

**WORKSHOP FOR COURT ADMINISTRATION**

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**P-963**

**Report**

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## **DAY 1**

**8<sup>th</sup> January, 2016**

**Friday**

### **SESSION 1**

**09:00 AM – 10:00 AM**

#### **Ensuring Optimum Use of Court Managers**

**Mr. Atul Kaushik**

Dr. Geeta Oberoi introduced the workshop and said that the workshop on court administration is not about application of laws or procedures as such, legal procedures but it is about administration. This is more about administration skills or about some issues which can actually help us in thinking about different perspective about the way we administered our courts. So the skills which we are going to give you are about those ones which will going to help you in your administrative work, not about judicial decision making but in administrative decision making. Most of you have court managers in your courts. Some 13 high courts have framed the rules as well. It is about how you are using these court managers in your day to day work so that more time we get for your judicial work and less you have to involve yourself in non-judicial work. The question is whether this is proving successful.

Then participants introduced themselves and shared their experience regarding use of court managers in their court.

Mr. Atul Kaushik discussed the original intention of the government and the National Judicial Academy in experimenting on having court managers in the districts as well in the high courts. The guidelines prepared by the National Judicial Academy were sent to the 13 Finance Commission along with the number of other activities for the improvement of the Justice delivery and the 13 Finance Commission accepted the proposal and allocated some money for court managers. It gave a generic recommendation saying that in order to improve efficiency and improve disposal of cases all high courts and district courts should have court managers.

The National Judicial Academy also developed a certain eligibility criteria for the court managers. We had feedback on various high courts and the number of high courts have lot of challenges in meeting the eligibility criteria. Maharashtra is one the state where the judges are saying it is functioning very well.

## **Roles and Responsibilities of Court Managers**

### **Policies and Standards**

- Assist courts to establish the performance standards
- Create modalities for evaluation of compliance of courts with standards and identify deficiencies
- Maintain such evaluation on current basis through annual updates

### **Planning**

- Prepare and update annually a 5-year Court Development Plan (CDP) in consultation with stakeholders of courts
- Monitor the implementation of CDP and report progress

### **Information and statistics**

- Create mechanism for efficient compilation of statistics on all aspects of the functioning of court
- Ensure compilation of reports on such statistics

### **Court Management**

- Undertake studies on compliance of the systems and procedures for court management as laid down the High Court
- Suggest mechanisms to ensure that court management system safeguards quality, ensures efficiency and timeliness and minimises cost to litigants and to the State

### **Case Management**

- Create mechanisms to ensure that processes and procedures of the court are compliant with the relevant statutes and the policies established by High Courts for case management
- Suggest improvements in case management system in consultation with presiding officers and their staff

### **Responsiveness Management**

- Ensure that the court meets standards established by High Courts on access to justice, legal aid and user friendliness

### **Human Resource Management (HRM)**

- Keep HRM of ministerial staff in the court under review to comply with HRM standards established by High Courts

### **Core Systems Management**

- Advise the court on effective document management, utilities management, infrastructure management and financial systems management

### **IT Systems Management**

- Set up compliance mechanisms for effective use of the IT systems of the court (e.g. eCourts)
- Create mechanisms to monitor disposal of cases through NJDG

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### **Status of 13 FC Award on Court Managers**

- Rs 300 crore allocated, only Rs 100 crore released;
- Delays in appointing court managers
- utilisation certificates received for only Rs 40 crore
- Only 128 court managers appointed
  - Haryana(88), TN(70), Punjab(46), Rajasthan(39), Odisha(32), Bihar(32), AP(27), Jharkhand(24), Assam(23), Maharashtra(22), Karnataka(21), Gujarat(14), MP and Chhattisgarh(12each)
  - Monitoring stopped after award ended in March 2015

### **Court Managers internationally**

#### **United States**

- A court administrator plans and oversees a courthouse's administrative operations, facilities, budget and case management procedures. They can also run the court's communications, which includes speaking with the public about the court's activities or acting as a liaison for the court

#### **South Africa**

- Court managers are responsible for the overall management of courts and act as a support to both the judiciary and prosecution. The duties of the court

manager include business planning processes, managing the facilities and physical resources, as well as information and communications, Implementing departmental policies

### **United Kingdom**

- A court administrator is responsible for dealing with enquiries from the public, preparing lists of the day's court sessions and keeping ushers informed of these, updating of court electronic systems with the decision of the court

### **Canada**

- The general purpose set out for the organization in the Courts Administration Service is to enhance accountability for the use of public money in support of court administration while safeguarding the independence of the judiciary

When you have somebody on the contract then the principal district judge will not be having the confidence to leave a lot of responsibility to the court manager because he is on contract. He doesn't have job security. He is probably going to spend a part of his time in office searching for jobs which are more permanent. So it is for you and the state government to work out whether you want to have court managers on a permanent basis or not.

### **Guidelines under the 13 Finance commission**

The first is at policy level there are certain issues that you can outsource to them. The court manager cannot understand why which procedures have been evolved for running court. But he is a manager. So once you train him to understand why we have this procedures is probably hoping to able to establish in consultation with you certain task. He can also help you to monitor to evaluate performance of the court. One of the feedback which we got during the implementation of the 13 finance commission was that the court manager who is a mere manager cannot second guess how a judge should perform. Some of the smart PDJs have used the court managers not to judge the performance of a judge but to judge the performance of the court and there is distinction between the two. So if you look at court as an office and you give him only those responsibilities which are required for the office to function better then he can set those standard, he can enable you to monitor those

standards and he can evaluate at the end of a certain period the performance based on those standards.

Manager does not know what a good court is so he cannot develop a court development plan of his own. But if PDJs can explain the objectives to be achieved through court development plan then he can give input to make those plan everything from kind of building and facilities in building, case management procedures, and kind of process service branches. These managers are very good in making log frames, charts, timelines, triggers, alerts stuff which is their domain so they can be used for that purpose and they have been used by some to the benefit of the courts. Once the judicial officer determines, how the court is to be managed, then setting of that standard, monitoring of that standard and evaluating to what extent judicial officers are using the norms set for the court managers. There again the court manager can help.

Case management is tricky and basically a judge's work because a manager would not know CrPC and cpc which only a judge can understand who is hearing adversarial arguments about how any provision of CrPC and cpc has to be interpreted. He can help you analyze how far you are doing well. Again in creating a log frame in creating some kind of assembly line, operation of how things have to go. He will tell you the three adjournments, fourth adjournment which I think should not have been granted as per cpc. Access to justice making sure that district legal services authority functions well. So that is the kind of responsive management that can be transferred to the court manager. For enhancing user-friendliness of courts the court manager can go around the campus, to see that whether water tap is running, is chai wallah functioning well, is he too dirty. He can report on the user-friendliness of the court for disabled persons. Human resource management can be completely transferred to court manager subject only to advice from PDJ and establishment heads on individual performance of individual officers. The court manager can tell you how to create the management structure.

Court managers can be asked to ensure document management in record room. How to develop a system where the 20 years file or 10 years old file as per the court rules can be brought back to the chamber for review and destruction.

At the time of selection of court managers, the IT experience as one of the eligibility criteria should be looked. Court managers can help in implementing lot of activities that judges have to do as part of the ecourt project. It is for judges to give feedback to high courts and the high courts in turn can give the feedback to the state government based on what type of court managers judges need, what kind of money court require to have those court managers, whether they should be contractual or permanent and so on.

Dr. Geeta Oberoi then intervened and invited questions from participants.

One participant said that such person should be expert in financial rule also. If he has knowledge of financial rules of high court rules and other district court rules. He may assist district judge effectively. He dont know general rule civil, general rule criminal. Then we asked to go through the book of general rules civil and criminal. Another participant added that they can be used for the court datas, correction of datas and updating of datas. Even the high court, even the central government, state government has asking for certain datas of the cases like the POCSO and other special Acts.

Mr. Atul Kaushik here added that court manager cannot be be all and end all of everything you dont want to do as a judicial officers. You have to optimize his availability as a person with managerial experience. One of the eligibility criteria is that he should have experience in financial management. Suppose you end up as a PDJ getting one of those recruits of the high court who doesn't have financial management. Then you have your own financial people. Your account department who take care of finance. Dont burden him with a work of which he doesn't have experience. Government has washed its hands of on the 31 March 2015 because there is no more to employ court managers. Courts are not able to talk with the state government to continue to do this activity. Some judges did not want court managers, they don't want the experiment to succeed. As a consequence we have a very mix picture whether the court managers is a thing to stay in India or not. Judges make changes in the guidelines of the 13 Finance Commission for court managers

and make the suggestions and let the high court work out a better profile of who they want as court manager and then you optimize the use.

Participants from Tamil Nadu said that court managers are doing excellent work with the help of senior staff, so unless they are given some ideas, they cannot do the inspection. Unless they are imparted some knowledge of cpc process of service of summons they cannot think or decide. So it is the duty of judicial officer after they are inducted having the skill in management and IT they may be given the necessary training about the high court rules. The requirement of court managers or research people in all the high court are not same.

Mr. Atul Kaushik responded and said that all court managers may not have all the wherewithal for all and they had to be trained. Within the constraints what you are getting how to optimize is what we need to work on and based on that may be I thought I will listen to some success stories on how you train a court manager.

Justice Roshan Dalvi added as a judge I thought when the court managers came I would be relieved of that unnecessary burden which doesn't make me a judge. I am proud be a judge. I am not proud to be a manager. That is what I thought. Judge is a judge and I thought that all judges will feel better as judges than as managers. Judges love to be managers somehow and they feel they have power in managing courts. So if we work as judges we work with managers and try to extract the best out of them. In court we use law and we became good judges. Where do we learn judging? We learned judging on the spot. So managers should also have some training.

A participant raised the issue that court staff feel comfortable when the judge says anything about management. Their employment is more guaranteed as that of the court managers. They know that the court manager will go within one year and these will be permanently staying in the institution. So they may not furnish the required information to the court managers.

Mr. Atul Kaushi responded to this and said that is the general feedback on court managers but this is a very important point that he has made that the staff member



take the PDJs word as law why should he care about a court manager who is coming and going. I found a very good example of how the PDJ helped the court manager acquire the necessary seriousness or his procedures and practices. This was in Jharkhand. So this court manager has recently been appointed. He came up with an assessment manual with triggers as to when this should be discussed. So he brought the assessment manual as the paper that he prepared to the PDJ. The PDJ signed it as a working document for the court staff. So after that all the readers, whether he is CJJD or CJM and they filled up those forms which were appended to that assessment manual and they gave it to the PDJ and PDJ said that I don't need to worry. The judges coming tomorrow without telling me I am very happy because I have got everything ready. I can tell him from this manual what is that. Then once that became a practice the court manager got further confidence and converted that manual into an extra sheet and he put it in each computer. So nobody has to do those long sheets of paper every weekend. So how to give him that authority is in the hands of the PDJ.

## **SESSION 2**

**10:30 AM – 11:30 AM**

### **Case Management**

#### **Justice Roshan Dalvi**

Justice Roshan Dalvi initiated the discussion and said that the contribution of the Indian judiciary on substantial law is being actually taken up and considered by various courts in America, Canada, England Singapore etc. But we are so much lacking in the procedural aspect that we go right down at the bottom of the international scene.

She gave the example of her husband who is a solicitor and had one international matter where he was representing an American company with an Indian company. They were concerned with one clause of the contract and that is the clause that my husband spoke to me about when they came to see the draft which was prepared by the solicitors the client told my husband. You draft whatever you want about our

handling of the contract. We are agreeable do it in the best possible way. But don't give jurisdiction to Indian courts we want jurisdiction in New York. So her husband tells her this is what you all do. This is the image that you have created. So far as our commerce our economy, our business, our contracts are concerned they want it. They just want to come but they don't want our judicial system.

There is need of better court management for improving performance. In our court we must have team work if we must succeed in management. If there is only person in the court he can't do everything. Therefore we have the whole department. We have got various department and there are sub heads. There is a team work there are many people down below and there is one person at the top and that is team work so we extract the best of the people whom we know and we delegate it to them. If we work as a team then together the judge and the manager will achieve more. We have to do planning, directing and coordinating. So in your work also everything you require is to plan to organize to direct to coordinate and to control.

Suppose your plan is water harvesting. It must be there we don't get enough water in our court. Are you as a judge going to find out how to do that water harvesting. Suppose your room is leaking should you do it. Is it really your dignity to do that work? I would say I don't want to do this work it is not my job. You require court manager he will use his managerial skill and give to him and he will do it. This is helping hand which the government has given us which we are not utilizing to its optimum capacity. You have to direct may be you have to tell him you can do that much.

The first managerial principle is non-value added. Non-value added items is what businessman never do. So many judges love to do the work which is non-value added item. It doesn't give you disposal. You just love to do it because your brain tells you oh it is some great work. The businessman thinks it doesn't give me profit it is an overhead expenses.

