

National Judicial Academy, Bhopal



REPORT

COURT EXCELLENCE ENHANCEMENT PROGRAM

[P-1175 - 84]

18 – 20 October, 2019

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October 18th to 20th, 2019

PROGRAMME REPORT

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Court Excellence Enhancement Programme (CEEP) was conceived by the Academy in the year 2010. This programme brought together the several stakeholders in the justice delivery system to a single platform, enabling comprehensive deliberations and discussions. Wherein, 13 Judicial Officers (CJMs), 09 Additional Public Prosecutors, 08 Advocates and 13 Ministerial Staff Members participated. The program provides a forum for identifying challenges and constraints and endeavours at evolving improved standard working models for delivery of quality justice. The objective of CEEP included assessing and enhancing performance of courts; discussing and identifying indicators of court excellence and to prepare a model court plan considering the best practices to improve existing court performance. This is the first of two cluster programme scheduled this academic year. The programme seeks to develop a comprehensive Court Excellence Plan for enhancing qualitative and timely justice through harnessing synergies of various stake and duty holders in the system. An action plan was developed, which identifying areas calling for systemic improvement. To a large extent, the deliberations and discussions during sessions was clinical in its format.

Justice (Dr.) Shalini Phansalkar Joshi, Justice R.C. Chavan, Justice Ram Mohan Reddy, Justice Navaniti P. Singh, and Justice R. Maithani guided the sessions as “Resource Persons”.

Session-wise Programme Schedule

Day-1

Session 1 - Assessing and Enhancing Court Performance.

Session 2 - Discussion on Court Excellence Indicators and Model Court Plan.

Session 3 - Break-out Group Discussion (Duty-holder wise). Discussion and filing Templates on Challenges faced by them and suggestions to improve performance of their courts.

Session 4 - Presentation by Participants (Duty-holder wise).

Day-2

Session 5 - Open Discussion: Best Practice Solutions for improving Court Performance.

Session 6 & 7- Break-out Group Discussion (Court wise). Developing Court Excellence Enhancement Plan.

Session 8 - Court Wise Presentation on Developing Court Excellence Enhancement Plan.

Day-3

Session 9 - Court Wise Presentation on Developing Court Excellence Enhancement Plan.

Session 10 - Suggestions and Way forward.

Session-1

Theme - Assessing and Enhancing Court Performance.

Speakers: Justice Shalini P. Joshi and Justice R.C. Chavan

The session initiated with the deliberation exploring the history and evolution of the concept of “Court Excellence” in Europe and its adaptation in India. While exploring and assessing the court performance in India reference was made to the Chapter IV of the NCMS *Baseline Report* on the National Framework for Court Excellence (NFCE), which identified the malady of delay in disposal and the reasons responsible for the same viz. inadequate judge strength, support staff, infrastructure, repeated adjournments, improper classification of cases impacting the prioritization, enabling quick disposal, lack of bar and bench coordination etc. It was emphasized that instead of focusing on the uncontrollable or less controllable factors the judge and the stakeholders must recalibrate their attention to maximize returns from the available resources by innovating upon processes and resource utility. It was emphatically underscored that “*Lok Adalat*” is an excellent tool to ensure speedy disposal of cases, but the tool needs to be put to use with utmost care preventing miscarriage of justice. On the point of “model court” it was argued that the concept must be adopted with the caveat to suit a particular geographic, social and political eco-system and not internalised as it is cosmetically, such that it ultimately becomes a square peg in a round hole. While elaborating on “case life cycle” it was insisted that a formal schedule arresting the macro details of the stages of the case progression must be shared with the stake holders including the parties. Such an organised approach instils faith and confidence on the judicial process and the system. Even if a schedule loses track or fails the same becomes measurable to ascertain the system lapses (e.g. time management, process flow etc.). On the question of need to assess or measure a court performance, it was asserted that since there exists a dearth of long term and clear vision of the institution, it becomes essential to have a robust evaluation mechanism in place. The assessment generally focuses on (i) qualitative and/or (ii) quantitative parameters. A brief account of either of the mechanisms were discussed, dilating the inherent strengths and weaknesses. It was asserted that the assessment mechanisms are yet not wholesome in nature as the prevalent processes do not cover all the stake holders systemically. Deliberating on “public trust” on the court system in India, the concepts of “docket explosion” versus “docket exclusion” formed part of the discourse. The function and application of “case clearance rate” was explained to the stake holders in context of “input” to “output” ratio, thereby registering a resultant positive or negative systemic impact on the particular court’s delivery pattern. One of the important functional areas of the ministerial staff i.e. “court file integrity” was discussed with idea as to how important it is to locate and monitor the movement of a case-file and its direct impact on the case-flow management.

