

NATIONAL JUDICIAL ACADEMY



NATIONAL CONFERENCE ON FUNCTION OF REGISTRAR (ADMINISTRATION)

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JULY 29 -31, 2015

Report

Prepared by Programme Coordinator:

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INTRODUCTION

The National Judicial Academy organized the “National Conference on functions of Registrar (Administration)” from 29th to 31st July, 2015. This conference provided a forum to Registrar (Administration) to share views and express their problems with their counterparts. The aim of the conference is to develop harmony & better co-ordination between Judicial Officers, Ministerial Staff, other stakeholders in the justice system. The object of the conference is to initiate the discussions on vital issues related to the disciplinary matters, issues related to disposing of RTI appeals as an appellate authority, functions with regard to appointment, promotion and transfer of posting of the ministerial staff and issues pertaining to the infrastructure and budget.

Total 21 participants from the registry throughout the country participated in the conference. The resource persons in the conference included Hon’ble Justice B. S. Chauhan, Hon’ble Justice S.Vimala, Hon’ble Justice Ravi R. Tripathi, Hon’ble Justice R. C. Chavan, Hon’ble Justice A. C. Upadhyay and Hon’ble Justice Sadanand Mukherjee.

Day1

The theme of the **Session 1** was on **Registrar (Administration): Role & Responsibilities:**

Prof (Dr.) Geeta Oberoi, Director In charge of National Judicial Academy gave warm welcome and brief introduction on all the sessions and deliberated on the objective of the conference.

Prof (Dr.) Geeta Oberoi, deliberated that in this academic year National Judicial Academy is going to have twelve programmes for registrar; for different kinds of registrars. She emphasized that the purpose this conference is to ponder upon that whether there will be rule and regulations for every work allotted to the registry or there should be the area of discretion. Also, whether there should be some uniformity with respect to the functions of the registrar. She stated that NJA will understand whether the clear compartmentalization of duties of the registrars are required or not. She requested the participants to feel free to share all their issues, learn from each other and try to sought out the solution of a particular problem.

The warm welcome to all the resource persons was given and they were requested to open first session of the conference.

Dr. Amit Mehrotra, programme coordinator was also been introduced by the Director, In charge was said the participants to feel free to contact his for any issue.

Hon'ble Justice BS Chauhan has started the session and made the opening remark. He remarked that they are the best judicial officers of their State working in the industry and have a long experience. He stated that the only difficulty is that every High Court have there own rules. There is no uniformity, so they are supposed to follow and master the rules because judges whether they are Administrative Judges, inspecting judges or Hon'ble Chief Justice are not ware about the rules and procedure, mostly Chief Justice came from outside the Sate. He deliberated that it is the prerogative of the High Court to change the rule as per the experience, need and convenience. So, he advised to all the participants that they should be well acquainted with the rules so that they can render the assistance when sought by authorities. Administrative committees, standing committees whatever name we give, depends upon them. Even in the matters of transfer and posting of judicial officers and other subordinate staff they play the important role because they know the judicial officers. High court judges or Chief Justice might not be knowing. So, High Court under section 229 or 235 cannot function without their aid or advice. Therefore, everything depends upon them what kind of assistance they are rendering to the High Court. He emphasized that they have to take the responsibility. They can't say that after one week or two week that they have suggested a wrong name. They have to suggest the right name of the inquiry officer or registrar vigilance they have to act without any bias or ill will and have to think the best in the interest of the administration. He further deliberated that they must keep in mind that every statutory rule has a statutory force that is why they are known as statutory rules. They are not ornaments to be placed in our drawing room and must be observed strictly.

Hon'ble Justice RC Chavan deliberated that it is the registry, which in fact make many decisions. So they must feel as a member of the registry to be most powerful persons. Power actually rests in the judiciary. Chief Justice Comes and Chief Justice

go. Average age of administrative committee is six months because somebody always changes. It is the registry, which strived the whole administration and therefore it is the registry that must also take the responsibility for failures of the system. If the system has failed, it is not because of the Chief Justice or Judges; it has failed because the registry allowed it to fail. Therefore, it is for us to take some steps to ensure the administration to run in a proper manner and for us to make the citizen feel that the system is running properly. He advised that we have to accept the wrong in the system and try to treat it. Therefore, as a member of the registry it is our duty to ensure that the administration runs efficiently.

He deliberated the difference between administrative decision-making and judicial decision-making. In judicial decision making one follows the rule, that is the path which is laid and whatever the results come is being accepted. In administrative decision, making goal is being set and then a planning is made to achieve that goal without offending the rules. He advised that one should come to the registry with a mission to do good things and not for the sake of family and convenience. He stated that many people think that spending time with the registry is extremely risky, like *maut ka kuya*. But many courageous people like to play. They come to the registry and go back possibly ensure that the risk posting is good. He further advised that we come to registry with selfish motive, we will not be able to do anything.

He narrated that Registrar General tends to look upwards waiting for warrant to come. Therefore, they may not be able to take much risk in the process of administration of the courts. However, Registrar (Administration) is the in charge of administration can definitely effort to take some risk.

Hon'ble Justice emphasized that we have a federal structure; secondly the situation of Sikkim and Tripura may be all together be different in Mumbai. The problems are different; in Tripura, the Registrar may know every judicial officer. In Maharashtra, if the Registrar General knows all the district judges personally that is also good enough, it's not possible. Therefore, problems are different, situations are different. So, the uniformity in the rule is not desirable. One can't have similar solutions for all situations.

However, he expressed that we come to NJA and share the experience of each other, we should go through the rules framed by each State and then decide what is the best out of it and can take that back home. We can have that implemented.

However, he shared a concern that we are spreading the rules for everything. That is more control activities and less uncontrolled activities that is, the area of discretion. He emphasized that we should not have rule for everything. We should reduce rule making as a rule making is a very time consuming and costly exercise. He emphasized that the role and responsibility of the Registrar Administration should be very high and we must trust our officers of registry.

Hon'ble Justice Ravi Tripathi has motivated the participants to be very bold and strong from within and said that they cannot forget that their role is very important specially making out the face of this judicial system. He expressed that they are the one who are shaping the face of the judicial institution in the State. So, it is their responsibility to see that it is projected and painted well so that the people can appreciate the face of the judiciary

He emphatically stated that they cannot be goodie- goodie to all especially when they are in power they will have to take the decision which are bound to be bitter. He quoted a phrase of a judgment of the Gujarat High Court as "people in power has to be bitter". He expressed that when the bonafides and conscience are clear in making any decisions there is a very rare possibility to get into trouble. So he recommended to keep the bonafides clear and take decisions in best interest of the registry and judicial system. He suggested the participants to develop new resources and must check the reliability of a particular information coming to them. It should be first scrutinize and then pass it on to the decision maker i.e. the Chief Justice of the State and by doing this they will always be successful and will have no difficulty.

He mentioned that Registrar (Administration) in no way less that Registrar General of the High Court. Therefore, they all make a very important role to make it acceptable to the public. As far as the uniformity of the rules are concerned Hon'ble Justice

expressed that broadly there should be the uniformity, however, inside working they may have more freedom or discretion to suit their own requirement. He mentioned that it should not be happen that at one particular State the Registrar Vigilance takes a job, which is taken up by Registrar Judicial in another State. Thus, broad classification and broad marking should be there so that once a file comes from a particular high court and if it is marked by Registrar Vigilance one must know what is the file is suppose too.

Hon'ble Justice Sadananad Mukherjee expressed that the uniformity of rules between the High Courts is not so possible because the Chief justice of various High Courts establish rule and Chief Justice discharges functions through the registry. He emphasized on Article 229 clause 2 of Constitution of India and in this regard deliberated the case of State of Maharashtra v. Association of Court's. He asserted that Registrar plays a very important role to assist the administrative function of the Chief Justice. He stated that Registrar (Administration) in different High Court functions differently and their duties and powers are differently defines for monitoring and supervising.

He further stressed that Registrar (Administration) face number of challenges while dealing with various sections of the High Court related to the High Court staff and District Courts which ranges from preparation of data and statistical figures of the High Court and District Courts, preparation of Calendar and holidays of High Court and District Court, to look after the finances and budgetary exercises. Hon'ble Justice narrated that they are also responsible for examining the substantive law for which the rules have been or have to be framed in the High Court.

He stressed that the most challenging task of the Registrar, if so entrusted by the Chief Justice is budgeting and resource planning. So far as the financial independence is concerned, the High Court is suffering from multiple difficulties. There is no financial independence of the High Court or Chief Justice. Budgets are prepared by the respective High Courts but these budgets have to be submitted to the Union or Sate Governments, as the case may be. He remarked that conditions and factors with regard to the expenditure of budgetary support have to be examined and again the budgets are

generally based on usual recurring expenditure on the pattern of the previous years and these budgets are submitted to the executive to cut down in size. This is both at central and state level.

He also expressed that in respect of the District Judiciary, the law department of the states prepares the budget. It is common knowledge that the Union Government sometimes provides funds for the judiciary in the Finance Commission and it is found that substantial portions of those funds remains unutilized.

Thus, Hon'ble justice suggested that on a comparison of the budget estimates and the amounts actually spent by the court, it is the duty of the Registrar (Administration) to find out the reasons of non – utilization of fund'. Therefore, the Registrar (Administration) should take care of the planning in the preparation of budget by the Registry. The plans should include amongst other things also and not just the salaries, pay and allowances of the judges and the staff. There should be adequate provision for funds for infrastructure, expansion of court and court staff, construction of buildings and residential quarters for Judges and the staff, the development of computerization, legal aid, alternative dispute redressal system, in fact all the needs of the judiciary.

He deliberated that each High Court would have a trained finance wing headed by a Chief Financial Officer and the strength of this department can vary as per the size of the High Court and the number of subordinate courts under the High Court. He further recommended that there is no harm if at the initial stage, a report get prepared from some reputed financial management consultant for each High Court.

Hon'ble Justice expressed the concern on the existing problem regarding absence of power of the Chief Justices of the High Court relating to appropriation and re – appropriation of expenditure under the different heads in the budget as allotted. He emphasized that we should be very cautious while supervising the preparation of the budget and said that budget is one of the most important things in the judiciary. Registrar (Administration) should see that while planning the budget estimates are realistic. Situation may not be allowed to arise where the budgetary allocations is not utilized. However, the fund may not be mis – utilized. It is the duty of the Registrar to

see that the funds allocated to the judiciary are utilized in such a fashion that no questions of financial improprieties are ever raised.

Hon'ble resource person recommended to develop a system of checks and balance in order to ensure that the finances made available are not mis-utilized and also suggested that the Registrar (Administration) for the sake of efficient administration of the High Court should make regular inspection of the offices of High Court.

Hon'ble justice also indicated that the preservation of the records of the High court is very important. So, decided cases relating to original jurisdiction and appellate jurisdiction must be kept in the Record rooms. He suggested that the Registrar (Administration) should take care in supervising the preservation of the records and since some High Courts are successful in preserving the records electronically by digitalization, Registrar (Administration) should supervise such digitalization of the Records systematically. It was also deliberated that in respect of scrutinizing the files of the Administration and particularly the appointment, transfer and promotion of the High Court staff, Registrar (Administration) needs to be very cautious in discharging the functions after perusing the service records. The departmental examinations which make the staff eligible for promotion to the selection grade or in the high rank, has to periodically taken under the supervision of the Registrar (Administration.)

It was also stated that the Registrar (Administration) discharges the function of secretary to the different committees of the High Court. The district judiciary sends the out turn of judicial work and it is the responsibility of the Registrar (Administration) to take care that the data and statistical figures are obtained in the form of monthly, quarterly and annual statement to be examined and suggestions regarding the improvement be given. It was also suggested that care and caution has to be taken in the preparation of calendar of the High Court and the subordinate court as it is generally placed before the Registrar (Administration) by the concerned department of the High Court. Hon'ble resource person emphasized that the rules regarding the conditions of service of the officers and the employees of the High Court have to be examined and the recommendation to the competent authority i.e. Chief Justice may be sent in respect of such additions or alternations which may be require to fill in the gaps if any.

It was expressed that as far as the disciplinary officer, particularly for the High court staff the Registrar (Administration) has a very responsible duty to dispose of the appeal under Right to Information Act.

Hon'ble Justice BS Chauhan deliberated that fast track courts are created and a judge has to complete a minimum quota in order to get promoted. However, there are no fast track courts in the High Courts. All appeals are pending. Even his parent Allahabad High Court is hearing appeals 30 years old. Therefore, there are so many difficulties that have to be must keep in mind. The Hon'ble resource person addressed the participants as the administrator General of the High Court who administers the criminal and civil administration of the state. However, he emphasized that administration by any means cannot include mal administration. So the responsibility of Registrar (Administration) is much higher and greater. It was stated that people are losing faith in the court. Court is more for big business houses now and common public and poor citizens are not getting justice. Many a times it happens that a judicial officer wanted to become a registrar as he want to get elevated.

It was expressed by the Hon'ble resource that there are the provisions of appeals, revisions and review because we all are human being and are bound to commit some error. Therefore, we hope that it may be review or in revision.