Now we go to core competence. You do what you are best fitted to do. In UK they appoint specialist judges. A judge is appointed to do the work which they are best suited to do. So either he is a civil judge or criminal judge because these are two big

compartments of every system in every country. Then there may be a taxation judge. Even in our judicial system as a district judge when you are assigning matter the same principle will apply. When you are assigning matters it is best to know from your judges what he likes to do what she like to do and the morale of the court will rise the disposal of the court will rise, the efficiency of the court will rise. The core competence is not used only in judging. The real core competence is the distinction is the judging and administration.

Then time management. We will go to paradigm first. Paradigms are the principles what your company wants ultimately. Our paradigm is that we have to give the highest number of best judgements that should be our paradigm. The best managerial skill is to do the same thing with greater efficiency and lesser cost. In our word for ourselves it would be greater disposal with lesser time.

Achieving the same end with less resources in less time. So unnecessarily you don't do various things and involve resources. One small wrong step means that your peon has to get the papers. Your clerk has to the task. Your steno has to take down the matter and you have to correct it. You have to sign it. All these persons are doing some unnecessary work if it is an unnecessary application. So you can achieve the same end giving him 10000 Rs. with lesser resources amount of whatever is required of the court.

The judges must drive the lawyers to do what should be done. It involve some kind of efficiency and some kind of homework first of all, to be in control then somebody will say that this court is really well managed. The judges must control and judge will say I don't want that, I told you to give me that, you give me that alone. Otherwise I pass such and such order. Only doing that much and showing that you mean business. It goes a very long way. Each time it is whole suit that comes before us just as it is coming before you. A whole criminal case and whole civil case. This list gives you some kind of English actual report on case management and how it can be incorporated in India. Make your rules as simple as possible. We can have it by amendment of our CPC and our high court rules.

The orders and rules of the cpc can be amended by the high court and if district judges have a meeting with a high court judge they can say about the need of amendment in procedure and then judges can have a better procedure.

Second is the defense. If lawyer make unnecessary application and on day one we dismiss it without hearing the other side because it is a dismissible application it will come to end. Nobody says under the law that when any thing comes first and if it is without merit you don't dismiss it on the first day where is that law but if without understanding if we are going for just hearing for the other side then then the CA comes then the rejoinder comes.

Then we must know from the cpc there are so many salutary provisions which will give the decree immediately. There is order 7 rule 11 rejection of plaint. A defense lawyer can say I will get the plaint rejected. It is a very good case for rejection of plaint. No jurisdiction limitation etc. A plaintiff lawyer would say order 12 rule 6 judgement on admission. This is the admission that defendant has given I will give you that tomorrow. These are my fees. It is a package deal. Now the litigant don't know this. The lawyer know it very well but don't take out order 12 rule 6 application. But when a judge see that there is an admission. We have to find out which are those management principles to be able to manage our case better and give a packaged deal to the litigant. Then order 20 rule 18 all these orders which relate to preliminary decrees.

Therefore we go to next thing ADR. Arbitration, mediation and conciliation. Then there are other ADR modes in our country and that is lok adalats, panchayats, then capping of costs and granting realistic costs. In England they give actual costs. When I was in England there was one matter of damages where the plaintiff got damages of 27 million pounds and he was given cost of 2.5 million pounds. That was 10%. Because of these kind of costs, a rightful party doesn't want to settle. He knows that he is in the grill. His lawyer advised him that way. He will never never settle because he gets all the costs from other side. So he doesn't lose anything. So then there in England they decided that now we want things to speed up we want to reduce our delays and costs and all that there should be capping of cost. So that even the rightful party will not go over these small applications because he is going

to get back the money. So there will be a cap means a limit. After that he will get no costs. He will incur those costs. So that enable that rightful party to settle or to come to the last thing. In India if you are going to get 5000 Rs today the man will say ok I will get 50000 Rs everyday by denying the claim. So we have to give realistic costs and now several Supreme Court judgements the costs are 2 lakh 5 lakh 10 lakhs depending upon the stakes.

In Delhi Bombay etc you can grant various lakhs. One week back a judgement has come granted one crore cost because the appeal was absolutely futile and the government land was being held up by a builder through a party who had no title and claimed adverse possession wrongfully for 25 years. This is the part of our case management system. What is that ambit of how we will manage cases? One thing is procedural and the other thing is substantive. Like I told you for order 15 rule 3 so we have to consider out substantive law and find out which are the salutary provisions some of which I gave you just now and that I apply that for the procedural part we have to see how to make our procedure shortened.

We have to sit with court managers and say this is taking three years of our time notices are not being served, process is not issued, bail dont work, postage doesn't come back, what do we do. The court manager will tell you what you can do. In Bombay there was a kind of contract with the Bajaj Institute of Management which studied our statistics and our case working for notice how many suits come up, how they are given, how long it takes then notices when they are issued when they come back, then how they come back, they come back, they come back unserved they come back served, then district judges involved, all sort of things. They gave one simple solution.

The litigant should be asked to serve notices for instance in Bombay on the vigilance side when a court have to give first order, that is the ad interim relief, it say no order unless you serve the other side. So the plaintiff serves the defendant and come. The application is served, affidavit is served, everything is served. Then you have to wait for services. There is no other process of service required, no other notice required. In the appellate side in the Bombay high court this procedure is not there. So therefore when an appeal is filed, issue notice and then await service and it goes on

and on. Even though this simple principle was told and so much work will get lessened once the process is served on the first day only. Then thereafter you file a written statement or even if you file an affidavit and reply there is only one defense. So this is regarding procedural and substantive law.

One requires infrastructure. You require a court complex, you require a departments, you require computer system, and you require court manager. All that is infrastructure. That cost a lot of money. Government may give or may not give. After the government gives you may use that or may not use that court manager. The second thing is sensitivity. You will be able to find out how much time I have wasted six adjournments for what. Then you will think, don't grant this sixth adjournments. First day I will such and such thing. For example a written statement has to come. A written statement has not come on the first day. Keep it for ex parte decree. Is there any law which makes you not do that? No but judges think that we have to adjourn three four five times then we have to keep for ex parte decree, then we have to adjourn three four five time then you have to pass ex parte decree. That is no such law. That is sensitivity which is required. These are the small points in our case where every time we require sensitivity. For the plaint that we need, for the service that I told you, interim application that I told you. The written able date that you have to give. Rejection of plain, order 7 rule 11, you appoint court commissioner you do some work.

Even you record arrear under order 18 rule 4. You have to do it yourself. Tell a lawyer to do it. Then oral applications, you can work on oral application sometimes. You dispose of the suit then written statements, how long you will take, how many adjournments. Original documents you see and verify in the court itself, pass preliminary decrees, issues when you decide on the main application, interim application. You know everything threadbare. On that day frame your issues. No law says no says no. You don't have to adjourn, keep it for framing issues then. This practice is a wrong practice because you don't want to do it now. Another judge will have to do it again. Together you are in administration so as a court then you have to do all of these things.

Scrutiny which you can get through the court manager. You don't give much importance for technicalities. Pass your direction for whatever you want each time. Certified copies must come out on the same day. Everything is computerized. Tell your stenographers two more copies, put the stamp give it from your court. Suppose you have passed an urgent order what you will do. You have to give it at the end of the day. You must keep all your matters in a group between two parties. New suits when they come up, take up for ADR. Case tracking is a computerized system, Expedition order you can pass for the simple matters.

When you understand that one party is definitely on the rise, expedite that suit so that doesn't get clubbed up with the other suit which will take long time. Then you can discharge your suits there is roll call. You must discharge the suits on board so that people know. Now everything on the website. You classify your suit that the PDJ has to do. Classify your suit and give it to the district judges. Registrar powers must be increased. Everything which is directional, must go to registrars. So that all that work goes out of the court system. Then you can have facilitation counter. You can amend certain statutes. All this will be in these five possible modes.

A participant said that in my court usually the decrees are being drawn up for all the matters including the cases which are disposed of otherwise. Section 2 of CPC where it doesn't mandate the preparation of decrees. No decree will arise from an order of dismissal for default. It is nothing but a waste of time. So I gave a specific written instruction to all the courts under my district. Not to waste your time in preparing decrees for these kinds of matters. When law is very clear in section 2 of CPC that no decree shall be made for any order of dismissal unnecessarily they are wasting their time.

Justice Roshan Dalvi responded to this and said that ultimately there is no difference between a decree and judgement so far as a litigant is concerned. You can always dispense with a decree. She further added that judges have to frame issues when they hear the interim application and it is very sort of procedural part. Therefore the law says that you can amend or add to at any time under order 14 rule 4. Once you frame the issues you can tell the plaintiff now file affidavit of evidence. Take your inspection of document in your own office. Suppose there is no affidavit of evidence.

Put the case for dismissal. Even if there is no written statement put the case for ex parte decree. As soon as you put it for ex parte decree it will come with a written statement.

A participant said that on arbitration issue where the arbitration clause was in New York instead of India. Those people would have been afraid of Indian judiciary because of integrity and accuracy of Indian judges.

Justice Roshan Dalvi responded to this and said that Prof Lawrence in 1999 he wrote an article and he said that for the millennium wait for the Indian Supreme Court. Indian Supreme Court will tell you and guide you how to proceed with that. But that was on substantive law because of our judicial activism. Because of so many cases we were having on substantial law where the judiciary intervenes for example our pollution issue. In Bombay we passed orders on the division bench of the high court in a writ petition in a PIL and today the pollution has come down so much because CNG is now made compulsory. These are the judgement which are admired in the world. But our procedures are not admired in the world. We don't have to shy away all the time from whatever is against us. In the Bhopal gas disaster case, it was a case for damages. There was nothing like interim damages in the law. But he said that in this kind of a case. Some damages have to be paid now before the plaintiff prove saying because how are they going to prove anything when they are going to die. He gave interim damages it was challenged in the high court, it was upheld and that has now become the law today. I always say that when a district judge takes up an issue only the high court will be able to consider it. It may be set aside don't worry about that. Your conscious tells you that you have done your work.



## **SESSION 3**

**12:00 PM – 01:00 PM**

### **Time Management**

**Prof. Dr. Parul Rishi**

Ms. Paul Rishi initiated the discussion and said that everyone does time management. Everyone knows about it practicing it. We consider that whatever we are doing is just fine and there is no need for any change in that because it is a general human psychology that we all create our comfort zones. We want to be within that and we want to be very happy about it and we just try to protect the boundaries of that comfort zone.

We don't want to come out of it and that is the reason we try to defend always that whatever we do is correct and whatever is being suggested from outside and that is creating a kind of breaking my comfort zone and I don't want to do that. So the first step in learning is that have the permeable boundaries of your comfort zone. I am not saying that not to have the comfort zone but its boundaries should be permeable in which if some good suggestion is coming up we should be open enough to incorporate that within our life. Many people are very meticulous about it by some estimate people waste about 2 hours per day due to messy desk, cluttered files, they are not able to find things. They are just messed up. They are unprepared to do the things which they are going to do. They try to do the things which other people are supposed to do. Many time we just believe that others are not able to manage the way work the way you are expecting. They are not as per your expectations. Its ok you stop it I will be doing it myself. You are not able to manage your time well because you are taking the work of other people on your head. So try to do the things which other people are supposed to do as a result you are tired. These are the things which are not expected for a professional judge or a professional worker in any field.

Ms. Paul Rishi then discussed the relationship between personality and time management. Different people have different personalities and that also interact with the way we manage our time. I have a small scale. It is psychometric assessment

about the personality types. This scale will just try to know a bit about ourselves what kind of personality we have and then we will try to see how we are managing our time and what kind of difficulties in managing our time are because of our personality.

Ms. Paul Rishi then explained 80 20 rule. It is basically the art of distinguishing between what is trivial and what is important. You will find critical witnesses that you come across, they are few only 20% in number and the trivial distracting unnecessary information that lawyers and other people they just try to stress upon you to listen you know that it is unnecessary. That is 80%. The time spent what we do we are lost in the trivial information which is 80% but requires only 20% of your time but you are swayed in that and many times you spend more time in the trivial details as a result the total time available is same with everyone. So that should be reverse 80% attention on 20% critical details and 20% attention on 80% trivial details. We should always remember the difference between what is trivial and what is critical and accordingly distributing our attention to them. We are coming back to the behavioral profile, it is now with everyone.

Ms. Paul Rishi then explained bipolar scale. There are seven items and there are two extremes to that like number one we are casual about appointment. Extremely casual about appointment you have to circle number one and if you are never late in your life you have to circle number 7. In between any number that actually identifies with you that is important. Type a personality people are kind of workaholic people. They are highly perfectionist. Many times they are difficult bosses because their expectation from their subordinate staff are very very high. Many times people working under them they are not that kind of personality so they find it difficult to handle such people and they are bosses. So they are prone to burnout, prone to stress related disorders, prone to executive diseases like hypertension and all, cardiovascular disorder, migraine, tension. This personality can take us to that stage of psychosomatic disorder. They are too good in managing time to the extent that they are poor in delegation. I will tell you a story of typical type a personality person. Type a personality many time face some difficulty related to interpersonal relationship because their work life balance is not that good. They are more towards work and less towards family and balance becomes very difficult for them sometime.

