go before the full court but there was no occasion no reason perhaps the reply was called only mechanically, but whatever is happen you just placed that file whether chief justice place before the appropriate authority nothing further is required to be done no problem here

Participating Judge: voice is not clear

**Justice Sunil Ambwani:** even if the charges are not proved ones the inquiry is initiated almost all the rules in believe that matter has to go to the punishing authority, chief is not the punishing authority, chief can only even chief does not even power to minor penalty like he will give an advisory, he has only transfer the paper to the administrative committee.

Suppose the administrative committee....mechanically we call for the reply

**Justice Sunil Ambwani:** Placed it before him that called for reply now the reply has come drop placed matter closed, it is to be simply closed

day to day I don't think it won't be possible this is an additional burden given to any one suppose this inquiry against judicial officer even then they the district courts or in the High Court when the matter is before the High Court judges this is an additional responsibilities to hold an inquiry so he normally sits on the holidays or Saturday or if particular date is very then after the court hours, after court hours it is not practical to hold an inquiry because that will about 4:30 or 5 o'clock difficult for the witness to come and inquiry to proceed for one or two hours so day to day it is not

possible but of course it can be done two days in a month or one day in a month even then normal inquiry period take about eight or nine or ten days not more than that.

Any suggestions any questions?

**Professor S.P. Shrivastava:** On Saturday and Sunday officers can conduct the inquiry, but in departmental inquiry before the judicial officers I think you are talking about that only so they don't be.....

**Justice Sunil Ambwani:** depend upon the number the inquiry some of the district are very large like Pune, when I was the administrative judge in Agra I found a very interesting thing Agra is one place in Uttar Pradesh there is no trouble with lawyer and judges.... the district judge M.K Jain came there when he realized the reason was more than 100 inquiries are not included only file report was submitted he did not have the courage to..... to put all the inquiry in notice board start giving at least minor punishment to started with can you imagine a situation where district judge did not have to courage to give major penalty despite the charges been proved so it was great difficulties. Then we thought another method we formed the committee for compulsory retirement and those against which the departmental inquiry.....because it is not necessary taking the decision on compulsory retirement that the inquiry should be concluded. most of the district judge have forget to form the committee for compulsory retirement they found it very unpopular method at least a committee should be formed meet ones in six months.

suppose an inquiry is only based on records many a time what happens is many a time record is either lost...so it is advisable to take a copy so that certified copy come handy proving the allegation against him

## Session 8

**Justice Sunil Ambwani:** Welcome back this last session of the day session number 8 appears to be slightly different topic than the theme of the program but in any case this is the burning topic and is member of the judiciary is concerned devising target to clear backlogs of cases in trial courts, concentrating on trial court backlog target we all know that Judiciary is blamed for his large pendency and areas and that's the common topics common man politician bureaucrats those in Judiciary know the reasons for the backlog analyze the reasons are identified appropriately we cannot have any methods to beat the common perception is the shortage of judges at

district level, High Court level as you all know 40 percentage of judges are not there.....on account of national judicial appointment Commission but what about trial Court, trial court almost 75 to 80 percentage vacancies are filled out Allahabad I was given charge preparing the five year development plan and each of the High Court made 5 year development plan, and the 5 year development plan the court managers played an important role and they try to strategically if the all the vacancies were full taking into consideration the average number of cases that a judge decides what would have been the position from the year 2002 and from 2002 to 2015 if we have all the vacancies filled then what will be the position. and the model demonstrated the position was position will be very very much better so that is one reason another reason to my mind is outdated procedures my experience lifelong experience judiciary we are all caught in the cow.... procedure in which because of the principle of natural justice and opportunity procedure for criminal and civil Code they will amended so many times but nobody has thought of completely revising them so that the entire procedure is For..... trial court achieving the substantive right of the people for which they come to the court.

another reason which is not much discussed is the reform in the bar because however good we may be if the advocates are not cooperating, if they are serving there on interest, if they are only objects to make money out of the profession and I don't think there has been a single seminar from the bar council as to how to clear the backlogs and arrears they only concerned about their welfare, welfare and welfare and that welfare goes to virtually eat up the whole system they don't leave even a space Corridors` of the court where the litigant come to the court whoring experience with the lawyers and so unless they are very clear and categorically reforms in the bar because however competent the bar maybe, if the bar is not Cooperative the judges deciding the cases.... and then comes another thing which the very highly debatable issue there is no incentive for judge 2 work hard see what I have found in this unit quota system or unit system whatever you call was actually device and design to see the judges the judges who are not interested.

Or at least give a minimum output now this minimum output is become.... I mean the moment you are hundred percent save hundred hundred and 25% alright good entry, Hundred and Fifty very good don't go beyond that because next year if it is less than hundred and fifty percent question will be asked what happened? And then even if you give 200% 300 % where is incentive? the system is not incentive based I mean you cannot get promotion or your judgment have been appreciated most of the judgments have been affirmed so what I believe is all the judges despite being the majority, rather say all of them being absolutely honest, hardworking we should have an incentive system to work hard and then they` depends upon the work which is assigned to them by the District Judge and unlike High Court where is specialization plays an important part like suppose I am good in company law, they will put me in company jurisdiction the judges in subordinate courts are not actually allowed to work in the specialized field in which they actually do better I would not say that a particular judge specialized in one thing but I don't believe that every judge can be good in every type of matter today it is NDPS, tomorrow it is juvenile justice, doing corruption cases, giving session trial everybody can't be good at every matters specialization amongst judges have to come.

specialization you will be happy too you know the law you know the procedures you know the lawyers you know your files I have coming too National judicial Academy since 2005 almost 10 years this will be my perhaps 28 visit and beginning from Professor Mohan Gopal, then professor Madhav Menon everybody is emphasizing on quality timeliness, targets but fortunately or unfortunately the professors of law have got very clear notion of law very in depth understanding of law but not the practical realities of the court rooms court room is something different entirely different and court, management of court is not a you can statically create models where you can say that this will be better, that will be better you must know how to deal with it, you must have your court management, case management, case flow management, ICT management and all that when it's come to the actually sitting in court and deciding the cases then the judge knows, I tell you that Allahabad and my