Hon'ble justice inspired the participants to work hard and honestly without having a fear of compliant. He stated emphatically that complaints are only against those people who want to work. Therefore, don't be scare about any complaint.

Dr.Amit Mehrotra thanked all the eminent recourse persons for giving their inputs and insights in this first session.

Session 2: Issues & Challenges faced by Registrar (Administration)

In this session, all the participant Registrars were divided into 4 groups to discuss their problem faced during the course of performing their duties and were asked to sum up the gist of the same to discuss in next session.

Prof (Dr.) Geeta Oberoi again welcomed the participants in the second session and asked Dr. Amit Mehrotra to divide the participants in four groups. She Stated that every group has to choose one presenter who will make the presentation on behalf of the group with respect to the issues and challenges faced by them while functioning as Registrar (Administration). She requested the participants not to sit idle but to discuss as this is the right platform where they can discuss with the problems and can come out with good suggestions. She further stressed that no improvement can be brought to the system if they show reluctance.

Dr. Amit Mehrotra made the following groups of the participants:

Group 1

In group 1 -

Sr. No	Participant Name	Designation	High Court
1.	Mr. Sheo Kumar Singh-I	Registrar General	Allahabad.
2.	Shri P. Mutyala Naidu	Registrar (Administration)	Andhra Pradesh
3.	Mr. M.A. Lovekar	Registrar	Bombay
4.	Shri Bibek Chowdhury	Registrar (Administration)	Calcutta
5.	Shri Mansoor Ahmed	Additional Registrar (Admn.)	Chhattisgarh

Group 2:

Sr. No	Participant Name	Designation	High Court
1.	Mr. D.A. Dholakia	Registrar (Personnel)	Bombay
2.	Mr. Anil Koushal	Registrar (General Administration)	Delhi
3.	Mr. Thang Lianmang Guite	Registrar	Gauhati
4.	Mr. A.K. Sinha	Registrar (Automation) & I/c Reg. (Admn.)	Gujarat
5.	Mr. K.R. Jayaprakash Narayanan	Registrar (Administration)	Kerala

Group 3:

Sr. No	Participant Name	Designation	High Court
1.	Shri V.K. Chandak	Registrar (Administration)	Gauhati
2.	Mr. R.K. Chaudhary	Registrar (Inspection)	Himachal Pradesh
3.	Mr. Anil Kumar Choudhary	Registrar General	Jharkhand
4.	Shri R.D. Huddar	District Judge, OOD, Registrar (Admn.),	Karnataka
5.	Mr. v. Devanathan	Joining Registrar (Computer)	Madras

Group 4:

Sr. No	Participant Name	Designation	High Court
1.	Mr. Krishna Shankar Singh	Registrar (Administration)	Patna
2.	Shri Sundeep Singh	Registrar (Administration)	Punjab & Haryana
3.	Shri Bhuvan Goyal	Registrar (Administration)	Rajasthan
4.	Shri S. Bhattacharjee	Registrar (Admn., P&M)	Tripura
5.	Mr. Krishna Shankar Singh	Registrar	Uttarakhand

Each group was allotted a different room for discussion.

Session 3: Presentation on the Issues & Challenges faced by the Registrar (Administration)

In this session, one Registrar as a representative of the each group gave presentation before the panel and after which the panel discussed the possible solution.

The group 4 has started the first presentation.

Group 4

Shri S. Bhattacharjee, Registrar (Administration) of Tripura High Court has made the presentation on behalf of the group four. He expressed his pleasure and expressed that though he belong to a small High Court, The High Court of Tripura were the pendency is only 3500 cases including miscellaneous cases. He stated that When Tripura High court was established the pendency was 7000. But his Chief Justice the Hon'ble Chief Justice Deepak Gupta, the first Chief justice of the Tripura High Court reduced the pendency to 3500 and in the last Chief Justice Conference it was decided that in the ratio of disposal Tripura is the best.

He started his presentation with the very popular **maxim**, “Uneasy lies the head who wears the crown” and said that this maxim very well suit to the post of Registrar (Administration).

He narrated that as being head in the Administration of the Institution, the Registrar (Administration) has to face a number of issues and challenges. On the issues faced by the Registrar (Administration), the presenter placed the following points for further discussion:

- 1. Dispensing with the printing of Cause list:** - As per the resolution of Chief Justices Conference, Printing of Cause List is to be dispensed with by all the High Courts except for few printing of bare minimum copies for the purpose of court so as to save lacs of Rupees every year on the printing of Cause list. It was sated that in Rajasthan High Court around 39 – 40 lacks rupees are required in a year for printing Cause list only and it is a very challenging task to convince the office bearers of the Bar Association for dispensing with the cause list. He stressed that in Tripura High Court the advocate is paying only Rs. 150 per year and the High Court are giving copies for full one year in that amount.
- 2. Advocates’ Expectations:** - A large number of Advocates registered with the Bar Association approaches to the High Court for law practice. He deliberated that 20000 advocates are registered in Rajasthan High Court and in Tripura High Court it is 1200. Providing parking space & chambers to them is a big challenge. A concern raised regarding the theft of advocates bags, files, and books. It was also stressed that Cleaning of Advocates' Block area & its charges is also a great task with no payments by the advocates. Increasing demand of Advocates for the chambers in the Court Premises was also discussed.

Hon’ble BS Justice Chauhan pointed the statement of Bar council of India that 30% of lawyers are fake /bogus. Therefore, he suggested that the High court has to verify and address the real problem.

- 3. Security measures:-** It was stated that there is entry of more than 10,000-12,000 people to the High Court Building making it very difficult to keep a strict eye vigil at all the entry gates. Sometimes, there was a nuisance by the Advocates and Litigants in the Court Premises and theft of Advocate articles. Thus, looking to the increasing terrorists activities, bomb-blast activities all over the Country, it is very difficult to maintain a tight and zero defect security.
- 4. Protocol and Medical Facilities:-** It was said that there is no universal guidelines about the Protocol facilities and amenities as to what extent, the same are to be provided to Hon'ble the Sitting Judges and Former Hon'ble Judges. In the absence of universal guidelines, protocol service is also a challenging task to the Administration. Further the situation with respect to Medical facilities was deliberated as; preparation of Medical Bills of Former Hon'ble Judges, Appointment of Doctors for Hon'ble Judges, arrangement for Medical Check-ups for Hon'ble Judges, court official is to be engaged in the Hospitals.
- 5. Shortage of Man Power:-** It was stated that there is a big shortage of man power in all the cadres to cater the need of Hon'ble Courts as well as of Judicial & Administrative Sections. It is very challenging to equip all the Hon'ble Courts with P.S., Stenos, Court Master, & Law Clerk, Jamadar and peons in a sufficient number, especially when the Court staff is falling very short. It was stressed that efficient & experienced personal court staff is attached with senior Hon'ble Judges and the less efficient & experienced personal court staff is attached with Junior Hon'ble Judges causing annoyance of Hon'ble Judge. There are frequent court calls in some High Courts to the Registrars in the open court directing for arrangement of the efficient & experienced personal court staff.
- 6.** It was highlighted that the institution of fresh cases is very fast. A large number of cases are instituted per month for the Judicial Wing i.e. Civil, Writ & Criminal. Nearly 10,000 cases are registered per month in the Rajasthan High Court. For

such a huge number of cases, many Stamp Reporters are required for scrutinizing the cases and for institution thereof, which is a big challenge.

7. It was expressed that the Clerks are over-imposed with the judicial files, contrary to the prescribed number of case files to be handed to a clerk. Only a few clerks are posted in the Civil, Writ, Criminal, Copying, Cause List & Paper Book Sections each and as such, making court compliances timely with insufficient staff is a great challenge.
8. **Infrastructure** :- The presenter raised the concern to meet with the infrastructure of Hon'ble High Court that should be of a mark having all kind of fundamental facilities, viz, sitting place for the Court officials, sufficient space with almirahs to keep the judicial files, furniture articles, Computers objects with all kind of accessories. Also problems regarding the purchasing of the Photo-stat machines in all the sections, AC/Cooling in the sections to increase capacity and efficiency of the officials and officers was highlighted.
9. It was stated that there is a great shortage of placing space for a large number of judicial files and lower court records. The files & records are generally placed on the floor causing damage by rainwater, termites & rats.
10. It was also narrated by the presenter that sometimes, budgetary problems arises, when various works are assigned by Hon'ble Judges to be carried out in the High Court Premises but the same can't be executed timely due to non-availability of sanction of the budget by the State Government. Thus, execution of time frame work is a big challenge to the Administration.
11. Apart from that, it was stated that arrangement of space for the Notary Publics, Oath Commissioners, petition Typists & Stamp Vendors is also a big challenge.

12. Accommodation to the Registrar (Administration):- The presenter highlighted a challenging task of discharging prompt duties for 24 x 7 hours without additional assisting facilities. It was narrated that the duty hours of Registrar (Administration) are 24 x 7 days and in proportion to the working hours, sufficient chamber facilities with court official & peon are required at the residence of Registrar (Administration) for quick compliance of the Higher Authorities. Accommodation earmarked to the Registrar (Administration) should be in easy approach of the city & Institution.

Hon'ble Justice RC Chavan stressed that as it is good that we have identified the problems, we will be going to solve it by taking out the possible solutions.

He suggested that with regard to the space problem for advocates and litigants there should be a big hall outside the city of the premises of High Court where we must have screen to display what is going on in each court and those litigants who have to watch the proceedings of their cases may watch from there. They must not come inside the courtroom. It will solve security problem. It was stressed that if this reform is done then there will be greater discipline in the courts.

Hon'ble Justice further deliberated that indiscipline of judges are not as frequent as indiscipline of the advocates. Indiscipline of the advocates is very frequent who does not sometime appear and litigants feel that his counsel has argued a lot. So, indiscipline on the side of the advocate will also be reduced and half of the problems will be solved if such facility will be made available to the litigants and this also reduces the pressure of Space.

Hon'ble Justice also suggested for video conference and stressed that the courtroom then can also be small. The advocates need not to go to court to address and can address from where they are.

Hon'ble Justice also suggested e post facility for sending. He deliberated that if a simple summon is to be sent, it can send through e post so that 100 of summons can be generated in one go and post office can sent it through e post. This is the practical solution, which can be tried out.

He suggested the participants to have email address of the lawyers and asked them to mail them the entire cause list and by this they can dispense with the printing and can also save the paper which is very costly. He stressed that initially there will be lot of resistance but if 10% agree it will be a good beginning and other persons will follow soon. Hon'ble Justice Sadanand Mukherjee suggested that High courts have their own sites and the cause list should get uploaded so that anyone can access the cause list through the website

Hon'ble Justice BS Chauhan remarked that it is very difficult to deal with the lawyers. He shared his experience that when he was Chief Justice in Orissa the court fees for filling a writ petition was 6 rupees and one day some papers were send to him for approving the cost of items sold in the canteen in which the cost of samosa is 8 rupees. Then he called the secretary from the Bar, and said that advocates can afford to pay Rs.8/- for one plate of samosa but cannot afford to pay Rs.6 for writ petition. Answer that he got was dispensation of justice should be free of cost. Therefore the question is why this 6 rupees. Therefore, he stressed that it is very difficult to deal with the lawyers and we have to see the situations and manage accordingly as we have to work with them not without them.

Hon'ble Justice Sadanand Mukherjee suggested that for the frequent change of court staff as per the demand of the particular judge one can request the Hon'ble Chief Justice as it upon the Chief Justice to manage the entire staff. The recruitment process for the appointment of staff should be should be fair and efficient staff can be there by adopting fair recruitment.

Regarding infrastructure Hon'ble justice suggested that for that long term planning is to also needed with the short term planning and should be presented to the government. Regarding the budgetary sanction, courts are sending the recurring expenditure. He emphasized that as far as the special sanction is concerned practically speaking registry have to persuade the government, the chief secretary or the concerned wing.

Regarding the registrar accommodation he emphasized that request is to be made to the Hon'ble Chief Justice. He stressed that advocates should make their own expenses as far as their facilities are concerned and for this registry can speak to the president or secretary of the Bar that High Court.

A participant shared its experience that recently an issue arose for the installation A/C in the Bar rooms in Aurangabad. There are 5 big size Bar rooms. Estimated called from PWD and that estimate given by PWD was around 1core 10 lacks. According to PWD as per the size of the bar rooms it was necessary to install as many as 70 split A/Cs of 3 tons each. Bar was expecting that these expenses should be borne by High Court. However, it has been told by the registry that these expenses will be borne by them. In this Hon'ble Justice BS Chauhan remarked that it depends upon Chief Justice how tough stand he can take.

The group 4 has also submitted the following suggestions:

1. **Dispensing with the printing of Cause list:---** Judiciary being equipped & updated with computer objects and latest technology to be able for paperless proceedings., entire cause lists are being uploaded on the official website of Rajasthan High Court, Jodhpur and Jaipur Bench. Similar procedure if not adopted is to be adopted by all the High Courts.

To make the Advocates user friendly for the purpose, demo classes for searching cause list, case items and uploading the cause list may be given to the Advocates in the Bar office or some other prominent place.

