

NATIONAL JUDICIAL ACADEMY



**SOUTH ZONE-II REGIONAL CONFERENCE ON ENHANCING
EXCELLENCE OF THE JUDICIAL INSTITUTIONS: CHALLENGES &
OPPORTUNITIES [P-1149]**

19th and 20th January, 2019

Programme Report

PROGRAMME CO-ORDINATOR

Mr. Shashwat Gupta and Mr. Prasadh Raj Singh , Law Associates

The Academy in association with Madras High Court and Tamil Nadu State Judicial Academy organized a Regional Conference on the theme –“Enhancing Excellence of the Judicial Institutions: Challenges & Opportunities”. The conference was held at Tamil Nadu State Judicial Academy in Chennai and was attended by 104 participants. The objective of the conference was to provide a forum for exchange of knowledge and sharing of best practices among the participants apart from holding discussions on certain specified topics i.e. constitutional vision of justice; building synergies between district court and high court; revisiting norms for appellate review; information and communication technology (ICT) in courts and court and case management

DAY I

Session 1

Theme–Constitutional Vision of Justice

Panel –Justice Indira Banerjee, Justice M. Sundar and Mr. R. Venkataramani

The speaker initiated the discourse by stating that the Constitution is the grundnorm and it is the ultimate beacon of guidance for the judges. He further stated that the Constitution is nebulous and is constantly evolving through judicial interpretation. The concept of equality present in the Constitution was emphasized and it was stated that the judges should keep the principle of equality in mind while deciding cases and should treat both parties equally. The speaker also expounded upon the meaning of “secular” and “socialist” as provided in the Constitution of India. It was highlighted that the term “justice” has not been defined in the Constitution consciously since the concept is capable of varied interpretation and it should not be circumscribed to a particular interpretation. Thereafter, the meaning attributed to “justice” by different philosophers and thinkers like Salmond, Martin Luther King, Benjamin Cardozo and Amartya Sen was discussed. It was stated that the dimensions of “justice” has also evolved over the ages. It was stressed that certain features of the constitutional structure are intrinsic to the Constitution and are itself part of the constitutional vision of justice. These features are so pivotal to the Constitution that if they are removed then the whole structure of the Constitution will collapse. It was also opined that constitutional vision of justice is not limited to securing justice but extends to securing liberty, equality and other ideals enshrined in the Constitution.

Session 2

Theme-High Court and District Judiciary: Building Synergies

Panel –Justice Indira Banerjee and Justice Hrishikesh Roy

The speaker expressed concern that the major interaction between High Courts and the district judiciary is restricted to disciplinary proceedings. Thereafter, the speaker discussed the ambit of Article 227 of the Constitution which confers the power of superintendence to High Courts over lower courts and tribunals under their jurisdiction. The High Court judges were advised to exercise restraint in making disparaging remarks against judicial officers. The speaker discussed various situations in which discreet inquiry should be conducted and the manner in which the charge sheet should be framed in disciplinary proceedings against a judicial officer. The speaker also stated that each High Court should develop an appropriate transfer policy for the judicial officers under which their transfer can take place anywhere across the state and it is not confined to only a particular region. The session also involved deliberation on the unit system and it was opined that there should be some relaxation in situations when the units of the judicial officer is impacted by events like strike by advocates. The speaker exhorted the judicial fraternity to work together by mutually supporting each other. Thereafter, the speaker discussed the role of portfolio judges and opined that judge-in-charge of a particular district should function as a guardian and should discharge his responsibility in an effective manner so that synergy can be achieved. He stated while setting targets we should try to understand the conditions under which the judicial officer is performing his duty. The guardian judges were also advised to expeditiously address the grievances of the members of the district judiciary and to allow transfers in exigent situations. It was stated that immediate redressal of their grievances would positively impact their productivity. The speaker suggested that the guardian judges should complement and appreciate the judicial officers for their work as it would boost their confidence. He also suggested that positive entries should also be made into the Annual Confidential Report and it should not be restricted to adverse entries.