13 years and 4 months I decided 37000 were about `hundred full bench decision not individual clubbed up cases also and Rajasthan I chief justice of 1 years I clubbed up many cases a lot of bunches pending 2 bunches of thousand cases each. so the total count was 6000 cases in one year but then I asked a question to myself sitting alone what difference did I make that institution nothing arrears is where it is and it will remain where it is and the whole answer is we need to rewrap the whole system complete procedure we have right based system where the person come to enforce his right defendant keep running slipping away from in prosecution it is the prosecution who has to prove the delay crime is been committed everybody knows the crime has been committed victim is there, complainant is there the prosecution must prove beyond reasonable doubt you will find that there is a change in NDPS cases, Juvenile cases now presumptions, statutory presumptions but it's a very slow change statutory presumption. we have now very well established ADR system where we are trying to remove cases from our system those small cases. we also have now plea bargaining once I asked training program what's going on in Lucknow where we were interviewing the senior prosecutor for training because 13th finance commission there was a plan for training prosecutor also so we have to appoint trainers prosecutor, so some senior prosecutor were called so I asked him why does the plea bargaining not succeed in India he smiled and laughed please tell me why does the plea bargaining not succeed in India you have been all of your life he says with 6% conviction in serious crime and 14 to 30% conviction in minor crime who will confess and go to jail for 3 months when the lawyer give them assurance for three years nothing will happen to you and see out of hundred cases how many have been rate increases so unless the conviction rate increases and with that conviction rate. now I was in Rajasthan I was concentrating on four areas corruption cases, Juvenile cases, atrocities against women, NDPS cases I tell you and sorry to say couldn't make any progress and the main reasons for which these case are not proceeding was there is virtually not any prosecution machinery....hundred prosecutor were selected in judiciary.

There's no place to sit even the doctor would have come he will sit under the tree and every time that will be fixed the prosecution machinery totally collapsed the prosecution machinery collapsing how would you expect magistrate to decide the case and we don't even have confidence and trust between the this is one area which I can discuss in Academy after retirement there is no trust and confidence between High Court and subordinate courts suppose you acquit hundred saying no case has been made out High Court will look at you at the suspicion however honest you act you are always under a scanner you cannot suggest any device method you cannot select your own field of work so how do u reside how do you think that this so when we discuss within our self-retired experience judges we come to one conclusion arrears is a perception, arrears when I became judge in Allahabad High Court it will nine lakhs 13 and half year I left it was nine lakh seventeen thousand one of my colleagues said that it will always remain the same what I believe that we should do which High Court find out which are the priority area for delivering justice see there are three or Four Kind of cases which come to the court. one is the serious cases serious crimes you must have seen in the High Court also and subordinate courts also actual civil litigation is vanished you hardly find a case where it is a lease deed or mortgage deed aces the cases in which there are now there are not even lawyer who can draft the proper deed now you have bank cases you have recovery cases, accident claim cases, you have contractual matter which normally go to arbitration family matters go to mediation conciliation everybody is trying to divert the main work Civil and criminal work, criminal work is of course there IPC crimes are still there but I am also... and millions of pity cases are blocking the courts you know each of the inspector has got quota if you can't give 50 challah you are not a good inspector so whether its excise inspector or labour inspector the police inspector constable standing the traffic inspector and all the challenge come to the court what happens to the challah cases nothing no one wants to contest not because he is honest man or he did not break the law because he does not want to go to the court 10 times confess and pay hundred

rupees fine what is to be decided in those cases so those cases are now being diverted to the lok adalats but when the figures come the add up all these cases what I believe is that that's my perception that we must identify the cases which really needs to be decided very properly and then you serious violation of rights involved where landlord looking for getting bag the accommodation where somebody where some serious crime taken place these are the cases so what we commonly discuss among ourselves is that arrear is just a perception it is not a reality of the courts. nobody talks of 2.5 lakh cases Allahabad High Court decide every year everybody is talking about that 9.7 lakh of cases are pend that figures remain constant and then secondly should tell you that we are living in our society which is very unjust society, except for the few States we have very bad governance in all the other states and the more the bad governance is that more of cases come to court you will be surprised that one decision taken by the government sometimes bring 3000 cases to the High Court then Mayawati took over as a chief minister she said all the Samajwadi Party Gundas no FIR were lodged against them so i am opening..... in the than for the offence committed by Samajwadi Party. 3000 FIR lodged of the incident which may have taken 1 years earlier or two year earlier there's no anticipatory bail 3000 new cases for the High Court basic teachers training is absolutely necessary BTC selections invited 4000 post in U P and that 5000 writ petition come to the High Court. I thought that Rajasthan is the best Government State because of its tradition, because of its honour,, because of its background, history and the government enjoy the confidence Vasundhara Raje government is 161 out of 200 MLAs complete power BJP government. It has 25 out of 25 MPs no which other state has the better opportunity to best govern state but I tell you my experiences is as a chief justice one of the worst form of human right violation article place in Rajasthan. Rajasthan is still as bad as badly govern as UP cases coming to the court people are virtually its look very good when you will go there as a tourist you will find it's a beautiful place, but behind the scene massive unauthorised illegal minings going on labours is exploited just one incident I tell you just one incident then you will realise the kind of human right violation. any department the person is appointed regularly to a regular selection process eligible person, through Public

Service Commission until he completes the period of probation he will not get the full salary, he will get only fix amount except judicial officer, doctor, engineer, assistant professor, gets 12000 for 2 years no da no allowances nothing no leave even a class four employee who works in the High Court and district court get 6000 rupees for 2 years he begs, borrow, Steel becomes corrupt and whatever it is now when I asked why is it a single writ petition coming to when petition is filed in 2007 the people have so much ....they don't even filed a writ petition challenging this, they will file the petition other things so my last judgement was setting aside this rules asking them it is nothing violation of article 14 and article 16 no government can do it you are selecting a person is eligible you got a job and why they were doing so no reasons. I ask the chief minister what are you doing she says everybody is running for a government job so this is one way to you know put them off and that way you know we saved a lot of money for government also. so it is the bad governance which brings lot of cases it is that stick of the constable in the road which bring cases in the court unless if you are not able to improve that the cases will come to the court keep coming to the court. If you find out half of the motor vehicle challah you will find it is written as car, but actually it's a scooter number but nobody bothers. So so we have problem artificial cases coming to the court they do not require any adjudication. We have problem there the people we have problem of bar which does not co-operate but in between if we can find out and this is what we can draw strategic so I always tell my judges whenever I go to state academies or National judicial Academy as judges we know how to do justice if we can identify those cases.

