

North Zone Regional Conference on Enhancing the Excellence of Judicial Institutions: Challenges & Opportunities [P- 1025]



Organised by National Judicial Academy
In Association with High Court of Jammu and Kashmir and J&K State
Judicial Academy

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Programme Report

Programme coordinators:
Dr. Amit Mehrotra & Ms. Nitika Jain, Faculty, National Judicial Academy Bhopal.

National Judicial Academy Organised two day North Zone Regional Conference on Enhancing the Excellence of Judicial Institutions: Challenges & Opportunities (P1025) on 13th and 14th May, 2017. Judges of the Supreme Court including Justice Madan B Lokur, Justice Navin Sinha, Justice Deepak Gupta and B S Chauhan, Chairman, Law Commission of India, and Justice S. Muralidhar of Delhi High Court were the Resource Persons of this two-day conference.

There were six epic sessions for two days titled as: “Importance of Ethics, Integrity and Discipline”, “Strengthening Internal Vigilance Mechanism as a response to rising judicial discipline”, “Impact of Media on Public Perception regarding Vitality of Justice Delivery”, “Relationship between High Court and District Judiciary”, “Social Context Judging (SCJ) as Principal for Exercise of Discretion and Application of SCJ in given case studies” and “E-Justice: Re-engineering the Judicial Process through effective use of ICT”.

Judges of the High Court of Punjab and Haryana, Jammu and Kashmir, Delhi and Himachal Pradesh, Directors of State Judicial Academies of North Region and Civil Judges (Jr. Division) of High Court of Punjab and Haryana, Jammu and Kashmir, Delhi, Himachal Pradesh, Uttar Pradesh and Utrakhhand participated in the Conference and shared their rich experience.

Day 1

Session 1st

(“Importance of the Ethics, Integrity and Discipline”)

Resource Persons:

1. Hon’ble Dr. Justice Balbir Singh Chauhan
2. Hon’ble Dr. Justice S. Muralidhar

It was remarked that Judging is not just a profession but a way of life. Judiciary is one of the most excessively branded part of democracy in India. Judge should observe principles of ethics which itself is a right conduct. Judicial officers by virtue of performing the sovereign judicial function itself form a separate and distinctive class. In present times credibility of the judiciary has become an eyesore because of its prolonged delay and lack of integrity. Reference was made to the 13th century Magna Carta where the two provisions viz Article 39 & Article 40 stated that ‘no person shall be denied justice neither it shall be delayed nor it shall be sold’. Magna Carta is the first legal document. Justice being a product of decision-making, every human being is not capable of doing it. Judges are not mere government employees as they perform sacred unctons. Justice is a mere delusion as it is not defined in any statute book. Justice should be as per law, so that parties shall

not suffer. Bangalore draft code of judicial conduct 2001 was referred which sets out core values that should guide the exercise of judicial office namely; Independence, impartiality, integrity, equality, propriety, competence and diligence. It was delineated that judges have been given important duties and thus they must be careful about the image of judicial institution. It was stated that district judiciary is the face of judiciary and powers of the trial court cannot be underestimated. It is the duty of the judicial officers to be the well-wishers of the ordinary people. It was stressed that judicial individualism is the basis of judicial independence. Integrity among the judicial fraternity is the hallmark of judicial discipline. It was emphasized that the judicial officers must follow such steps, have integrity and discipline that everyone respects them and their decisions. People must have faith in them. Section 165 of 'Indian Evidence Act, 1872' empowers a Judge to ask any question to the parties, be it relevant or irrelevant, to meet the ends of justice. Order 20 Rule 1 of Code of Civil Procedure was discussed which speaks that a judgment shall be given within 30 days after the case has been heard and if not given within 30 days reasons has to recorded for such delay. It was also emphasized that the Judges must not be scared of Advocates. Advocates are there to win the case and not to serve justice. It was asserted that the first and foremost duty of a judicial officer is to know the law. Knowledge being a power should be acquired by him. If a judge has poor in knowledge of law, absurd results may come which will not only lower the reputed image of judiciary but also distort the faith and trust of people in the "sovereign" judicial institution. There may be travesty of justice. Judicial officer shall imbibe constitutional values. It was stated that there is a need of impartial judges and not neutral judges. An impartial judge will go beyond what is presented to him and act fairly to meet the ends of justice while as a neutral judge relies only on the lawyers. Judicial officer should not get influenced by the media which virtually runs a "parallel trial." A Judge must act independently and without any attachment, greed, fear or enmity.