Session-2

Theme - Discussion on Court Excellence Indicators and Model Court Plan.

Speakers: Justice Shalini P. Joshi and Justice R.C. Chavan

The session was dedicated (a) to explore the general indicators responsible for court excellence, and (b) comprehension of a model court plan was drawn. It was underscored that court excellence could be measured with reference to the following:

- i. Responsiveness
- ii. Quality (of executing the judicial process, case-flow and justice delivery)
- iii. Timeliness (of trial process and justice dispensation)

It was emphasised that the mission of the court must be to deliver collectively exhibiting a cohered team work by every single duty holder. It was explored as to what time frame should be reasonable to achieve a CEEP plan implementation in a particular court? And what individual endeavours must be taken by an individual duty holder to ensure such a targeted compliance? While discussing the various “indicators responsible for court excellence” the points highlighted include the following:

1. Planning: Long and short term planning with milestone measurement. It was cited that 13th Finance Commission allocated sizeable amount, even half of which could not be utilized, exhibited dismal planning and execution.
2. Transparency amongst the functioning of the duty holders. Regular updating of the National Judicial Data Grid (NJDG) may be one of the steps to exhibit functional transparency.
3. Transparency in judgments: making the judgments transparent by citing reasons. Moreover, a tentative “time-table” in the order may work as an enabling factor.
4. Transparency in workload distribution amongst the judges and the other duty holders.
5. Training and development of duty holders. Empowering and capacity building of the court staff.
6. Infrastructural issues: It was elaborated that a blanket myth is prevalent that the infrastructure is a big ticket issue and the duty holders of the subordinate judiciary are rather constrained to make any positive change. It was clarified that most of the issues relating to infrastructure can be managed and taken care of by each individual duty holder at his/her level *viz.* cleanliness and sanitation of work place, maintenance, judicious use of stationary, judicious use of resources *viz.* water, power.
7. Punctuality.
8. Teamwork and coordination.
9. Proper delegation of work and setting the rigour of stake holder accountability.
10. Team work with dignity: exhibiting partnership and dignity towards the litigants and amongst the duty holders cutting across the hierarchy.
11. Ease of access of a safe and secured court premises: Organized parking; ambulance and firefighting capabilities.

Session-3

Break-out Group Discussion

(Duty-holder wise)

This was a group exercise endeavoured to enable group working with coordination and discussion in a homogenous eco-system. Stakeholders were divided into 4 groups *viz.* Judges,

Prosecutors, Advocates and Ministerial Staff and each group was instructed to fill a template through discussion among themselves. Each group was requested to discuss and suggest the measures for the improvement in the performance of the court and their group can contribute to it and to suggest how they can modify their functioning for improvement of functioning of other duty holders.

Session-4

Presentation by Participants

(Duty-holder wise)

Chair: Justice Shalini P. Joshi; Justice R. C. Chavan

Based on the break out group discussions the representatives of the four groups presented their respective suggestions to improve the performance of the courts. The suggestions focused on vision of an ideal court, key constraints and challenges in relation to the performance of court and how to improve functioning of duty holders.

Subsequently, the speaker shared their thoughts and ideas on the same by underscoring that best place to start the change is within ourselves.

Session-5

Open Discussion: Best Practice Solutions for improving Court Performance

Chair: Justice Ram Mohan Reddy

At the outset the speaker emphatically enumerated two major factors as bases for improving the court performance (i) a concerted team effort within the court by each duty-holder purely committed to and responsible/accountable for his/her duty; and (ii) constant reminder of the pivotal philosophy of “*satyameva jayate*” (justice must prevail).

A few best practices which were narrated during the session are: regarding service of notice etc. the presiding officer must decide and chose the best option suitable for the situation amongst the available options *viz.* email, postal services, personal service, etc. The use of smart phone ensuring proper delivery of the summons, sending the recipients photograph with signatures; and the GPS meta-data are some of the best practices adopted by many courts in India.

Yet another issue which may simplify the cumbersome processes of unnecessary delay caused owing to payment of fees etc. arising out of miscalculations etc. is to have a “wallet account” with the court. The process fee deficits etc. may be adjusted with promptitude with such a practice. Another practice suggested was that a certain corpus amount could be deposited in the

court as advance at the time of filing itself, giving the court the leverage to debit any differences immediately saving precious time of the litigants and expediting the court procedures.

