

NATIONAL JUDICIAL ACADEMY



COURT EXCELLENCE ENHANCEMENT PROGRAMME – 2

[P1132-P1141]

30TH NOVEMBER TO 2ND DECEMBER 2018

PROGRAMME REPORT

PROGRAMME COORDINATOR:

MS. PAIKER NASIR, FACULTY

NATIONAL JUDICIAL ACADEMY, BHOPAL

RAPPORTURE:

MS. MALA LAHOTI

5TH YEAR B.A. LLB, ILS, PUNE

The National Judicial Academy (NJA), Bhopal organized a 3 day Court Excellence Enhancement Programme-2 (P-1132- P1141) from 30th Nov. to 2nd Dec. 2018. The programme was divided into 10 sessions over the duration of 3 days and was attended by total number of 43 participants from all over India.

Objective-

The programme was crafted in a way so as to provide a platform to several duty holders across India to share their views and vision of an ideal court, to identify key challenges and constraints causing hindrance in effective functioning of the justice delivery system. Apart from this, the Programme seeks to develop a comprehensive Court Excellence Plan for enhancing qualitative and timely justice through harnessing the synergies of various stake and duty holders in the system. An action plan is envisaged to be developed, which would identify areas calling for systemic improvement.

SESSION 1

Subject-Assessing and Enhancing Court Performance

Speaker- Justice R. C. Chavan; Justice Ravi Tripathi

The session commenced with the screening of a video titled as – ‘Stars of Beijing Circus’. The participants were then asked to analyze the hidden attributes portrayed by the performers in the video and it was contented that those were the core values that every duty holder including the Judicial Officer, Advocate, Public Prosecutor and Managerial Staff must possess and hold within themselves for excellent performance of the court. It was stated that all the duty holders are the assets of the court and for improvement and enhancement in court’s functioning what is quintessential is to have consonance between all the duty holders. Unless there is good coordination, no noteworthy performance can be witnessed.

The speaker then pointed out the objective behind organizing such a programme, which is to lay a platform to share experience, to pick up the best applied practice method of others, to devise an action-plan to achieve the object and to excel in the best possible manner. It was emphasized that whole purpose backing this is to speed up disposal process, grant qualitative justice and improve court’s functioning. Improved judiciary is sign of good health. The speaker then emphasized that as per Article 51A (j) of the Constitution, it is our fundamental duty to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

It was opined that litigants come knocking at the doors of the court out of sheer helplessness or when they are under great pressure and in such circumstance it is the duty of all the duty holders to serve them in their best interest. They should be an activist and be ready to do anything unless it is forbidden by law in order to provide respite to one seeking for justice.

The session was concluded on a remarkable piece of message that setting up of a goal is meaningless until unless it is worked upon. It was stated that there were numerous factors that impact the justice delivery system and litigants should get justice so as to retain the trust and confidence in the judiciary. The speaker suggested duty holders that they must assess their own problems and their performance in the court and find out solutions and ways to deal with the same and in this sense, the entire goal is automatically achieved. Participants were requested to freely discuss any issues and to try to institutionalize the learnings in their respective jurisdiction

SESSION 2

Subject-**Discussion on Court Excellence Indicators and Model Court Plan**

Speaker- **Justice R. C. Chavan; Justice Ravi Tripathi**

The speaker commenced the session by elaborating on the goal of the International Consortium for Court Excellence in developing the International Framework for Court Excellence (IFCE). The objective behind this was to create a practical guide that includes values, performance areas for court excellence, concepts, and tools which can be used by the courts, tribunals and their stakeholders to assess and improve the administration of justice. Integral components of IFCE are – performance, management and measurement (PMM). It provides for 11 core measures or indicators of court excellence-

- **Court user satisfaction**- indicates the percent of court users who believe that the court provides procedural justice that is accessible, fair, accurate, timely and knowledgeable.
- **Access fees**- indicates the courts' success in ensuring that they are accessible to litigants in terms of the costs of access to a court's services, proceedings, and records. These costs should be reasonable, fair, and affordable.
- **Case clearance rate**- it is an indicator of efficiency, productivity and fundamental fairness in court's dealings.
- **On-time case processing**- it provides information about the length of time taken by a court to process cases of different types.