They play for winning. They are highly competitive. Sometime even aggressively competitive. So that kind of problems are associated with extreme type a personality which is the score above 110 roughly.

Type B personality have the characteristic of slow sustained qualitative work, high quality work over a longer period of time, without suffering from any stress related disorder or less frequency of stress related disorder. So in that way type a or type b personality differs and there is a need to balance our personality like when there is a deadline. Just push it hard have a killer instinct to just reach that but when you get a free time use it as a buffer to manage it in a way to have relaxation and sightseeing. So actually both the extremes are bad in managing their time. Only thing we have to do is to look for alternative. If I don't push at this time what can happen, can this work be done by someone else who is working under me and paid for that?

What we are actually expecting in time management in judiciary cases are managed and disposed in due time. Without any undue delay and without compromising the quality and fairness of judgement. Both are equally important. The tools to measure time management, how you can measure time management. Quantify delays, how much delay is acceptable. Why there is delay what are the reasons for delay. Whether they are avoidable. Who is accountable for delay? Is it because of lawyer or because of judge or it is because of the witness or it is because of the administrative people involved in that. So accountability is also very important. So for managing time we have to start with the time planning. If we don't have a plan we are not threatened that we will be able to achieve it or not. So we start at time planning through time frames.

Ms. Paul Rishi then emphasized the need of time frames. Time frames has to fit in the contingency of local culture. So for timeliness of case processing the first step is setting realistic and measurable time frame for every case. It must be realistic and must be measurable. Then enforcing it. You have planned it you have a time frame but you are not enforcing it. Enforcing a time frame and monitoring at every step and you are not waiting till end whether we could achieve it or not. We are here we have to reach here in between these are the steps. From reaching from step a to step b, this much time is to be taken. So accordingly at least some assessment you are able to do. When you are preparing a time frame. Everyone should be the part of it means

all units in your system. They have to be the part of it. Even as a judge you are trying to decide some time frame. It is not executable because many people are the part of that process. All stakeholders must be committed.

Then help building the environment of innovative policies. Again the issue of comfort zone comes. People will say it never happened. Why we should struck it. Can't we start right now? Let us try let us fail, the only thing we have is failure

Then building the culture of shared responsibilities rather than the blame game. If we are considering ourselves the part of the whole system and not just other side of the table. This is one area of participative management. People who are working under you they will be the part of your system. May not be in the government giving power but at least the functional partner and the scenario become complicated. They are cooperative in time management otherwise they will say no we have never done like that why I should do it. So we are talking about blame game and another personality trait comes into picture and that is attributional style. It is internal or external.

So these are all external locus of control. Similarly we do in our profession also. If something wrong happens we start blaming all the other stakeholders except ourselves for not being able to do a particular task. There is another category i.e. internal locus of control. Such people say try again. May be I need to work little more hard. So when you are able to take the reasons within yourself. Your perspective will be completely different you will not blame anybody. Focus on ourselves I am the head of the institution. Everything whatever been done is initiated by me. If everyone is having this tendency that I can make a difference. The scenario becomes completely different. Unfortunately it is not there that is why India is a developing country. We keep on cursing the government for lack of development. So people with internal locus of control have a better tendency of managing their time.

Ms. Parul then discussed examples of time frames across the world. Finland has decided optimal time frame for every type of cases and they are agreed for case processing. Slovenia court rules has a time frame of 18 months after the case has been presented before the court. If a decision is not taken within 18 months the case is considered delayed. The head of the court may ask the judge in charge to report

the circumstances why the decision has not been reached. So they try to avoid that reporting component and try to just come on the judgement before that. Sweden is having target for civil and criminal cases set by the government and all the units within the court.

They have to define the target many of you may be knowing about it. Time frame makes more sense if they are set up allowing the different kinds of procedures. You cannot have similar time frames for all kind of cases. 58% of the civil cases should be disposed of in one year in Denmark. 63% of the criminal cases should be disposed of within 2 months and 95% within six months. Norway time frame is proposed by ministry of justice with consent from parliament. 100% civil cases should be disposed in six months and 100% criminal cases in three months. Whatever time frame we decide may be four times five time of that but at least some indicative time frame must be there to create pressure on ourselves. We have to just work within this system.

Ms. Parul discussed the time management matrix by Steven Covey. Everything whatever we do can be categorized in four categories. The one category is the activity which we do is urgent as well as important like crisis, critical pressing cases, deadline driven cases in which you have to work out very quickly, meetings that you have to handle. Then another category, urgent you have to do it now. But they are not very important. So you have to avoid them and if not you have to delegate them to other suitable people who can handle it and you can save your time for some more critical activity. Third category is not urgent but important. In which you are giving time on complex cases, which can have long term implications which can create a precedent or other activities which you considered that not necessary that you have to do it now. But they are very important and no one else can do that. So you have to focus on them but you have to decide when to do and not to do. Because in that way you are not rushing to do a particular task but you are able to spend qualitative time on this particular category. Last and fourth category which are neither urgent nor important. So we have to limit all the time waster, gossip, disturbances, unwanted people, unrelated details which are trying to confuse. So you have to see how your time is distributed a month these four activities. Remember the last working week when you were spending time doing the work and try to list out the

activities which you did which were urgent as well as important. Try to divide your eight hour working into these four cells and see how your working goes.

Ms. Parul discussed the prioritizing of work through example of rocks and jar. Prioritizing to choose the big rock first which requires maximum time and efforts, accordingly you have to just plan it. Schedule the week keeping in mind the reversal of 80 20. Means 80% time to 20% critical details and 20% time to the trivial details and trying to understand the difference between what is trivial and what is critical and that is the first step if you are not able to distinguish between the two then you wont be able to distribute the time.

So Peter Drucker says work where you are strongest 80% of the time, work where you are learning 15% of the time, work where you are weakest 5% of the time. So know your potential accordingly distribute the time so that whatever. Try to plan your important activities during your precious time when you are at your best when you are full of energy. You are able to do a lot and push the activities which can be done at any point of the day even when you are not that energetic for the dead time.

So you must see that you are using your time efficiently, you are doing the work which is to be done by you only and delegation is also done properly, you are not wasting other people time and you are not doing the activities which are done and which are not to be done at all. So delegation is very important.

Many time we say that our subordinate are not efficient. If you hire me to bark at your employees that will free you for more important things. It says that even if you have inefficient people try to just give them that kind of activity which you feel at least they can manage and you can at least save some of your time. So try to utilize the human power available to you in a way possible with your wisdom distributing right task to the right person so the time is also saved and at the same time the quality of work is also not negatively affected.

Parkinson's law you must be knowing about it. Work expands so as to fill the time available for its completion that you have four days you have to do that. You have 14 days for the same task, it will expand the work in such a way that even at the last

minute only, you are able to do. So try to just see what is the ideal time within which you are able to do a particular task.

Steven Covey in his book first thing first he is sharing his stories. He is in a class and he shows this particular jar to his students and say how many of these rocks do you think we can get in this jar. How many rocks you can put in. So people started making guess how many rocks are there. He said ok let us find out. He said one rock in the jar and then another counted. He got the jar full. He asked the students is this jar full. Of course everyone said that this jar is full of all the rocks then he goes under the table and you can see, he finds some gravels and just put them in the jar and all the spaces which were left out with the rocks, they are filled with the jar and he shakes the jar like this so that gravels are just adjusted in the little spaces which were there in the jar and he says is the jar full. Probably not he reached under the table and brought out a bucket of sand and started dumping inside and whatever little spaces the gravels left so they were going inside that and he was able to just make the jar full. Then again he was saying is the jar full. No everyone wrote. He grab a pitcher of water and began to pour it. Well then he asked what the point is. Always there will be space for the right thing. If you work really hard you can always fit in more. But is it important to fill more and more things into our lives and just become so tied up in so many tasks that we don't have a breathing space. Is it right? So he said it is not a point. The point is to put the big rock first. If you are not able to put the big rocks first and filling the whole jar with the gravels and the sand and water at the most. Of course you have 24 hours and you could do something in those 24 hours and say I am busy but whether you have actually put the big rock first in your life when you are actually able to address the urgent and important activities of your time plan or not. That makes the huge difference in whether you are successful or not. So with that we are ending the session. Thank you.

## **SESSION 4**

**2:00 PM – 3: 00 PM**

### **Budget Management in District Court**

#### **Mr. Yashwant Kumar**

Mr. Yashwant Kumar initiated the discussion and said that finance and money is a subject which involves all the three orders, executive and judiciary. The work of none of the organs can be performed unless they use money. So finance is a subject which permeates all the three organs. The problem arises when a subject relates to all the three organs. How to manage that particular subject and where is the independence of all the three organs. When we see the Constitution and other arrangement of the structure of the state that law making job of legislature, law administration and law interpretation, job of the judiciary and implementation of law is job of executive. But finance is the subject without which none of the organ can operate. In such a matter which involve all the three organs so there should be something which can guide all the three organs and that arrangement is the Constitution. Constitution which guide all the three organs has made very detailed arrangement for the management of the finances for all the three organs and efforts has been made that because of finance there may not be conflict among the three organs.

Mr. Yashwant elaborated the detailed arrangement in Constitution of India on management of finances by all the three organs of the state. Constitution has made provision for financial management both at the central level as well as state level for all the three organs. At the central level these are the articles which have made provisions for management of finances at the central level.

#### **Constitutional Mandate**

- (i) Article 112
- (ii) Article 113
- (iii) Article 114
- (iv) Article 115



- (v) Article 116

Article 112 and the corresponding Articles also I will tell which applies to the state level. So Article 112 and the corresponding Articles at level is 202. 113 similarly 114 and at state level 204, 115 state level 205 and 116 and at state level it is 206. In Constitution budget have been called as annual financial statement by Article 112 and 202. This is presented in the legislature after the approval of the president. On behalf of the president for each coming financial year. First it is presented in Lok Sabha and thereafter in rajyasabha and in state legislature. It gives the estimate of receipt and payment of the government in the coming financial year. The estimates are divided in following forms. All the expenditure divided into two parts, charged expenditure and voted expenditure and similarly all the expenditure of the government is divided into revenue expenditure and capital expenditure.

Some of the expenditure are declared as charged upon the consolidated fund of India or state. Charged means there will be no voting on these items of expenditure in the parliament or state legislature. However there can be discussion on these items of expenditure. Examples are the expenditure of Supreme Court of India, expenditure of high court of the state but expenditure of the district judiciary comes in voted part. All the expenditure of higher judiciary is out of the purview of voting of the parliament. So this is an arrangement of Independence. Why it is out of the purview. To give independence to higher judiciary in the scheme of organs of state. Voting expenditure on which the house has to pass it by voting in its favor and only after voting in its favor passed by the house of parliament and legislature then only the expenditure can be done on the account of the consolidated fund of India or state.

A participant raised a query that salary of the Supreme Court and high court judges is charged then how come the bill for increasing and acceptance of the parliament has to increase the salary of the high court judges. Now it is put down for discussion. That is the agenda increasing of salary the extent of being put up in the discussion of the parliament and it is going to be introduced. If it is a matter not to be voted can it be discussed?

Mr. Yashwant Kumar responded to this and said that is not the part of the budget. In budget the salary scale which has already been fixed will be presented in the budget.

The increase in salary is a policy matter. It comes under voted. District judge's salary come under state legislature. Head of accounts for high court and district court separate head of accounts are there. Capital is an expenditure in which create permanent asset like building, road, plants and equipment etc. That expenditure comes under capital and rest of the expenditure like salary TA DA, office expanses that comes under revenue expenditure. That is why it is presented in legislature on the recommendation of the president or governor or it is first presented in loksabha and rajyasabha can discuss it but rajyasabha does not vote on it. So emoluments of president, vice president, speaker, deputy speaker of loksabha and chairman, deputy chairman of rajyasabha, interest payment of the government, salary and other office expanses of Supreme Court, pension of Supreme Court as well as high court judges and entire expenditure of Supreme Court and high court are charged expenditure.

Administrative expanses of the CAG office is also charged. Revenue expenditure is for meeting day to day expenditure of the government. Voted expenditure is presented in the loksabha as demand for grant. Loksabha has power to assent it, refuse it reduce it and all demand for grant are presented to the loksabha on the recommendation of the president in state legislature on the recommendation of the governor. After the demand for grant for all the department are discussed in the loksabha, the appropriation bill which include all the demand for grants is presented in the loksabha approval. So all demands for grants for expenditure out of consolidated fund of India are presented in the parliament as appropriation bill. For expenditure which is subject to vote and after passing by the legislature, it becomes appropriation act.

Budget is simply the statement of receipt and payment. For spending any money there should be law and law is appropriation Act. So that after Appropriation Act there should not be any conflict between judiciary, executive or legislature because it is law. Appropriate spending of money from the consolidated fund it has become law.

Mr. Yashwant then discussed the supplementary additional and excess grant. When during the year it is found by any department say judiciary for a particular head the approval of money given by the legislature that is less than the requirement during

the year. So there may be provision for asking additional approval in the form of supplementary or additional budget before close of the year it should be presented to the parliament or legislature and after approval of supplementary or additional budget this amount which has also been spent during the year. So if there is insufficient money, supplementary or additional budget passed by the legislature can give authority to additional money out of the consolidated fund.