Session 2nd

("Strengthening the Internal Vigilance Mechanism as Response to Rising Judicial Indiscipline")

Resource Persons:

1. Hon'ble Dr. Justice Balbir Singh Chauhan
2. Hon'ble Mr. Justice G Raghuram

It was highlighted that internal vigilance mechanism has emerged as a response to rising judicial indiscipline. The tendency that by virtue of holding office entitled to do anything even beyond judicial powers need to be curbed. It was stressed that strengthening internal vigilance mechanism would limit their powers and in turn will maintain judicial discipline among the judicial officers at large. It was stated that complaints are something which becomes part of the identity of the judicial officers. They shouldn't be afraid of it. Judicial complaint has to be supported by an affidavit and the address of complainant need to be verified, then only the affidavit submitted should be accepted. Hon'ble Justice stated that while writing the orders, judge should give the complete picture of case and write all necessary particulars in the application, be it facts, presence or absence of parties, reply of lawyer or any related or unrelated conversation pertaining to the case. Further, it was enunciated that the Judges are masters of the case they are presiding over; they must exercise their power in pen and not in heat.

The case of Sher Singh vs. State of Punjab was discussed during the discourse. It was deliberated that Enquiry against judicial officer can be done another judicial officer only and not before any other officer of whatever rank as it is against the dignity of the judicial system. While deciding a case one has to decide a case on merit. It was emphasized that judges must put more effort and extra labor for the 'needy and underprivileged people' but should never go against the very principles of law. It was emphasized that in present times it's not only the monetary corruption but cast corruption is also a challenge before the presiding judges. It was suggested that one need not to transfer the case only because litigant or advocate and presiding officers belong to same community. It was stressed that an independence of court and healthy relationship between the higher and lower judiciary is a prerequisite for justice delivery and onus to maintain a healthy relation lies on the High Court.

Session 3rd
(“Relationship between High Court and District Judiciary”)

Resource Person: Hon’ble Mr. Justice Navin Sinha

It was stated that the channel of communication between the High Court and subordinate judiciary must be opened and at the same time subordinate judiciary must have attitude to learn. It was stated that the position of being a judge is not merely a service. The person who approaches the court consider judicial officers as an ultimate authority or God and the duty of the judicial officer is to maintain this image and come up to the expectations of the people. It was stated that once a Judge is always a Judge. It was remarked that nevertheless a Judicial Officer must work independently. It was remarked that the order-sheet speaks for itself. It was deliberate that the gun for a judicial officer is his pen and the order-sheet is his bullet proof jacket. Discipline is very important for a judicial officer. It was mentioned that the only thing that can’t be tolerated is indiscipline. It was also highlighted that there is a system of hierarchy within the Judiciary. This system of hierarchy should not be violated. If hierarchy in the judiciary is broken down it will collapse the system. Although there is a system of hierarchy in the judiciary there is no personal subordination between the judges. Personality of a judge reflects in his decisions. Thus, peace of mind is essential for a judge to give efficient and fair judgments or awards. Lower judicial officers are the face of the whole judicial system and district judge is the medium between High Court and the subordinate judiciary. In order to eliminate the gap between the senior and junior division judges, it was suggested that the funds must be utilized to hold weekend meetings and interactive sessions.