2. **Advocates' Expectations:-** Separate block for Advocates' chambers with permissible heights can be erected in the suitable location covering minimum space. Further, a big lounge having wooden or aluminum cabins can be constructed for the Advocates having no chamber for discussing the case matter with their clients.
3. Computerized parking system should be developed and applied in the premises looking to the increasing number of vehicles and cleaning of Advocates' block area should be set up in the supervision of Advocates.
4. **Security measures:-** As the Local Police have their nexus and looking to the increasing terrorist activities all over the country, a few police personnel's/officials of Para Military Forces, such as BSF, CRPF and CISF with fully armed, capable to handle all kind of situation, should be deployed for the security of High Court Building.
5. **Shortage of man power:-** A recruitment process of the posts in all the cadres should be made regularly so as to strengthen the existing staff for smooth and fault less functioning and timely compliances of Hon'ble Courts.
6. **Infrastructure:** - For the maximum use of existing space for placing the Judicial Files & Records of subordinate courts, compactors should be installed in every High court building as it getting installed in the Rajasthan High Court Building and necessary budget should be obtained from the State Government for the purpose.

Further, whenever a new block be constructed, It must be designed by the Architect on the latest technology keeping in mind all kinds of issues as to sufficient space for placing judicial files and records and sitting space for the officials and other office assistants so that space can be utilizes in maximum way.

7. **Chamber equipped Accommodation to the Registrar (Administration):-** The duty hours of Registrar (Administration) are 24 x 7 days and in proportion to the working hours, sufficient facilities with equipped chambers at the residence are required. Thus, accommodation of Registrar (Administration) should be provided with chamber facilities well equipped with computer objects, Telephone, Fax, Stationary items, court official & peon etc., so as to increase the efficiency hours.

8. **Uniform for the Officers of the Registry:-** The prevailing uniform i.e. Black Coat and Black pant for the Officers of the Registry is very common one, used by Judicial Officers and Advocates. As such, it does not make any distinguished appearance between officers of the Registry and Advocates. In any opinion a different and sober uniform should be prescribed for the officers of the Registry of the High Courts presenting a uniformity.

Group No3

On behalf of group 3, **Anil Kumar Choudhary, Registrar General of Jharkhand High Court** put forth the following problems and solutions which he said as the tip of the iceberg:

1. Staff

- Interference by Hon'ble Judges in administration, in particular, in appointments, promotions, departmental proceeding and postings.

Solution

- Free had should be given to the Registry in day to day matters and involvement of Hon'ble Judges should be confined to policy matters.

2. Problems while dealing with Government

Whenever we interact with the State Government regarding the assurance or proposals forwarded by the Chief Justice, Officers of the Government create unnecessary hurdle by quoting financial rules, nature of decision to be taken by cabinet and financial crunches.

Solution

- Some sort of autonomy including financial autonomy, like Judicial Infrastructure Commission be set-up at State level to be headed by a Hon'ble Judge of the High Court and Officers of the Registry as members.

3. Problems regarding routine finance matters.

- In routine purchase like standard consumables and other products, delay occurs because the Hon. Judges of finance/purchase committee do not have time to sit together and discuss.

Solution

- The Registrar should be given the responsibility of doing all such purchases after observing the relevant rules and formalities.

4. Problems regarding getting audience from Hon'ble Judges

- The Hon'ble Judges heading/members of different committees of the Court keep the members of the Registry waiting unnecessarily causing avoidable delay.

Solution

- The Hon'ble Judges who are heading/members of different committees of the Court should have a fixed hour for doing works related to Registry.

5. Space crunch for establishment of High Court

A part of the space in the High Court has been occupied by the advocates which creates this space crunch.

Solution

- A direction be given by the Supreme Court in the lines of the direction given in respect of holding condolence meetings for at the most one hour that henceforth no portion of any court building/establishment can be given to the advocates/ advocates associations/any other agency under any circumstances.

6. Lack of proper skill among Group-D employees, and Group-C employees, promoted from the Group-D

- Generally, it is found that the Group-D employees do not have any simple skill like preparing food or serving and attending to guests. The employees of Group-A, promoted from Group-D do not have the skill to man the post of Group-C.

Solution

- Some incentive like priority in promotion be given to Group-D employees, who performs any skilled job. Training be imparted to the Group-D and the Group-C employees promoted from Group-D for their skill development.

7. Demand of extra hands beyond their entitlement by the Hon'ble Judges

- Very often, the Registrars are pressurized to post extra hands beyond their entitlement in the cadre of Group-D, drivers and stenographers.

Solution

- A periodical return be asked by the High Courts to be sent to the Hon'ble Supreme Court, mentioning the list of staff used by Hon'ble Judges beyond the entitlement.

Following points were highlighted by the resource persons in respond to the presentation of Group 3:

Hon'ble Justice BS Chauhan remarked that Supreme Court does not have any supervisory control over the High Court. High Courts are Constitutional authority/autonomous body not under the Supreme Court. It is only the High court has to resolve the problem and take a step. Many High Courts said that retired High Court Judge may be given an employee. Some of the High Courts are paying some money to retain one employee. Now we are retaining the facility for our self, which are not provided in the constitution. Therefore, he poise a question that whether we can pass an administrative order or judicial order sitting in the court to amend the constitution. Hon'ble justice again stressed that the High Court has to examine his own problem and solve it.

A participant expressed that if Registrar (Administration) want to place the matter what is suggested then what will happen the Hon'ble judges will take a stand against the officers concern and against the Registrar (Administration) and at the end of the day we are all working. So, should we do this at the cost of our service as our Justice Tripathi told and advised us to be bitter?

In this Hon'ble Justice BS Chauhan advise and asked them to remember the oath they had taken when they became the judicial officer. He stressed that as a judicial officer they should place the matter before the Chief Justice /full Court and leave the matter to them to do whatever they want to do and then their duty is over. He stated that many people might not know what is happening in the High Court. Therefore, they must bring to the notice but somebody has to point out as Chief Justice comes from outside he don't know what is happening in the court. He also stated that at the most they get

transferred but nobody can dismiss them. If they superseded 30 district judges and they should be ready to face the victimization also.

Hon'ble Justice RC Chavan stated that with the passage of time that more and more judicial officers are coming to the registry. This should stop. As far as the administration of the High Court is concerned let it be done by the officers coming to the High Court. They know how to deal with judges also because they know persons working and practicing in the High Court and they know the things better. As far as the extra demand for driver, peon, cook or stenographer is concerned he suggested to put all those demands together and say that it is a policy decision and then let it be placed before the full house. Before full house let the discussion begins and they will decide how this should be dealt with.

Hon'ble Justice BS Chauhan remarked that there may be one judge who give 10 judgments every day and there are many judges who don't write a single judgment in one day or in 10 days. Therefore, it is the duty of the Chief Justice to see and allot the Stenographer accordingly.

Hon'ble Justice RC Chavan sensitized the participants on management by crisis. So he stated to create a great demand of Stenographer. He said to give all stenographer the Hon'ble judges as per their demand and make the work paralyzed and thus like this create a crisis and crisis gets resolved. However, this has to be handled very carefully. One have to be very alert and one have to first learn to master the art of management by crisis. There can't be straight jacket formula, there can't be one key which opens all locks. There is no master key. For every lock there is a different key. So he advised to think of that key how a particular problem is to be solved and we will get our solutions.

Hon'ble Justice RC Chavan emphatically remarked and advised the participant to say no especially in the court and with the court staff. Hon'ble Justice Chauhan has said to learn this art from the lawyer how to deal with the situation.

About the skill development Hon'ble Justice RC Chavan stated that there a skill development ministry created by the Prime Minister under Rajendra Prasad. They

develop many programmes. So we could invoke and ask them to help us to develop the skills as court also needs skill full employees for having better services in the courts.

Session 4: Suggestion and Proactive Measure to Overcome the Issues and Challenges faced by Registrar (Administration)

Group1

Following points with regard to the role and responsibilities of the Registrars of the High Court's by was put forth by Bibek Chowdhury Registrar (Administration) form Calcutta High Court

1. It was expressed that after through discussion among the Registrar (Administration) it is ascertained that the duties and responsibilities of Registrar Administration of the High Courts are same and identical in some of the matters, while all together different in respect of some other matters.
2. In respect of Calcutta High Court the duties of Registrar Administration is twofold- Judicial and administrative function.
3. In exercising Judicial function, the Registrar (Administration) of the Calcutta High court deals with the initial files of cases filled in the High Court like issuance of summons, substituted series of summons, disposal of uncontested applications for substitution and similar other matters. On the contrary in case of Aurangabad, Hyderabad & Telangana High Court similar power rests upon the Registrar Judicial.
4. In case of Andhra Pradesh & Telangana High Court the registrar Judicial cannot pass any final order upon such applications, and same is passed by the concerned bench.

5. Usually the Registrar (Administration) of all the High Courts deals with the leave application of the members of staff of the High Court except Group A officers. However, in case of Chhattisgarh High Court the Registrar (Administration) deals with leave application of the only class 4 employees.
6. The Registrar Administration of Calcutta, Bombay and AP & Telangana High Courts, the disciplinary authorities of Group B, C and D employees are with the respective High Courts. However, in respect of Calcutta High Court imposition of any penalty is required to the approval of Honorable Chief Justice.
7. In respect of Calcutta High Court, Registrar (Administration) is in-charge of all judicial sections. It is his ultimate duty to see that all the records listed in a particular bench and properly places. If any record is not found physically or damaged he is the sole authority to reconstruct the record with the permission of the concerned bench.
8. In respect of Bombay High Court, in case reconstruction of record orders are required to be obtained from the senior most Judges of the respective Bench and committee Judge at the principal seat.
9. In case of Calcutta and Chhattisgarh, Registrar Administration are responsible to look after infrastructure, addition, alteration and repairing and renovation of High Court premises under the supervision of the building committee headed by the Honorable Chief Justice. So far as Bombay High Court is concerned, practice followed at different Benches is that submission is placed before the senior most judge and after obtaining approval from him the proposal is forwarded at principal seat. At the principal seat if the matter is required to be placed before committee such step are taken and accordingly the registry at the bench is informed.

10. In respect to Hyderabad & Telangana there is a post of Registrar Management who looks after infrastructural matters. However the bills up to the limit of 50,000/- rupees are independently passed by the Registrar Administration. In this regard, financial power of Registrar Administration of Calcutta High Court is 5000/- , Chhattisgarh Court 2000/- and Bombay High Court 5000/-.
11. The Registrar Administration of Bombay and Calcutta High Court are the Appellate authorities under the RTI Act while in respect of some of the High Courts the Registrar General is the appellate authorities under the said act.
12. The Registrar Administration of Calcutta is responsible for transmission of statement of High Court and sub-ordinate courts to the Honorable Supreme Court and Department of the Law and Justice periodically. So far as the Bombay, Andhra Pradesh & Telangana and Chhattisgarh High Court are concerned statements of the courts up to the districts judiciary are sent to the High Court and so far disposal and pendency of the cases at a particular bench is concerned, Registrar Judicial sends it to the High Court.
13. Usually the Registrar (Administration) of all the High Courts is in-charge of forms and stationary. In Bombay High Court at its various Benches there are sub-committee under the Legal Services Authorities Act at Nagpur and Panji Benches and the work is being looked after by the Registrar Administration under the supervision of senior most judges. At Aurangabad bench the work is under the Registrar Administration.

The participants posed the following challenges with regard to the functioning of Registrar (Administration):-

1. The Registrar Administration ought to be the Registrar of Honorable Chief Justice and Administrative Committee but in practice they are registrars of all the Honorable

judges to whom they are bound to satisfy. They stated that the Honorable Justice Ravi Tripathi advised them “that as people in power we will have to be bitter”. Taken in proper perspective this should mean that the registrar Administration should be more assertive.

2. Many of them said that they are fortunate enough to get the backing of their Honorable Chief Justice who always advises them to say no when the matter is not according to rules.
3. The participants asserted that that if they put their submission with the supporting and relevant data there would be no difficulty in making recommendation as well as to decline the demands which run contrary to relevant rule.

The participants have also submitted the following suggestions:

1. The Registrar Administration should be kept with the duties of proper administration of judicial record and departments and should manage and control the members of the staff of the high court.
2. So far as infrastructure is concerned it should be separated from the domain of Registration (Administration) and some technical person like executive engineer should be approved by the High Court to deal with the matters relating to construction and infrastructure.
3. There should be equality on the score of financial power of the Registrar Administration and autonomy should be given to High Court administration.
4. There should be more recruitment especially for Group D employees.

Group 2

Deepak Dholakia, Registrar (Personnel) from Bombay High Court, made the presentation on behalf of group 2 and placed the following points related to the issues challenges faced by the judiciary and also the possible suggestions that can be adopted by the judiciary:

1. There are no exhaustive rules for recruitment and promotion of ministerial staff of the High Court.

Suggestion: Bombay High Court and the High Court of Kerala come out with the exhaustive rules regarding the recruitment, review and promotion of the ministerial staff and so the guidelines are framed. It is suggested that such guidelines may be adopted by the other High Courts also.

2. In adequacy of staff. It was stated that as far as Maharashtra is concern in last 5 years, not a single post has been created or has been approved by the Maharashtra government. It was also said that outsourcing of the work to the agencies is practically not possible in all the fields.

