

## **P-1146: REGIONAL CONFERENCE (EAST ZONE-I) ON ENHANCING EXCELLENCE OF THE JUDICIAL INSTITUTIONS: CHALLENGES & OPPORTUNITIES**

**22<sup>nd</sup> & 23<sup>rd</sup> December, 2018**

**Mr. Rajesh Suman, Assistant Professor and Mr. Rahul I. Sonawane, Research Fellow**

---

The National Judicial Academy in collaboration with the Jharkhand High Court and the Judicial Academy, Jharkhand organized the East Zone-I Regional Conference on “Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities” on 22<sup>nd</sup> and 23<sup>rd</sup> December, 2018.

The Regional conference aimed to provide a forum for exchange of experiences, knowledge and dissemination of best practices from across the cluster of High Court jurisdictions in the eastern region; and amongst the hierarchy; to accentuate the experience of familial community between High Court and Subordinate Court judicial officers: re-visiting established and imperative norms of the constitutional vision of justice; revisiting norms for appellate review; consequence of frequent and excessive appellate interference and other specified topics. The conference also provided an opportunity to discuss several crucial issues relevant for a particular region.

### **Session 1: Constitutional Vision of Justice**

The speakers initiated the discussion with relevance of the Constitution to judicial officers. The importance of ensuring due process and fair hearing in a trial proceeding was emphasized by the speakers. The question was asked to the participants regarding their understanding of the Constitutional vision of justice. Participants responded by providing different instances where the Constitutional rights of the parties are required to be protected, such as, rights guaranteed under Art(s). 14, 15, 20, 21 and 22 of the Constitution. A trial court judge is also required to refer disputes involving a question of law to the High Court. The speakers discussed balancing of individual rights of a person against the might of state in cases such as eviction suits, where the right to livelihood of a person is at stake. The court should check that whether the dispossession is by virtue of any law for depriving a person of his property. The speakers discussed the issue, as to whether social and economic justice come within the ambit of the same. The speakers highlighted Sec. 166 of the Motor Vehicle Act, 1988 in issues related to award of interest and higher compensation. Sec. 437 of the Code of Criminal Procedure, 1973 and Art. 15 of the Constitution were discussed in the matter of granting bail to women accused. The discussion also included right to conduct a religious procession, public nuisance, difference between civil imprisonment and criminal imprisonment and injunction for restraining a publication.

### **Session 2: High Court and District Judiciary: Building Synergies**

The session began with the concern that most of the time the communication pattern between High Courts and district judiciary is disciplinary in nature. At present there are two prominent channels of communication. One is when there is wrong judgment and another when there is complaint against a judicial officer. There is need to shift from 'monitoring' to 'mentoring' function with regard to administration of district courts. The speakers emphasized that synergy building is required for continued excellence. The discussion focused on the administrative practices in the High Court with regard to district judiciary. The

benefit and impact of video conferencing for interaction between High Court and district judiciary was discussed. It was stated that the video conferencing is used in some High Courts to take stock of pendency and assess progress in disposal of cases according to action plan. The speakers emphasized on the use of data relating to cases from National Judicial Data Grid [NJDG]. The practice of organising divisional workshops by the State Judicial Academies for a cluster of 5 to 6 districts was discussed. These workshops are attended by one or more portfolio judge(s). The problems and challenges faced by judicial officers are considered in such workshop, and it has positive effect in building synergies between High Court and district judiciary. The speakers emphasized that High Court must gain confidence of the district judiciary. The practice of passing unwarranted strictures in judgements should be abolished and High Courts should not criticize too much in judgments. The speakers emphasized that the State Judicial Academies should act as a bridge between district judiciary and High Court. The State Judicial Academies should enhance synergies between two levels of judiciary.

### **Session 3: Revisiting Norms for Appellate Review: Consequence of Frequent and Excessive Appellate Interference**

The session began with the importance of appellate power in Indian judiciary. The speaker said that when a litigant is not satisfied with the trial court judgment then he can file an appeal against the same, thereby restoring faith in judiciary. All appeals are provided by law and interference with any order should be on the well-recognized principles. The appellate court should not interfere with lower court's order unless there is gross illegality and perversity. It has been observed that most of the time disputed questions of law actually turn out to be questions of facts, and the High Court should restrain themselves from interfering with the lower court's orders in such situation. The appellate court should not interfere with the lower court orders, unless there are defects which go to the root of the matter. The appellate court has power of remand and if there is an order, where the question of law is wrongly decided then the matter can be remanded back to the lower court.