It was also discussed that the provisions of Section 206 in The Code Of Criminal Procedure, 1973 (Cr.P.C.) which provides for “special summons in cases of petty offence” must be rigorously and vigilantly implemented, as the provision clearly states that the personal appearance of the offender is not required in the court. Other best practices such as ease of access with the use of electronic media *viz.* online or e-payments of fines and penalty through, online generation and service of notices and of receipts for motor accident cases etc. must be practiced as a routine. Infrastructural facilities such as ramps & toilets for persons with disabilities (PWD), parking place, ambulance services etc. were suggested. It was suggested that “judicial service centres” with KIOSK facilities must be made mandatory to enable ease of justice delivery.

Session-6 & 7

Break-Out Group Discussion (Court wise)

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

Session-8, 9 & 10

Court Wise Presentation on Developing Court Excellence Enhancement Plan

Chair: Justice Navaniti P. Singh, Justice Ravindra Maithani, Justice Ram Mohan Reddy

One member from each of the groups was supposed to make presentation on the Court Excellence Enhancement Plan prepared by them. Some common aspects like, proper listing of cases, availability of help desk for litigants and witnesses, availability of complaint box in a conspicuous place, adopting and promoting ADR methods for effective disposal of cases, coordination between the duty holders *via* periodical meetings and addressing the grievances etc. Proactive steps and recommended improvements that can take place in the court to make the system more effective and efficient keeping in view the constraints and challenges were discussed and suggested. Following observations and suggestions were discussed by the participants that can be adopted by all the courts for the smooth functioning of the justice delivery system:

1) AREAS FOR CONSIDERATION

Court Management

- ✓ List of old/ targeted/ UTPs cases/ more than 10 years old/ more than 5 years old/ expedited cases be generated and progress be reviewed on weekly basis
- ✓ Find the bottlenecks of delayed cases so as to expedite the same
- ✓ Disposal off petty/ uncontested cases so as to reduce total pendency
- ✓ Time bound program to be scheduled for the disposal of cases
- ✓ Cases to be heard without further adjournment or argument in summons and warrant cases

Access to Court

- ✓ Location of the court should be at convenient place accessible by all stakeholders through public means of transport
- ✓ Suitable assistance should be provided to the elderly / differently abled persons visiting the court
- ✓ There should be earmarked chairs for Govt. pleaders/ senior citizens/ women and differently abled persons
- ✓ There should be separate toilets for transgender/ differently abled persons
- ✓ The floor number should be displayed in front of the gate of the lift
- ✓ Information about emergency exit should be displayed
- ✓ Filing counter should be at the entrance/ reception of the court building
- ✓ Electronic filing should be introduced at the earliest
- ✓ Judicial service center at the entrance to serve as help desk for litigants and witnesses FAQs be posted on the website of the District Courts
- ✓ Electronic applications for copying be introduced
- ✓ Reception center to be established for providing each and every information to the litigants
- ✓ Use of dedicated software for the purpose of generation of receipts on payment linked with the challan cases

Court Infrastructure

- ✓ There should be separate room where the prosecution may brief the witness
- ✓ Dispensary, bank with ATM and post office, crèche should be housed inside the court building
- ✓ POS machine should be provided for cashless transaction
- ✓ Separate staff should be provided to record evidence

- ✓ Separate witness box as per Saket Model
- ✓ Deposition writer
- ✓ Direct connectivity should be established with the courts and the police stations

Effective Use of ADR Measures

- ✓ Information about ADR should be provided in the Legal Literacy Camps, FM advertisements, Bulk SMS, be printed on summons/ notices as well as on website of the court
- ✓ More advocates should be trained to work as mediator
- ✓ Pre-conciliation sittings may be arranged for preparation of Lok-Adalat
- ✓ Computerized display of the dates of the Lok Adalats

Expectations from the Judges

- ✓ Cause list should be manageable
- ✓ Should occasionally inspect the court premises
- ✓ Unbiased attitude
- ✓ Careful listening and not of hearing of the parties of their trauma
- ✓ Time and court management
- ✓ Proper and respectful behavior towards court staff and litigants

Cooperation from Bar

- ✓ Behavior should be cordial with the court staff
- ✓ Bar members should resist from the frequent abstinence and in case of abstention summoned witnesses in criminal cases should be recorded
- ✓ Create awareness and consequences of the case in the event of boycotting court
- ✓ Monthly meeting to be held with bar members
- ✓ Induction program training for new joining Bar Council may be arranged
- ✓ Unnecessary applications for adjournments should be avoided

Cooperation from Prosecution

- ✓ Prosecutor should not be assigned any administrative work like drafting of appeals and giving opinion
- ✓ There should not be frequent change of the court for the prosecutor
- ✓ Willing to keep present the witnesses on time