- **Duration of pretrial custody**- it indicates the average time that has elapsed while the accused has been detained and is awaiting for trial.
- **Court file integrity**- it indicates the percentage of files that can be located and retrieved in a timely manner.
- **Case backlog**- it indicates the proportion of pending and unresolved cases that have exceeded established timeframes or time standards.
- **Trial date certainty**- it measures a court's success rate in holding important case on the dates they are scheduled to be held, and also provides a tool to evaluate the efficiency of various case management processes such as court calendar management and continuance policies and practices.
- **Court employee engagement**- it indicates percentage of employees of a court who are passionate about their job and committed to the mission of the court.
- **Compliance with court orders**- it measures two areas of performance, one compliance with the law and second, effective revenue collection and efficient financial management by the court.
- **Cost per case**- is a useful indicator of a court's efficient and effective use of its resources.

SESSION 3

Subject-Break-Out Group Discussion (Duty- holder wise)

In this session, stakeholders were divided into four groups and each group was instructed to fill one template through discussion. Separate rooms were allotted to all the four groups, wherein, 1st room was allotted to Judicial Officers, 2nd room to Advocates, 3rd room to Public Prosecutors and 4th room to Ministerial Staff. Each group was then requested to discuss challenges faced by them and suggest rational and practicable measures that could be adopted in order to enhance the overall functioning of the court.

SESSION 4

Subject- Presentation by Participants (duty-holder wise)

Speaker- Justice R. C. Chavan; Justice Ravi Tripathi

In this session, one representative from every group of the duty holder was asked to initiate and give presentation on the challenges faced by them while performing their respective judicial functions and duties. They were also asked to suggest some pertinent remedial steps that could be adopted so as to improve the performance of the court.

Some of the suggestions put forth by the duty holders are-

- Judicial proceedings should not only be carried out in a fair and transparent manner but also be justice oriented.

- Once the case record is maintained, it should be placed immediately before the Presiding Officer without any delay.
- Periodic training programmes should be organized for training of newly appointed ministerial staff by the senior and experienced staff.
- While adjudicating any dispute there should be no involvement of biasness and personal prejudices.
- User-friendly environment should be maintained in the court.
- The practice of granting unnecessary adjournment should be discouraged.
- Duty holders should be attentive and punctual while carrying out administration process.
- Duty holders should work as a team and be punctual in meeting with the deadlines and targets fixed for disposition of matters.
- There should be strict adherence and compliance with the orders/ directives issued by the High Court.

SESSION 5

Subject- Best Practice Solutions for Improving Court Performance

Chair- Justice R. C. Chavan; Justice Ravi Tripathi

The speaker commenced the session emphasizing that the 'best practice' is not just to concentrate on reducing the number of cases as it depends largely upon one's own ability, ability of managerial staff, working atmosphere of the court and lastly, sense of respect for one another and team work of all duty holders. The speaker then discussed the concept of therapeutic jurisprudence which involves study of role of the law as a therapeutic agent and acknowledged it to be developed in the 1980s by two American law professors - David Wexler and Bruce Winick. The aim of therapeutic jurisprudence is to improve the quality of the law and legal processes including court and tribunal performance.

It was stated that there is no correct or so to say proper method or set norm to deal with any matter as it is completely situational. Matters are governed through application of laws but at the same time deviation from them is not a crime. Changing time and situations require practical approach and application to them but since, system is resilient to change a lot of effort is required to introduce such sweeping changes or so to say to bring about therapeutic change in the society.

Participants were then requested to share with their counterparts the best practice solutions which they have adopted and implemented for improving the overall performance of the court within their jurisdiction. Some of the suggested solutions were-

- To prepare a time frame/ schedule within which cases are to be disposed of and then stringently complying with the same.
- To conduct examination of witnesses through video conferencing in case of non-appearance of any witness in order to save time of judiciary.
- To establish a help desk within the court's premises so as to enable the parties to locate the court with ease.
- To introduce e-payment system for payment of court fees or fines.
- To conduct training courses for freshly appointed staff to improve efficiency in functioning of the court.
- To impose penalty on filing of vexatious or false cases.
- To serve summons electronically through Emails or SMS, etc.
- To provide special protection to child witnesses so as to prevent them from being harassed or tortured.
- To direct the police to include within the chargesheet the contact details of the parties in dispute so to prevent absenteeism on the date of hearing.
- To provide free legal aid during the trial process if either party is not being represented by a lawyer.
- To conduct jail visits on regular basis along with Legal Aid Council to assess the condition of detained undertrial prisoners.