Where the people need justice where people are suffering I'll always ask when you come and sit in the court this is the devising target clear the backlog don't go to the court unless you see the daily cause list just 5 minutes devoted to your daily cause list what are the cases I tell you some of the cases can be adjourned at 10 o'clock itself when you sit in the court.

So you can setup your agenda in the morning once you setup your agenda your task will become easier people have not to wait, sometime you will find old man, old woman, woman with a small child sitting in the court room how many us at 10 o'clock ask that person what is your case come here your case may not be taken up today or what is the next date you want just ask your lawyer.

How much relief you are going to give that person that's about adjournment I believe that if we have some method of identifying important cases which really requires our adjudication cases in which right of the people involved we will be doing much more service society then actually just clearing the backlogs because clearing backlogs will become ICT it is started and I worked around 5 years Allahabad we have our own servers complete computer section, computer can help us to do to make a job easier listing how many staffs we have, which judge required in which area but when it comes to really deciding the cases it is we and We alone can do it and we know how to do it I absolutely sure that our judiciary each of our judge is all the empathy all compassion and is a human person only thing we much privatize our work it is in the morning sitting with the mind-set let me actual deliver justice and not just find out the how many units we have earn.

Now I through the discussion over you please give your suggestion in this background as to what target can be devised to clear the backlogs of cases in the trial courts. Please give any suggestions however wild it maybe, however important unimportant doesn't make any difference

Participating judge: voice is not clear

**Justice Anil Ambwani:** see the reason for all this last 29 or 30 years until this training period started what happened was that almost in all the states the appointment were made not on the merits almost all the appointments were of backdoors entry and those were the rejects where is the court employment is supposed to be the best in the most lucrative and save employment but somehow all the wrong people got entry

and they are there in the system for 40 and 30 years. Now they rules the frame that computer training is compulsory and this time bound promotion, so you rightly said that you have a stenographer who cannot work, your output will go down you cannot work.

you are absolutely right a new batch came in Allahabad I was assigned that person very competent steno, I ask him do you the judgement and order I am dictating are confidential until they are signed and he told me that nobody has told him about this so training you are absolutely right training for the court and subordinate staffs absolutely essential to improve the efficiency of the court and the judge and the output.

**Participating Judge:** our High Court are giving training to the staff every Saturday there will be training

**Justice Sunil Ambwani:** This suggestion is also very good that state judicial academy should train the managerial staff.

**Participating Judge:** More court should be established

**Professor S.P.Shrivastava:** It is not happening any where

**Justice Sunil Ambwani:** Numbers of court is a huge issue, the government is actually like the judiciary to be healthy, so that you keep fighting among yourself for your demands. We have horrible time fighting with the government in one district the court was running in horse table and on the first floor there was the museum of the Maharaja. In city of Ajmer not a one single court was added in last twenty years same judges are bearing the burden of all the old cases I told the Chief Minister I said we need POSCO Courts, we don't have POSCO crime I said why don't you see that, you there is a place you must have heard about it called Kota which is the biggest hub of coaching for IITs and IIMs parent send their child at the age of 15,16,17 to prepares of IITs and medical exam more than one lakh students each student they charge 5 lakh or 7 lakh for coaching and the parents when they send their children

There is no proper hostel in these coaching institute, they are living in the shared accommodations where a huge sexual harassment of these small children and they can't return back to their home because parent say as I spent five lakh on you why you want to come back and that Kota district itself more than 700 and 800 POSCO cases.

She had no realisation that POSCO crime are there the family court extremely over burden and the mistake they did was they created family court they give the total district. Now some of the district who covers more than 100 kilometre now the lady who come hundred kilometre to claim maintenance of 500 Rs. there is no body which can interact with the government, law ministry is only concerned with new laws.

**Professor S.P. Shrivastava:** So sir thank you so much for coming here and contributing and this was a very good session particular what appeal to be he compassion while conducting the inquiry etc. has to be there because those are no other person but our colleague that part is very important.

## Session 9

**Dr. Geeta Oberoi:** A very Good Morning to all of you I think everyone is here and everyone wants to go early and I know everyone has flight to catch ahhhh today we have first session by Mr. Y.M Pande who is the director of Justice in the Department of Justice, Ministry of Law and Justice , Government of India you might be wondering why I have called Mr. Y.M. Pande because he is not the dealing with the registrar vigilance complains and you might be wondering what does he know I must tell you one thing I found out surprisingly and which I was telling Mr. Y.M Pandey to touch about this that slowly and slowly the complaint against judicial officers are being sent to government. this is something that you must think till date the trend was reverse right it was actually about executive that judiciary was give up complain, written complaints, but now the number of complaints against judicial officers with the government of India are just on the rise in fact we were given aahhh there was a letter that some court managers of some states they wrote straight away to Prime Minister of India and then we were also sked to give our viewpoints about that. So slowly and slowly people are approaching government and I am thinking why is this happening and there is something that one has to think philosophically also about this question rationally also, objectively also as to why is this happening? We have to find out some answers and in this actually whole situation which I have brought to your notice I think the role of registrar vigilance assumes significant it's not just a post. It is very important post because if people lost faith in registrar vigilance then I don't think they

will have any actually need to go any other agency that means also that internal mechanism people are not happy about it. these complaints let me tell you not only by advocates, not only by litigant, different all kind of sector are approaching government more about this of course Mr. Pandey will tell you he is an expert and sitting every day receiving complaint he will tell you more about this thank you so much sir.

**Mr. Y.N. Pande:** the nodal office for dealing with the grievances relating to judiciary, in fact with these government, the government has become very proactive with regard to the dealing with the grievances of in all the sectors, but after as soon as this government came to power and because of the policy the people are now started writing a lot. The grievances which we receive is around two thousand grievance per month and I will just come the kind of grievances we received. Now what is our role, under article 235 of the Constitution we forwarded these grievances to the secretary general of the supreme court of India or to be registrar general High Courts and we always right for taking action appropriate.

