

# *National Judicial Academy*



*North Zone-I “Regional Conference on Enhancing Excellence of the  
Judicial Institutions: Challenges & Opportunities”*

*(P-1142)*

*National Judicial Academy in Association with the High Court of  
Jammu & Kashmir and Jammu & Kashmir State Judicial Academy*

*(1<sup>st</sup> & 2<sup>nd</sup> December, 2018)*

*Submitted by-*

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## REPORT

A two day Regional Conference for the North Zone comprising of six High Courts i.e. High Court of Jammu & Kashmir, High Court of Allahabad, High Court of Punjab & Haryana, High Court of Himachal Pradesh, High Court of Delhi and High Court of Uttarakhand was organized by NJA on 1<sup>st</sup> and 2<sup>nd</sup> December, 2018 at Jammu in collaboration with the High Court of Jammu & Kashmir and Jammu & Kashmir State Judicial Academy.

The objective was to accentuate the experiences of the high courts and district courts, besides revisiting established and imperative norms of constitutional vision of justice, building synergies amongst hierarchies, impact of excessive appellate interference, significance of ICT and court management. The conference was designed to provide a forum for exchange of experiences, knowledge and dissemination of best practices to evolve horizons of relevant law and jurisprudence.

### LIST OF RESOURCE PERSONS

1.	Justice Navin Sinha
2.	Justice Sunil Ambwani
3.	Justice Gita Mittal
4.	Justice Rajesh Bindal
5.	Justice Sanjeev Sachdeva
6.	Justice M. Seetharama Murthi

A brief overview of the Sessions scheduled for the training programme is as under:

#### **Day 1**

- Session 1- Constitutional Vision of Justice
- Session 2- High Court and District Judiciary: Building Synergies
- Session 3- Revisiting Norms for Appellate Review: Consequence of Frequent and Excessive Appellate Interference

#### **Day 2**

- Session 4- Access to Justice: Information and Communication Technology in Courts
- Session 5- Access to Justice: Court and Case Management

**Day 1**  
**Session 1**

**Constitutional Vision of Justice**

*Speakers: Justice Navin Sinha, Justice Gita Mittal & Justice Rajesh Bindal*

The panelists initiated the discussion on the basic understanding of the preamble to the constitution and it was asserted that constitution is the umbrella under which all domestic laws are made. The Constitution aids in the interpretation of statutes as it underscores the objective of the law and the goals to be achieved through it. Further, the speaker opined that the term justice is difficult to define, but it is conceived as the right to get one's due. Justice is an act of rendering what is right and equitable towards one who has suffered a wrong. Court has to strike a balance and do justice in conformity with law and the procedure established under the Constitution. Most of the provisions of the constitution particularly the various fundamental rights have no fixed (exhaustive) content. They are merely empty vessels into which each generation pours its content by judicial interpretation in the light of its experience. Articles 32 & 226 of the Constitution of India, read with the directive principles of state policy provides for access to justice. The speaker cited *Rudal Shah v State of Bihar*<sup>1</sup> wherein it was held that the conglomeration of judicial activism and executive commitment is vital to achieve the ends of justice.

Thereafter, the speaker dwelt on the relevance and interplay of the constitutional vision of justice in the exercise of jurisdiction by the district judiciary. It was stated that the trial court is the first contact of the common man with the judicial system and it is at this stage that the courts are bound to ensure equality.

It was also pointed out that since the constitution is meant to govern a polychromatic society therefore it cannot remain monochromatic and that it must evolve with time. The theories of our constitution state that it is a source of legislation; considered as a grundnorm which helps to test the vires of existing laws; a great source of social values; reflects our political philosophy; and is an organic document.

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<sup>1</sup> AIR 1983 SC 1086

## Session – 2

### *High Court and District Judiciary: Building Synergies*

*Speakers: Justice Navin Sinha & Justice M. Seetharama Murti*

The session dwelt with the fact that to build synergies amongst the hierarchies' interaction between the high courts and the district judiciary is inevitable. Interaction between the district judiciary and the portfolio (guardian) judges aids in building the efficiency of deliverables. It was emphasized that the role of State Judicial Academies (SJA) is integral in bridging the gap between the high court and the district judiciary. The SJA's not just provide a platform for communication amongst the hierarchies they also inculcate and emphasizes the significance of judicial ethics among judicial officers through induction programmes.

The panelists emphasized that the superior courts exercise the responsibility of superintendence and not the power of superintendence. It was clarified that any inspection or enquiry must be a fact finding one rather than a fault finding one. The participant judicial officers were advised to pass reasoned orders (it was termed as the "bullet proof vest" of judicial officers by one of the panelists) reflecting the application of mind.