Article 116 and corresponding Article 206 of the Constitution gives certain procedures like vote on account, the budget takes time for approval. When financial year starts budget is presented say in February and different financial committees reviews those estimates in the budget and give one month to give their recommendations to the parliament to accept it, reduce it or reject it and during that period the financial year has started in April 1, money has to be spent. Constitution has made provision that during that period the parliament pass a vote of account. Vote of account is an authorization to the executive to spend a certain part of the budget. It may be 1/10 or 1/6. It is advanced approval to spend money. Item on expenditure is difficult to estimate how much amount will be spent during the year. Since estimation is difficult in that head of account then provision is to give approval in the form of vote on credit in which item is mentioned but how much amount will be spent is not mentioned. Expenditure on that head of account can be done and after the expenditure is done the demand for grant will be presented to the parliament for approval. So in the entire budgetary control system has four parts. Preparation of budget estimates starts in the current year itself.

When the circular is issued by the finance department to all the department including the department of law and justice to start preparing the budget for the next financial year. If there is any change in rule or changed interpretation of budget, that changed rule is also circulated to all the departments and the budget exercise is start in the month of August, September. After the budget is passed by the parliament or state legislature it becomes appropriation act. Appropriation Act is for the approval of expenditure and Finance Act is for approval for raising money in the form of taxes and some non tax revenue is also included in that. So that is the part of execution.

Fourth is parliamentary control. After the year is complete, expenditure has been done, the account is prepared of all the expenditure done by each department

including department of law and justice. The accounts after preparation submitted to CAG of India and CAG of India audit the accounts of both state government as well as central government and it present its report to governor to the state legislature and to president through the parliament and public accounts committee and estimate committee review the expenditure done by each department as reported in the account as well as commented by CAG office. So the expenditure cycle of any financial year complete after review by the expenditure of the public accounts committee and other committees of the parliament.

Detailed demand for grant, finance bill the recommendation for raising sources of finance this is consolidated demand for grants which is presented for approval and then budget. Annual financial statement contains mainly the expenditure out of the consolidated fund of India in the form of revenue or capital. Then receipt and disbursement and voted and charged. The second fund is contingency fund of India or contingency fund of state. Out of this the expenditure is done without the approval of the parliament or legislature. These are contingent expenditure which has to be incurred when contingency arise but the time is not available to take approval of the parliament or state legislature. So contingency fund is like imprest account. The account spent is put back again after approval by the legislature. It is emergency fund. It can be used in calamities etc. Unforeseen urgent expenditure which cannot be waited.

A participant asked that with respect to contingency, contingent fund, are you telling this is applicable to judicial department also. Is there any specified rule framed. What are all the items which fall under contingency? Is there any specific rule framed. We are being given with contingency funds say about for one lakhs and two lakhs. Can we spend it as how we require to meet the needs of the court or is there anything specified. Whether any rule is framed to that effect. We are using tea cups. We want to replace it they say you cannot use contingency fund. There is some bar. We want to know whether there is any specific rule because we cannot spend on our own and thereafter face the audit. So for the safe purpose I am asking whether there is any specific list of heads wherein we can use those amount for contingency purpose.

Mr. Yashwant Kumar said that there is no specific rule. It is the government to decide. First rule is that there should not be a head for which the amount is provided in the budget. Like replacing cup it is an item of office expenditure and for office expenditure, there is already provision in the budget.

The format of budget is like the major head of account for judiciary the major head of account is 2014. All the expenditure of judiciary is recorded in major head 2014 and actual of the previous financial year which has been completed is presented then budget estimate for the current year and then revised estimate for the current year which is going on and the last column is budget for the next financial year.

The receipt budget is presented by the government the judiciary does not have any receipt head. It has miscellaneous receipt in which all the receipt concerning court receipt etc. There are certain heads in which court receipt is also recorded. There is no discretion in the receipts relating to the judiciary. Only in taxes there is discretion of the executive.

The adjusting tax is to be abolished that also the proposal has to come in the finance bill and after approval of the parliament and legislature that become part of finance act. FRBM passed by the parliament as well as state legislature to have control overall financial management of the government. It provide certain limit up to which the borrowing can be done by the government. Fiscal responsibilities and budget management. The objective of this Act is to give consolidation and credibility to the financial management by the government. This would put a limit on the borrowing of the executive to meet various kinds of expenditure and because of this limit, control over the limit of finances of the government

A participant raised the issue of permanent advance. In permanent advance funds granted by the government is to be maintained by the court and to spend it for meeting of the other expenses and restore it back to the original position. There is no uniformity in this. In my district some courts are having only 100 Rs as permanent advance and in another court it is 1000 Rs. Can't this be changed? What is the procedure to change? Whether we need to writ to high court or whether we need to writ it to government. Certain courts which are constituted of late now they are having 1000 Rs.

Mr. Yashwant Kumar responded to this issue and said that the limit of this can be increased. High court can raise it. Registrar high court might be having power. It went to the law department. I believe high court can do this. Imprest is small amount upto 5000 or even 10000, upto 15000. In some state it is 15000. Imprest is a minor issue because ultimately whatever is spent out of this imprest the voucher has to be sent and then only will come from the treasury. It is not a very big issue. Registrar general is the head of the department so far as judicial system in these state is concerned and there is rule for imprest for the head of the department. So imprest rule which is applicable to other department, the same rule can be followed in judicial department also. Imprest rule are there for each department. So finance department have general guidelines for Imprest. Those guidelines can be refer to and it gives autonomy to the head of the department to change this amount of the imprest.

A participant asked the difference between revenue deficit and financial deficit?

Mr. Yashwant Kumar said that revenue deficit is revenue expenditure minus revenue receipt. If revenue expenditure is more than revenue receipts there will be revenue deficit. If revenue expenditure is less than revenue receipts there will be revenue surplus and fiscal deficit is the total expenditure of the government minus the revenue receipts and capital receipt other than borrowing. So total expenditure minus revenue receipt capital receipt other than borrowing. This difference is fiscal deficit and this fiscal deficit is met by the borrowing by the government.

Then Mr. Yashwant discussed various heads of the judicial budget. Under major heads there is minor head. 102 minor head is for expenditure of the high court and high court this expenditure 83.32 crore this is the charged expenditure. The minor head for district judiciary is 105 civil and sessions' court. District civil and sessions court the minor head is 105 in this the entire amount is 488 crores is the voted expenditure. This is non-plan expenditure. 6 crores is plan expenditure. Other major heads are legal advice like attorney general comes under 114 that is managed by the law department. Then other expenditure is also there in minor head 800. 2014 which for law and justice, 2014 is for judiciary law department also head some other heads of expenditure elections comes under same demand because it is handled by the law department. The certain social welfare schemes is also and the capital expenditure in this is 7016 is loan to the government

employee and in this loan to the judicial employee also. It will be given under major head 7610 because it is recoverable so it is capital payment. Now it is detailed demand for grant to the 102 is for high court. Scheme her is the high court and this is charged. Salary and allowances is the object head this is the detailed heads of expenditure. We have to prepare budget under these detailed heads.

Detailed head and this is object head and this minor head. These are the schemes this is computerization in high court. There is separate expenditure for this purpose. Then another scheme this strengthening of IT and library in high court. A separate scheme has been prepared under which budget has been provided. The gram nyayalayas in this head also budget has been provided in which judges which are deployed in village judiciary, the expenditure their salary are being provided under this scheme. All these schemes being run by the high court. The budget controlling officer is registrar high court it is not the secretary law department. 13 Finance commission has given certain special fund for strengthening of judiciary. The scheme number is 6269. The strengthening of judicial system and 13 finance commission has given funds specifically for this purpose. So that has been provided here as token grant. In this year 15 16 we are not sure how much amount will be spent. This is the last year of the 13 finance commission and that is why the token amount has been provided if more money is required it will be approved later on by the legislature.

If fund has been given for a particular scheme that cannot be directed to another scheme. But there were other schemes also. The money can be transferred to other schemes with the approval of the legislature. This 105 is the minor head. Leg al aid board, the expenditure of that also comes under this minor head. The expenditure of legal aid board kept at the disposal of legal aid secretary, law department but the salary and other expenditure of thee district judges for that the budget controlling officer is registrar. In MP for the budget of district and session judge, the registrar high court is the budget controlling officer.

Plan expenditure is the part of the five year plan of the state or center and in the five year plan the certain specific schemes are provided which are for certain specific objectives. There may be plan for evening court. Evening court if it is not a regular feature, special plan can be provided for that and for that plan specific budget

is provided under that scheme and that become part of the plan expenditure. The expenditure of the district courts that is not a specific new scheme that is old scheme. So that will not become part of the plan. Some new scheme which is not already there become part of the final plan and that expenditure become plan expenditure. So here we are not seeing any plan expenditure but the specific expenditure given for strengthening of the judiciary for 13 finance commission for that purpose plan expenditure was required.

## **DAY 2**

**9<sup>th</sup> January, 2016**

**Saturday**

### **SESSION 5**

**09:00 AM – 10:00 AM**

#### **Group Discussion on Court Movie**

Dr. Geeta Oberoi initiated the discussion. She said that she was told by high court justices that it is very good movie and judges in high court who have been elevated from the district courts or district court judges themselves they said no this is not right. The movie is wrong. At bail no evidence is taken. Whereas one of judiciary holding it is absolutely correct movie this is how it happens in trial courts and on the other hand we have trial court judges saying no this is not how it happens. It is wrongly portrayed in the movie. So this is actually about image.

This movie is the entry of India for Oscar. Most of the time people carry that this is actual perception of court. So today's session I will going to give you a questionnaire. It is 8 questions that I have prepared and it is all about related to your perception of the court. So this questionnaire is actually prepared in that basis that what you can actually do because I am supposing that all of you are principal district and session judges. You are responsible for the whole district and for subordinate judicial officer who is working under you. I am asking this question in the light of where the world is heading. Judiciary is one institution but if you see the world around you whether it influences you or not but you are aware of this world. Even you see corporate



houses around you. They all have this department for public relation department which makes statements every time these owners they dont come themselves.

Judiciary is the only institution that does not have public relation department. I am supposing that all of you have 20 years of experience and by now in the system itself. When you join 20 years back and where you are today have things changed. Has the pressure increased? Because 20 years back no one bothered and today everyone says that what you are doing what is your disposal. People are asking these kind of questions and earlier people used to say reportable judgement are given only high court. There is a Constitutional Bench. So district judiciary is by far insulated from all this. But now all district court judgements are also available on website and this national judicial data grid system if you know. So your judgement whether you write in Chhattisgarh or in Jhabua or anywhere it can be read anyone even from Texas. Things have changed with ICT tools.

The whole changes brought by ICT revolution is affecting our life. How should we respond to these changes because if we don't respond a continuous negative image even though you are working hard but the continuous image that is drawn is that this is not a place we will get justice? If you want to get justice you have to under writ jurisdiction or 226 or 32 and if you can afford little bit of money then instead of going into cpc and all that go through 32 and 226. Bypass civil court, bypass trial courts. All things are happening simultaneously and we must collectively think about these issues. We can no more afford that we are not bothered. I will give you this 8 set of questionnaire and then we can come up with ideas. Earlier we never had some post called Registrar IT or Registrar computerization. Five years back there was no post if you remember. May be time has come to establish registrar PR public relations or may be time has also come that the district judiciary must have its own registry. Having the registry just at high court level may not be a sufficient solution and may be district judiciary must have its own registry, a strong administration at that side and have its own registrar, officer on special duty to look into these issues.

## **SESSION 6**

**10:30 AM – 11:30 AM**

### **Group Presentation on Court Movie**

Dr. Geeta Oberoi initiated the discussion and invited groups to make presentations:

Group One: We discussed elaborately and we discussed question one. Do you as a judge agree with the image of the court portrayed in the movie court? Critically we have analyzed the movie and we have decided it is not agreeable. The reason is first of all the public prosecutor who is playing that role has given a very good focus of the case to the judge. She has opened the case very well, made good representation but one should see whether that public prosecutor is maintaining the decorum of the court. She was making casual representation to the judge it is not proper so we disagree with the first point. It is a wrong portrayal of the image of the court and with respect to granting of bail it has been done by the judge after apprising the evidence totally and at the end of the stage the judge is convinced and he is ready to give bail.

I think producer through one or two example here and there has given a wrong portrayal. And the method of recording evidence, questioning the accused even without going into the trial the accused statement is being recorded by the court. Whether the judge was conducting 313 procedure at the starting itself. It is not correct. With respect to the leading questions really a fun. Public prosecutor is putting the leading questions and she says this statement is there. When a statement is there what the necessity of examining the witnesses is. So when some leading questions are being permitted and it is shown in such movies it will create the wrong perception in the minds of public. This piecemeal recording of evidence is highly deplorable and has been condemned in several cases recently in Vinod Kumar vs. State of Punjab. So these piecemeal recording of evidence and slow process of recording of evidence and granting adjournment at the whims and fancies of the litigants will very well show that court is not at all under the control of the judge and summing of all these things the movie court we are not agreeing with that. The negative things alone has been portrayed and the second question. Sorry madam it has been mentioned what steps you suggest to improve misunderstanding so we have construed it as understanding.

