

National Judicial Academy

P 955: Judging and Judicial Methods for Newly Elevated High Court Judges:
19th -22nd November, 2015

Programme Coordinator	Ms. Paiker Nasir, Research Fellow
No. of Participants	18
No. of forms received	17

General Suggestion

4.	<p>Give your views on the structure of the programme and sessions included:</p>	<ol style="list-style-type: none"> 1. The programme is nicely arranged. Resource Persons have been chosen meticulously and diligently. It would have better if the duration could have been shortened, so that lot of judicial time can be saved. 2. Programme included diverse aspects of matter to be kept in mind in the adjudicatory process. On a related point how about including a topic on pitfalls to be avoided by a judge. 3. Very good 4. Generally the topics and sessions were well structured and of good used. But some overlapping subjects and topics can be avoided. Further, if one more session can be added in the afternoon session and total number of programme days can be reduced. 5. It should not have for more than three days. 6. Increase each session duration, reducing break time. 7. On one day the morning session may be free, while it can be conducted in the evening or from about 5.30 pm-7.00 pm in a four/five day programme. 8. Respondent did not comment 9. I am of the opinion that programmes are to be in relation to court management. 10. Good attention to detail. 11. Brilliant 12. Educative thought provoking 13. Though provoking, educative and inspiring. 14. The programme has been structured in a manner which covers the skills, manner, behavior and attitude and all other components which are required in writing judgment. 15. The programme and sessions conducted are good. 16. Excellent programme of long duration. A programme of short duration would have been better. 17. It is found to be very useful and constructive and inspiring. It will also be useful if some practical problems can be included and discussed.
5.	<p>What are your gains/learning from this programme?</p>	<ol style="list-style-type: none"> 1. I have a great learning about writing judgments, management of judicial time as well as art, craft and science of writing a judgment. 2. Going back better equipped to discharge functions as a judge.

		<ol style="list-style-type: none"> 3. Gain in personal knowledge. 4. Very informative. Good sharing of information, experience and view. 5. Nothing significant. 6. I could know various practices in various High Courts in judging , I am sure that I can improve my qualitative performance in judging. 7. Makes me aware that there is so much more to learn. It gives you an awareness and will push one to read and learn more. The interaction with the High Court judges was also useful. 8. Respondent did not comment 9. I gained knowledge in managing court and behavior in the court functioning. 10. It was an enriching experience and went a long way in confidence building. It has helped me in realizing that reiterating reasoning is important as the judgments are not only for the litigants and the judicial fraternity but for society at large. 11. Greater responsibility on elevation of a judge of High Court from District Judiciary . 12. It has impact on enhancing the vision. 13. Vision widened and learnt a lot from lectures as well as interaction. 14. Has been a break from the mundane routine; 2. Has put each one of us on a slope mode-think- then act and do not push the work in hurry; 3. Has revived the art of writing a judgment. 15. Improved judicial learning. 16. Art of judgment writing is an essential skill to be acquired by every judge. This conference has enabled me to enhance the skills of writing the good judgments especially with reasoning, rationality and objectivity. 17. Being a new entrant to the greater responsibility as a judge, I have learnt a lot from the programme as it has enlightened us as to how to discharge our duties more diligently, with justice oriented approach.
6.	<p>What are the 'best practices' in terms of judging and judicial methods which you have learned from the other high courts through this Conference</p>	<ol style="list-style-type: none"> 1. The judge should have understand the facts, included in the case, the issue involved and what is the law applicable to the case. Then the judge should first find out the precedents in the field and the most important factor is to give a rational thinking to all the aforesaid aspects and pass a reasons answer/judgment. 2. 1. Footnotes in judgment in context of law relied upon instead of reproducing extracts in body of the judgement; 2. Extent of reliance on precedents; 3. Adjudication in the logical context; 4. Expeditious decision, i.e. as far as possible in Court itself unless matter complex or requires taking down of law. 3. 1. Unbiased mind; ii. Upholding of rule of law as provided in the constitution of India. 4. Not much. 5. Not much. 6. Respondent did not comment. 7. It seems some High Courts, a few are more collegial than others; Zonal context adjudication or to contextualize in the context of place, state, region or custom. 8. 1. Disposal of cases and quality in judgement may not more parallel; 2. Speedy disposal of cases; 3. Avoid Court Adjourned Verdict (CAV); 4. Decision be given in the