Before that I will just give you a small brief that time bound delivery of service and redressal of grievance become the top priority of the government. In 2011 the government prepared a bill which was called grievance of providing time bound delivery of services to the public and disposal of the grievance bill 2011. It was presented to lok Sabha in 20th December 2011 and thereafter as per these standard policy it was refer to departmental parliamentary standing committee which gave its report along with certain amendments and after consulting all the stake holders in August 2012 government accepted some of the recommendation, rejected some of the recommendation and submit the revise bill before the parliament in 2013, however it didn't turn up and the bill lapsed.

Now when these government came to power then again it was considered, but I will tell you that in that bill like on the analogy of the RTI it says that if any grievance not dispose of within a month then a fine of Rs. 250 per day will be levied on the defaulting officer, it was a parallel to RTI. There is lot of .....in the government that RTI is also

talking lot of time, and now gain a parallel structure is being, but then the government revise the bill and deleted the provision of penalty after again consultation with the stake holder and the government let it be first monitored through scheme. So government has now circulated a scheme which is called redressal of providing services to the citizen and redressal of there grievance scheme 2015 this at the now the initial stage, but likely to be completed within a next two months. The scheme provide I am just giving you the basically how the government is monitoring through legislation, but judiciary is not at present with in thank god, it is not

But it will come to us we will forward to you ahhh I have two meeting with registrar general Allahabad is there anybody from Allahabad? ok Mr Pritush Kumar was there at that time as a registrar general now he is a judge now also with Punjab & Haryana High Court Mr. Gill and it was establish that there is a built system to deal with the grievance which you officer are dealing right now.

Now the general perception in the mind of public is that they do not received any response is it a fact? But why, I will tell you what I will came to know ya please.

**Participating Judge:** some of the complaint...and there cannot be any requirement and it was very basically frivolous so at times reply may not be sent

**Mr. Pande:** now but sometimes

**Participating Judge:** All other which requires action will be important

**Mr. Pande:** do you reply to the petitioner

**Participating Judge:** yes

**Mr. Pande:** ok fine any other, yes sir

**Participating Judge:** not audible

**Mr. Pande:** You give that reply to the petitioner ok are you taking any action on those complain which are without affidavit in term of Hon'ble Chief Justice of India order dated 23rd of October. I have received a complaint very recently, very recently complaint that was from Haryana he said that there is particular Judicial officer, I am just giving you the basics fact there is particular Judicial Officer her father is an advocate in the Punjab and Haryana Court and the case was listed before the judge before the Judicial officer and her father has taken it some money and now nothing has been don. So we examine this grievance, we forwarded to the registrar general but we advise that person to submit the complaint along with the affidavit we are discussing in such cases if the person gives an affidavit later on it becomes, because he says I am not taken nobody no who is right. Will it amount to the perjury to the court? What happen in such cases because we have to improve our system?

He send an affidavit and later out and later it proves to be false is it a perjury of the court? Or it is a contempt of the court?

**Participating Judge:** false affidavit in a judicial proceeding will amount a perjury

**Mr Pande:** what is happening there around ninety percentage of the grievances which we received when we ask for the affidavit people are not coming back. we know that there are lot of false complaint, any way so this input i have noted and we have try to further improve it. So now coming back to this how the government is monitoring and how the government wants to create a very proactive infrastructure to deal with the complaint relating to judiciary the scheme is coming, but that is only public authority in the government and state government

And all autonomous body established by the central legislation Judiciary is kept out this was what is happening today but the government is giving a lot of importance and it is being monitored. how it is monitored I will later there id department called department of administrative reform and public grievance, how much the government is serious on the issue that name of the department has been done to deal exclusively

with the public grievance that the department of administrative reforms and public grievance that is under ministry of Home affairs and its minister in charge report the Prime Minister then the government in 2012 opened a new portal that is central/grievance redressal address mechanism I will show you that grievance I am receiving around 80 to 90 complains on this grievance daily and that is all against the judicial. People are sending parent secretary directly writing to the president which are also mark to us then vice president and PMO office.

People are sending online also sending through email and also sending through post the work has increased tremendously you have to put some stop somewhere. I will also give you an example of in High Court kindly remind me this is very live example which happen only last month.

Then email, my email, my joint Secretary email because now it is mandatory to mentioned the email on our website then by post and from other department so far the justice is concerned I will tell you that where in the complaint it is written that please provide me justice that will mark to us. whether somebody has purchased a cycle it is not working cycle wala is refuse to take it back in the last everybody says please provide me justice it comes to us so we have to filter a lot and then send to the different departments.

This is something like a subject which is not only..but sometime we do not welcome it also but we will come to know that is now happening against the judiciary now a days. The maximum number of grievance are received against a judicial officers now what is the first of all the grievance.....ke saab usnai and with regard to the cases petition relating to where there is a question of property, distribution of property that this type of complain whosoever losses the other party as grievance. Somebody wrote a very nice line in a grievance that you don't make enemy two person one is god and other is a Judge, judicial officer how (agar God se problem hue apki to you will have to go court you understand Hindi no problem but agar judicial officer se hue to you can be hanged) so don't make two person enemy in the world.

Judicial officer whatever complain we are receiving that are mostly relating to bribe, second is one thing is now a days become very common is misplacement of the records, I will tell you a case of Madras High Court one person who is the business of lending money, he gave a cheque of rupees 40 lakhs to somebody the lady he return the cheque to him, he returned the amount whatever she has borrowed to him through a cheque the cheque bounced that person filed a petition along with the cheque and all the papers now he has come to us that the record have been misplaced. He filed a petition in the High Court also from there they directed him to go to the trial court there are more such complain where the record have been lost.

Sir have you received such type of complaint?

**Participating Judge:** Yes

**Participating Judge:** as a safe guard in Kerala we have given instruction we take the certify copy and return the original documents to the party.

**Mr Pande:** He says that that his original cheque has been lost which was given by the lady and that has been bounce back. Second type of compliant we received against judicial officer is related to manhandling ( ke ssab mai kuch keh raha tha aur unhone suna nahi or ) this is normally do the person who has lost.