To maintain uniformity and consistency in the court proceedings and to give fair opportunity to each and every one and while doing so there are certain areas we have to ignore but at the same time we discussed that it is very apt to give effect to section 89 cpc in the suit proceedings. People generally they have the perception I have a problem with my neighbor I want to go to court. Immediately his wife or relative says. If you go to court it will take 15 years or 20 years.

We have to first try to explain the litigant when they are appearing and we have to show in our papers that we are following the procedures of cpc when they are appearing and we have to show in our papers that we are following the procedures of cpc in letter and spirit and curtailing the adjournments and with respect to the third question do you think that time has come that Indian services of public relation says to clear wrong perception in the minds of general public.

All your activities daily cause list, adjournments, judgments everything is being uploaded in the net. Automatically the question of wrong perception will slowly come down. We may employ our staff as public relation officer and if required whenever we have an impression that is a wrong perception in respect to some area. That area alone may be clarified through that officer. He need not give statement for each and everything, then it will take lengthy process. So we have to improve our technology.

While writing judgement we have to upload it immediately on net. If this practice is being done the wrong perception will go away. With regard to the fourth question work done statement and other things. This work done statement if uploaded on the net it also will amount to transparency. Everybody will know what has been done by this court. Some in-house person appointed by the district court to provide statements. We are preparing the work done statement and sending to our respective high courts. We can take a print out and display it on our notice board also. In each and every court if it is displayed people will know that this court has performed this much of institution, this much of disposal. And the same is with respect to treasury account also with respect to stamp and revenue. People say when a court is constituted near about 50 lakhs is being spent and people doesn't

know how far the income is generated from the court it should have been made known to public also.

With respect to the fifth question a single word answer no. No Facebook it will lead to unnecessary questions. We will be answering to everything. With regard to sixth one do you plan to set up complaint box for member of public. It is already there. In almost all the states. Periodically there is committee constituted of PDJ and the senior staff member and the president of the bar they open it and see whether there is any complaint and if so it will be recorded in the register and the action taken will be reported to the high court and if no complaint is there then also a letter is sent to high court that there is no complaint for the month.

Seventh question active role they are the real heroes. The bar police and prosecutor they are heroes in spoiling the image of judiciary. My suggestion is that we should raise our voice why adjournment call your party and I am not going to give adjournment. Purposefully if you do once or twice or thrice we can bring it down under our control. Police is purposely not making good investigation. Their investigation is for acquittal only and prosecutor is not giving good highlighting to the witnesses. What for he has come to the court and he is creating an image that the judge doesn't want to convict the accused in this case. So you have to be cooperative. He give wrong information to the witnesses also. The witnesses get irritated and annoyed. They think that this is justice. He is not doing his role properly.

So when the public prosecutor is not making the role properly if the public prosecutor is not doing their work properly, it gives the image of court only. He should give proper explanation to the witnesses that what he is supposed to say and what he is not supposed to say. We cannot be tutoring all these to the witnesses because we will be deviating from our own.

It will be an analysis by the critics and it can say where we are lacking but that shall be with respect to some reasonable limits only. They should not be allowed to take up entire rights in the guise of survey and other things. High court is there to monitor our performance. So this I conclude. Thanks.

**Group 2:** That was a good commercial movie at the beginning I thought but my conclusion is it is neither a good movie, commercially or otherwise also. So that was not a good film and some unnecessary and some foreign procedures adapted in this film in examining the witnesses. How can there be cross examination without examination in chief. The main purpose of the movie was to show how the court procedure is being abused by public prosecutors, by police by other authorities while some people who are advocating some thoughts against the society in favor of the poor people, how they are harassed by the state. This harassment to that fellow was not by the judiciary, rather it was by the state and judiciary just contributed a little bit in adopting foreign procedures, illegal procedures, not being sensitive to the cause of the litigant, not being sensitive to the cause of witnesses.

Regarding point number 3 and 4 yes time is ripe to engage public relation officers. But we are submitting quarterly reports to the high courts. Where everything regarding institution, disposal, pendency, the reason for no disposal, remarks column it is already there. We can upload it on our website.

The next issue is Facebook we simply reject this idea. That will create unnecessary complication, we will be exposed to unnecessary comments. We are just judicial officials. Let us concentrate our work on judicial work only. Next issue is complaint box that mechanism is already there. If we upload everything our data our statement what is the necessity of comment box.

Then the role of the bar, prosecutor, police, what we have seen in that movie also. We really criticize the bar and it is the fact. Some members of the bar are unscrupulous, they just destroy the image of the court. They are part and parcel of the system. Unfortunately there are so many seminars, workshops involving judicial officers, but there are no such seminars involving lawyers, police officers. Lawyers really they need adequate training.

Public prosecutors are not alone to be criticized because they are not provided with efficient office, they are not provided with funds to obtain certified copies of statement of witnesses so that they can prepare the briefs and argue the case properly. They are not provided with basic furniture to keep the briefs. These issues

are required to be taken up with the state government that you select lawyers through public service commission. Give them efficient office, provide them sufficient funds so that they can purchase necessary equipments and they can obtain certified copies of orders, certified copies of statement of witnesses and equip themselves and you be vigilant what they are doing otherwise take action against them. Suspend them dismiss them, frame some rules like that. They should be accountable but they are only accountable to their political bosses.

Regarding survey is already been done by the Supreme Court and high court. We are giving quarterly statement, yearly statement regarding institution, pendency, disposal, reason of disposal everything. That service is already there. Then what is the necessity of survey by other organs like media and other ngos. I thank members of group 2 and what I may feel I may be absolutely wrong, pardon for that. We have to introspect where we can really improve, where we are really legging behind and nowadays we are getting very handsome salary, enough facilities also. We are grateful to the Shetty commission so we have to justify it. Thank you.

**Group Three:** Regarding first issue that whether the movie that was played yesterday portrayed the image of court. The answer is in negative. We never witness in a single court proceeding that the litigant asked to leave the courtroom. In addition to all those things that were pointed out earlier in addition to that we find out that the picture nowhere portray the image of the court. The second point that what step we suggest to remove misunderstanding about the court or the procedures adopted in the proceedings we have seen that all we can achieve by adopting the various means, various ways which bring transparency so more we will be transparent more misunderstanding will be removed.

Regarding third point that engage service of public relation agencies to clear wrong perceptions. Our group finding is negative. No. There should not be a public relation agencies and rather any public relation agencies we conclude that our own staff should be there or instead of own staff, we appoint a court manager and they may be given this task if required.

We are working on this in every court this type of statement we are working over, the balance sheet of filing a disposal, collection, every provision in the CIS, the Supreme Court is so caring all of us that the software furnishes systems, is designed so beautifully, that account provisions is there statement provision is there. If you start to work over the CIS perhaps several transparency will come and the system the court proceedings, the most important here is the transparency. As much we will transparent we will face less critics.

What role bar prosecutor police play in spoiling the image of the judiciary? This is twofold. Inside court, outside court. We learn lot of things from advocates also but they are creating problem at two level inside courtroom and outside courtroom. The problem they are creating inside courtroom we can handle it. We have provision on the contempt of court, we can regulate, but the certain problems they create outside the courtroom that certainly is beyond our control.

In our high court adjournment is as old as our judicial system. No judicial system is complete without adjournments. We must know the fact that how we have to regulate it. As far as police is concerned you have dealt at length that how police is responsible for spoiling our images. Collectively our finding is yes. We don't find any harm.

**Group Four:** Regarding the first question our group agrees that it was a not true portrayal of court proceedings at least we haven't come across any judge who conduct the proceedings like that in our district. I am coming to the second question. I think if we take care of that part, rest of the aspects will be taken care of by themselves. If we make court transparent, we invoke salutary provisions of the procedures, like order 7 rule 11, order 12 rule 6, examine the parties under order 10, 165 evidence Act, serve interrogatory. So we have the many salutary provision then give justice expeditiously. I don't think that the image will be tarnished. System comprises of various stakeholder, we have bar, prosecutor police so they have equal role to play there. I think more role to play because we are mute spectator, we can't participate, we can't respond so they are the one who tarnish our image.

Our group was of the view that there is no need of Facebook page for interaction with the general public. So far as the role of bar, prosecutor, police they are the important stakeholder in the court system.

Lawyers has a direct interaction with the litigant they say we work hard but the judge was not prepared. It is the judge who has adjourned the matter because he is not prepared. The court is prepared the prosecutor is not but the litigant will not understand. He will say that judge has adjourned the matter. If the judge tells the prosecutor in the open court. You ought to prepare for the case, otherwise you will damage the case then litigant will understand it is not the judge, it is prosecutor. Likewise police slipshod investigation and then the judge is blamed for the acquittal. How many acquittals are there in the trial we are asked for the information? So much depend on the way the investigation is carried out.

Next is regarding local surveys, bar surveys, we already subjected to survey by the high court? We are accountable to the high court.

Dr. Geeta Oberoi said that when we are reporting to high court or Supreme Court, we are reporting because we are part of the system. Our system is hierarchical system. What we are reporting to high court is our performance, our job and even the right to information act because most of the time when you people are linking these transparency issues you all are linking it to RTI Act. RTI is totally different. When we are saying about survey as it is conducted in other countries. Survey is about your trust and confidence in the system.

A participant said that survey is about some commercial working that is a different thing. A system already accountable and somebody who is not part of the system is being asked about his satisfaction. It should be advisory what improvement is suggested. What is his dissatisfaction, what improvement is suggested it is already there? The improvement factors, if it is not within the institutional level. So extra agency like government infrastructural assistance is necessary they shall also be provided. Without providing the infrastructure assistance, only commenting about the lapses will not be of any use. Concentration shall be multi folded with regard to effort,



with regard to reasons with regard to advises also. Only the problem aspect, only the lapses aspect is being concentrated.

Another participant said that most of the time with negative mind surveyor approaches to the court and he is only interested in fault finding. But prior to finding out the fault he must know the procedure, unless and until he knows the procedure, he cannot make a proper survey.

Another participant said that survey has got two aspects. Survey and data enhances the capability of persons and creates a competitiveness among the persons. Do not forget the negative aspect. Independent agency is surveying the datas. We are talking about transparency. Our transparency should not be stopped by the unscrupulous service, negative data, and the person whose integrity is doubtful. So we have to find out the balance sheet.

Dr. Geeta Oberoi intervened and said that case wise survey and decision making process I am not thinking about those surveys. I am thinking about survey is like will you oppose when you have a dispute. For example somebody slaps me, will I go to police station or will I led to slap him back. Do it then and there rather than going police station, file FIR sand wait for police. Because if I have a confidence in police station, they if you slap me, I will go to police station, no matter it will take time.

A Participant said that in Nirbhayas case most of the people were thinking that the Supreme Court will give some relief. Is it expected to go beyond the legislation? It is also one example of survey.

Dr. Geeta Oberoi responded to this and said that people coming on street is not a survey. People taking law into their hand is not a survey. Survey is not like that 10000 people come to your court and decide like that. Survey is like asking people that if tomorrow you have some issue will you trust the institution to solve your problem. That is a survey, we are talking about image. Survey is just to understand that whether people trust us. Many district judges when they give bail or they decide anything, or they convict or they acquit. If you see local newspapers, wherever you are, articles comes, how does that comes. Sometimes they say so many

things about the judge. Survey you have to engage the services of some researchers. I am not even advocating any survey but in other countries surveys are done to assess whether public, citizens around, for example if it is local court, they try to do survey in all countries to understand whether there is public trust and confidence in the system. Courts themselves do that. You are linking the survey either public criticizing Salman Khan or public in favour or against Nirbhaya. Public pressures or public perceptions are not surveys. All court publish newsletters and district legal services authority also publishes newsletters. You should yourself do the survey rather than anyone doing and influencing you to understand what is the perception of fairness about your court. What image bar has about you about your whole court complex? Are they happy with the infrastructure?

We have to talk more about surveys. May be I need to bring some examples before you I will try to do that. Meanwhile what we will do. We had a group discussion and I really liked that Facebook group of judges. All of you will interact with each other. We will continue what we will do you will take a tea break for 10 minutes.

## **SESSION 7**

**12:00 PM – 01:00 PM**

### **Technology Integration**

#### **Mr. Atul Kaushik**

Mr. Atul Kaushik initiated the discussion and said that there is a division of opinion about whether we should have audio or audio video recording of case proceedings. What is the view of this house? Who would like to have the audio video recording of his case proceeding? Wherever you are allowing the general public to be in the court room when proceeding is going on. About 20 of you would like audio video recording. You have to go to the high court to get the order. I am asking whether you would like it as a part of court rules for example. Who is against only 2? Are you also against audio recording? Not audio video but only audio recording. The law is job of parliamentarians, we are just giving the suggestions for the discussion. If the law is amended to prescribe audio recording you are fine.