Session 3

Theme- Revisiting Norms for Appellate Review: Consequence of Frequent and Excessive Appellate Interference

Panel – Justice Indira Banerjee, Dr. Justice Vineet Kothari and Mr. R. Venkataramani

It was opined that excessive appellate interference reflects an image that the lower tiers of the justice delivery system are defective, which leads to faith deficit in the judicial system. It was stated that frequent appellate interference leads to a perception among the litigants that the lower court is not competent and that they have received sub-standard justice from the lower court. The speaker discussed that the present situation requires a revaluation of various tiers of the justice delivery system to determine whether there should be a reduction in the number of tiers. Furthermore, it was opined that the quality of appellate interference should also be improved. The speaker also opined that interference by the High Court at every stage does not allow the trial to take its proper course. It was discussed that the unnecessary appellate interference by the higher courts prolong the case and therefore, the litigant is adversely affected. The delay by High Court results in stalling of the case in the lower courts. The judges were advised to write well-reasoned judgments whenever they reverse the judgment of the lower court. The judges were also advised to refrain from writing unnecessary bulky judgments. It was stressed that appellate courts interference with interlocutory orders should be minimal and they should strive to dispose it off as quickly as possible. Thereafter, the speaker discussed the judgments of *Santosh Hazari v. Purushottam Tiwari* [(2001) 3 SCC 179] and *Banarsi v. Ram Phal* [(2003) 9 SCC 606]. The speaker also suggested that system of written arguments should be introduced in appellate forums along with restricted time limits for oral arguments. The speaker opined that there should be a mechanism to restrict scattering of litigation into different forums by imposing prohibitive costs on the litigants.

DAY II

Session 4

Theme- Access to Justice: Information and Communication Technology in Courts

Panel – Justice Sunil Ambwani and Dr. Justice Anita Sumanth

The speaker commenced the session by discussing the initial phase of ICT enablement process of Indian courts and the efforts undertaken in the High Courts of Delhi, Bombay and Patna. Thereafter, he discussed the formation of the eCommittee which was given the task to frame the First National Policy on Computerization of Indian Judiciary. He also elaborated upon the eCourts project which commenced in the year 2005 and was divided into various phases for ICT enablement of the Indian judiciary. Subsequently, the speaker discussed the various benefits of ICT enablement i.e. affordability, accessibility, transparency and accountability to the justice delivery system. He also highlighted various challenges in initial period of ICT enablement which included non-availability of high speed internet, absence of infrastructure, difficulty in changing the mindset of lawyers and reluctance of court staff in accepting new technology. He elaborated upon the development of software used in courts i.e. C.I.S. (Case Information System) and the features of its latest version. He also discussed the issues faced in standardizing case type and development of master type. He stated that now almost all the judicial officers of the country have been trained in the use of C.I.S system. He also elaborated upon the development and operation of the NJDG (National Judicial Data Grid) and emphasized upon NJDG as a tool to identify, manage and reduce the pendency. He also highlighted some recent developments like eFiling, ePay, and NSTEP (National Service and Tracking of Electronic Processes). Lastly, it was suggested that there should be continuous training of manpower and a set of guidelines should be created relating to usage of generated data.

Session 5

Theme- Access to Justice: Court and Case Management

Panel – Justice Sunil Ambwani and Justice P.N. Prakash

The speaker initiated the discourse by stating that as no judicial impact assessment is undertaken in India while introducing new legislations, it often leads to huge influx of cases, adversely affecting the functioning of the courts due to overburdening of the existing resources. Subsequently, the speaker elaborated upon the development of National Court Management System (NCMS) and delineated the objectives of the system. Thereafter, he highlighted the problems related to recruitment of judicial officers which includes delay in the publication of notification by the high court, hampering of the functioning of the high court due to the extended recruitment process and delays in conduct of the examination by public service commission in certain states. The speaker also highlighted the directions given in *Renu and others v. District and Session Judge, Tis Hazari Courts and Another* [(2014) 14 SCC 50] regarding court staff. The judicial officers were advised to resolve service matters of the staff expeditiously. It was suggested that a grievance redressal committee should be set up to resolve various problems and issues faced by the staff. The speaker also initiated deliberations on preparation of annual budget of the courts. Subsequently, the speaker discussed the scope of duties of court managers and the methods whereby their services can be utilized to the maximum benefit of the system. The speaker also highlighted the directions related to court managers given in the case of *All India Judges Association and others v. Union of India* [2018 (9) SCALE 393].

The judicial officers were advised to reach their courtroom fifteen minutes before the commencement of the proceedings. It was opined that the judicial officers should undertake physical verification of F.I.R. and it should be reconciled with station records. The speaker also suggested that verification of complaints should be undertaken and it should be reconciled with suit register. Lastly, the judges were advised that they should never meet the bar members in chamber.
