

## **National Orientation Programme for Additional District Judges**

**(13-14 February, 2015)**

### **Programme Report**

**P-912**

The National Judicial Academy organized the “**National Orientation Programme for Additional District Judges**” during **13-14 February, 2015**. The programme aimed to provide national outlook to the Additional District Judges and to enhance their capacity to deal with recent challenges facing Indian Judicial System. The discussion in the programme focussed on core issues in criminal and civil justice administration in the light of new advances in laws and jurisprudence. The programme also dealt with interdisciplinary aspects of adjudication through discussion on management issues as well as on innovations in technology. The programme thus aimed to transform skills and capacities of judges towards fair and efficient adjudication.

#### **Following are the main issues discussed in the Conference:**

- The Indian judicial system suffers from low civil filing as courts are not user-friendly and mounting delay and arrears discourage people to seek grievance through courts. In civil matters, the courts must strive to provide justice to weaker parties and proper legal support should be given to them. The cases where immediate remedy is very essential such as maintenance cases, judges must act proactively.
- In order to enhance coordination in the courts, judges must come out of I-Syndrome i.e. I can do everything. One of the basic principles of effective court administration is proper communication with all the stakeholders of the court and then allocation of work accordingly. The judges must understand the principles of effective administration and then only they can administer their court in proper way. Through enhancing communication with the staff, the judges can know the particular expertise of the concerned staff and their work can then be allocated accordingly which will enhance the performance of court.

- The senior judges must analyze the data on delay and arrears on a regular interval so that they can know the exact location of the problems and then strategic intervention can be taken to address the problem. This will also help in the strategic preparation of budgets as at present budget is present on an ad hoc basis i.e. every year the budget is mechanically enhanced by 5% or 10% and no analysis is done for proper enhancement of budget.
- The service of summons in civil cases should be monitored strictly as it is one of the major cause of delay in civil cases. The periodic meetings should be conducted with the court staff to ascertain the position of process service. The courts should adopt ICT tools to serve summons expeditiously. The information tools such as sms and emails should be used in this regard and the court staff must be trained in using these services effectively.
- There is need of enhanced communication with the bar association to reduce the practice of frequent unnecessary adjournments. Proper interaction with the leaders of the bar can reduce this problem upto certain extent. Judges too should adopt strict approach in the grant of adjournments and cost should be imposed wherever necessary to curb this practice. It is common practice that adjournment orders are written by bench clerks. This practice should be prohibited and judges should control this process of granting adjournments. There should be emphasis on adhering to the scheduled trial dates and only in rare circumstances there should be leniency in this matter and proper reasons should be recorded for departing from the norms.
- Judges must list more cases on their list as some cases are bound to be adjourned. In this way, judges will be able to utilize the time which become vacant due to adjournment
- The dignity of witnesses should be maintained in the courts as they come to court to serve the process of justice and should not face any problem in court complex and court rooms.
- Judges must make attempt to identify difficulties which can emerge in a particular case and then can be a cause of severe delay. Pretrial analysis of cases is very necessary and it can

bring clarity in the mind of judges on various issues and then judge can have firm control on the adjudication process.

- In the matter of human resources, the main challenge before the leader is to keep his team motivated for higher work productivity. Most of the people in an organization remain depend on the external motivational factors such as salary, promotions etc. However there are some people who derive inspiration from their inner self. Such people set goals for themselves and try to achieve that without any external motivational factor. Judges are required to continue monitor the performance of their staff and junior judges. As management strategy they should ask their team to prepare achievable goals to them as goal setting is evidence based method of improving performance.
- Courtroom management and adjudication can be quite stressful if the judges do not control factors responsible for causing stress. One of the main factor that causes stress in a multi actor working environment is strained relationships. Therefore the first thing which is required is improve relationship with stakeholders. Judges must enhance communication skills in this regard. The communication should not be aggressive. The social skills too should be good and there should be an attitude of forgiveness in case of mistakes. Lack of trust in interpersonal relationship is also one of the causes of stress. There should be effort to build trust in gradual manner and ego conflict should be avoided. Modifying expectation is also a part of managing relationship. The unrealistic expectation can result to strain in relationships.
- The level of stress depends on the perspective of appraisal of situation. A seemingly harmless situation can cause much stress if not interpreted with proper and informed perspective. Therefore changing the appraisal of a situation does reduce the stress and the person can become more relaxed. Relaxation is another good method to reduce stress. Feeling good about what you have done also releases stress.
- In the matter of prevention of sexual harassment of women at workplace, every organization is required to constitute an internal complaint committee. On receiving complaint the committee can grant the leave of three months to victim and can order the