If we have to introduce audio recording as a matter of procedure for every case, you are saying if the law permits. If the law is changed you would rather like the law to prescribe audio video recording. Audio video recording will be the part of the case record. The next step would be what to make of this that is a different issue. Mere audio recording if it becomes the part of the case records can actually harm rather than help. The appellate court who look at the evidence that has been generated in the trial court and therefore if the law have to prescribe something it should be audio video recording so that the demeanor of the witnesses, the demeanor of the judge, the manner in which the lawyers try to introduce suggestions which were more of threat rather than suggestions. There are so many ways in which smart advocate try and fix evidence. So all that should be captured and can be captured only if it is audio video recording. So that is one the house thinks that audio video recording should be there, only two of them says that it should be there only if the rules provides so and all of the say that is there is an order of the high court as happened in West Bengal then there is no problem. Why do you say that the law prevents it? Because the appellate court does not know the demeanor of the witness, the demeanor of the advocate, the manner in which the advocate fixed the advocates.

There are certain benefits that the appellate courts can have out of audio video recording being a part of the case record and all of you are in favor of it. There are two aspects of it. The lawyer in his appeal makes insinuations which are not true and there is no way to know it because there is no recording of the event itself. So you say it helps because you would be able to show that I did not given the date this was the fourth adjournment. Therefore I had to give the adjournment. I had to get the main examination fixed and tell him to come next day or whatever the case. I am asking a counter question everything is unnecessary unless it is prescribed by the rules. The question is not whether it is necessary or not. The question is whether it will help justice delivery or not.

Firstly what happened in respect of parliament and assembly will same happens go for the courts. As far as video recording is concerned, there will be more exhibition, now they have restrained to limited things. Can I say that audio video recording will reduce the discretion of the judges? The intended objective will be defeated certain things will not come on record for decency sake and for other things sake and

indecent question is put to the witness. I am sitting as a judge no such question is permissible. Even before I doing that it will go on record. That is the legislature intent. In the exercise of your discretion on whether some evidence being preferred in terms of asking an indecent question to the victim is material evidence or not. You are deciding it is not material because it is obscene. It is the legislature's intent not to have that obscenity recorded. They want that and the demeanor to be a part of the available evidence for the judge to be able to decide who is right and who is wrong. The one point is that certain obscenities may creep in. Are you not taught to have an impression oriented judge subject to precedent supporting you? When you hear the parties you get an impression and then you want to fortify that impression to precedent and that is all you put down in your judgment. Isn't it a part of training to factor that impression into your adjudication. Probably this proposal will never see the light of the day. It is hugely costly. Running audio video recording of the Rajyasabha for 8 hours cost same as running a court establishment for one year. But nevertheless on principle who is against that audio video recording public. One possibility is like it was said as somebody ask it as part of RTI you give it and the other is we get so much money become so rich we actually webcast it. So who is against that? The house agrees that audio video recording is good for justice delivery, transparency through audio video recording is a good thing.

Mr. Atul Kaushik then initiated discussion on technology integration. Technology offers a court crucial commodity, information that can help justice agency better and quicker decisions and trap [case outcomes. How do you collect information, for your administrative purposes today? I am making the collective version which means that all administrative issues. Whether you have the reports that you have to send to the high courts, whether there are reports that you have to generate yourself. Whether as PDJ you are assigning cases to different courts, whether you are assessing the performance of judge working under you or staff under you. You have to give an information every month of the institution and disposal. Is you doing that or your court staff doing that? How many people you have in your statistical branch. Generally there are two. How the statistical officer get the information from each court. So 40 people in the court spending part of their time, getting information to these two statistical officers and these two statistical officers sending it through you to the high court. If all of this can be done by the robot. Will that help you?

So have to have somebody in each court who can plug data correctly in a system. Will it help? I get a feedback from court managers that the court staff does not want that to happen because apart from the judicial officers the court staff also exercises discretion in giving and using and disclosing information. First answer is that you want information, the information can be given to you by robot, that robot is technology, if technology is integrated the only thing which you lose is some of the bribe that your staff is taking.

If you have a system which 90% of you do not have, that any activity of your court will be entered into the robots information bank only once. It can be faxed from wherever it is already been entered for all other purposes also which means that the generation of your reports is dependent upon the single data entry if the data could be entered is the same across reports. You are asking your statistician to each of the 40 judicial officers of their courts to send that information in 40 different formats. If there are 10 reports that are waiting, 40 courts are giving you input out of the report let us say each report has 10 columns.

There will be on an average five columns which are duplicate. So your court clerk is correctly entering that duplicate information in your format every time that he is filling a report he will not have. That's a little different here than the US, so I will not say it is very applicable. Here you want to have a court establishment or not is decided by the high court. You have a technology for this purpose. You need to examine the process. There is process re-engineering exercise going on all over the country. Courts must plan to migrate from document to content management.

Example I gave of 10 forms, 10 columns in each forms is 10 documents. The example I gave of duplication of content in respect of 5 of those columns in each of those forms is content. So if you have the content at one place document can automatically come out. If you shift your focus from the document register, folders, suppose you are a DSG, you are handling both criminal and civil having two separate heads of staff all that is documents. You are generating plethora of documents and they are coming to you in different files, the same information repeating itself in a number of files.

But if you do away with that document, I know you can't do it, I can't do it, high court rules have to change and for that process exercise is going on. If we remove the requirement of the documents and insist on the requirement of the content then the only care that you have to tackle is that nobody is giving wrong content. The data entry is accurate, complete.

I have been asking the e-committee of giving me very simple answer. How many courts do we have in the country? How many functional courts do we have in the country? The CPC get that information from the same high court, the high court get that information from the same districts and provide it to CPC he give me one figure. That figure is 17000 something in terms of sanctioned, 15000 something in terms of functioning. Then I asked the registrar general please tell me how many courts do you have. The RG has the most authentic information of the high court. If you have a dispute in your court between what the CPC has given and what the RG has given this figure is 15300, now where are these 600 or 500 courts that the CPC knows about and the RG does not and both are sitting just two rooms away in the high court?

The CPC has given me one figure the RG has given me another figure. The reason for this is that CPC and RG are focusing on the document and not on the content. E-court project has to provide hardware to all courts. Our objective is universal computerization of the courts of the country. He will first put that challenge before you. OK what are your definitions? What does this column contain, then I tell what field I can generate which the data entry operator will fill for the content. So this is how technology integration into courts will solve lot of things for the courts.

Mr. Atul Kaushik then focused on customer relation management and said that why judges dont want to self-evaluate. It is because judges dont have the responsibility towards the public. They have the responsibility towards the litigant. Your self-actualization need is fulfilled when you do justice in a case. If the Member of Parliament knows that judiciary has come up with the scale on which it has assessed itself. It will well agree to that assessment and it will then have to use that assessment when talking about justice delivery.

Image of the judiciary has been considered important in all developed societies. I was with 19 different jurisdiction in one course. Some of your high court judges were also there with us. It was very strange that all developed countries and Singapore immediately raised their hand when they said that is the image important or not and all developing countries raised their hand that image is not important.

The NDA government started this ease of doing business exercise because we felt little ashamed that in terms of enforcing contract this is the only index which adjudges our judicial performance. We were 184 out of 189 countries assessed. As a department we felt ashamed when we were sitting in the prime minister office and we found that we could do little except with the support of the judges. So for you enforcing contracts means, the litigant gets justice. For the World Bank enforcing contract means there is an image of justice being done in the society. We have influenced the laying down of parameters, maybe next time we will get a slightly better rank. 2016 will certainly give us a better rank because we have tweaked the way World Bank assesses us. They just took Bombay and Delhi district courts and looked at some of the cases. They talked to some lawyers, they talked to some litigants. The more important is how to fix the image. Whether you like it or not we don't have a good image as a judiciary and it is not limited to us. Kenya, South Africa, Yuganda has a very bad image, even Thailand has a bad image. South Korea has a very bad image. So if we want to use technology to prepare a fair assessment methodology for us, we can improve the image. Even legislature give credibility to assessments which apparently are fair. Why can we can make a fair assessment of ourselves? These two are the reasons why I think technology needs to be integrated to the court fortunately the Supreme Court thinks so, the high court thinks so and therefore we have eCourts project.

Out of the total budget of the country, not even 0.5% is spent on the judiciary. The infrastructural poverty which you see at the munsif level, the staffing pattern granted in the year 1970, thereafter 60 new enactments are made, for all the enactment it is made as a special court, 10 or 11 special acts are being added and the work of that special act is being entrusted to one court with six staff members sir. Can we expect the required international standard?

Mr. Atul Kaushik then said that one of the recommendation of that study would have been, don't expect us to improve the image unless there is a judicial impact assessment of any legislation prior to going to the court. Let that come as a recommendation, let the MP struggle how to tell the government to give more money. It has to do with lack of basic structure, whether it is infrastructure, technology, whether it is outcomes, whether it is evaluation.

A participant raised the question that who is going to do the study about the evaluation of judges. It is the media or it is the judges.

Mr. Atul Kaushik responded to this and said that the judges will set the framework for evaluation. The judges can't do the evaluation themselves because they have to run a court. You have to outsource. I did an evaluation. It was very difficult. There is an organization called national council of applied economic research in Delhi. So we asked them to do a study on what is the state of implementation of the e-courts projects. What is right with it what is wrong with it? What can be done to address that wrong? In order to get answers for that they had to talk to judicial officers, litigants, lawyers, vendors, maintenance people to get the answers. They got the answers from everybody except judges. We had to tell Justice Lokur. Justice Lokur had to tell the chairpersons of the high court. I don't know whether you got the instruction or not. Finally these instruction went down from the chairpersons of the computer committees, who had consulted the full court before sending those instructions. They went to the individual judges and judges very happily filled up the questionnaire. But they didn't do it themselves. I didn't do study myself, but you set the rules of the game. The e-committee set down and Okayed each of the questionnaire before we told the NCER to go ahead. So the rules of the games were set by the Supreme Court for the study and we have got wonderful suggestions. Those suggestions have factored into policy document. All of you know, your PDJs all of you are there since 1990s as judicial officers. This is what we did at the end of the project.

I cannot vouchsafe for the actual data in the NJDG about each case because I am not sure how the data entry is happening in your courts. 5 crores cases are now available to the public, not only to you and me. All of your cases right from the day it is instituted to the copy of the order if it has been uploaded is now available anyone in the public. Imagine the amount of information that you get out.



In phase two I am thank Justice Lokur who has done an excellent job of repeatedly discussing brainstorming provoking your high court computer committees as to what is wrong with the project, to come up with the second phase. We are going to give handheld devices to your process servers. If you go to a typical case in the trial court you will find that first three to thirty dates are on service. I have collected anecdotal evidence from the NJDG data to find that the median time taken for service is seven hearings. Most of your high courts have told you not to give a date of more than one month. Even then you are spending the first seven months in service, imagine what would happen, if this seven months is brought out to one month to the total disposal. That is the process. So we are giving them hand held devices. The manner in which your court staff and the lawyers are fixing service will be removed by about 80%. In 8 out of 10 cases, the fixing will not happen.

Second is process re-engineering. We started in the first phase. So it is not something new, we failed to understand why still anas and paisa's are there in your courtroom. You have to change certain procedures, why you need 20 manual registers when content can generate report. Why cannot one content generate all the reports? Now in the second phase what the high court did was to give us inadequate reports. Ranging from one high court sending us the court procedures and saying that our RG has approved that it is the court procedures to other extreme where one high court send us one page of 8 bullets of why process re-engineering is important. We have collected whatever high court has sent us. We are working on all the case nomenclature, collected from the high courts, on the case type we collected from the high courts and we are trying to see how we can make them, not only harmonious across the country but also to see how they can benefit from automation.

The third is we are giving digital signature to court staff. Only about 13 lakhs of uploaded judgements are digitally signed. All the others are just uploaded. I am talking about those courts who have not amended their rules to accept the uploaded judgement. There are some courts which have made a rule that you will not upload unless you have signed but some judicial officers don't have digital signature certificates. Some of the judge's don't know how to operate it.

Mr. Kaushik then elaborated on the use of NJDG data. He said that on the ecourt site there is district service item if you click that you will get an icon called NJDG.

The screen telling you how many courts/establishment are generating data on the grid. So currently there are 16000 something. Secondly you know how many total pending cases are there. Out of the 2.64 crores of the cases pending in the district and subordinate courts. 2.06 crores of the cases are already off the grid. All cases are going to be on the grid. So you will have the total number of cases how many of them are two years old how many of them are 5 years old. That comes on the front screen of the NJDG. So as a PDJ sir, suppose you want to know how many cases more than 10 years old are there in your establishment. You click here and you will get the state, you click your state you will get the district, you click your districts you will get the courts with the names of the judges, you click the name of the judge, you will get how many cases of more than 10 years are pending with him. After that you just pick up the phone. He will give you legitimate answer but he will also realize that out of the 20 cases that are listed against him. May be 10 can be expedited.