Suggestion: It was recommended that the increase in the strength of the staff is to be done.

3. Delay in decision for Financial Implication from Government which ultimately results in the increase in the cost of that particular project. So the target, which has to be achieved in time, could not be achieved because of this delay.

4. Shortage of Infrastructure was highlighted particularly of the Bombay High Court where the Judges strength increased from 75 to 93. It was stated that the building is now quite old of 150 years old, a heritage building and the sufficient accommodation for the Hon'ble judges are not possible because of the resistance from the senior advocates who oppose and have their offices in that particular area.

5. It was deliberated that there is no specific power to Honorable Chief Justice of the High Court to re-appropriate funds from one head to another head and more particularly the funds accorded by the finance commission. It was suggested that the Hon'ble Chief Justice that we must have some power to reallocate the funds from one head to other head so that we can achieve our goal.

Hon'ble Justice BS Chauhan stated that Registrar Administration are accountable to all the judges including the administrative committee and the Hon'ble Chief Justice. He stated that there is a mark distinction between Article 229 and Article 235. The words in High Court in Article 235 has been enumerated for all judges. The Chief justice is of course first amongst others. He has an administrative control. Therefore, it can't be said that we are accountable only to the Chief Justice and not to any other sitting Judge. High Court includes every judge and the full court. It for the convenience, the committee got constituted and all other sitting judges delegated this power.

It was stressed that when a collective decision taken by a large number of persons, it will be difficult to record the reasons because reasons may vary from judge to judge but the conclusions remains the same.

It was also deliberated that the word oath contained under Article 235 has a wider connotation. It was stressed that Chief justice must control its court and provide certain guidelines not to the Registrar Administration but also to the brother judges to not to put or call any file of service record from registrar without putting matter into his knowledge.

With regard to the problem of allocation of funds or transfer of funds from one heads to another head Hon'ble Justice BS Chauhan shared an experience of Orissa High Court. He deliberated that there is a system that every district judge sends a report by a particular date every year regarding the problems he is facing to the registrar of the High Court. For example, the Director General of Police is not rendering assistance to serve the process in criminal cases. Doctors are not coming to the court for disposing statements. Thus, all sorts of complaints come in advance. The High Court classifies the complaint and send to the secretary of the department and Director General of the police that these are the grievances against them and they are given 2 months time to solve the problem and a date is fixed by Registrar General, they were invited to the High Court for holding a meeting. In that meeting Chief Justice calls all judges of the High Court who sit together but don't participate, they just watch the proceedings. On one side Registrar General and District Judges sit. On the other side Chief Secretary or Secretary or Director General of Police against whom the complaints have received sit.

Then one by one they see the grievance and the corresponding secretary submits the reply. The Chief Secretary makes the possible suggestions and passes the final order which also includes the allocation and transfer of funds. He stressed that therefore, either most of the problems are solved by that time or the Chief Secretary passes the order that this problem will be over within this period or funds will be released. Proceedings are recorded signed by everybody present there except the judges because they do not become party they are just the spectators and list is prepared what are the matters to be placed in before the Chief Justice and before the Chief minister. Then the registrar general fix the meeting is of Chief Justice with the Chief Minister. They sit together and resolve problem. Thus he stressed that this is the very convenient method to find out the solutions of the problems.

Hon'ble Ravi Tripathi remarked that Registrar Administration should be more assertive and tactful. He advice them to be bitter but should know what should be the degree of bitterness and should know how does the bitterness is to be conveyed as doctor knows serving a medicine which is bitter he always recommend it which was sugar coated.

Hon'ble Justice Sadanand Mukherjee stated that funds are allotted to the judiciary by the State and now in 14th Finance Commission some funds have been created and allotted to the judiciary which is much more than 13th Finance Commission.

He suggested to request the Chief Justice and the administrative committee to have meetings with the particular secretaries or particular officers so that they can chalk out the plan how to execute the entire Finance Commission Projects. He asserted that in 14th Finance commission funds of 5 years are directly allocated to the judiciary and judiciary should know how to execute the fund.

He further recommended that as far as the infrastructure is concerned, in High Court there should be meetings with some of their experts and he said that he has a personal experience that judges committee use to approve the plan what should be done and even the maps use to be approved by the committee.

For inadequacy of the staff, Hon'ble justice remarked that the sanction of the staff is to be taken from the government, if there are vacancies recruitment process should be started. If more persons are needed, planning has to be made that in which sections the persons are needed in the High Court. So, these planning and programming is to be made first and then the proposal is to be send to the government after getting approval from the Chief Justice. He asserted that this can be done at the instance of the committee of Hon'ble High Court judges. Only Registrar Administration or Registrar General cannot do this.

Hon'ble Justice RC Chavan deliberated that in the administration of the High Court the Chief Justice controls everything. However, administration of the district judiciary is controlled by the High Court not by the Chief Justice of the High Court.

With regard to the fund Hon'ble justice remarked that as far as money is concerned even as a district judge he never had a problem form getting money from the government or getting things done. He suggested that if we take proper care in putting all the items in the budget, normally it get passed. He further stated that as far as re-appropriation of fund is concerned form one sub head to another sub head is permissible, we need not to go to government for that, form one minor head to another minor head and also the registrar General can do it. From one major head to another major head, we cannot do it. That is for example from Administration works to public works or from public works to administration work that has to go to the Finance ministry. Therefore, he suggested doing the budgeting properly could solve the problem. He said that consolidated head should be squeezed up in several ways so that the amount cannot appear big.

Secondly he asserted with regard to supplementary grants keep everything ready, put it in the 8th monthly supplementary and get it passed. He suggested not to take responsibility to spend the money rather ask the government to do so. For example, tell the Public Works department or IT department or whichever department is concerned to do this. He stated that this also saves us of the trouble for tendering and also if some mischief or mistake can happen we are in problem, so instead of that we should pass it on to the government they are very happy to do it. He expressed that there was a space

crunches in Bombay High Court. Therefore, for a few days he had make his office in morning shifts and afternoon shifts.

Hon'ble Justice with regard to the inadequate staff asserted that our demand for work staff would never get satisfied. Even if we get a sanction of 100% to increase staff, we need more. He said that he had worked in the registry therefore, he know that half of the work staff was be not fully occupied all the day. What they are doing is not the productive work; particularly in the Bombay High Court. He stated that half of the staff members if we see their computers and desk we come to know that they are not actually busy with their court works.

Hon'ble Justice RC Chavan suggested that problem of staff will be over if we go for shifts in the office. He stated that staff crunch, inadequate number of men is because of our mismanagement. He requested not to ask for more staff members as it does not serve any purpose. It puts the burden on the common people pockets.

Hon'ble Justice BS Chauhan has stated that in Allahabad High Court has only 76 Judges and sanctioned strength is 160. It has never gone beyond 90. There were no courts, no chamber, no residence. Now he said that the question is whether we get 60 competent lawyers to get elevated as a judge.

He shared as sad experience with regard to the test of stenographer. 60 candidates came for a test of a stenographer. Not a single candidate pass. Now he said from where we recruit or make them pass. He further asserted that when he was the Chief Justice of Orissa he have advertised 22 vacancies for the Higher Judicial Service. He said that so far as the judicial officers are concerned no single candidate could pass the entrance test. They were working for 6 years or 10 years and they are seeking the promotion. So far as a Bar members are concerned only 4 persons could pass out of 22. Therefore, we selected only 4 because we don't want incompetent person to introduce in our judicial system. He expressed that when we appoint an incompetent person we are burdening one good judicial officers. He asserted that if we cannot expect to get good numbers of district Judge then how we could expect good numbers of judges elevated to the High Court. If we bring them on bench what you will expect from them.

Secondly, he asserted that in many district courts this is his personal knowledge that large number of our subordinate staff outsourced their duty. They give half of the salary and they do not come to the court. The persons who comes for this outsourcing duty is like a badli worker. He said that there was a system a worker is working in a factory is not able to come will send one of his family member as a badli employee. That is how the law of surrogacy has developed. Now, if we substitute whole our employees and then that substitutes collects money from the litigants and regular employees sitting at home. So this means that we have no administrative control. He suggested that we cannot leave everything on Chief Justice. We have to update the chief justice about all the in and outs. We have to control and set our side

Hon'ble Justice shared his one more experience. He stated that 6 stenographers were appointed in a district court. They were working for several years. District Judge replied that they do not know the typing at all. They put substituted employee or outsourced their duty to do their work. Therefore, the district judge served the notice to the stenographers saying that they do not know typing; they do not know how to take the dictation, so he want to conduct their test and fixed a date after 3 months to appear before him and give test.

Hon'ble Justice stated that this order has been challenged before the High Court and they are the employee, they came through the advertisement and learned ADJ and such and such civil judge held selection committee and senior division evaluated their copy. Therefore, district Judge cannot conduct the test as were working for such a long time.

District Judge filed an appeal which came before the said Hon'ble Justice. He said that a question was raised by a very senior counsel, Allahabad High Court, that appeal itself is not maintainable against interim order therefore we cannot entertain the appeal. The Hon'ble Justice told him that this is not a legal issue. It is a question of fact that whether they know the typing or not. Therefore, do not play all technical issues with them. However, Hon'ble Justice realized that the appeal was not maintainable and he knows that if his judgment will go to Supreme Court or anywhere it will create a problem.

So he thought in a difficult situation he have to innovate to deal with as and such the circumstances demand. Therefore, he shifted the responsibility to the shoulders of the senior advocate. He said the advocate not to argue on the technicalities and as he is a senior advocate of this court he should take his time at home, satisfy himself that whether they are fit to be retain in service and if he make a statement that they are fit to be in service the appeal will be dismissed but if he say they don't deserve we will dismiss them from service.

Hon'ble Justice issued notice and asked all the stenographers to appear in the test. Everybody got 0 marks and copies were produced in the court. Ultimately, Hon'ble justice dismissed the writ petition also and passed an order that all persons are given three months time to improve and district judge will conduct a fresh test if they fail they will be deemed to be dismissed and after three months they got dismissed. None of them got pass. They went to Supreme Court. Supreme Court said that they have never seen such a fair procedure. Then they revealed how they were appointed. They said that they have sold their land to get appointment.

Hon'ble justice asserted that what we say about the staff if we take money. He advised and suggested that we our self has to be honest and fair to appoint a quality and fair persons. Therefore, this shortage of staff and employees always remain unless we are honest enough to appoint the most suitable and competent candidate. He said that it is the question of appointing the quality and not quantity and we need only 20% of the sanctioned strength of the Judicial officers and staff to dispose of all the cases which are pending.

Day 2

Session 5: Court Administration and Scrutinizing the files on Administrative Matters: Ins and Outs

Dr. Amit Mehrotra gave the warm welcome to the resource persons and to the participants and requested Hon'ble Justice BS Chauhan to kindly make the introductory remarks and start the session.

Hon'ble Justice BS Chauhan remarked that since the participants are working in the registry for a long time they are well acquainted with the subject and know how to deal with the administrative matters and files. He then requested Hon'ble Justice A. C. Upadhyay to address the gathering and share the inputs with respect to the said subject.

Hon'ble Justice A. C. Upadhyay remarked that when judicial officers are being recognized by their honesty and hardworking they get absorbed and called by the High Court in the registry and like that they get elevated to the post of Registrar Administration. However, he asserted that Judicial officers in fact does not have any practical training of the administration nor they were taught any management course. He said that once judicial officer joins the registry he becomes human relation manager and deals with human resources. It is very important post.

He asserted that in 99% of the cases he have seen that the judicial officers were appointed as a Registrar in the High Court to show that they can do the best, better than all others as it was presumed if the person is sincere, honest and hardworking he can master anything.

Hon'ble justice asserted that after joining as a registrar apart from knowing how to be a good judge we must also know how to behave as a good administrator and we must learn technology skills and should be computer savy. Secondly, he advised that the registrar should know solve the problems. A problem need to be first analyzed and consulted with the senior staff find the solution. Thirdly, he suggested that the scrutinizing of the file is very important before placing it to the Chief justice or before the administrative committee and we must be able to indicate the policy decision matter. He asserted that if files come to them related to policy decision matters one must put their mind and analyze all steps and if there are any rules related to that it should be placed before the Chief Justice. He said that it should also be seen that the order may not be passed in their absence because if any wrong order get passed due to misrepresentation then they can come in problem. It was further asserted that development of the infrastructure file get initiated by the registrar and all the requirement is been seen by the registrar.

Hon'ble justice emphasized that the attendance of the employees and discipline in the registry is very important for the smooth and efficient functioning of the registry. To resolve this problem he suggested to install biometric machines for securing the attendance of the employees. He said that High Court has done it. It was also deliberated that through the biometric, a monitoring system should be there and if the staff comes late for three days in a month his causal leave may get deducted. It was advised that the biometric system can be kept in each section of the High Court department.

With regard to protocol it was deliberated that as after the withdrawal of money from the ATM a message comes in the mobile similarly the person in charge of the protocol should instruct that his staff members to send the sms after complying the directions and the duty as given.