The district judges were suggested to handle the appeals of judicial officers with utmost rationality and should guide the juniors in rectifying the errors. On the contrary they should also be open to accept dissent from the judicial officers. With respect to transfers of district judges the discussion suggested that the portfolio judges should come with a rotating transfer policy so that there is less scope of favoritism. It was opined that synergies cannot be built if there is no mutual respect for each other. Optimal use of National Judicial Data Grid (NJDG) by the judges and judicial officers was stressed upon.

### Session – 3

## **Revisiting Norms for Appellate Review: Consequence of Frequent and Excessive Appellate Interference**

*Speakers: Justice Rajesh Bindal & Justice M. Seetharama Murti*

The session commenced with emphasis on the need to revisit the appellate and review norms. It was highlighted that the hierarchy of courts does not mean that the higher courts are not fallible. The hierarchy exists to correct mistakes in law. Certainty in outcomes is necessary to ensure public confidence in the judicial system. Certainty in outcomes also includes a timeliness of justice to give an assurance to the litigant that their case will be decided within a certain period of time. It is the paramount duty of the judiciary to live upto the expectations of the people.

Thereafter, it was stressed that finding of fact by the court of first instance is not treated with reverence by the appellate court and if the lower judiciary is considered to be that incompetent then why at all we need to have the courts of first instance? This is surely a confrontational sign on the face of judiciary. The case of Krishnakant Tamrakar vs. State of Madhya Pradesh<sup>2</sup> which stressed on revisiting the norms of appellate authority not merely on approach but on the structure of consideration of appeal was discussed at length. It was suggested that the appellate court should not interfere with the lower court's order unless there are defects which goes at the roots of the matter and results in miscarriage of justice.

The speakers concluded by highlighting that the appellate court must exercise moderation, constraint and sobriety in saying anything to a lower court and that the appellate courts must strike a balance so that the appellate interference is not frequent and excessive as it dampens public faith in the institution of judiciary.

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<sup>2</sup> Special Leave Petition (Crl.) No. 9393 of 2017; decided on March 28, 2018.

**Day 2**  
**Session 4**

**Access to Justice: Information and Communication Technology in Courts**

*Speakers: Justice Sunil Ambwani, Justice Rajesh Bindal & Justice Sanjeev Sachdeva*

The panelists dwelt in detail on E-Committee and E-Courts projects besides highlighting contours of court and case management. The discussion elaborated on several innovative ways to streamline working of courts and emphasized the need for a comprehensive policy on equipping the courts with technologically advanced infrastructural edifice and manpower. Further, the significance of video conferencing as a tool in expeditious disposal of cases was highlighted. It was also stated that despite topographic difficulties and issues of connectivity, the courts of Jammu & Kashmir have been able to excel in use of ICT. The speaker also discussed the increasing significance of electronic evidence in cases before courts, the sources of electronic evidence including digital footprint, metadata, social media accounts, e-mails, etc. The speaker discussed benefits of digital forensics in unearthing evidence that is usually ignored including GPS location, audio files, prior activity, photographs etc. which aid in unearthing the truth. The speaker also highlighted the security and privacy concerns with the advent of social media, smart phone and devices which access all information and build profiles of individuals based on their activities, locations etc.

The discussion went on to highlight the need and importance of making optimum use of technological innovations in courts by elucidating issues like transformation of courts through technical empowerment of judges, digitization of old records, use of electronic devices, improving connectivity in courts and creating an atmosphere in the judicial system which is in line with the technological advancement and changing needs of the society.

## Session 5

### *Access to Justice: Court and Case Management*

*Speakers: Justice Sunil Ambwani, Justice Rajesh Bindal & Justice Sanjeev Sachdeva*

The panelists described disposal of cases as the most significant function of judiciary which needs to be expedited for speedy and impartial justice to the litigants. Furthermore, it was also stressed that judicial officers must enhance their court management skills to deal effectively with frivolous litigations besides emphasizing prioritization of litigation disposal on the basis of urgency. The panelists also highlighted that the influx of court managers in the judicial system has not yielded results but the courts have a crucial role in creating a policy to ensure that the court managers develop a congenial atmosphere in courts and an environment wherein judicial officers are able to concentrate fully on their judicial work.

The speaker stress on human resource management as part of court management and identified the judge, lawyers, litigants, prosecutors, witness and the staff as the stakeholders in the judicial system. The human resource issues that affect court management identified in the course of the discussion are – frequent boycotts by lawyers, staff management and failure to facilitate and enable accessibility of the courts to the witnesses who appear before the court as invitees of the court. The speaker emphasised on court processes and terminology as a part of court management and on the need to streamline the court processes with the aid of technology.

Justice G. Mittal (Chief Justice, Jammu & Kashmir High Court) in her concluding remarks urged the judicial officers to take some time out of their busy schedule and focus on holistic individual growth as a happy and healthy judge can deliver healthy judgments. Furthermore, she stated that such conferences provide a unique platform to the participants in sharing their experiences and expertise and help in clearing blurred visions, doubts, improves judicial skills and instill a sense of confidence besides improving the capacity to interpret law in order to deliver expedited justice.