Session 4th

(“Impact of Media on Public Perception Regarding Vitality of Justice Delivery”)

Resource Persons:

1. Hon’ble Mr. Justice Deepak Gupta
2. Hon’ble Mr. Justice G Raghuram

It was discussed that no one can deny the impact of media on the public perception and vitality of justice delivery. Media is an important wing and forms the fourth estate of democracy. However it is sad that media nowadays works for TRPs. Jessica Lal’s case and Nirbhaya Case were discussed as they are remarkably important cases wherein the media helped in conversion of thought process. It was pointed out that, currently media has become a source of victimization in relation to crime. Discussions focussed on pre-trial publicity by media and the extent to which it affects the decision of the court. It was termed as a dangerous thing and further stated that, “Media coverage enhances the development of bias in the judicial officers about the case”. The judicial officers were asked not to get influenced which may cause them to deviate from the procedure. It was suggested that there is an immense need of proper and trained reporters to cover up the court matters in a very systematic manner. It was emphasized that by and large the balance between judiciary and media is necessary to set the scale right- with certain regulation on the code of conduct of media by making it accountable and duty bound to practice journalism in a proper manner.

Day 2
Session 5th

**(“Social Context Judging (SCJ) as Principle for Exercise of Discretion and
Application of SCJ in Given Case Studies”)**

Chairperson: Hon’ble Mr. Justice Madan B. Lokur

Resource Persons:

1. Hon’ble Mr. Justice Deepak Gupta
2. Hon’ble Dr. Justice S. Muralidhar

It was deliberated one dimension of Social Context Judging is Public Interest Litigation (PIL) which could be categorized into three different compartments related to the environment, issues of corruption and governance and issues directly affecting the society. Referring to the problems and degradation of environment it was stated that in India PIL truly has been carved out as a judicial tool of utmost importance. The participants were given a clear understanding of how PIL can be served as tool of SCJ.

Anti-corruption guidelines: *Vineet Narain vs. Union of India and others (1997)*, Coal scam case, Police reforms: *Prakash Singh & Others vs. Union of India (2008 SCC 1)* were discussed during the discourse. It was stated that bonded labour which has been a menace in Indian society was curbed only after the development of labour jurisprudence by the apex court. It was stated that judges should keep into consideration the interests of underprivileged, poor or downtrodden class. Judges sitting in the lower judiciary should not divorce themselves from the issues of the common people. It was stated that a poor man may not be able to hire an expensive lawyer which may cost him the denial of any relief from the court. Thus, a presiding officer must be able to use his compassion which is the hallmark of a judge and shall differentiate between the parties to achieve the true equality. Quality of law and equality can be achieved only if it is applied unequally. Hence, judicial officers must think empathetically and must feel the ‘pulse of the society’ and ‘problems of poor’. Reference to the preamble of the constitution was made and it was stated that the expressions ‘social, economic and political justice’ makes the concrete base for SCJ in India.

Session 6th
**(“E-Justice: Re-Engineering the Judicial Process through Effective Use of
ICT”)**

Resource Persons:

1. Hon’ble Mr. Justice Madan B. Lokur
2. Hon’ble Mr. Justice Deepak Gupta

e-courts project and discourse on the emerging need of re-engineering in the judicial process was discussed. It was pointed out that there is a need and importance of adapting the technical tools by the judicial institutions. An embryonic need of conversion of the traditional courts into e-courts was stressed upon and in this regard a video presentation on the effective use of National Judicial Data Grid (NJDG) was shown the participants. It was pointed out that NJDG gives information about the number of cases pending in a court, cases filed and disposed-off in preceding month and number of cases that are pending for more than 10 years. The portal also maintains a list of cases which are to be heard on daily basis. The figures on the portal can be sought in both ascending and descending order. History of cases can also be taken and so it can help a judicial officer to ascertain his progress. It was suggested that through its use a judicial officer can also devise a plan to dispose-off the cases on priority basis. The video illustrated a step by step process to access the website.

It was stated that transparency and accountability of the judicial institutions can be maintained through use of this data grid. e-courts project and implementation of different phases of the project was discussed. It was emphasized that computers should be used as tools of effective management and not merely as type writers. It was pointed out that NJDG is a magnificent tool and consists of the complete setup which a judge requires and it is simpler to use than handling of a new android electronic gadget.