Hon'ble Justice A. C. Upadhyay remarked that For a High court to perform on judicial side there must be efficient registry and as an in charge manger it is the duty of Registrar Administration to maximize the work the employees. He stated that there are several ways to to improve and optimize the employees of the High court. Registrar Administration should have skill to organize the abilities of his staff. Hon'ble justice stated that immediately after the sitting of the courts he use to call his senior officers in his chamber every day and use to discuss all those important issues which are pending and all those important issues which can be solved a direction was used to issued to all the departments. He suggested to have oneness in the registry. He emphasized that Registrar Administration must be able to communicate his officers about the function and requirement of the registry and for this meeting with the officers either in the evening or at the daytime is very important.

Hon'ble Justice BS Chauhan remarked that if there is a problem it has to get resolved. if the driver does not come in time.; an employee has to come in time, file has not reached the court, it is the duty and responsibility of Registrar Administration to find the solutions and he cannot get rid of the responsibilities by saying that he has his own problem.

On participant said that employees monitoring of attendance is difficult and asked how to solve it. For the solution the reaction from the other participants were invited.

Participants gave the following suggestions:

1. CCT camera may be installed to monitor the attendance.
2. The responsibility should be given to the concerned section officer to see that their staff members are coming in time and working and when they go for tea or coffee they returned in time.
3. Some particular task must be given to the employees and it should be monitored.
4. The periodical inspection should be there.
5. Surprise checking should be conducted at least once in a month.

Hon'ble justice RC Chavan made the following recommendation in regard to the monitoring of the attendance of the employee:

1. There should be swapping of card due to which the door opens. This will track the movement of the employee. This does not take much time and expenditure and 13th and 14th Finance Commission has provided funds.
2. As far as biometric is concerned the duty of the section officer the duty does not stop at section officer but goes to the desk of Registrar General. He is responsible for everything.
3. For monitoring attendance, biometric is to be done by all State governments because it is all central policy.
4. Management principles should be inducted and introduce to make the system more effective.

Hon'ble Justice S. Vimala proposed following suggestion:

1. There are various means and ways to control and check that whether the employee really went out for court work or for their personal work and make an excuse of court work.

2. If the person goes out who are under the control of section officer, he should inform the section officer and then go and section officer can ask for the record that under whose instructions he is going and for what purpose and which place and how long it will take. If this procedure is to be adopted then it will become very difficult for the employee to escape from his duty.

Hon'ble Justice Ravi Tripathi posed an another problem that if the person in the section and is not working then how we can able to control them.

To solve this problem a participant made following suggestion that there should be a provision in the software to enter all the fields in the computer with the employee code at end of each day. Using their employee code they must make certain entries about what they have done in that particular date at the end of each day so that centrally their work statement is monitored. Through this the Registrar Administration or the Registrar General who were the in charge can easily watch what can be done on this day or the previous day.

Hon'ble Justice RC Chavan remarked that if this is done then physical presence become secondary and said that if the work statement gets generated and monitored then the problem will get solved. Hon'ble justice also suggested that if we expect our staff to be in time must also be punctual and 5 minutes before at our work place and said that surprise checking means it is at any time and at any place. He stated that we have to device our own mechanism to solve our own problem.

Hon'ble Justice BS Chauhan remarked that one should be responsible enough to control and handle the situation as per the facts and circumstance. He shared one of his experience. He stated that one district judge was elevated to the High Court Judge. He has a habit to abuse class IV employee who was working at the post zamadars. Once he abused a zamadar as he was unable to pull the heavy chair back, all zamadars went on strike. It became a serious problem. Chief Justice called an emergent meeting where he said that there are employees who are above 70 years of age and are still working. Therefore, he advised the Chief Justice to ask for the school certificates of the all

zamadars and only then we can able to solve the problem. All employees came to know this and before the High Court could have passed any order the strike was immediately called off because most of the zamadars has got job through fake certificates. Therefore, Hon'ble justice suggested that we must know what is the weakness of the person and we must act according to the situation.

Mr. K. Uthirapathy Registrar Administration (NJA) insisted and advised that due to the security concern CCT camera should be installed in various courts.

Hon'ble Justice A. C. Upadhyay deliberated that depending upon the situation the solution has to found out and we have to take steps and with regard to the misconduct we have to sometimes initiate department proceedings also. He stated that duties assigned to the Registrar are different in different courts. He asserted that we have to find out the irregularities and keep the working of the registry under control. It was deliberated that with regard to the department proceedings the person should be informed about the charges and should be given reasonable opportunity to explain.

Hon'ble Justice S. Vimala emphatically stated that the Registrar and Registrar General are the most powerful persons in the court as they are the executive head. But at the same time they should be responsible also because power comes with responsibility. Therefore, she stressed that the participants are the most responsible person of the High Court. She encouraged them and said that they are the leader of the court and a leader is a person who knows the way, shows the way and go the way. Apart from this she said that we must create also and this is one of the most difficult task for the Registrar General.

She shared one experience as a Registrar General. She stated that when she became the Registrar General she requested the Chief Justice to give liberty to tell Plus and minus of everything. So, she said that she will not do anything which is inconvenience to her conscious. The Chief Justice said to her that he want only such type of person in the High Court.

Secondly she stated that many times file comes before Registrar General and many time you put it before the Chief Justice for signature. She suggested that before putting file into action the content of the file should be checked and scrutinized carefully. She

deliberated that the Registrar work is not a one person work. It is teamwork to achieve a goal. She stressed that yes boss syndrome is very dangerous and should avoid Yes boss when his/her conscious does not allow.

She asserted that the order of the Chief Justice is very important and it is only the Registrar General who can make the Chief Justice comfortable. It was sated that there are lot of problems and troubles which are persisting in the High Court like here are demonstration, resistance for Bar. All process is initiated by the High Court, so ultimately it is the Registrar General responsibility to say the plus and minus to the Hon'ble Chief Justice.

Hon'ble Justice S. Vimala shared one experience and stated that the persons who are closely associated with the Chief Justices are PS to Hon'ble Chief Justice and Registrar General. Both spend more time but comparatively especially PS work with Chief Justice more closely, spend more time, and are very efficient in execution of work. It was a grievance that they are not promoted to the post of Assistant Registrar. But PS are very good as well as honest. She as a Registrar General also want to put the file. But there was one problem that once the PS is been promoted to the Assistant Registrar they will be doing the administrative work and will not the taking the notes of Hon'ble Judges and already there was a shortage of PS to the Hon'ble Judges. Therefore, she was not able to suggest to the Chief Justice to promote the PS to the post of Assistant Registrar immediately. Chief Justice called her and said that he want to promote the PS and asked her to come out with some solution. Hon'ble Justice stated that she requested the Chief justice to press the State government to sanction more post on one side and on the other side PS should get promoted immediately. But promoted PS should be asked to continue the work of PS till the new post are sanctioned and new persons are appointed and they are being trained. The Chief justice agreed. Then she with great effort convinced the State government to sanction the post of PS.

Thus, Hon'ble S. Vimala Justice suggested that unless we speak out, the judges do not have the time at all. Registrar General should be very efficient, courageous, honest and cooperative for the effective functioning of the High Court.

But she raised a concern that many Registrar General are at the verge of elevation therefore at many cases they are not in a position to speak out. And suggested that those who are at the verge of the elevation need not be posted to the post of Registrar General next to seniority may be put to that place so that the inconvenience should not be there.

Hon'ble Justice BS Chauhan suggested that one has to be to be innovative to find out solutions and to get the work done. He asserted that Registrar General is a very important person as he examines entire judicial system. He emphatically emphasized that they are the most powerful person in any State so far the judiciary is concerned. So, considering that level think that their responsibility had to be carried out in same manner.

Session 6: Registrar (Administration) as an Enquiry Officer

The theme of the session 6 was "*Registrar (Administration) as an Enquiry Officer*" Hon'ble Justice B.S. Chauhan stated that administration does not include mal administration. He stated that the basis of disciplinary proceedings comes from Article 311 (2) of the constitution, which was taken from the Government of India Act, 1935

He stressed that Article 311 (2) deals with the persons holding a Civil post under central government or the State. So, under part (2) No such person as aforesaid means person holding a civil post shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. Therefore, it was deliberated that this is the requirement of the Constitution that either we directly proceed under Article 311 (2) follow this procedure or for your guidance and convenience we frame our own rules. However, when we frame the rules we must ensure compliance of this requirement mention in clause 2 of the Article 311 and cannot deviate from this. We are not permitted to make the rules in contravention of clause 2 because if we want to dispense with the inquiry that is permissible only under further proviso. It was stated that when the inquiry is against the national interest then only once could dispense with the inquiry otherwise there has to be full fledged inquiry.

The Hon'ble justice stated that there are two kinds of enquiry. He said that there may be complaint before the High Court against the judicial officers or any of the employee working in the district court or High Court. The High Court has a power to direct appoint an enquiry officer and initiate the disciplinary proceedings. Second option available to it is hold a preliminary inquiry. He stressed that purpose of holding a preliminary inquiry is entirely different, not to punish but to find out that there is any substance present in the complaint on the basis of which the regular enquiry could be held.

It was deliberated that when inquiry officer is been appointed to hold a preliminary inquiry, it is not required that he should also involve the delinquent at this time because he is not the delinquent at this stage. It could be proceeded with ex parte. It emphasized that the inquiry officer can record the evidence of the persons, examine the complainant but there is no body to cross-examine the witness or the complainant and it is not necessary to examine the delinquent. It was remarked that the inquiry officer may submit the report that if there is some substance in the complaint, it is a fit case were regular inquiry is to be conducted and beyond this preliminary inquiry is meaningless cannot be used against the delinquent for any other purpose whatsoever.

It was further deliberated by the resource person that once we take a decision that regular inquiry is to be conducted, then we have to give the charge sheet to the employee i.e. to the delinquent. He said that a civil trial in civil suit starts when the issues are framed, not prior, prior to that is only the proceedings done as defined under order 6 Rule 1, even rejoinder does not comes in pleadings, it comes under subsequent pleadings. Similarly a criminal case is started when the charges are framed, prior to that it is not a trial but the proceedings.

It was stated that disciplinary proceedings commences when the charge sheet is issued. When the charge sheet served to the delinquent, he has a right to reply to the charge sheet. He stressed that department had to examine the witnesses; what is the material against him, prove the documents as per the requirement of CPC, and then the delinquent has a right to cross- examine the witness. He stated that the officer has to consider everything and have to submit the report to the employer or to the disciplinary authority. At this stage disciplinary authority has a right to differ from the inquiry officer.

The resource person remarked that suppose the inquiry officer has exonerated the delinquent. The disciplinary authority has a right to differ from the inquiry officer but he has to record reasons how the inquiry officer has mis-appreciated the evidence and reached a wrong conclusions. He emphasized that the reasons and order are bound to be supplied to the delinquent because these are all technical's issues. If any link missed, inquiry stand vitiated.

It was said that if disciplinary authority give the reasons for disagreement from inquiry officers to the delinquent and found him guilty; a reasonable opportunity has to be given to the delinquent to make a reply against the reasons for disagreement of disciplinary authority. The disciplinary authority has to give a reasonable opportunity of hearing and then after hearing on punishment can pass appropriate order. However, the delinquent has a right to go in appeal or revision which is permissible under the Statute.

Hon'ble justice suggested that while passing the orders against the delinquent the copy of the inquiry report, copy of the disagreement should be given and he should definitely be given a reasonable opportunity of hearing before passing an order otherwise the inquiry starts vitiated form the point the mistake is committed but not from the point of charge sheet.

He further suggested that while passing the punishment order we have to keep in mind that at every stage we have to ensure the compliance of principles of natural justice.

The concept of was Principles of natural justice explained by the resource person. It was said that Principles of natural justice means which comes within us naturally.

He deliberated that the first reported judgment of Principles of natural justice is R v/s University of Cambridge 1723. In this case the resource person stated that the university has issued a circular that no boy in the campus of the university should not be found in a company of a girl after this particular period and nobody should take the girl in his room after 6 O clock or whatever the time mentioned in the circular. One boy was found sitting with a girl in his room beyond that time, so he was rusticated. The matter was ultimately went to the House of Lords and one of the argument was advanced that what is the purpose of the circular, that there should not be illicit impermissible

relationship with the girl within the university campus beyond this period. Prior to this period, it is permissible. Now the girl found in the room unfortunately she was a prostitute of international level. He said she is a prostitute. As there was an order that a very famous prostitute was got found in the chamber of the boy which is the contravention of the circular. Therefore, college committee said that they have no option otherwise to rusticate him. The defense was taken first time from the House of Lord was that undoubtedly she was found in the chamber but what is the purpose did not contravene the circular because she was her real sister. Then the question came that why don't he raised this issue in the university itself. The answer was the university has not accorded any opportunity of hearing.

Thus, Hon'ble justice remarked that this is the first case where the House of Lord laid down the law that no person can be punished without giving opportunity of hearing. In this judgment the House of Lord have dealt with the spiritual story of Adam and eve that when Adam has eaten the apple and God has kicked him out to come to the land, there also the God has given the opportunity of hearing to Adam before throwing him out of the heaven. So, if God has observed the principles of natural justice and given the opportunity of hearing before imposing the punishment, why not authority should give opportunity of hearing. From there it started the principles of natural justice and it becomes so important that if we do not observe the principle of natural justice inquiry stands vitiated.