Against the judges of the Supreme Court also we received a complaint, Supreme Court and High Courts that is again that i will not be given justice, i have been denied justice and again all these complain are from those party who are lost.

Tell me one thing if the person making complaint against manhandling or abuse by the judicial officer and the complaint sent to registrar general then what happens it sis investigated in the person called.

**Participating Judge:** Yes

**Mr. Pande:** Do they come?

**Participating Judge:** not always

I will tell you the case of the High Court which I mentioned to you about this thing you will be surprised to see and one you know that some kind of phoneme it is coming which we are observed that as soon as anybody is name is send to the department of justice for promotion to the judge of the High Court suddenly a lot of complaint against him come, against him or her. We have to examine it and because now a days then the person ask what happen that under RTI.

So our work has increased tremendously and we are now flooded with the grievances I will show you the person who is a name a Praksh from Mumbai is any one n from Bombay High Court? Yes you are have you he send around 5000 grievances so far, 5000 Atam Prakash Verma have you heard?

He has made our life hell I will tell you his case, I know I have I will tell you, he has taken a I will tell you his case it's a very interesting case Atam Prakash Verma please if you have any questions please stop me in between.

Atam Prakash Verma he is about 65 year of age he came to us, he had sed around 5000 grievances to me equa number to the Supreme Court and ....he told me pande ji isnai raat ko 10 baje and somebody on his behalf and ....he filed he is a partner some silk mills and he had taken a big haweli on rent. In 1979 the flat was sold by that land lady to another lady se served a notice for vacation and case was filed in Bandra. He lost the case, decree was issued he went to Supreme Court, he went to High Court in High Court also he lost then he made certain points (ke High Court nai jo uske rased the vo nah kiya usko nahi kiya consider ke mainai actually

Case was filed some letter was not taken into account and the initial pleadings which was produced before the trial court he said High Court is not empowered to consider it. I don't know because it's purely under 115 of CPC a civil

procedure court, but nonetheless his case was dismissed by the High Court he went to Supreme Court. Supreme Court dismiss at the admission stage then he wanted a personal hearing and amendment of the order that was not agreed so it was again rejected then he filed a review petition before the Supreme Court that was again rejected he file a curative petition citing the case of Ashok Hurra and Rupa Hurra that I should be given personal hearing that was also rejected.

Now he wants his case to be sent to Supreme Court under article 143 and he has gone more than one thousand five hundred grievances he has sent to me on my email, equal to secretary general and equal number to register general since you are aware this is the story.

Under Article 143 he is saying it has to be sent to the Supreme Court, we are now refer to the department of legal affairs for advice we have been, we refer to the attorney general for advice. Any one of you can I have the benefit of you advice on that, can this case can be send under Article 143 of the constitution, which says that any case of the public importance, there is no public importance we are saying that, but he is not satisfied, he is writing to everyone, he is writing to president Obama, people are going now against the judicial officer against judiciary.

One is Mr Hera Nandani of the same Bombay High Court Mr. Pande: His opinion against the verdict we have not taking any action we have rejected his complaint

**Participating Judge:** Voice not clear

**Mr. Pande:** May I know your good name sir

**Participating Judge:** Sunil and I am from Punjab

**Mr. Pande:** where are you posted?

**Mr. Pande:** I have a meeting with because Chandigarh High Court there are lot of cases certain I have come and have a meeting with your ASG earlier it was Mr. Sidhu. Now I will tell But then why do you go only against the Mr. Batwa he is making a complain ke Judge nahi galti ke hai now somebody has given me a suggestion its very funny suggestion that in the Crpc you should make amendment that there should be no forum for appeal. If somebody has given a judgment then why should be appealed, no appeal is a right, it is a right I am giving you the suggestion which I have received.

Somebody saying that there should be three shifts of all the courts, even we are not able to full all the vacancies of judges another is no appeal and there is another saying that there should....but this complaint that people have brought a lot of complaint against the vacation of the court also. they say that why there should be vacation when the no I am telling you so that you are aware, you are aware about the kind of grievances we replied to that the vacation of the court is decided by the court and government has no role in it and the vacation of the court are also reduced like Supreme Court has reduced.

**Participating Judge:** Personally I feel that my personal opinion number of vacation days can be reduced, but there should be a break. Kerala High Court is working more than other High Court around half an hour more 9:45 to 4:30

**Mr. Pande:** All these holidays we have a meeting under the Hon'ble Mr. Keher madam was also there and for a meeting with the Chief Justice of India you have really work very hard at least I work for seven days and they really ask something very question otherwise you can't reply. I know I have have one to one discussion with Mr. D.K Jain he was working till 12.

Now coming back to your question whether it is complaint or not? The complaint received under online complaint, the complaint against the judges, advocate, or the staff. So we have to put under this, if there is complaint against the

Main complaint are there that he has taken the money he is not giving up the proper information and when we ask to change him he is not handing over the files. But in respect of like Atam Prakash Verma we are putting in the case of miscellaneous because if the person is sending 1500 complaints we can't really give much.....

But earlier what madam has said that earlier there was a system of the complaint against the executive to the judiciary but now it is reversed either it can be because of the rising number of cases and the or it can no you are the..

**Participating Judge:** Voice is not clear

**Mr. Pande:** You mean to say awareness, that's right you are right I agree with you

**Participating Judge:** Voice not clear

**Mr. Pande:** This person and may other person I don't know where they got a time and stationery (itnai bade bade bana ke they are sending to secretary general)

That is very human approach, but you have to put a cap somewhere

**Participating Judge:** This is what I am saying sir up to a limit

**Mr. Pande:** I will tell you very nice example of that you know that as soon as India got independent in 1947 Pandit Jawaharlala Nehru was the defacto Prime Minister he hold a meeting for choosing the next chief of Indian Army. Then the civilian this is an expert from the book of Mr. Niranjana Singh Mallik who retired as a leftinent General, so I hope I am not taking so much of your time then Pandit Nehru said there were officer of the army and Pandit Nehru said immediately after independence. He said that since we do not have any body experienced to lead the Indian army because we

are all under them and always saluting them and obeying their orders why not for some time for initial time to appoint a British have you heard it sir ok you madam no

he said that then all most everyone said yes because since we don't have the required type of mind-set we have been always under them, then one Mr. Nathu Singh Rathore he was the major at the time he said sir can I say something.