It will also tell you how many cases are filed or defended by women, how many cases are filed and defended by senior citizens. It will also tell you how many cases you have given dates which are more than three months from the date when you give the date. When we started giving this data, we found that 67% of Patna high court subordinate courts have given more than 3 months old cases. Each of you whenever you have given your dictation for transcribing, the steno is sitting there you dont want to go home till you sign. Just call a meeting the next day. Tell them can we do something about this. This management can help. This is jargon so I don't want to carry any misconception. This jargon is basically telling you how much of effort has gone behind the creation of NJDG. So Delhi calls criminal appeal, cra, Jharkhand call criminal appeal CRA in capital, Andhra Pradesh calls it CC but all of them are same case type. So at the back end this robot had to get the same meaning, ascribed to all the three, so he created a software program where all of them got same count, generating the same output in terms of number of criminal cases.

We have installed the NC1 in these many courts and we found that Bombay list more than 2900 subordinate court establishment but one judge was in a particular court he shifted to another court the earlier was not merged or not deleted wherever it has been merged. So those kind of figure differences are coming. That is one challenge. We don't know how many of you are making sure before you go home or you put

somebody on a job that data entry has been completed. One reason it doesn't happen that there is no connectivity that is understandable. But when I look at it every seven pm and I find that the next date is not given in about 23% cases. Unless you start seeing for yourself, you will not realize the benefits of it. You will be only serving the high court. You will not be serving your establishment. I already told you why we have 2.06 and not 2.6 because 2 of the high courts, the subordinate courts are not updated. Migration MP Delhi it is going on, campaign to reduce undated cases who is monitoring well.

So they have done it through three concepts that harmonize the data. First is the issue how am I not getting data in. So every time a question pops up, the robot does not understand. After all it is a machine, a red line pops out that is immediately transferred to the issue tracking tool. So there is a team of developers sitting there. That red light is transferred to the developer. How do I get an answer to this? Developer is a developer, he is not a court staff. He goes back to somebody like Ashish, there are three of them. They know the courts because they have been serving you for the last 17, 18 years. So one of the three that picks up the phone and asked the people from where the data has been taken. What does that mean? Then they sit and conference. This is what it meant. So we should create a behavioral connection between the menu and the report and that is created by creating another software programs at the back.

There is a requirement gathering tool. Every high court has a different set of requirements. The only requirements common across high courts are those that the Supreme Court have asked them to give. Is it that strange? These requirements keep changing also. In Delhi some of the requirements were generated by court orders. Some others were not ready because the full court felt that we have to fix this new challenge where a bar is created and they put an order on the notice board of the high court that hereafter this procedure will be interpreted like this. Both of these examples which I gave you are not part of the high court rules. So if that is the case we will tell the cpc, sir it is your work, put it in the periphery given the report I am not going to touch it. But if it is a generic kind of a report it is beneficial for all high courts and all district courts under them. Then the requirement gathering tool creates a

software program to get the data entry modified, to get the report generation modified. To help gather that information also from the same software.

Mr. Kaushik then explained control management table. He said that ideally there should be one single data base. So for that database, to be readable at the front end, at the back end we have created that four separate data input. We have two types of data tables. There is a roaster which tells us what we are collecting, there is transaction data which tells us what is happening in terms of input and outputs and the standard report that can. We have viewed control tables where we have linked various points in the fields to one common output, so that the report can be generated.

If you go to the NJDG today and go to your district, you will find it cumbersome to go through each and every case of your judges. If you have 40 judges. So going through cases of all the 40 judges is very difficult. So these links out of the 119 odd fields in each case sheet of that judge, the fields that are require for a particular report are linked to an output. We discussed behavior. Different things mean differently in different places. So we have a state wise application behavior. So you may call it whatever you call at the front end at the back end my robot will understand it correctly and then he will display it also at your level. If you call it CRA, it will be displayed as CRA, if you call it cc, it will be displayed as cc, but at the back it he get it one. It also enable it to give you two language, in English and in your local language. So this where we are in phase 2.

Judicial officers are being trained and we have feedback that more training is required and we have told the chairpersons of the computer committee of the high courts to go ahead and make refresher courses, in case they want more help from the e-committee. It is too willing to send somebody to get the training done. But if you don't want them on the Supreme Court website and on the e-court website. We already have all the 20 members. They are published. You can go and download them. You can ask your CPC he will help you and take them to your 40 judges and tell to study and if there is any question, you can have video conferencing with the cpc or with the central team.

These 4777 establishments and 16841 courts is wrong but it is what displayed here. You can't see it because you have to go to a password protected sheet to get these figures but we are collecting this. At least should come down to 13672 or something. The NJDG is one of the services that the government is providing. All e governance services of the government of India, are available on one website called e-taal. That website counts each head into its services and logs it into a dashboard. There are 30 mission mode project of the government.

All of them are in one dashboard. They are for different departments. We as ecourt people log onto etaal in august 2013. Can you imagine what an image makeover has happened for you without your knowing it. We get email saying that this is very helpful.

So once the PR exercise is over, once the nomenclature of case types have been captured at the back end which will some time we don't have adequate support of the high court yet. Then we will answer your question also. You will know how many 302 cases are there, you know how many grievous hurt cases are there, you know how many 420 cases are there, you know how many 498 cases are there.

A participant said that in respect of criminal cases how we are identifying it is old, it is based on the date of the institution. For example a case has been registered against an accused person or a group of person in the year 1995. One accused is absconding and the other is appearing and slowly it takes a long process of time, for the magistrates to commit the case to the court of sessions and after 18-19 years he is committing to the court of sessions and I number it as sessions case 1 of 2015 and it shows that it is the case of 2015 as far as a victim is concerned, the case is of the year 1995. 20 years old case but I take it as a new case. But my conscious says it is an old case. But the data grid everything says that it is a new case but the FIR is pertaining to 1995.

Mr. Atul Kaushik responded to this and said that it is an important issue that we are tackling. About 4 months back we have taken a decision in the e-committee to give case numbers, unique case ids. So for the past cases yes this problem still exist. As a policy matter I have requested e-committee to work out a solution. NIC is ready with the solution provided the high courts and data entry people can do huge job of

redoing some of the data entry but for the future cases we will fix a date from which every case have a unique id. That case may transfer to three different courts, the charge sheet may get changed because the second FIR or reduction of charges as a part of the arguments which change case type and therefore even the court. Sometimes the case has to be transferred because an FIR has been quashed now a civil complaint, civil complaint has to go another bench.

All that will be captured through a unique id so long the petitioner and the respondent are the same the case will be counted as having started from the date that it first came to a court. But you are right today NJDG is giving a wrong picture and there is no way we can do anything about it except if you ask your state government to give you a huge amount of money for you to hire data entry operators put each of your staff to work on all weekends for six months and correct the data entry. We will give you explicit instructions on how to change the data but somebody will have to sit down and change the data.

Courts of tomorrow is a concept developed for the then information advisor to the prime minister in 2012. That have been factored into the development of the e-court project but we have gone much beyond than what is given in the courts of tomorrow. I am working on a paper once I get permission to publish it I will give you a copy.

## **SESSION 8**

**2:00 PM – 3:00 PM**

**Record Management**

**2:00 PM – 2:30 PM**

**Group Discussion**

**2:30 PM – 3:00 PM**

**Group Presentation**

**Group Presentations**

**Group 4:** So for maintain record is concerned it is divided into two parts. First part is related to pending matters. Second one is dispose of matters. For pending matters if we use the technology, scanning of records and digitization of record then it would

be very much beneficial to us. Right now we are facing the shortage of space at every court, district court, high court at every level we are facing the acute shortage of space. So if we adopt the new technology and if we succeed in digitization of records and the scanning of record, definitely we will get the space and it will save the space crunch. Next point is that if we use this technology, it will save the staff.

We can utilize the staff which presently we are using for maintaining the records and issuing copy etc. So that staff can be utilized for other valuable purposes and work. For safety of record, if the record is maintained by digitization, then the record would be kept in proper custody and it will be rather easy to have access so there will be accessibility for the record and whenever application comes for certified copy record will be easily available to have a certified copy. So far as pending matters are concerned. If we start the e-filing procedure. Right from the beginning up to disposal of the matter, lot of benefits are there, first if e-filing is adopted and if the correct data is feed up, next part will be taken care of by the technology system which in the first half we are shown the presentation, how far we will benefit. In e-filing there will be no chances of missing of records. And even if we ask for reconstruction, it is easy for us for reconstruction of record. Sometimes files are missing. There are instances. Entire case record is missing. In some cases it is being eaten by white ant and others. There are so many chances of destruction of records, missing of paper, missing of entire record so it may be avoided through e-filing system.

So there are chances of hacking, virus, connectivity problem is there and in most cases there is internet facility problem. In remote taluka they dont have internet facility, so we have to face the challenge, how they accept the e-filing procedure. How to encourage lawyer and general public for e-filing our group has suggested that training can be imparted to the lawyers, we can have suggestions from them, so that e-filing procedure can be user friendly for the litigants as well as the lawyers, so far as litigants are concerned, we may conduct legal awareness programmes at taluka level as well as district places, so that the general public may be aware what is the procedure of e-filing, what are the advantages and saving of cost as such. We also discussed the facility of kiosk machine so it can be used by the litigants as well as lawyers. At our district place we are having three kiosk machines and those are working well and people are getting much benefit of that. They don't require to rush

to the concerned bench clerk to ask them what is the next date in the matter. In some of the cases, suppose case has been disposed of by the trial judge, it went to the appeal, appellate court and after decision of the appeal, if it is remanded back to the court concerned on disposal of the appeal, record is being transmitted to the lower court during transit period or after it may receipt, it may disappear. There are many instances in each judgeship and we are facing it. It happened on two occasions. One is knowingly and the other is unknowingly and the known cases particularly it is only reason is due to corruption. Until the aggrieved person come forward and gives a complaint we can't do anything.

Dr. Geeta Oberoi intervened and said that are you not responsible in selecting the ministerial staff. There are test to ascertain integrity, about which we all don't know. But there are test developed and they are very scientific test and they dont ask our direct question that are you honest because everyone say we are honest. They ask very tricky questions, it is done by organizational behaviorist and then they find out and my be you can adopt such test in recruitment rather than what do you know.

**Group Three:** We don't have any technology to implement but now we are talking about the paperless work and bar code system, radio frequency is very useful to maintain the record and to avoid missing of record, theft of the record. We should think over the implementation of technology. Question 1 is two folds. One is radio frequency identification can reduce time and location of records without the wastage of time. Implementation can be done by providing infrastructure, man power training for the bar code and radio frequency. Barcode is more popular and cost effective and radio frequency is costlier. Second question digitization, the concept of digitization, again it is based on the paperless theory, not yet been implemented in our courts. Before implementation digitization of all records, we have to ensure the position of the record and to adopt the technology. We need to enact the procedure but different high courts have different procedure to maintain the records. So universal procedure is essential for that purpose. Digitization of record can solve many purpose.

Dr. Geeta Oberoi intervened and said that you all have scanners. If one court complex has 22 courts then only one scanner. That can't be sufficient. With the kind



of records that are there in courts. And xerox machine, printer. You can make a demand in your budget proposal.

Group Two: The first question is whether they are following the exhibit management or not. Now such scheduling of physical inventory of exhibits used to be done in the court. The question is that as and when the document exhibit is produced in the courts those are used to be handed over to the court with a direction to deposit in safe custody. The custodian of the documents shall be made accountable for the loss. So far as permitting the public view of the exhibits are concerned everybody of my group said no. This is not required to be shown to them. For the parties the exhibits are returned or destroyed. Question is when the judgment is passed. This direction is always mentioned in the judgement. It has to be returned or has to be destroyed or retained. This is mentioned in the judgment. Even if some exhibits are required to be returned when the application is moved then we will pass the appropriate order. If the goods are of perishable nature then it cannot be kept for a long time. So the order has to be passed. Section 451 or 452 deals with that. Section 451 pending trial, 452 after trial. This is the position, these two section to take care of the retention or the records to be destroyed. So far as the ideal mechanism is concerned, documents are made exhibits and that has been produced in the courts also, the other party has got the opportunity to see that also.

Once document has been identified or numbered thereafter if any objection is raised that will be taken care by the court itself when they will dispose the case. Now the other question that whether form management system is followed. Of course it is being followed in the form of management because CIS software is there, so format is available there. Every format is identified by its title. Sometime notice to the witness then it must be summoned to the witness under order 37 prescribed forms. The number and title has been given. According to the number the documents are identified by the numbers and by the specific titles also. Thanks.

**Group One:** First question is related to the management of the record. Technological integration is the only solution and the task of the day. Firstly there should be uniformity of rules. There is no uniformity with regards to maintenance, management and disposal of the record. Three stages will be dealing with records.

At the stage of receiving, originals are being insisted in some states, some states are accepting copies during complaint with the originals and some stage is accepting even the digitized copies.