SESSION 6 & 7

Subject-Break-Out Group Discussion (Court wise)

Throughout these two sessions, court excellence enhancement plans were prepared by the duty holders (court- wise) through discussion and deliberation.

SESSION 8, 9 & 10

Subject-Court Wise Presentation on Developing Court Excellence Enhancement Plan

Chair- Justice R. C. Chavan; Justice Ravi Tripathi & Justice R.Y. Ganoo

During these sessions, the Chief Judicial Magistrates of all 10 courts gave presentation on the on the court excellence enhancement plan prepared by them for improving the quality of justice delivered by the adjudicating authority. They highlighted some proactive steps that they have taken and recommended the improvements that can take place in their court to make the justice delivery system more effective and proficient keeping in view the limitations and challenges involved.

Following suggestions were deliberated by the judicial officers on different parameters that can be adopted by all the courts for the smooth functioning of the justice delivery system—

- **Court management-**
 - i. Witnesses should be examined in chief and cross on the same day and once the arguments are closed, judgment should be posted within 3 days.

- ii. Case Information System (CIS) should be kept well updated due to which cause list can be generated easily helping Presiding Officer, Advocates and even litigants to search out for their case along with current status.
- iii. Grant of unnecessary adjournment should be avoided.
- iv. Time management will help in reaching daily targets which in turn will immensely help in court management.

Family matters and also matters pertaining to Negotiable Instruments Act be referred to Mediation so that they can be decided amicably and every party feels like a win-win situation.

- **Access to courts-**

- i. User- friendliness: Staffs need to be trained to provide information to the litigant public in a friendly manner. The Court system should maintain neutrality and should provide good customer service.
- ii. Ease in filing a matter: a help desk should be established with trained staff who can guide the litigants with respect to filing of matter.
- iii. Responsiveness: there should be installation of display boards and kiosk machines. Access to case record should only be given under the supervision of staff of the court. RTI requests to be disposed of within time. Online application for obtaining certified copies to be adopted.
- iv. Accountability: complaint box should be installed at the entrance of the court building and should be routinely checked by concerned officer

- **Court infrastructure-**

- i. Court buildings should have lift facilities and ramps should be constructed for the benefit of disabled persons.
- ii. There is a need for establishment of waiting rooms with sufficient facilities like chairs, benches, water filter, display boards, toilets.
- iii. Proper facilities for holding in camera proceedings should be provided.
- iv. Sufficient parking space, mediation centers, ATM machines, medical aid facilities, canteens, etc. should be provided within the premises of the court.
- v. A guide map should also be displayed especially in combined court buildings for guidance.
- vi. Adequate security arrangements should be made for all officials, working staff and also litigants.

- **Effective use of ADR measures-**

- i. Judicial officers and advocates should be trained as mediators.
- ii. Information on Lok Adalats, ADR mechanism, Legal Aid should be published from time to time through print and electronic media as well as by distribution of pamphlets by SLSA and DLSAs.
- iii. Advocates should appraise litigants of the merits of ADR mechanism and encourage them to settle their disputes through ADR.

- **Expectations form Judges-**

- i. Judge should be upright, unbiased and firm.

- ii. They should intervene in order to curtail irrelevant, annoying and harassing questions from being asked while the process of cross examination is going on.
 - iii. Due recognition and timely appreciation to be given to deserving staff as a measure of encouragement.
- **Expectation from Ministerial Staff-**
 - i. They should execute court's order well within time.
 - ii. They should be sincere, punctual and cooperative in working place and have a litigant friendly approach.
 - iii. They should be acquainted with computer literacy.
 - iv. Staff members who are not well versed with the work should not hesitate to learn from experienced staff.
- **Cooperation from Bar-**
 - i. Unnecessary adjournments should be avoided.
 - ii. Senior and experienced advocates should advice the juniors to maintain dignity and the decorum of the court and not to indulge in boycott.
 - iii. Regular meeting should be conducted involving Bar and Bench to resolve any issue and also to formulate working mechanism for speedy disposal of cases.
- **Cooperation from Prosecutor-**
 - i. Public Prosecutors should assist the court and provide an action plan for the disposal of old cases.