Hon'ble justice deliberate that Article 311 (1) is in negative terms, which state that Disciplinary authority, should not be subordinate to the appointing authority. The Resource person cautioned the participants to see that when the person who initiate the inquiry should not be the appellate authority so that the delinquent will lose the opportunity of hearing.

It was also suggested that disciplinary authority could not become a witness in a case because that will be a case of bias. The resource person explained the concept of bias in disciplinary proceedings. It was deliberated that punishment for misconduct can be imposed in consonance with the statutory rules and principles of natural justice. The legal maxim "nemo debet esse iudex in propria causa" (no man shall be judge in his

own cause) is being explained by the Hon'ble justice. Therefore, it was said that the disciplinary authority could not be a witness because he become the judge in his own case. An order in violation of the principles of natural justice may be void depending on the facts and circumstances of the case.

The Hon'ble justice suggested that if an inquiry initiated against a clerk. The clerk is does not know the law. He cannot match as far as legal issues are concern. In such a situation, the disciplinary authority or the inquiry officer must provide some legal aid.

But lawyer can be taken only in extraordinary circumstances only if there is a possibility of miscarriage of justice.

It was deliberated that when a disciplinary proceedings gets initiated against a person, we put that person him under suspension. Suspension means that the person is in service but we do not take ant work from him as we have lost faith in him and we do not want to give another opportunity to commit further mistakes or misconduct. The purpose of giving the dearness and suspension allowance is that he could afford to maintain his family and also can plead his defense properly.

The resource person suggested that the punishment awarded to the delinquent should be proportionate to the delinquency. If the delinquency is very low one cannot give him the punishment of removal or dismissal. One can withhold on increment or hold a minor punishment. It was said that sometimes authority himself or the High Court imposes punishment not prescribed under the rules, that also vitiate the punishment order because the courts are suppose to enforce the law as it stands. One cannot amend the law. Therefore, when we follow the procedure we must keep in mind whether the inquiry is for minor punishment or major punishment. It was also deliberated that there are separate procedures for both types of inquiry. In case of minor punishment we give show cause notice, the delinquent will give the reply and then pass appropriate order which is prescribed as a minor punishment under the relevant statutory rules.

A participant raised the doubt that if the statute is silent about the punishment then what we should do?

Hon'ble Justice B.S. Chauhan replied that normally the Statute would not be silent, but if it is silent then give reasonable and proportionate punishment. He gave an example that if in a statute no time limit is given then for filing an appeal or revision then it is interpreted as reasonable time.

Hon'ble justice also remarked that the past conduct can also be considered for awarding the punishment only if the delinquent is given full opportunity to explain in his defense.

Hon'ble justice raised a concern that many times even the High Court commit mistake on the judicial side or on administrative side also that material collected during preliminary enquiry behind the back of the delinquent is used against him.

It was stated that the purpose of preliminary enquiry is only to find out that whether it is a fit case to hold regular inquiry or not. The material collected against the delinquent in a preliminary enquiry cannot be used against him. It was said that if we want to use, we have to supply all the copies to the delinquent, call all the witness, which are being used in the preliminary inquiry and permit him to cross- examine because the cross-examination is also a part of principles of natural justice. The case of *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra and Ors: AIR 2013 SC 58* was emphasized in which the Court while placing reliance upon a large number of earlier judgments held that cross-examination is an integral part of the principles of natural justice, and a statement recorded behind back of a person wherein the delinquent had no opportunity to cross-examine such cannot be relied upon. The case of *Nirmal J. Jhala V. State of Gujarat AIR 2013 SC 513* was also discussed where it was held that the evidence recorded in preliminary inquiry can be used only when the entire material is being supplied to it.

Hon'ble resource person enumerated that right to decide a case includes to decide wrongly because we are human beings. We may make judicial error. Therefore, there is a provision of appeal, review, revision. Then he stated that if the judgment can be corrected in the appeal, revision or review why we hold an inquiry? He said that the inquiry can be initiated if:

1. Judicial officer proceeded the case with some malice.
2. Judicial officer proceeded in good faith had no malice but proceeded so negligently, recklessly that he do not deserve to continue as a judicial officer. He may be very good officer, honest officer proceeded and decided the case without any bias but proceeded negligently ignoring the fact.

Hon'ble justice emphasized that a judicial officer is suppose to be performing a divine function. Performing a divine function does not mean we our self become divine. So he asserted that when we conduct a judicial inquiry against a judicial officer, first defense comes in our mind is that there is no malice. But number of judgments said that if we proceed so negligently so restlessly that it cannot be accepted in ordinary norms it will come under misconduct.

The Hon'ble justice enumerated the following points which can be treated as misconduct by a judicial officer.

1. Where the Officer had acted in a manner as would reflect on his reputation, integrity, good faith, or devotion of his duty.
2. If there is a prima facie material to show recklessness or misconduct in the discharge of his duty.
3. If he has acted in a manner which is unbecoming of a government servant.
4. If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
5. If he had acted in order to unduly favor a party;
6. If he has been actuated by corrupt motive, however, small the bribe may be because Lord Coke said though the bribe may be small, yet the fault is great.

The expression good faith was discussed during the session and it was deliberated that in the case of General Officer Commanding v. CBI and Anr. : AIR 2012 SC 1890, the Supreme Court explained the phrase "good faith" as:

“... Good faith has been defined in Section 3(22) of the General Clauses Act, 1897, to mean a thing which is, in fact, done honestly, whether it is done negligently or not.

Anything done with due care and attention, which is not malafide, is presumed to have been done in good faith. There should not be personal ill-will or malice, no intention to malign and scandalize. Good faith and public good are though the question of fact, it required to be....” It was asserted by the Justice B.S. Chauhan that in the popular sense, the phrase in good faith simply means, honesty, without fraud, collusion, or deceit. The right to administer cannot obviously include the right to maladminister.

The case of Samsheer Singh v. State of Punjab AIR 1974 SC 2192; was also been discussed in which it was held that however higher a police authority may be he cannot be permit to examine the case of a judicial officers. Judicial officers stands entirely on different footings. Therefore, to ask a police officer to investigate a district judge or asking a district judge to appear before a police officer is against his dignity. We cannot think that Judicial officer may be asked to appear before any person other than belonging to our own departments.

It was also stated by the resource person that the inquiry could be conducted against the retired employee if the charges have been framed before the retirement but the punishment of removal cannot be imposed as he is not in service.

It was deliberated that disciplinary proceedings are quasi criminal in nature, not a civil or criminal proceedings. It was stated that when a person is in probation he can be discharge at any time and only the requirement is the order of removal should not be stigmatic. So, there may be no need to hold an inquiry for probationers employee. Hon’ble justice stated that the conformation of the probation should not be automatic. State of Punjab v/s Dharam Singh was discussed in this regard. It was held that if the rules say probation period is for one year and it cannot extended to further one-year. Thai is if the language is in negative terms and there must be a clear indications that authority does not have a right to extend the period of probation beyond one year. Then is the order of conformation is not passed beyond one year and employee is working, the employee is deemed to have been confirmed. Otherwise, unless the order of confirmation is not passed the employee will remain on probation.

A participant asked a question that when a criminal case is filled solely on the basis of the criminal offence committed by a staff member or a judicial officer which in no way is connected with the discharge of the duties. Does we allow him to work or should we suspend him?

Hon'ble Justice BS Chauhan replied that whether we would permit a judicial officer to sit in a court who has forced his daughter in law to commit suicide? Whether we should repose faith in him? The resource person stated that we give full suspension allowance to the suspended employee but do not give work because we have lost faith in him as he is been charged with serious charges of misconduct. It has been done to save the system as a whole. It is a suspension of work and not of service and this is the concept of suspension. The relationship between master and servant continues.

Hon'ble Justice Ravi Tripathi added that the suspended employee should not have an access to the record and everything as the records may get manipulated.

Hon'ble Justice BS Chauhan also added that a person can be dismissed or removed or reduced in a rank if he is found guilty for any charge in a criminal court. There are exception to this to hold an inquiry under 311 A that where a person is dismissed or removed or reduced in rank on the ground of conduct which has lead to his conviction on a criminal charge. So, it was said that if a person has been convicted in a criminal charge there no need to conduct an inquiry. However, if the employee goes in appeal against the order of conviction and in the meantime High Court has removed him from the service and he succeeds in appeal.

High Court is not bound to reemploy or re instate him for the reason that now the High Court can hold an inquiry as finding given by a criminal court is not binding on a civil court or in administrative side. The employee might have been acquitted with some technical ground. It was emphasized that therefore, High Court need not to reinstate him. However, if High Court wants to retain him then the high Court may apply the theory of relates back which depends upon various facts and circumstances of the case.

Hon'ble Justice Ravi Tripathi added in the discussion that law does not change according to the representation. Law remains the same. If in disclosure of the defense

the departmental inquiry is going to affect the criminal trial, then the departmental inquiry should not be conducted in that relevant time. He deliberated that law is simple, if he is facing a criminal trial and until the criminal trial is over the departmental inquiry should be withheld. But there are exceptions where the departmental inquiry cannot be stayed. He stressed that one should act as per the facts and situations of the case.

A participant asked that if a complainant withdrew the complaint against an employee should we stop the departmental proceedings against him? Hon'ble Justice RC Chavan replied that there are many occasions when the witness becomes hostile, but we should never stop the inquiry. After making a complaint there is no choice of withdrawal and it is not a compoundable offence. It is between the department and the employee.

Session 7: Role & Responsibility of Registrar (Administration) under RTI Act

Hon'ble Justice BS Chauhan opened the session and stated that it is a double-edged weapon. It can be used for blackmailing as well as for preventing corruption. Many a time's many people come for information to the court and they file petitions. He deliberated that the question that arises is why they seek information? He stated that they make it your profession. Many people have become professional filing PIL. Most of them are abusing the processes of the court for extraneous consideration. He said that in judicial system if the information goes in wrong hands it creates a problem in the system. He deliberated that usually no body reads the definition of information but files an application for getting any information to their choice. The recourse person then explained the meaning of information as defined under section 2 (f) and 2 (j) of the Right to Information Act, 2005. He stated that only those information can be given which is accessible and under the control of public authority. He deliberated that what kind of relationship a judge has with the Chief justice cannot be disclosed. He stressed that many people do not have any other business but seek information only to make public nuisance.

Hon'ble justice shared his experience and said that one person had filed a suit. After full trial, the suit was dismissed by a reasoned order. Instead of going in appeal the plaintiff filed an application under the Right to Information Act before the district court that for what reason and with what intention his suit had been dismissed by the such and such learned civil judge. He stated that reasons were recorded in the judgment and if the plaintiff was not convinced with the judgment he could file the appeal or revision rather filing an application under RTI Act. He said that like this we are facing lot of frivolous applications every day.

The case of Khanapuram Gandaiah v/s Administrative Office & others AIR 2010 SC 615 was discussed in which Hon'ble justice stated that in the instant case the petitioner submitted his application under Section 6 of the RTI Act before the Administrative Officer-cum- Assistant State Public Information Officer seeking information in respect of the questions raised in his application. However, he stated that the Public information officer is not supposed to have any material, which is not before him; or any information he could not have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information, which can be accessed by the "public authority" under any other law for the time being in force. He stressed that a judge cannot be expected to give reasons other than those that have been enumerated in the judgment or order and the application filed by the petitioner before the public authority is per se illegal and unwarranted.

It was deliberated that under the Act, the authority cannot ask the applicant why he wants this information. However, Hon'ble justice expressed that it could have been that the applicant must disclose why he wants this information otherwise it will be very dangerous for the survival of the institution itself. It was sated that in Allahabad high court the fees for seeking information were 500 rupees earlier. Now it has gone to Rs 50 and resource person wanted to raise it to Rs 5000 so that no one could abuse the RTI Act.

Hon'ble Justice Sadanand Mukherjee stated that so as far the rules framed by the High Court is concerned with respect to the Right to Information Act 2005., Chief Justice

under section 2 (e) is the competent authority. He said that the rules are framed in the High Court to carry out the provisions of the Act.

It was deliberated that the authorized persons as information officer are different as far as the different High Courts are concerned. It was stressed that somewhere the assistant registrar, deputy registrars are the authorized persons and the Registrar Administration is the appellate authority and somewhere Registrar General also acts as an appellate authority.

The resource person emphasized that as far as section 8 and 9 are concerned there are provisions for getting exception from the giving the information. The Act does not provide access to citizen to all kinds of information.

Hon'ble justice enumerated the following information that was exempted from disclosure under section 8(1) of The Right to Information:

1. Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
2. The information that impeach the process of investigation or apprehension or prosecution of offenders.

The resource person referred recent judgment of the Supreme Court Subhash Chandra Aggarwal V/s Registrar Supreme Court. SLP of 1521 of 2015, in which the Supreme court upheld the decision of Delhi High Court, and upheld that the information sought by the medical facilities availed by the Hon'ble judges cannot be disclosed as it is violate of Right to Privacy. Hon'ble justice again stressed that It is not possible for the authorized persons to provide some information which is not in his access.