		<p>open court after hearing the matter and decision have to be brief and rational with proper reasoning.</p> <p>9. There are different procedures from one court to another in some of the subjects. I am of the view that there must be uniform.</p> <p>10. Respondent did not comment</p> <p>11. Prompt preparation and pronouncement of judgment after hearing a matter.</p> <p>12. It improved way of thinking and changed perception.</p> <p>13. Rational thinking and fair perception.</p> <p>14. Write short judgments; clear judgments; practical judgements; keep socio –economic position of India in mind; Judging without bias; free from partiality; give clear and precise answers to the prayers made – well reasoned logical answers.</p> <p>15. There are different procedures being followed by each High Court in the country in conducting cases. I am of the opinion that a uniform procedure has to be followed in all High Courts to do justice between the parties.</p> <p>16. 1. Reasoning in the judgments; 2. Not to comment on others.</p> <p>17. Dispose cases by short judgement to avoid delay; discuss less cases of precedents etc.</p>
7.	<p>Please share from your experience two situations where you have faced constant tension in application of laws, in adjudication process and in writing reasons for decision making process</p>	<p>1. 1. While deciding applicability of amendment in Orrisa Civil Courts Act to the pending appeals as well as the appeals filed after the amendment came into force; 2. Application of precedents in deciding a petition under Ord.6 Rule 16 read with Order 7 Rule 11 CPC in an election case pertaining to 13 Kandhamal Constituency. Both the matters are still awaiting verdict.</p> <p>2. Granting bail in pending appeals despite the applicant being in custody for a considerable period of time in the context of offence committed, manner of commission of offence.</p> <p>3. None</p> <p>4. Nil</p> <p>5. Not many or for that matter almost every alternate case will make us think and study more but certainly no tension at all.</p> <p>6. 1. During my tenure as judge of High Court I had an occasion to deal with applicability of Sec 6 of Hindu Succession as amended by Central Act to in pending appeal file long prior to the Act, more particularly about its applicability, i.e. prospective or retrospective.; 2. Transfer Pricing- in Tax Laws</p> <p>7. In Narcotics /drugs matter where the punishment can be lengthened, the petitioner advocates raise technical issues for procuring bail; 2. Giving bail in alleged cow killing, since the law is now more stringent with length of punishment and the petitioner claimed custom usage.</p> <p>8. 1. In case where there are conflicting decisions referred, more research is required to form a correct opinion; 2. In case of voluminous pleading and documents annexed thereto particularly in civil matters.</p> <p>9. I have not faced aforesaid situation as on date.</p> <p>10. Decision making process begins from the day we begin to hear cases, but the time the</p>

arguments are over, a judge i.e. speaking for myself, I am quite clear as to the course of my decision. The application of relevant laws is a corollary. Therefore I have not faced this difficulty.

11. In one case (criminal appeal against conviction and sentence of life imprisonment with fine) the allegation of murder of the victim was stated by victims sons, daughter and more relatives but none else although the incident took place in a market area in day time. The investigation was done by police was found faulty. Some discrepancy was found in ocular evidence and medical evidence. Relative witness were found trustworthy although there was no corroboration by independent witness. Discrepancy in medical evidence and ocular evidence was found to be minor. Trial court judgment was not very drafted but had to be affirmed and upheld. 2. In one criminal revision at the stage of hearing neither party appeared. On sentencing it was found that intricate questions of law for determination was involved for which assistance of Public Prosecutor and matter was disposed of after bearing constant tension for a few days.

12. I did not face any such situation while working as judge of High Court.

13. Up till now no such knotty situation faced while adjudicating different matters.

14. In a murder case which the husband had killed his wife. The husband was the friend of the previous husband of his wife. The murderer husband was not doing anything. He married this woman after the death of her previous husband as she was a govt. servant. Later after marriage he used to demand money, all other benefits like medical etc for himself and his another. She used to be beaten blue and she used to narrate this to her co-workers. One day he along with his mistress pushed against the wall. She died. She was not taken to the hospital. The pleas taken was that she had slipped and hurt herself. There was direct evidence against the husband not no direct evidence the members of the family. The Trial court had given life to all the accused persons with the direction that life imprisonment was for 30 years. There was lot of tussle in my mind. The husband, mother, sister all were guilty of causing death of the lady. Finally I had to acquit all except the husband and give him life imprisonment, i.e. 14 years.

15. Adjudication process sometime in Service Matters with regard to pay scale.

16. Not yet come across such situation.

17. I have come across a judgment passed by 'Wafk Tribunal' where so many aspects of law, facts involved and there is no such appropriated decisions on the subject (matter of single bench) and finally I appreciate the statute only; 2. While deciding a law point about delay to prefer appeal against acquittal by victim's u/s 373 (2) CrPC, as law is silent about time to prefer each at least and no precedent from Hon'ble Apex Court, except two decisions from Patna High Court and Punjab and Haryana High court. However matter decided by us on broad principle of law (Division Matters)