Second thing soon after receiving the document scan and digitization to be done. There will not be any chance or scope for tempering with the document also. Maintenance with record, numbering not only the case but also each and every paper filed in court and numbering at the stage of filing now in the form of SR we are giving but SR number is given to the main case and ultimately when the plaint is given SR number, complaint is given SR number in criminal case when case is given, case number will be given at the appropriate place but for the documents specific and separate number is not being given. If separate number is given to the documents that will solve so many problems. One problem is certainty of all the documents filed second thing is easy tracking of document because a list of documents which are assigned number will be there by referring to that number in the index. So assigning the number to the document is also one solution to have a certainty and easy tracking of the matters documents.

Next the preservation of the documents is another issue. If the digitalization is done at least material document in a case, material record and immaterial record. Immaterial record would be acknowledgement summons etc. Next disposal of the record, making a document permanent will also solve the problem of the disposal of the record. And the disposal of the record if done timely there will be sufficient space in the record room. The second question is with regard to pending cases. Even with regard to pending cases, the numbering of documents is one solution, second solution is many of the clerks although there are rules that they have to maintain a running index of the case. With regard to some valuable property, gold etc which are marked in the court keeping them in treasury or in some lockers in the bank. In every court premises certain kind of lockers within the kind of safety provision is there to keep those documents under proper care and custody. Custody of a responsible person that shall be a solution. Thanks.

Dr. Geeta Oberoi concluded the session by thanking the participants for their presentations.

## **DAY 3**

**10<sup>th</sup> January, 2016**

**Sunday**

### **SESSION 9**

**09:00 AM – 10:00 AM**

#### **Leadership Skills**

**Ms. Michelle Mendonca**

Dr. Geeta Oberoi initiated the discussion and deliberated on the movie shown on 2<sup>nd</sup> day of the program. She said that she is trying to link the movie with today's topic. Everyone said that we must hold that child guilty. During one hour thirty five minutes how we turned around things just by his leadership skills. He takes lead actually and makes everyone fall to his line of approach that is a power of leadership, that is a utility of leadership that you can turn things around you and make people follow you. Leadership what we saw yesterday in decision making process, the example was decision making process but it can very well apply to our administrative decisions that you make. Sometime you will find yourself alone with the idea nobody there to support you. So how you turn around things and get people accept your line of approach. This is what we will going to learn in today's first session by Michelle.

Ms. Michelle said that the higher we progress in our career the more the challenges. have to do is put in their hard work and they can meet their expectation. For instance the disposal rate, judges feel lot of pressure of high disposal rate but they experience challenges from the bar witnesses don't show up to court so they experience lot of stress. You are in a situation of ambiguity. What is expected of you and the resources that are given do they match? How do you use those few resources to meet those very high expectations? We will look at how you can meet your expectation by developing more control over your circumstances through double loop thinking.

We look at control over circumstances. Why are some people successful in the same circumstances whereas other people fail? It is personality. There is something known as locus of control. There are two types of locus of control. Are you the master of your fate? When something good happens do you say it is good luck or do you credit your own actions? When something bad happens do you link it with the responsibility or do you link it with fate. Taking responsibility for good and bad will make people more effective because they cannot shed their responsibility to somebody else. If you look at it scientifically, it is called locus of control. People with external locus of control place responsibility for behavioral consequences on luck faith etc. But people with an internal locus of control place responsibility for consequences on their own behavior and personality. People with an internal locus of control will generally arrive on time. People with the external locus of control blame traffic.

She showed two videos to participants and then discussed about the issues raised in the videos. She then asked whether judges see a similar situation in our courts. Everything seems impossible, can we innovate and can we bring about invention. Can you imagine the first person who says lets farm fish in the desert? Now this is possible. Where the solutions for problems of judiciary comes from. No one else can give you the solution. You know your situation best. There are many examples of judges who have come up with solutions. Impossible situations are the best for innovation. When something is possible why innovate. Locus of control develop through childhood through culture, through education, can we change it.

Ms. Michelle conducted short exercise on circles of control, influence and concern. What is circle of concern of judges? Situation that affect you but you can do nothing about. Situation we can influence but we cannot control. Do we say that accused being in custody not produced as a problem? Because that delays your cases. So do we agree this is common problem? Securing the presence of witnesses, adjournments, ignorance of law and facts of the case, inefficiency of staff. One major big problem is work pressure, inefficiency of staff contributes to it. So your work pressure is caused by all of this, not just of lack of infrastructure but there is stress. Now there will be four groups. So for instance the problems of the bar, insensitivity of the bar council, they want to mislead the court, they want to be very result oriented.

## **Presentations by Groups:**

Group two: The whole purpose of exercise is to fix and realize as much is in our hands and not in the hands of the others. We have realized that many things are in our hand. Thinking over the problems and identifying and researching what are the problems we have what are the immediate and serious problems we are facing, if we are given short term appears to be the another motive. As far as securing the presence of witnesses is concerned firstly availability of list who are to be summoned. Who are the witnesses necessary for examination in a case is important. Identifying who are the witnesses is in the hands of the prosecution. Second they have to furnish list. As far as payment cases are concerned along with the charge sheet they will be giving the list. This we can influence by insisting furnishing of the list without proceeding. Everyone agrees this is something we can influence. Because investigating officers some doctors who has no address and signature is very short not identifiable and where they posted. We don't know. First stage is furnishing the list. Second stage is securing the presence of the witnesses. As far as civil case is concerned, two modes, issuing of summons or at the time of issuing the summons. In civil cases parties are not producing witnesses is one problem. In criminal cases as our friend said, our group member also said that in case of retired persons how to secure the attendance. As for retired persons, how I can influence I would say, but it is under the influence.

Ms. Michelle then explained the purpose of this exercise was to say that very often we feel helpless when we are not. We tend to put things in a circle of concern where actually there can be circle of control or influence. I want to end by just one concept. It is double loop thinking. Single loop thinking says what should I do, double loop thinking says why am I doing what I am doing.

So through double loop thinking I am asking why am I doing what I am doing. In your courts you are supposed to get lots of report, lots of documentation, some of it may be required by the rules. Some of which you may be requiring. So if you sit with your staff and tell them why you are doing what you are doing use all of those reports.

Every report of your staff do you use or some of you think just because it has been done for so many years. So you look at that and see and you can encourage your staff also to engage in double loop thinking. Wherever you go leave an inspiration in all of the works which you are doing in your courts. Thank you very much.

## **SESSION 10**

**10:30 AM – 11:30 AM**

### **How to Handle Bar Related Problem**

#### **Justice S. Vimala**

Justice Vimla intitated the discussion by raising the questions such as what is the first promise of the Constitution, what does constitution promises to us and what is the first promise. Justice is the first promise of the Constitution and we are here to ensure that first promise are we not so proud. Yes we are really proud and if we have to return that pride and proudness, what we have to do, impart justice what are all our problems. We should remember when a lawyer is presenting a case before us, he is not single, he is always having a client at the back seat. As an officer of the court, as an officer of the justice we have to respect the lawyer at the same time. We have to careful to see them that they are surely respected because of the client standing behind them. You imagine the situation of a judge who is facing such a reply from a client who is directly appearing before the judge. Is judging so easy. It is a very difficult task. Whatever others are not inclined to do we are here willingly doing it but when we do justice what is the level of cooperation that is expected from lawyers, how we get that.

Lawyers of yesteryear prepared the case meticulously they never misled the court and they were always willing to assist the court. What do we find today they have not openly said whenever I argue the matter, whenever I want an order, you should pass an order otherwise you are finished. This is the kind of dictation coming from lawyer to judges. It is very very pathetic especially the subordinate judiciary has no legs to stand. They are in dilemma whether to function as a judge or to quit. Unless a high

court is a supporting high court unless the high court has made it clear that whatever legitimate action to be taken by an officer the high court will be by their side. The bar is on a higher pedestal dictating terms. The lawyers they come and argue, when we put questions they don't like. When we were lawyers when some judge put the question then we will be able to convince the judge. Nowadays it is reverse whenever we put question the response is don't put question as if you know everything. You are not expected to put questions, when we argue give orders.

If a litigant has to come to the court to become a loser then there is no pride in calling ourselves as judges. It is our duty to ensure that judicial system render justice and ultimately it is his truth that wins. If that is to be done what kind of quality of lawyers and who is having the jurisdiction over them. Is the court powerless so far as lawyers are concerned? What is the action that we can propose and what is the action that we are taking. Though we are powerful why we are not able to take actions against lawyers and why the bar members give an appearance as though they are be all and end all of everything in the world and judges are powerless. That is the image they are giving to the world.

Litigants are not asked to encourage to come to the court. They go to kangaroo court, they approach somewhere else. We are not making the system user-friendly. Then why these things are happening. The threat is from the judiciary itself that is from lawyers who seek justice from the judges and they are part of it. How do they assist the court? They are not at all assisting the court. Now as judges whatever is the kind of problem which might have faced or you feel that this is a kind of problem from the lawyer. You are at liberty to do and solution after failing them and how in your court that has happened. How you would have reacted. What is the proposed action by your side? Whatever is the way in which you handle it?

We have to be clear on the legal position of boycott and strike. Is it legal on the part of the lawyers to indulge in boycott just like industrial workers? Many at times this will be the via media solution because bar is also a part of us we can't totally ignore them, we can't totally punish them but justice ultimately should not suffer and this is the way to handle it

Are they entitled to boycott the court just because their grievance are genuine? What they are expected. What is the legal formality to be complied with. maximum permitted in extreme cases of genuine grievances only one day. In consultation with the approval. If it is a case of approval then for one day you can adjust and not otherwise. This situation you should take care of. Even otherwise if somebody is willing to assist the court and argue the matter, is it open to the other lawyer to come and prevent them from discharging the duties. Then what is the kind of situation and how will you face it.

What is the offence that is made out that prevent other lawyers? Contempt of court. Who is entitle to take action against them for contempt? It is the high court. What you will do if you have the power to take contempt action. If high court is the ultimate authority you bring it to the notice of the high court, how do you enable the high court to take action? Make a reference. It is the one of the cases. Then the high court will call for a report and then you start the enquiry.

If you bring it to the notice of the high court that these things are happening at least some of the high court will respond to it positively and see that at least some solution are coming unless we ensure that nothing will going to happen.

If there is a boycott then I have to report to the chief justice and there is one more strategy we have adopted. The bar association premises belong to high court and we have allotted them on license basis. Whenever they indulge in boycott, immediately registry issues a notice saying that why the license should not be cancelled. If they are indulging in illegal activities why should they be permitted to reside in the premises of the court?

It is only the subordinate court, it is Supreme Court for litigants. Many of them do not know where Delhi is Supreme Court is. If you are indulging in boycott you are depriving them of the first Constitution. The day I told them that they are the Supreme Court for them there is no boycott. Many of them are not educated in the same culture, not in a same kind of society. Each and every one of them is different in their own way. What is the strategy we will work out with them? First is a law second is a practice, third is the strategy and fourth is the local condition. You should



adopt combination of all these activities and sometimes separate strategies. It depends. The local condition is very relevant. In many cases we have seen that lawyers entering into the chambers and having beaten judicial officers.

The next one is suppression of facts. They will pay in thousands to see that bundle is missing. Cases were listed under the corruption, bundle missing. Where it can take place in the high court. Boycott is visible, other problems are not visible, how are you going to eradicate those kinds of problems. Madurai has started lawyer's academy where all judges and lawyers across the country are being called to educate and they are giving sufficient input for them, and sometimes we also go and participate and whatever is the type of deficiency we see in the court and we also tell them this is the problem and they have to do that. There are many cases in the subordinate court windows broken doors broken chambers broken. How do we handle the situation. You can't always expect the high court contempt proceedings when contempt proceedings will be finalized what you will do when there is a violent behavior and damages to the property, how you will handle.

A participant raised the issue that if there is any damage to the property then the case can be registered against the damage to the public property Act.

Justice Vimla responded to this and said that in the court premises obstructing the judicial proceeding, is there any separate provision in IPC. 228 is a specific provision dealing with causing obstruction and causing damage to public property and the situation specially covered. Without touching the property lawyer dont do any kind of problem. Therefore invoke 228. In one case it is invoked only and rest of them will curtail themselves. Automatically they will go back upon them and there is no problem about it. We will not restrain from passing any order. We will sabotage boycott by not passing any adverse order.

We should make it clear that though we are not against the lawyers, we are against their behavior. That is the distinction between the two. We are always in favor of them because we assist them. There are too many ways in which we should also show them that we want to assist them. In many case the strategy adopted is in case of revision and criminal appeal, no lawyer will appear. Those cases cannot be

dismissed without considering the merits. How are we to consider the merits? We used to ask them who is the junior most amongst the lawyer who is sitting they will give the name. We will not ask the legal aid committee to appoint them at all. So and so is appointed to assist the court. The legal services committee will pay the fees.

Second thing is that wherever there are possibility of commissioner to record evidence. We appoint the junior most lawyers to appoint them as commissioner to record the evidence and ask the legal services committee to pay the fees. We have to take care of the interest of the lawyers also. I am proud in seeing all of you as judges of this country. I think you have to establish better relationship with the bar. So that he will give you maximum output. Thank you.

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