It was further deliberated that person who is aggrieved by the order for the information officer as chosen by the Chief justice may file an appeal before the appellate authority and the appellate authority may be Registrar Administration or Registrar General.

A question was asked by the participant is that whether a Judicial Officer also apply for information under Right to Information Act. For this Hon'ble Justice Ravi Tripathi replied that even High Court could apply for information.

A participant ask the question that whether we are bound to provide a delinquent who is facing a disciplinary action and ask for some information to us under RTI Act

Hon'ble Justice BS Chauhan remarked that if any person wants to seek the information from another person he should seek the approval of the registrar. The High Court should provide such rules otherwise it will be difficult for us to work. He further deliberated that if through service rule we reject the application and if State Commission allowed his application then we always have an option to challenge it before judicial side.

A Participant deliberated that in Patna High Court there is a committee of two Hon'ble judges who decide which information is to be given and which not. We furnish only those information which is approved by the these two Judges and then while hearing the appeal at appellate authority it is always came in our mind that already the decision has been taken by the Hon'ble judges.

In this an Hon'ble Justice Ravi Tripathi replied that it cannot come on record that two senior Hon'ble judges have decided whether this information is to be given or not. If that comes on the judicial side the order cannot stand because then the order has been passed and decided by somebody else.

He stated that we should only try to find out that whether the information falls under the category of section 2(f) or not and if it does not fall one should reject it.

Hon'ble justice asserted that the most advantageous position here is that participants are having the so much of experience and that when that experience is exchange, we can get the solution for the problems we have. We can apply that. He further said that for every problem no one of us can give the readymade solution. Therefore, have to have to take the suggestions from here and then apply to the particular facts and situations.

Hon'ble Justice RC Chavan suggested to take precautionary measures if it come to the knowledge that somebody wants to do mischief by taking such information through this

RTI Act. He recommended that give the information but keep the stick also ready. He further advised that there are many ways of not giving information also and that depends upon the particular facts and situations. He cautioned not to decide all matters promptly. He suggested the participants to see all information matters as various proposals that come before them. So, he said that all proposals need not be promptly decided. Which proposal should be kept pending, which should be promptly decided, should be a matter of discretion.

One participant asked that whether we are bound to give the copies of ACR to the judicial officers under the RTI Act?

Hon'ble Justice BS Chauhan replies that as per the Judgment of the Supreme Court under law or even otherwise we are bound to give the copies of ACR to the judicial officers whether it is good or bad what may be. He said that we are suppose to furnish all the copies of ACR to the judicial officers. Hon'ble justice raised a concern and said that there are various officers who stand outside the gate of reporting officer and not in the court. Therefore, there is so much pendency of cases in the court.

Hon'ble Justice Ravi Tripathi stated that in Gujarat High Court it was decided that High Court will not entertain any application without putting the assessment that this would be the number of pages and this will be the estimated cost and that cost should be deposited and then only the copies is to be prepared. He asserted that the moment the order was place on notice board that for 100 pages one has to pay Rs. 500 half of the RTI application either were withdrawn or did not turn up. Therefore, he suggested that we have to find out some practical solutions.

Hon'ble Justice S. Vimala remarked that if the disclosure is the detrimental to the economic interest of the state we could reject the application under section 8 of RTI Act.

Hon'ble Justice RC Chavan suggested that far as the copies of CD is concerned with regard to supplying of judgment we should give them provided we charge the realistic fees from them. He asserted that anyway the judgments are on the website now and anybody can get them free of charge, but if somebody wants to pay, let them pay.

Hon'ble A.C. Upadhyay suggested the participants to keep the all records ready because many times it happens that due to the non availability of the records or loss of records we do not able to give information in time. He also suggested to digitize the records so that the information get furnished immediately.

Hon'ble Justice S. Vimala invited the attention to one paragraph of the Judgment in Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors. (Civil Appeal No. 6454 of 2011, which is as follows:

“At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information ‘ and ‘right to information’ under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analyzed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and /or making of assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act on refers to such material available in the records of the public authority. May public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

Hon'ble Justice deliberated that RTI provides access to all information that is available and existing, and if it is not available and not existing there is no necessity to provide. Secondly she remarked that Once an application is filed just go to section 8 and see under what circumstances it is being exempted or not and thirdly the Act does not cast

an obligation upon the public authority, to collect or collate such non available information and then furnish it.

Hon'ble Justice Ravi Tripathi has put a word of caution that the RTI Act has a very good objective in mind. But it is the misuse of the RTI Act by certain people has created the problem. He concluded the session by stating that our approach should be open to give the information and so that public should have that faith that there should be transparency in the matter.

Session 8: Appointment, Promotion, Transfer – posting, Seniority Registrar (Administration)

Hon'ble Justice BS Chauhan deliberated that this session basically deals with appointment, promotion and transfer posting. It was stressed that as far as promotions are concerned they are carried out with the statutory rules; whether they are of the judicial officers or staff of the High Court. Only problem is there is always be the pressure of the union of the workers that promotion should be there due to the seniority and under that pressure most of the High Court has amend their rules and now mostly the promotions are there on the basis of seniority giving go by to the merit.

Secondly he stated that when we make the transfer, it is always the grievance of the judicial officer that some people manage at good place and those who don't have God father in the High Court they are sent here and there. Thus, it was stressed that there are always certain grievances because transfer, posting etc. does not fall under any kind of stigma or any kind of punishment, it cannot be taken a serious matter rather it is a matter of management. The resource person stated that the postings depends upon the Registrar General. He suggested that it is the duty of all of us to see that innocent judicial officer should not suffer. He asserted that many judicial officers use fake medical certificate to get the posting of their choice.

Hon'ble justice deliberated that the Constitution is the highest Grund norm. Nobody can challenge the authority of the Constitution as nobody can say this provision violates the

provision of the constitution. It is a supreme law. We cannot challenge it. According to Grund norm theory it is the highest norm and we are not permitted to raise any question on its validity. This is the reason why we have to respect the constitution and everything has to be governed by its basic theory introduced by the Constitution.

The resource person further deliberated that all laws in force in the territory of India immediately before the commencement of this constitution, as far as they are inconsistent with provisions of Part III of the Constitution of India, shall be void. Secondly, it was stated that the State should not make any law, which takes away or abridges the rights conferred by this part and any law made in contravention of this clause, to the extent of the contravention shall be void. Therefore, Article 13 (1) and (2) says that any law existing prior to the commencement of the constitution shall be void if it hit by any part or any article contains in part III of the constitution that deals with fundamental rights. Secondly, No State is empowered to make any law contravening the provisions of fundamental rights.

Hon'ble justice then stressed on Article 372 of the Constitution of India also speaks that all existing law which were existing prior to the commencement of the date of constitution will continue provided they are not hit by part III of the constitution. If parliament wanted to continue it can be adopted according to the law or can alter or modify but it should not contravene the part III of the Constitution.

After that Hon'ble justice emphasized on Article 14 and 16 of Constitution of India and stated that State shall not deny any person equality before law or equal protection of laws within the territory of India. Therefore, he said that we cannot discriminate. Every citizen is equal so far as law is concerned.

Hon'ble justice deliberated that Article 16 provides equality of opportunity in matters of public employment and said that we are dealing with the public employment. There shall be equality of opportunity for all the citizens in matters relating to employment or appointment to any office under the State. Therefore, he emphasized that all citizens and all persons should have equal opportunity to be considered appointment is not a right. Right only to be considered for an appointment is a right and whoever is more

better, have more merit can be selected. However, he stressed that a reservation in favour SC, ST, OBC fall within the exception contain in the Article 15 and 16 of the constitution.

Hon'ble justice remarked that Article 142 speak that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice for any cause or matter pending before it. It was stressed that under Article 141 the law declared by Supreme Court shall be binding on all courts within the territory of India. However, Hon'ble justice deliberated that Article 142 does not empower the Supreme Court to pass any order which is contraventions of the statutory provisions as it goes against the intention of the legislature and the purpose is stand defeated.

Hon'ble justice emphatically stated that any law, which give any statutory provisions made by either any State or by the High Court which runs or contravene the Provisions of Article 15 or 16 of the Constitution of India shall be void under Article 13 (1) and (2) and 372. Therefore, Hon'ble justice stated that any law permitting the appointment except the reservations, which come under exceptions, or employing persons on compassionate grounds, which are permissible every other appointment must meet the minimum requirement of Article 14 and 16. Regarding appointment the resource person deliberated that as per the Supreme court judgment every post must be advertised and statutory rules must be framed in consonance with the Article 14 and 16 and any appointment made in contravention of those rules is void.

It was deliberated that in the case of Purshotam V Chairman, Maharashtra State Electricity Board, the Supreme Court has held that appointment should be made strictly in accordance with the statutory provisions.

The Hon'ble resource person that if a person entered into the service in a wrong way his appointed will be void stated it. Therefore, he cannot be permitted to go from the front door because of the void appointment. It was held that those who come from back door should go from back door. He cannot challenge the termination. Therefore, no

protection of law can be given to a person who has the appointment which is void and not in consonance of Article 14 and 16.

It was also deliberated that even Article 229 part 2 and Article 235 of the Constitution of India also cannot override part III of the Constitution of India.

Hon'ble justice remarked that no district judge could appoint the persons more than the vacancies advertised. However, the resource person stated that ultimately, the district judge suffers because if he gets the instruction from the high court to appoint one more person and there are only six vacancies advertised, how he will accommodate and if he does not follow the instructions his ACR might get spoiled. Hon'ble justice stated that he wants to protect the judicial officers because in the high court the transfer was managed by the High Court and not by them. District Judge had no authority. They do so because of the pressure of the High Court. So, why does our judicial officer suffer for it. That was in my mind.

Hon'ble Justice Ravi Tripathi remarked that many judicial orders follow unlawful orders and take, as many as benefits or expected to take the benefits they must be ready to take the consequences thereof also.

Hon'ble Justice BS Chauhan deliberated that Supreme Court held that one has a right to make the appointment even though the rules for appointment have not been framed by the High Court. However, such appointment must be in consonance with Article 14 and 16

It was also stated that appointment by way of misrepresentation or fraud is voidable. It was stated that even after knowing that a person has obtained the appointment by misrepresentation the employer does not want to proceed against him, nobody can enforce the employer to take action against him.

It was stressed that once we fill up the number of vacancies advertised selection process comes to an end automatically. Therefore, we become functions- officio as far as

that advertisement is concern. If that selection process is over, It is not permitted to reopen and make further appointments.

It was discussed during the course of discussion that a person whose name is appeared in the select list of the candidate could not claim a right to be appointed. He had only a right to be considered as an appointment and consideration is over suitable candidate is found and his name appeared in the merit list. However, a cannot have any grievance if he is selected. However, the grievance arises if person below him in merit in his category is selected. It was emphasized that once a select list is passed further appointments could not be made. It was said that select list even if remained unexhausted dies his natural death. It cannot be revived. Statutes provide a age for it and therefore it is out.

The case of Renu v. District & Sessions Judge, Tiz Hazari, [AIR 2014 SC 2175] was discussed in which the Supreme Court with regard to the appointment held:

“...it is a settled legal proposition that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the employment exchange or putting a note on the notice board, etc. that will not meet the requirement of Articles 14 and 16 of the Constitution. Such a course violates the mandates of Articles 14 and 16 of the Constitution of India as it deprives the candidates who are eligible for the post, from being considered. A person employed in violation of these provisions is not entitled to any relief including salary. For a valid and legal appointment mandatory compliance with the said constitutional requirement is to be fulfilled. The equality clause enshrined in Article 16 requires that every such appointment be made by an open advertisement as to enable all eligible persons to compete on merit. It was stressed that where any such appointments are made, they can be challenged in the court of law. The quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined and in case the finding is that the holder of the office has no title, he would be ousted

from that office by judicial order. In other words, the procedure of quo warranto gives the Judiciary a weapon to control the Executive from making appointment to public office against law and to protect a citizen from being deprived of public office to which he has a right. These proceedings also tend to protect the public from usurpers of public office who might be allowed to continue either with the connivance of the Executive or by reason of its apathy. It will, thus, be seen that before a person can effectively claim a writ of quo warranto, he has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry as to whether the appointment of the alleged usurper has been made in accordance with law or not. For issuance of writ of quo warranto, the Court has to satisfy that the appointment is contrary to the statutory rules and the person holding the post has no right to hold it.

The importance of the maxim “fraus et jus nunquam cohabitant” (fraud and justice never dwell together) was deliberated and it stressed that the maxim has never lost its temper over the centuries and it continues to dwell in spirit and body of service law jurisprudence. It was also emphasized that no legal right in respect of appointment to a said post vests in a candidate who has obtained the employment by fraud, mischief, misrepresentation or malafide.

The scope of Article 229 and Article 235 of the Constitution was also discussed. Hon'ble resource person stated following directions and guidelines for the appointment:

- 1) All High Courts are requested to re-examine the statutory rules dealing with the appointment of staff in the High Court as well as in the subordinate courts and in case any of the rule is not in conformity and consonance with the provisions of Articles 14 and 16 of the Constitution, the same may be modified.