He said yes

He said sir we do not have any experience of running the country also should we not appoint the British Prime Minister for some more time.

He will in shock and anguish then can you lead the nation, can you lead the army he said no because lieutenant General Kalnappa he is senior to me and deserved he should be the chief. Then this is how General Kaliappa become a general.

These kind of grievances if you put with a cap I think we can bring change even if in such circumstances of course with a cap and causing the limitation or causing limit.....you must have heard the story of that jatau and yes bhismpitama they both have done only one grievance or not done the grievance and they both have very distinguished type of result. So it is the approach of the judicial officer.

Now we are getting a lot of complaint Mr. Manish with regard to this Judicial officer in Delhi sir uske baad humai itni complain anahai lage ande from kerela also Madhya Pradesh, Punjab and Haryana, Rajasthan, Uttar Pradesh itnai state se complaint ate hai about this selection process we do not receive any complaint from North East not even a single

abhi ek suggestion aye the ke in manipur we should appoint more person from this OBC categories but we do not received any complaint from judicial officers from the north east so I was coming to the that we are flooded with the complaints and somebody I ask some information on the RTI also uska bhe usnai vo kiya hai regarding this we

are taken up this issue with the chief justice and appropriate reply has come from there I think the person has joined also.

availability of various channel to complaint abhi I will tell you sir I have received a complaint choukedar Agra Court district court he work one month and left the job because my mother was ill but I have not been paid the salary that also came to us. A choukedar who is but because of the awareness so much ke saab ap yaha complain daal dijiye kuch na kuch to unko karna padega then we have to sit late come on holidays.

ok in the same forum i will discuss this grievance which mam i was telling you we received a complaint that this particular judicial officer who was posted in the High Court as registrar he has misbehaved with a female whose husband was working as a cook in the house of that registrar

So this case relating to sexual harassment we brought to the notice of Chief Justice and he said registrar general also helped him then we brought to the notice of Hon'ble Chief Justice conducted a inquiry and send the report and then it came out that.....that registrar and registrar general do because of promotion and somebody else from the High Court.....something come out true something come out false but the thing is as soon as anything comes or generated kuch na kuch us pai shru ho jata hai

Another grievance as a suggestion you can say is coming to us for installation of CCTVs daily at least ten to twenty or now the E-Court face 2 project has been passed, has been clear by the government the last time it was 14249 in the court it was applicable now rest will be covered but what do you people think about installation of CCTVs in the court rooms in delhi you have no no in juvenile center i have visited there in saket court

What is your views this is unofficial

**Participating Judge:** That can be done and live telecast can be done, live streaming of court proceeding can be done and limited access to be given to the party who all are involved

**Mr. Pande:** with a limited access it can be done

**Participating Judge:** The technology is developing and we should adopt this is my opinion

**Mr. Pande:** Very recently there is a case you are aware that Andaman and Nicobar district there is case of some complaint you are aware.

**Participating Judge:** It should be strategically located that whatever I am writing it should be visible, but it should not hamper my working I mean I should not be conscious ke oh my god I am watched from Supreme Court Judges watching me.

**Mr. Pande:** what we are doing we are send all these suggestions another suggestion is that petition in the court should be allowed send by post we are sending to the Supreme Court to call to be taken by Hon'ble Chief Justice of India.

**Participating Judge:** we are contemplating e-filing

**Mr. Pande:** True

Whenever we send the grievance to any High Court for ordinary delay I do receive response of only one percent that there case has been listed and they have got admitted. In a case in Delhi High Court there was a case four or five retired persons more than 75 year of age there case was there is a I think particular day for senior citizen but they said that it was listed at such priority that it never came, they just wanted to be listed earlier we send the grievance to Delhi High Court it was listed and got the judgment. So all compliment to you

We also received the complaints related to consumer court also or motor accident vehicle because we send to respective ministries, consumer courts are monitored by ministry of consumer affairs. We also received the grievances relating to legal Aid we sent to I think it is better to refer to the state concern because NALSA....

Large number of grievances we receive and particular reason for that i have told you that people are sending grievance from post also, through email also and not only one but number of grievances. Another very important question which I just putting before you is the linkage with the High Courts like we received a grievance on the can we have my NIC mail, I will tell you in brief that this grievance monitoring is being given top most priority of the government it is being monitored by PMO, it is being monitored by the cabinet secretary like every secretary in the government of India has to submit the figure that how many grievances received, how many disposed of in the monthly DO letter which is send to cabinet secretary on the important matter of the ministry then they examine there and take monthly meeting in which officer of the Deputy level is asking why this grievance is not resolved and pending.

**Mr. Pande:** Showing email and type of complain receiving, just I wanted to tell you

**Dr. Geeta Oberoi:** If they are fighting for the property then why they are approaching you

**Mr. Pande:** He says that his case was not heard by judicial officer he is saying that he has not got the judgment according to his choice this is public grievance redressal portal and we can open one grievance and see to it, he wants the his case to be referred to the Supreme Court under Article 143. Because now there is lot of awareness and people are aware (showing the compliant in the online portal). I could have discussed more with you but since the time is short it has almost 10

**Dr. Geeta Oberoi:** In tea break also you can discuss you can go to cafeteria

**Mr. Pande:** It was very nice subject and I am very happy to get a lot of response. But two things I will tell you more that people want to have AIJS (All Indian Judicial Service) which I don't think it coming in a near future but they want All India Judicial Service and second is the use of regional language in the proceeding of the High Court under Article 248.

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**Dr Geeta Oberoi:** I was just thinking if you take very interest in your job, if you really love your job it would be a job of 007 think of that know, investigation and finding out and searching its quite interesting job for which you have paid.

policing because you can't do police at all I mean you will take help of police and I mean think about it you are like you come to know that ok some judicial officers, some letter then you put your secret sources I mean its look very.

you know one of the thing I need to tell you that why these courses are introduced because all magistrate and District Judges when they come in different courses and when we talking about bail they said we will not give bail at all no matter how much you tell us because we don't want vigilance on our head.