The appellate courts should refrain from the practice of admitting second appeal and subsequently leaving it undecided for many years. In most cases of appeals there is hardly any disputed question of law. The appellate court should interfere only where the non-interference will amount to miscarriage of justice. There should be deference to the order of trial court as they have had the opportunity to observe demeanor of witnesses. The speakers expressed concern on interference with the interlocutory orders and bail orders by the higher courts. The speakers suggested that trial courts should write their judgments without thinking about the consequences at appellate level.

### **Session 4: Access to Justice: Information and Communication Technology in Courts**

The session was introduced by emphasizing that digital world, ICT and Case Management/Court Management are contributing to a great extent in the process of access to justice as an enabling tool.

The speakers averred that most important aspect of justice delivery system in any country depends upon the level of confidence the litigants have in the system. Therefore, the job of the judge is to keep that faith and confidence intact. The speaker said that "Access to Justice" should not be confused with "Access to Courts". Access to court starts with filing of a case and access to justice is the ultimate end of the case. The period between access to court and access to justice is very difficult and here lies the skill of a judge and the

faith of litigant in a system. To keep and enhance this faith of litigant in the system, ICT tools are very useful. Through ICT in Courts, judges are having information available at the click of mouse. They can manage cases through ICT, upload data on the NJDG, manage daily board and do a lot of other things. Not only that, nowadays due to electronic journals, finding precedents and relevant case law has become easier than earlier.

Another speaker elaborated on the 'Artificial Intelligence' in the Judiciary. The example of China was shared where they are now working on a concept called "Photo-Genetic Judgments" where judgments can be delivered through artificial intelligence. As far as our country is concerned, we are much behind, but we cannot remain untouched by the ICT revolution taking place all over the world. In India, use of ICT started in 1980s. In 2004, Supreme Court of India established an 'e-committee' as a national level body to look after the policy matters in computerization of judiciary. At initial stages, ICT was used only for 'data storage' and 'processing' like uploading information on computer and generating cause-lists. But now a days there is an increase in the use of ICT. Today ICT is used for Case and Court Management, for clearing the arrears/backlog in courts and to monitor the progress of the cases etc. NJDG is a giant step in taking ICT in Indian judiciary to the next level. The speaker also mentioned about the increased use of video conferencing facilities for production of accused from jails, recording evidence etc. The speaker also referred to the judgment of Supreme Court of India directing the mandatory installation of CCTV cameras in all police stations, jails and Courts. Nowadays in other countries, court proceedings are being videographed entirely and soon the trend is going to come to India. In fact, Indian Supreme Court in a PIL has directed for the implementation of videographing of court proceedings in two courts under each High Court on experimental basis, to assess the suitability and practicability of the same in Indian Courts. The speaker also talked about the concept of ODR i.e. Online Dispute Resolution, where the complaint and responses will be filed online and after conducting online trial, the judgement will be delivered online. The speaker concluded his speech by saying that till now we were talking about 'paperless courts' but now the time has come to think about 'people-less courts'.

### **Session 5: Access to Justice: Court and Case Management**

Before the regular speakers for the session, with the permission of dias, Justice D. N. Patel of Jharkhand High Court made a brief presentation on how in Jharkhand, Court and Case Management techniques are implemented to achieve the targeted disposals. He said that the key is that the collection of data is very important; as well as data feeding should be accurate. Then only targeted results can be achieved. He said that on the website of High Court of Jharkhand, there is a link called 'Targets and Achievements' which reflects various targets allocated to various districts and judges therein and the achievements are also made available online. He said that after the thorough study they came to realize that 80% of work in State of Jharkhand is in 10 districts only. So they concentrated on these 10 districts for initial achievement of targets and they got 80 to 90 percent of success. The judges of High Court are personally monitoring the targets allocated to various judicial officers and their achievements. He explained it with the help of a demonstration of the said system.

The speakers then said that there are almost more than 3 crore cases pending in Indian Courts. Out of which, 74 percent cases are less than five years old. We should organize the work in such a way that old as well as new cases are disposed of simultaneously. It was shared that at the Supreme Court, a comprehensive Court Management System is being developed, which will provide more inputs in this regard. He said that Human

Resource Management in a court is also a very important issue. Judges should personally ensure equal distribution of work and human resources available with the court is utilized to the fullest extent. Expertise of particular employee/staff should be utilized in best possible way. When accurate data pending cases, types of cases, stage of proceeding etc. are available, it will be easy to apply court and case management techniques more effectively. For the effective use of court and case management techniques, proper monitoring and mentoring at the High Court level is very important.

Thereafter, some of the participants raised their doubts about the court and case management and panel responded and resolved their doubts. After the discussion the Director, NJA concluded the conference expressing hope that participant judges will take with them learnings from the conference and try to implement them in day to day functioning of their courts.

-----