<p>8.</p> <p>Kindly make any Suggestion you may have on how NJA may Serve You better and make the Programme more effective</p>		<ol style="list-style-type: none"> 1. In my view, the sessions should be comprehensive and not overlapping. The duration, if possible, should be shorter and preferable on weekends in order to save judicial time. Study materials should be provided sufficiently ahead of the workshop. 2. If possible material for the programme be forwarded to the participants in advance. 3. None 4. More frequent programmes; More specialized programmes; more discussion oriented programmes; Provide study material. 5. If can send study material and speeches delivered by eminent persons to all the judges to read at their convenience. 6. Circulate the material in advance at least 15 days before the programme. 7. A summary, brief of the Seminar papers can be emailed beforehand. 8. Latest decisions may be sent to all judges of HC through State Judicial Academy on important topics. 9. Programme through video conference or uploading through You tube or email. 10. A programme for Newly Elevated judges on Writ Jurisdiction would be of immense help, especially for judges elevated from the District Judiciary. 11. No comment 12. I would most humbly request for devotion of one session for guidance on bail, admission and interim orders passed at the admission stage, if feasible. 13. In this process when trainees are called upon to undergo a programme meant for us then brochure or other relevant material may at least be downloaded and information may be sent prior to one week from commencement date of programme. One or two persons only read out their papers which appeared a monologue. Normally there should be lively interaction on concerned subject. 14. 1. The programme should be not more than 2-3 days; 2. That will balance the judicial work also; 3. Place f the conference can be kept changing. 15. Respondent did not comment. 16. To consider for two days conference. 17. Every batch of officer should be called repeatedly so as to know their performance, after the programme; Some practical problems should be taken from such participants and for discussions, so as to redress such problems, either through this institutional [performance or through pursuance at required level, either Govt or appropriate High Court or Apex Court. Some burning problem like huge arrears, old pendency and fon fulfilling of vacancy should be addressed properly otherwise simple discussion without the participants will not be helpful. Appropriate Govt shold also be made aware of such issue to do the needful.
<p>9.</p>	<p>Any other Suggestion / Remarks</p>	<ol style="list-style-type: none"> 1. Respondent did not comment. 2. 1. If possible kindly arrange a person to be available in the evening also for ironing clothes; 2. Provide bathroom slippers in the room; 3.If possible have facility of computer with internet in the rooms. Computers be loaded with legal software; Programme material be preloaded for each participant on iPad and be made available for the duration of the course.

3. Nothing, except to take positivity of mind set to Delhi.
4. Nil
5. No
6. Respondent did not comment.
7. A very useful programme; The Academy is doing a marvelous job.
8. A lift is required to installed in the building near the Reception of the old aged judges have to scale stairs.
9. This kind of programme be conducted at State Judicial academy itself in order to save valuable time and money.
10. Respondent did not comment.
11. No
12. Over all this programme has sharpened the edges of my personality. It has developed my judicial skill. The programme has been educative. The training design has been nicely been carved out after analyzing the training needs or needs of newly elevated judges of the High Court. Refresher programmes be arranged.
13. These sessions should be repeated at a gap of two years if possible.
14. Respondent did not comment.
15. Respondent did not comment.
16. Respondent did not comment.
17. 1. Permanent faculty member should also there so as to research on certain areas of law, which couldn't be covered by such deliberations. 2. Outcome of such programme should also be informed to concerned High Court, so that necessary measure may be taken on this facet to address any serious issue; Respective State Judicial Academy can exercise such programme in their respective state in regular manner to all judicial officers of every rank.

SNo	Particulars	Respon- dent	Marks out of 5	Remarks
1	Reading Material	1	4/5	It should be sent to respective Courts.
		10	4/5	It would have been appreciated if there was more material on Writ Jurisdiction as well.
		16	4/5	Would have been better if circulated before attending the Conference.
2	Travel	-	-	-
4	Protocol	-	-	-
5	Reception	-	-	-
6	Cleanliness	9	3/5	Bathroom requires to be cleaned daily.
7	Food	14	5/5	More variety can be added.
8	Hygiene	-	-	-
9	Staff Behaviour	-	-	-
10	Hospitality	-	-	-
11	Others	-	-	-

P-955 Programme & Hospitality Feedback Mark Your Satisfaction, Ranging from 1 (Very Poor), 2 (Poor), 3 (Fair enough), 4 (good), 5 (Excellent) 0 Indicates no response for the following:																				
2	No. of Participants	18																		
3	No. of forms received	17																		
	Respondent No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	Total mark. out of 85	
No.	Subject							Marks												Total mark. out of 85
1	Reading Material	4	4	4	5	3	3	4	4	5	4	4	5	5	4	3	4	4	69/85	
2	Travel	4	4	4	4	4	4	4	5	4	5	4	4	4	4	3	4	4	69/85	
3	Protocol	3	4	4	4	4	4	4	5	4	5	5	4	4	4	4	4	70/85		
4	Reception	3	4	4	4	4	4	4	5	4	5	5	4	4	4	4	5	71/85		
5	Cleanliness	4	4	4	5	4	3	3	5	3	5	4	5	5	4	4	3	4	69/85	
6	Food	4	4	4	4	4	4	4	5	3	5	4	5	5	4	4	4	4	71/85	
7	Hygiene	3	4	4	4	4	3	3	5	4	5	4	5	5	4	4	3	5	69/85	
8	Staff Behavior	3	4	4	4	4	4	4	5	4	5	4	5	5	4	4	4	5	72/85	
9	Hospitality	3	4	4	4	4	4	4	5	4	5	4	5	5	4	4	4	5	72/85	

Prepared by the Documentation/Communication & PR Unit of the National Judicial Academy