**Participating Judge:** I was on a vacation visit to one of my colleague in one of the district.....went to his court half an hour I spend while coming back I just give my rewards to District Judge and I came back. The next three four days after that I received a call from that why did you there, because in entire district there is this rumor that surprise inspection I going on. So mam that's another part of the story

You are saying that unwelcome guest this is really bad, but then you should actually you should say no no don't make us unwelcome guest we are 007 of judiciary so.

**Participating Judge:** we are men in Black ma'am

**Dr. Geeta Oberoi:** ok and women in black also please that really nice so there is vigilance over vigilance what I get it like there is someone sitting over he is spying you what you do that's really interesting. This is really good way to become famous very soon be posted as registrar vigilance it's really nice.

Ya this is another interesting point that other judges brought to our notice that yes if we do very honest our job in the end we are very scared that we have to go back to the same our friends and then they are going to say now you come back you have done this this this to my career so what did you get in return? Did you get something very great for doing all this to my life?

**Participating Judge:** At times you may be helping somebody not ...but projecting his view and he may not know it and it may lead into some action because of you are signing those charge sheets, you are sighing everything because it's always in your name and he may even don't know....

**Dr Geeta Oberoi:** You know this is also because of in every profession now it's not related to judiciary even if you see bar members, if you have any family doctor, professors name any profession there is now lot of i would say unrequired competition, which is not required unrequired distrust and the trust deficit is really gone down and it's like nobody believes and everyone thinks that if you are not with me then you are against me that kind of situation is there, but for all kind of profession it is there and I can understand for such a close profession where you can't even reveal what you are going through which is much more disturbing and very very stress full but nevertheless we have to do this job and the best way to be happy about is to think that you are James Bond and be happy about it and men in black is also good you know.

I think you enjoy I really like what Justice S.J. Mukhopadhaya when he meet first day to me and he said that you know it's not the post its people who make the post so he said who knew about the election commission before T.N Session did you knew this post I said ya I didn't know and did you know before this Vinod Rai Mehta before he

took away this controller and auditor General that we have some CAJ also we never knew importance of those post they were there all the 65 years suddenly they make prominent and important by one person occupying that post after that, that post is most sort after post who will come? In that place I mean we look into paper who will become next Election Commissioner, but before that we never looked into, who will become election commissioner. I think so there lies your role may be you can make registrar vigilance you can give this Vinod Rai or give colour to CAJ or may be thsi person T. N Session gave it to Election Commission with this I will just

With this I will just have 10 minutes presentation from each group and then we just close down because lunch is ready by 12:15 so that after lunch you can do your packing and your departure preparation so can I have form Mam your group presentation.

Participating Judge: Good afternoon everybody as far this fact presented to us Mr. A was appointed on 15th October 2004 as clerk in the establishment of district court recently was promoted as a senior clerk on 19th 2010 and promoted as assistant superintendent on 7th November 2013 so within three years he got two promotions. As per the Modified Assured Career Progress Scheme he submitted application for considering him on MACP scheme but there are some adverse report.

as far as the first rule the scheme is applicable to the persons who are not able to get promotion for the period of ten years and work continuously under same grade pay but the grade pay of that person is not furnish to us so we assume that the grade pay for the senior clerk are different grade pay so we assuming that this person got two promotion within ten years so as he was not wok under same grade pay he is not entitled for the benefit of MACP scheme.

suppose if we assume that grade pay for the post is same and he is a was rejected for getting the benefit for MACPS there are some adverse report and we three are under the impressions that the said person having the record of good for a grade of Fie years and for two years there are some adverse remarks and which are not communicated to

him. In one year there are adverse remarks which are communicated to him, during one year there are some complain but they are not of serious nature and so those complain are not communicate to the employee so the employee could get an opportunity to submit his report. if we assume he grade pay is similar and then as far our opinion he is entitled for the benefit of MACP scheme because his track record he was given good grading for the period of five years and we also have to consider the fact he was given two promotion that time so it implies that he was performing the duty to satisfaction to the employer so he candidature for regular promotion so when he was entitled for getting the regular promotion when he is on the same grade pay then he entitled to get the benefit of MACP Scheme that is our opinion. So we have given two opinion because grade pay is not given thank you.

**Participating Judge:** Good afternoon everybody I should say thanks to all my group member giving me a chance to present a leader of our group

as far as the facts are concerned they are very clear my friend are already narrated the fact as far as the result is concern we also with the result that he is entitled for the benefit of the scheme adverse remarks are not communicated that the different thing

Firstly we consider whether he is entitled to the scheme? the standards on which the entitlement prescribe under annexure one so we concentrated on annexure one as far the notes the office memorandum if we see it says that it is giving to inferences one thing is if a person has completed twelve years with the same grade pay he is entitled for the benefit it is one thing. Second thing it says that on completion of ten years, 20 and 30 years he is entitled for the benefit under the scheme the benefit is financial benefit the standard on which it can accepted or it can be rejected is another thing.

Whether it shall be consider as a promotion and whether the standard we apply for giving promotion can be applied for this not clear on that. However if one of the rule under Annexure one show that if he is denied of that benefit at a particular year

But in the problem given he was denied the benefit because of the adverse remarks whether there are adverse remarks in the year 2013 promotion was given to him on 7th November 2013 from the cadre of clerk to the superintendent the promotion was given therefore his ACR was consider till November 2013 on completion of 10 years of service he is entitled for the financial benefit as per the scheme. On 16th October 2014 he will be entitled basically he is entitled on completion of 10 years he has satisfy the requirement of completing 10 years.

Second thing till 2013 his career was considered and promotion was also given that over. Next whether he is entitled consider the earlier period to 2013 is another thing but there is no such scope only the period subsequent to 2013 shows that his career is good so he is entitled and far as grade pay is concerned difference in pay of grade is concern there is one clarification in the scheme that if already he is given the promotion or some difference is increased the pay he did not getting because of the scheme that formula is also there in the Annexure as per the scheme and rules provided so that is a separate task

So scheme is applicable because 10 years is completed

Secondly he is entitled for what amount he is entitled is a matter of calculation

Thank you

If he is in the same grade he is entitled but if it is in the different grade then he is not entitled. Since he has been given two promotion he would have reach that grade pay so he not entitled for any benefit under the scheme and moreover he was promoted in the year 2013 so the earlier ACR remarks.....