defendant for restraint. However due to apprehension of stigma, many victim do not file complaint. When the matter reaches to the court, judges should communicate the victim properly so that victim can fearlessly cooperate in the process. Lot of steps are required to be taken by the government department including police department and railway department for effective implementation of this law. The definition of workplace too is required to be expanded as sometimes employer call the employee in his home for work related matters. There are no rules how the ICC is required to function. The government must frame rules so that enquiry can be conducted properly.

- Grant of injunction is very necessary not only as a matter of interim relief but also to restrain the defendant from destroying the purpose of suit. If the injunction is not granted then the defendant will try to destroy the purpose of suit. There should not be delay in the grant of injunction and judges must read the documents properly in deciding to grant injunction. Public interest should be paramount consideration in granting the interim relief. The court should take proactive steps in civil proceedings in finding out the truth of the matter before and should take all proactive steps in this regard
- In the matter of the execution of decree, the approach should not be too technical and the steps should be taken to advance the cause of justice. The court must check the issue of inherent jurisdiction before awarding decree to prevent it becoming a nullity. If the decree has been obtained by fraud then executing court should pass stay. The court can find out the true effect of the decree and if necessary it can consider steps leading to execution. The control of execution proceeding must be by the court and court should not be allow lawyer and litigants to control of execution of decree and frustrate the purpose of the suit. The court must check the notice service reports as it is the major cause of delay in execution. Training of staff is necessary so that service of notice can be a proper service.
- The courts must have an automated case management system for expeditious disposal of the cases. For a proper implementation of the CIS system, there should not be any gap in the communication between the court staff, court managers and the judicial officers. CIS system saves lot of time of the court as it is not required to face queries and the litigants

and lawyers can access the information of every stage of the case online. Judges should use CIS as monitoring tool as this system has various reporting segments. It is helpful in the allocation of cases and it shows graphical representation of non allocated cases. The courts which are facing difficulty in implementing this system should apply change management techniques to improve coordination among duty holders. This requires analysis of existing court culture and changing duty holder's perspective through interactions. The personal reasons and organizational reasons must be looked into to remove resistance to change. Within personal reasons responsible for resistance to change, there could be socio-economic factors behind personal reasons. The organizational reasons may include organizational structure, resource constraints, threat to power and influence and sunk costs.

- The parties in courts are increasing using electronic evidence and the court should utmost care in appreciating such evidences and legal principles should be followed properly in appreciating such evidences. The preservation of the electronic evidence is one of biggest challenge in ensuring speedy and fair trial as most of the malkhanas are in shabby condition. Courts must ensure that a replica or a mirror image of the information has been done properly. The hard disk is a document and court must ensure aseptic condition for its preservation. The exercise of preservation should be undertaken properly as ordered by the Supreme Court and high courts. Prosecution also must move application for creating mirror image. The standard of proof in electronic evidence is more stringent and all the protocols, policies and legal principles should be considered while appreciating the electronic evidence.
- The legal requirements must be fulfilled in writing the judgment. Judgment must discuss the point in issue and the decision of the judge and should not be a medium to express all knowledge. Judges should understand the stands taken by parties and should analyze the statements of witnesses properly. The generalizations should be avoided in writing the judgments. Judges must not assess the witness testimony by his background and only the testimony after the cross examinations have to be considered. The bias should be avoided in writing judgment and only legal reasons must be cited. The flowery and complex language should be avoided. The language of the judgment should be simple as the

litigants should be able to understand the judgment easily. There should not be any rhetoric in the judgment. The judgment must disclose clearly the reason for the decision. The rules of grammar should be followed properly. Judges must read books as they have to probe human mind and reading widely help in knowing different ways people can think and act.

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