- 2) To fill up any vacancy for any post either in the High Court or in courts subordinate to the High Court, in strict compliance of the statutory rules so made. This rule must be in conformity with Article 14 and 16. In case any appointment is made in contravention of

the statutory rules, the appointment would be void ab-initio irrespective of any class of the post or the person occupying it.

3) The post shall be filled up by issuing the advertisement in at least two newspapers and one of which must be in vernacular language having wide circulation in the respective State. In addition thereto, the names may be requisitioned from the local employment exchange and the vacancies may be advertised by other modes also e.g. Employment News, etc. Any vacancy filled up without advertising as prescribed hereinabove, shall be void ab-initio and would remain unenforceable and inexecutable except such appointments which are permissible to be filled up without advertisement, e.g., appointment on compassionate grounds as per the rules applicable. Before any appointment is made, the eligibility as well as suitability of all candidates should be screened/tested while adhering to the reservation policy adopted by the State, etc., if any.

4) Each High Court may examine and decide within six months from today as to whether it is desirable to have centralized selection of candidates for the courts subordinate to the respective High Court and if it finds it desirable, may formulate the rules to carry out that purpose either for the State or on Zonal or Divisional basis.

5) The High Court concerned or the subordinate court as the case may be, shall undertake the exercise of recruitment on a regular basis at least once a year for existing vacancies or vacancies that are likely to occur within the said period, so that the vacancies are filled up timely, and thereby avoiding any inconvenience or shortage of staff as it will also control the menace of ad-hocism.

The case of Uma Devi was discussed in which the Supreme Court of 5 judges bench held:

“It is argued that in a country like India where there is so much poverty and unemployment and there is no equality of bargaining power, the action of the State in not making the employees permanent, would be violative of Article 21 of the

Constitution. But the very argument indicates that there are so many waiting for employment and an equal opportunity for competing for employment and it is in that context that the Constitution as one of its basic features, has included Articles 14, 16 and 309 so as to ensure that public employment is given only in a fair and equitable manner by giving all those who are qualified, an opportunity to seek employment. In the guise of upholding rights under Article 21 of the Constitution of India, a set of persons cannot be preferred over a vast majority of people waiting for an opportunity to compete for State employment. The acceptance of the argument on behalf of the respondents would really negate the rights of the others conferred by Article 21 of the Constitution, assuming that we are in a position to hold that the right to employment is also a right coming within the purview of Article 21 of the Constitution. The argument that Article 23 of the Constitution is breached because the employment on daily wages amounts to forced labour, cannot be accepted. After all, the employees accepted the employment at their own volition and with eyes open as to the nature of their employment. The Governments also revised the minimum wages payable from time to time in the light of all relevant circumstances. It also appears to us that importing of these theories to defeat the basic requirement of public employment would defeat the constitutional scheme and the constitutional goal of equality."Therefore, it was unanimously asserted that appointment should always ensure the compliance of Article 14 and Article 16, which are the basic feature of the constitution.

Session 9: Matters Concerning the Infrastructure and Budget

Prof (Dr.) Geeta Oberoi has introduced the session and asked the participants to guide or tell the preparation of budget in their High Court.

A participant asserted that in the High court of Tripura now the High Court prepares the budget for itself and as well as of district courts and in September High Court collect all the data and information that is required from the subordinate judiciary. High Court the compile and send it to the law and finance department. It was stated that Central grants come from finance commission and for this High court have a separate plan of action

and for day to day expenses there is a separate budget which is given to the State government.

One of the participant deliberated that judicial officers are very conservative in as spending money.

One participant deliberated that one is plan sector and other is non plan sector. The judiciary falls in non plan sector. Therefore, the allocation the budget or money is minimum.

Prof (Dr.) Geeta Oberoi, stated that in 13th Finance commission judiciary got 5000 cores rupees even though it is in different heads. In 14th finance commission, it is 9700 cores rupees, which is much more than 13th finance commission but she suggested that we should prepare our budget well and should be able to defend it.

A participant stated that in 13th finance commission there are certain heads where money cannot be spend and money were returned back as appropriation of money from one form one head to another head was not allowed.

Hon'ble Justice Ravi Tripathi stated that a picture is created among the public that the government was so generous that it gave 5000 cores to the judiciary and they have spent only 700 and that gives an impression as if government is ready to do everything and judiciary not ready to do anything or utilize that particular money. He deliberated that at our side there is no spoke person who will defend or speak in the parliament for allocation of budget that these were the difficulties. That is how the budget was allocated, it was for a different purpose and therefore it has not been utilized.

He stressed that budgets in courts is in totally unskilled hands and district judge hardly knows anything about the budget. They take out the file of last year budget, increase it 10% or 20% and then gave it for approval. He suggested that if we come to know under anticipation that a huge amount is allocated to one major head and it required to be change we should be prompt to say this at right time so that we can able to utilize the fund better.

Hon'ble Justice RC Chavan deliberated that 13th finance commission was spread for five years and if there is any problem regarding the allocation of heads then the High Court should approach the government in the first year only to find out the solution to the problem. He further stated that even when state government gives the budget we could not change it from one major head to another major head. However, there is always a provision for re- appropriation.

He stated that one participant stated that we are conservative; we are concerned about public money and we are concerned that this money comes from taxpayer pocket. He suggested that not to think of taxpayer money. He said if we are saving one rupee they have spend it 100 rupees. Our saving will be drop in ocean. Therefore, if we have got money we should spend full amount for the betterment of the judiciary. It was said that we should have the concrete plans to spend the whole amount in a constructive manner. The decision should be taken properly. It was also suggested that one should submit its plan to the government for 14th Finance commission and the manner it is going to be spend

Hon'ble Justice Ravi Trapathi deliberated that the difficulty with the judiciary is that they feel very proud if they are able to work with one person and if the requirement if of 4 persons. we feel proud in that. He suggested that we should write the requirement of the staff and send reminders regularly to the High court and as well to the government.

Hon'ble Justice Sadanand Mukherjee remarked that for the preparation of budget the help of the experts should be taken, vision documents are to be required, we need to have a programmed planning, our goal should be clear and when need arises we should submit additional budget/ grant to the government. He suggested that as far as the insufficient number of staffs are concerned we should find that how many personnel we have to appoint and accordingly the post should be placed before the government for sanction. Hon'ble Justice deliberated that it is the task of the High Court to prepare budgets under different heads. It is true that re appropriation cannot be done by High Court. Chief Justice cannot do it. Appropriations in the High Courts are done as far as the minor heads are concerned. He suggested that it is necessary for all High Courts have the structuring of the budget with planning for next five year.

Hon'ble Justice Ravi Thripathi suggested that if you feel that you are not so strong, be little more tactful. He suggested that you may call the government officers for a cup of tea or coffee and fix a meeting with Chief Justice in High Court and there if you put anything you will get the answer in affirmative. So he suggested that you have to be innovative and tactful.

Hon'ble Justice S. Vimala deliberated that the main problem in the High Court is communication gap. Nobody wants to share or do not want to share. She suggested that we have to speak up and have to submit the plans and information in advance finance, Ministry and Department of law and Justice. Otherwise as per the available data funds will be sanctioned and then we will face the problems. She further suggested that every High Court may submit a report to what happen to the 13th finance commission, how much was spent and how much not spent and how much we want under each particular head so that we can able to remove the deficiencies and can pain better.

Hon'ble Justice RC Chavan remarked that in preparing the 'Budget of the High Court', the Registrar should take care of the following two issues to secure more benefit:

1. Budgeting (Proper care in putting all the items at once)
2. Taking care of Supplementary Grants (One should be well prepared in advance to take benefit in the revised estimates in February i.e. after 8 or 9 months of funds allocation).

It was deliberated that one of the most challenging task of the registrar (Administration), if so entrusted by the Chief Justice is the budgeting and resources planning. So far as the financial independence is concerned, the High Court is suffering from multiple difficulties. There is no financial independence of the High Court or Chief Justice. Budgets are prepared by the respective High Courts but these budgets have to be submitted to the Union or Sate Governments, as the case may be. It was also stressed that budgets are generally based on usual recurring expenditure on the pattern of the previous years and these budgets are submitted to the executive to cut down in size which is at both central and state level.

Hon'ble Justice Sadanand Mukherjee while discussing the matter concerning the infrastructure and budget observes that, 'in respect of the District Judiciary, the law department of the states prepares the budget. It is common knowledge that the Union Government sometimes provides funds for the judiciary in the Finance Commission and it is found that substantial portions of those funds remains unutilized. On a comparison of the budget estimates and the amounts actually spent by the court, it is the duty of the Registrar (Administration.) to find out the reasons of non – utilization of fund'.

The session was concluded with the remark that the Registrar (Administration) should take care of the planning in the preparation of budget by the Registry. The plans should include amongst other things also and not just the salaries, pay and allowances of the judges and the staff. There should be adequate provision for funds for infrastructure, expansion of court and court staff, construction of buildings and residential quarters for Judges and the staff, the development of computerization, legal aid, alternative dispute redressal system, in fact all the needs of the judiciary.

Session 10: Role of Registrar (Administration): Coordination and Compliance of Administrative/Judicial Orders

The session 10 was a open discussion with regard to the role of the Registrar Administration coordination and compliance of administrative/judicial order. The session was opened by Prof. Dr. Geeta Oberoi Director in-charge of Nation Judicial Academy who deliberated the discussion while stating that the position of the registrar is somewhat like managing the High Court as well as the subordinate court. It was deliberated that the registrars get the orders from the High Court and they indeed gives certain direction to the subordinate court.

She requested to give the inputs that how they should deal and co-ordinate the functions as a Registrar (Administration). As they also have to give orders and direction to the assistant registrar/ deputy registrar for the compliance of the orders received from the Hon'ble High Court. One of the participant suggested that we should follow the software as it is functioning in the High Court of the Gujarat with regard to the coordination and the compliance of Administrative/ Judicial orders. Many participant

have remarked that since there are different channel of communication sometimes it become difficult to comply with the orders. Therefore, they suggested that communication should be routed to the department through the central registry of the High Court office and then after getting feeded in the computer should be routed and marked by registrar general only. In this way the Registrar (General) will able to know and will be aware of all the correspondence received from various sources.

One of the participant suggested that communication should be done first through the electronic means and than a hard copy may also be given to the concerned officer. And once the hard copy is been received the acknowledgement can also be done through the electronic mode as it is prevalent in the Gujarat High Court.

It was also deliberated that there is a circular of the government that for the compliance of any order the file movement should be restricted maximum to 3 persons only, so that the prompt decision can be taken.

A participant suggested that in Madras High Court they have developed a system which enables the registry to centrally monitor that which file was received from which date and from whom and whether it has been sent to this section or that section and who has attended to that correspondence. The system centrally provided information to the Registrar General.

Hon'ble Justice S. Vimala suggested that by designations we might have the group of Registrar General and Registrar (Administration) and through computerization we can share the best practices. If this can be done then we can able to save time and energy.

Hon'ble RC Chavan suggested that number of judicial officers should be reduced in the registry. He said that we should promote more non judicial officers and there should be a separate cadre for staff member.

On question being asked regarding the co-ordination and compliance of administrative and Judicial orders and Hon'ble Justice BS Chauhan suggested that we must have the staff and persons who works for and who has some respect for our institution. If the staff is corrupt and adopt illegal means it become very difficult for the registry to run and

comply with the orders and the decisions. He suggested that the officer in charge should be so vigilant that corruption should not take place under his nose and he should be capable to supervise and maintains the decorum and discipline in the office.

The case of B.N. Shivanna Vs. Advanta India Limited and Anr was being deliberated by Hon'ble Justice BS Chauhan. Hon'ble justice suggested that there must be some responsible officer to examine whether all the orders has been placed to before competent authority for compliance. The resource person raised the concern that the whole difficulty is we are seating there only for rich people who can managed and buy our staff, we have to be very careful that we must have that sufficient administrative controls, so that they may not manipulate. He requested the participants to communicate directly to the Hon'ble Chief Justice in case they come to know that some staff or clerk is not doing the work honestly.

Hon'ble Ravi Tripathi remarked that many a times our administrative or judicial orders are also required to the coordinated and the compliances required to be made. He said that if it is we have to find out the way that how our order should be complied with. It was suggested that in RTI matter if one feels that it will get reversed by the appellate authority then he can take the matter to judicial side. However, there should be no ego problem. Therefore, he suggested that there should always be a thoughtful consideration that what will be the line of action. It was asserted that unless we are capable of taking the matter to the logical end we should not take up the matter.

Hon'ble Justice Sadanand Mukherjee deliberated that if any Honb'le judge orally say to suspend any employee then instead of complying the order he suggested to put the matter before Chief Justice and request him to take action as per the lordship wisdom.

He asserted that the one has to be very careful and cautious with regard to the administrative orders, orders of full court and Standing Committee orders and it should be complied strictly and in time. If any staff is being negligent in compliance of such orders then is suggested to issue show cause notice and Registrar General is to be inform.

Session 11: Take away and concluding Remarks.

In the last session, the participants have expressed their views with regard to the conference and highly appreciated the effort of National Judicial Academy for organizing and conducting the conference. The participants were given a questionnaire to put their views with respect to their new leanings. The conference concluded with the vote of thanks by Prof (Dr.) Geeta Oberoi., Director In charge of National Judicial Academy.

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