**Dr. Geeta Oberoi:** So Shivraj want to say something for five minutes on this hypothetical

**Mr. Shivraj:** First of all I have to thank you for going in so detail I kept this particular problem very plain for the reason the facts are very clear and very simple for the reason then in many of the High Court our registrar vigilance are not dealing with I thought it I am just troubling them so I left the thing very plain, but the thing is I have deliberately excluded the pay band so that we have to maintain some crux in it some puzzle in it otherwise the thing will be very plain and it will be one sided to make match fifty fifty I just removed the Pay band.

I asked him which case it is he said I have removed Pay band so that they can decided about its regards you rightly pointed out he has promoted with a different Pay band obviously he is not entitled. It is so plain matter, but assume that is he was promoted but the pay band is similar under this circumstance ACR comes into picture why ACR comes into picture I Will tell you. See this particular Scheme when I went the Supreme Court as well as High Court Judgment it is not necessary that he is ACR for ten years needs to be completely clean, needs to be completely excellent and average etc. so in one the case the matter went to the supreme court and for six year this man is having Average remarks and for four years he is having Good remarks. Now the question before the Supreme Court is and in a two year he is adverse remark are not communicated to him and the procedure as required is not completed with, now the question before the court is whether we have to consider his plea for getting the benefit out of this particular scheme. before that I will ask another question how many High Courts having .....as per the guidelines all the High Court I think two of the High Court are having register vigilance as a member of MACP scheme.

Now coming to this particular problem assume that he is having 60:40 ratio what will be your opinion on this issue?

**Participating Judge:** Record of last five year he should be good

**Mr. Shivraj:** Any other views possible, in this regard the judiciary is very plain Supreme Court in many case for that matter held that at least fifty percentage of his

ACR must show I mean for five years that he is a good employee then he is entitled for

**Dr. Geeta Oberoi:** Thank you so much and you all have submitted your evaluation form to Prasad, not given ok ok ok now it will be given just take ten minutes and then you are free.

**Dr. Geeta Oberoi:** The kind of cases that come before him or her, you just can't make anything, like there is no research possible into this sector. So do you think if NJA, I mean of course we'll ask through CJI that can we get this like type of cases basically not mentioning any judicial officer name or anything but a kind of case that you are investigating or ask to adhere complaints like the kind of cases he was giving. So these were like on the.. for example a party there are two parties off-course case will be in favour of one and not in favour of other but that does not make it a complaint or vigilance complaint, so what should be entertained by vigilance? And what can be called actually complaint? And what is not a complaint? Because we want to make this kind of a research. So do you think a the existing and the past Registrar Vigilance would answer us? Ya no no no, no but for example cannot giving bail can become a or giving bail can become a part due to which vigilance can be initiated but then everybody complaints to us. I give bail so vigilance officer came upon my house in my office.

**Participant Judge:** He'll say I want to write my bail, now evidence given to somebody else is the same offence. This kind of cases you say I was write this, I argued this but this was not considered and the difference. Obviously something like this one line somewhere added which gives it to otherwise if we so claim

**Dr. Geeta Oberoi:** Ya

Participant: that's the answer to it, this grievance can be addressed on the issue side.. But generally they don't write this issue.

**Dr. Geeta Oberoi:** Hmmm hmmm

**Participant Judge:** Generally one or two line giving some hint that some angle of vigilance say not attracted yet also given, he is biased, I think he is approached by the other party, a probe may be made... In fact in some cases the litigants they are so clever that they use to write that I have asked this much amount of money but I could not arrange please tell me what is the rate of this Hon'ble judge, what is the prices, he is asking so much amount but I think it is not like that...

**Participant Judge:** They say I was approached by apex court. He said I gave the matter to this by setting by 5 judge, my case was advised. I gave this man this much amount but he didn't do anything he kept... I asked him to refund the money he just gave half of it back and we were treating it as complaint against judicial officer.

**Dr. Geeta Oberoi:** What?

Participant: This is actually this is we were treating it as a complaint against judicial office. Then I said is it a complaint against judicial officer or an advocate?

**Dr. Geeta Oberoi:** Exactly, any issue with respect to your state, anything?

**Participant Judge:** one request mam, why only High Court judges are allow.....to

**Dr. Geeta Oberoi:** You can ask all these questions to Justice Thakur. I have nothing no.. I always said your evaluation, whatever you mention in evaluation I get it published and the published report is send to Supreme Court. You all can go to website and check everything about your programme as well as other programmes, reports because every programme you cannot attend now. So naturally the best way is to gain whatever happened in that programme through our programmes. There is a link called concluded programme section in the website, so kind of questions we dealt in a programme, kind of deliberations we had everything is there. Ya PPT's and everything is there, Programme report complete program report is there. Reading material is available, it is available and if it is original reading material that means we are doing cases by ourselves, we are doing analysis of that then we put it on the website but if it

somebody else write up, writing we are putting, reference material then we cannot put it on the website due to copyright issues.

Participant: (not audible)

**Dr. Geeta Oberoi:** Through website that's what I am saying through website only that material can be made available which is made by coordinator himself like case analysis and all that, those would be there but if somebody else for example you have written some article and we have included in our reference material but we cannot put it on the website unless and until we take author permission which is a big procedure involved, copyright laws are very strong now a days. We have to be very careful, god knows who'll sue you where in which court?

Participant: (Not audible)

**Dr. Geeta Oberoi:** On the website? Yes! *ya email se pohcha hai but woh sirif judges ko diya hai* for educational purposes.

Participant: Private Circulation

**Dr. Geeta Oberoi:** Private circulation for educational purpose is allowed. Yes! So thank you so much all of you have been really very nice thank you thank you so much. Please it's a request and please adhere to this request please fill this 50 questionnaire and send it to us as fast as possible. Thank you so much all of you. Karuna karan Sir you are taking pictures? Yes Thank You, ok. And please give a big round of applause to Shivaraj and Prasad, program coordinator. Anywhere any mistake then we are really sorry about it.