- ii. Prosecutors should prepare file with written notes that may be tagged with police file so that it becomes easy for him as well as for any new prosecutor to understand the complication in the case.
- iii. Prosecutors must be honest and need to strictly follow the provision of Section 294 of the Code of Criminal Procedure.

- **Cooperation from Police-**

- i. The Investigating Officer who registers the FIR should complete the investigation in time and should file the Charge sheet
- ii. The Investigation Officer should ascertain the correct address of the accused and witnesses and should be present at least at the time of examination of material witness.
- iii. He should be answerable to District attorney in addition to Courts and it will resolve all the problems pertaining to delay in the criminal proceedings.

Focal areas requiring urgent attention --

- **Arrears and pendency-**

- i. Judge should personally identify the old cases which are to be given priority.
- ii. Old cases should be listed daily or at least thrice in a week.

iii. Cases should be listed considering the amount of time taken in dealing with each case so that all the listed cases are taken up given sufficient amount of required time to each case.

• **Avoiding delay in serving process-**

- i. Avoiding partially filed charge sheets and ensuring contact details and photographs of accused and witnesses.
- ii. With regard to the witnesses it was suggested that the copy of aadhar card & phone numbers may be placed on record by IO in a sealed cover in addition to charge sheet and not as part thereof to prevent the supply of the same to the accused.
- iii. Ensuring Fair and timely investigation.
- iv. Ensuring Copies of all Police records along with the final report.
- v. Examination of accused and witnesses on the day of their presence.
- vi. Avoiding unnecessary adjournment.
- vii. Ensuring Proper examination of accused and witnesses and avoiding lengthy cross examination.
- viii. Controlling Oral Arguments.
- ix. Managing Verification of bail bonds in an effective manner.
- x. Avoiding strike/ boycott by advocates.
- xi. Management of non-judicial work& protocol duties- Administrative work should be separated from judicial work and a particular day should be fixed for the same.

- **Use of information technology in court processes-**

- i. Laptops be given to every officer with legal database like Manupatra, SCOnline, etc. installed therein so it's easy to search and read any judgment.
- ii. Mic facility and Kiosk machine shall also be made available where ever possible.
- iii. Video conferencing services to be made available between court and jail in all court complexes.
- iv. Judicial officers and staffs who are not user friendly with UBUNTU are given training from time to time.

- **Role of courts-**

- i. Ensuring proper facilities & protection to witnesses.
- ii. Prison should be inspected by Judge In charge (Prisons) on regular basis.
- iii. CCTV should be fixed in court rooms.
- iv. Court should ensure that effective legal aid and other services are provided by District Legal Service Authority.
- v. Ensuring that cause list, stage and next date of hearing, orders and judgments are uploaded in CIS so that public can access to it online through e-court services.

- **Human resource issues-**

- i. Training should be given to them on regular basis so that they can have complete knowledge and control over their work.

- ii. One post of Court Manager should be made available at every district so that such issues can be dealt at the very threshold.

SESSION 10

Subject-Suggestions and Way forward

Chair- Justice Ravi Tripathi & Justice R.Y. Ganoo

In this session, the speaker highlighted that cumulative action needs to be taken to bring about a change in the judicial system. One should pen-down one's own ideas and plan accordingly to achieve the same.

It was stated that courses like CEEP gives a chance for self-introspection and to know what the good practices is adhered and applied in other courts. Participants were motivated to learn good practices from other participants and implement it in their jurisdiction.

The session concluded with the suggestion that court is an institution meant ultimately to promote justice which is a directive set forth for the entire adjudicatory system. Court is a team activity and it will only work when all members work together. One has to enhance its performance then only the performance of others will improve which will in turn improve the efficiency and efficacy of the court performance.