- ✓ Unnecessary applications for adjournments should be avoided

Cooperation from Police

- ✓ Special branch should be set up by the police for effecting service in case of old/time bound case
- ✓ A nodal officers from each police station should assist the prosecution/ court for trial of the case
- ✓ Production of witnesses and property well in advance
- ✓ Separate law officers need to be appointed for each police station
- ✓ Fair and proper scientific investigation should be done

Expectation from Ministerial Staff

- ✓ Cooperate with the APP, general public and the witnesses
- ✓ Should maintain proper records of cases skillfully and well trained, updated with court management
- ✓ Should be acquainted with computers
- ✓ Maintaining secrecy of judgment and order by steno
- ✓ They must not procrastinate already pending work and must avoid being lackadaisical

2) FOCAL AREAS NEEDING URGENT ATTENTION

Arrears and Pendency

- ✓ Day to day trial must be done for important or grievous nature of cases
- ✓ Every case must be given a time zone for hearing so that unnecessary time wasted during other case hearing will be reduced
- ✓ Equal distribution of different types of case to each judge
- ✓ UTP cases should be heard first and given short dates
- ✓ Fine/ challan cases should be disposed of through the special lok adalats
- ✓ Compoundable matters should be immediately referred to the Mediation center

Avoiding Delay

- ✓ NSTEP should be introduced at the earliest
- ✓ Mobile number of the litigant should be used for effecting services of summons

- ✓ Speed post, registered post, WhatsApp, mail. Appointment of advocate commissioner for Serving Process
- ✓ Partially filled charge should not be registered but returned
- ✓ I/O should be held responsible for delayed investigation
- ✓ Ensuring timely presence of lawyers by asking their possible appearance before the court on the day
- ✓ Managing verification of bail bonds in an effective manner by taking photos, phone numbers, aadhar cards, voter I.D. driving license or other authenticating document
- ✓ By giving allotted time to advocates and prosecution to complete their arguments will control the oral argument period
- ✓ Coordination center may be established between court and police station for speedy execution of process
- ✓ Advocates should sensitize on the issue and irrelevant questions should not be allowed
- ✓ Judges should not allow unreasonable and irrelevant lengthy arguments

Use of Information Technology in Court Processes

- ✓ Inter-operable criminal justice system should be introduced at the earliest
- ✓ SMS facility for case information to advocate/litigants
- ✓ Nyaypath KIOSK machine to be established in the court

Role of Court

- ✓ Display of court functions through the computers and video conferences
- ✓ Legal services management services by NALSA module to be effectively implemented
- ✓ Legal aided cases to be monitored by State Legal Services Authority
- ✓ Free Legal Services to be provide specially to jail inmates, victims of sexual offences
- ✓ Legal awareness programs to be conducted regularly at village level also
- ✓ Compensation to be provided without any delay
- ✓ Post of Court Public relations Officer must be created in each sub-division of the district

Human Resource Issues

- ✓ Workshops for duty-holders on new laws
- ✓ Career development opportunities for judicial staffs by enhancing legal knowledge and practice
- ✓ Insufficient number of staffs in the court
- ✓ Require skilled staffs having basic knowledge of law and technology
- ✓ Providing various skills enhancement schemes by the Government free of costs to the staff members like “court skills development project”

Achievable Objects/ Promissory Notes by the courts

- ✓ Endeavor to make a model court
- ✓ Ensuring that none of the witnesses present goes unexamined
- ✓ Inculcation of decent behavior among duty-holders
- ✓ Redressal of complaints by the duty-holders at an earliest
- ✓ Evidence of witness through video conferencing to avoid delay
- ✓ Separate E-Library room
- ✓ Separate wing for monitoring summon/notices and coordination with police stations
- ✓ Digital payment for copying, fine or any other penalties
- ✓ Make maximum use of ADR
- ✓ Keep in mind and carry on with the spirit of upholding “Satyameva Jayate” and do all the needful in this regard
- ✓ Proper dress code to ministerial staffs

Resource Persons provided their inputs on the said Court Excellence Enhancement Plans and shared their experiences by stating: Leadership quality; Q-qualitative, R-responsible, T-timeliness; Case flow management are the essentials of court excellence. Reference has been made on the concept of plea bargaining and every judge should try to adopt this method because it will bring down the pendency of cases. Everyone should have the qualities of integrity, honesty, character and Bangalore declaration has been pointed out by the speaker. The speaker emphasized the concept of rule of law with regard to court of law is that, the disputes are to be resolved in a lawful manner and confidence on judiciary is the cardinal sign of justice delivery system. It was delineated that duty holders should act as mentors of the institution and should strive together to meet the ends of justice as per the constitutional values.