



NATIONAL JUDICIAL ACADEMY INDIA

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**WEST ZONE-I REGIONAL CONFERENCE ON
OPTIMIZING QUALITY AND EFFICIENCY IN
JUSTICE DELIVERY: CHALLENGES &
OPPORTUNITIES**

19th & 20th October, 2019

Programme Coordinators

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The National Judicial Academy in association with Rajasthan High Court and Rajasthan State Judicial Academy organized a Regional Conference on the theme “Optimizing Quality and Efficiency in Justice Delivery: Challenges & Opportunities” on 19th and 20th October, 2019. The conference was held at the Rajasthan State Judicial Academy in Jodhpur and was attended by 103 participants. The conference was designed to provide a forum for exchange of knowledge and sharing of best practices among the participants apart from holding discussions on certain specified topics such as constitutional vision of justice; role of a judge in a democracy; information and communication technology (ICT) in courts; court and case management; fiscal and budgetary planning and cadre management in district judiciary. The conference aimed at breaking hierarchical barriers and providing an opportunity to reflect and deliberate upon several critical issues necessary for smooth functioning of the judicial system. Justice Deepak Gupta, Justice M.B. Lokur, Justice A. M. Sapre, Justice Indrajit Mahanty, Justice Pushpendra Singh Bhati, Justice Pankaj Bhandari, Justice S. G. Gokani and Dr. Justice Shalini S. Phansalkar Joshi were the resource persons of the conference.

Session 1- Constitutional Vision of Justice

It was stated that the Constitution is the common thread which binds the diverse populace of the country. It was opined that the Preamble to the Constitution is the guiding light and provides for the goals, ideals and aspirations of the people of India which is sought to be achieved by the Constitution. It was suggested that judges should keep the vision of the draftsmen of the Constitution in mind while adjudicating. It was stated that the vision of justice as envisaged in the Constitution is amenable to diverse interpretations. It was stated that the Directive Principles of State Policy provide guidance for governance of the country and provide the objectives to be achieved by the Constitution. It was stated that the precedence of different ideals imbibed in the Constitution is subjective and depends on the outlook of the individual. The session also involved a group discussion wherein the participants were divided into groups to deliberate on assigned topics i.e. equality; gender justice; social context judging and rule of law. The participants also discussed the role of judges in context to the aforementioned themes.

Session 2- Being a Judge: Role of a Judge in Constitutional Democracy

The participants presented the major points discussed in group discussion on the topic 'Equality', the first group was of the view that the concept of equality is most important and the role of judge is to uphold the law without fear or favour. It was stated that the judgment of a judge should not be influenced by any political ideology or economic theory. It was further opined that the law should be applicable equally to all litigants as mandated by Article 14 of the Constitution.

The second group which deliberated upon the theme of 'gender justice' was of the opinion that the Constitution provides for equality of opportunity to every individual irrespective of their gender. It was stated that various judgments of the Supreme Court have enhanced the rights of women. It was also stated that personal law should be interpreted to provide justice to women. It was opined that every judicial officer should be sensitized and should have knowledge of gender justice. However, judges were cautioned to be vigilant while deciding cases so that laws are not misused.

The leader of the third group presented his view on the theme of 'social context adjudication' and stated that we should identify problems which affect different groups in the country. It was opined that the judges should have a humane approach while adjudicating disputes. The judges were also advised to understand the objective behind various welfare legislations which would assist them in adjudication.

The fourth group presented their views on the theme of 'Rule of Law' and it was stated that rule of law means rule according to established principles of law. It was opined that rule of law includes four aspects i.e fairness in action; absence of arbitrary power; equality before law and consistency. It was stated that there should be fairness in every action of the trial judge e.g. he should act fairly while granting adjournment and should ensure that it should not adversely impact the interest of the other party. It was also stated that several directions given by the Supreme Court have been laid down with the intention to restrict exercise of arbitrary power. Furthermore, it was opined that everybody should be treated equally before the court and there should be consistency in action and orders of the court.

It was further stated that the judges should interpret the law in consonance with the Constitution. They should have a broad vision and should strive to uphold the ideals enshrined in the Constitution. The participants were advised to expand their vision of justice and adhere to the ethos of the Constitution. It was opined that the judges should strive to maintain the faith of the society in the judiciary by ensuring expeditious justice delivery.

Session 3- Access to Justice:

- **Information and Communication Technology in Courts**
- **Court and Case Management**

The session was initiated by focusing upon benefits of the e-Courts project which has increased transparency and accountability in the judiciary. The speaker explained the uses of benefits of the National Judicial Data Grid (NJDG) and its role in empowering the judiciary. The NJDG allows judges to take control of their courtroom; facilitating case management and providing a tool to analyse pendency in the court. Moreover, it allows the Principal District Judge and High Court judge to examine and scrutinize

working of the judicial officers under their superintendence. It also assists them in court management at a macro level. It was stated that NJDG provides a check and balance on working of the judiciary. The speaker stated that since NJDG operates on a real time basis, the judges should take care that correct data is entered into the system by their court staff without any delay. The speaker demonstrated cases from the NJDG database wherein several adjournments had been given without any reasonable cause to highlighted the manner in which NJDG can be used to identify bottlenecks. Several suggestions were discussed during the session included the following:

- Empanelment of retired District Judges and Chief Judicial Magistrates for recording of witness statement and deciding miscellaneous applications when the presiding officers are on leave. This will so ensure that witnesses do not have to returned due to absence of judicial officer.
- Benefit of probation to be given in petty offences.
- Prescribing a monetary limit under the Negotiable Instruments Act, 1881 for filing a case to enable control over docket explosion for the legislation.
- Date of appearance before the appellate authority can be fixed in the judgment of the lower court. Hence, the Party appealing against the judgment could appear before the appellate court on the specified date and requirement of process fees and certified copy can be forgone (Similar practice followed in Rent Tribunals in Rajasthan)

Session 4- Cadre Management in District Judiciary:

- **Recruitment Process: Aptitude Test**

- **Identifying and Filling of Vacancies**

The speaker initiated the session by stating that filling vacancies of both judicial officers and ministerial staff in the country should be done on a priority basis. It was suggested that vacancies should be identified much in advance so that the process of recruitment can be initiated at the earliest. The process of appointment of ministerial staff was discussed and it was stated that most of the recruitment process are opaque and therefore, the process should be made more transparent and accountable. It was also stated that adequate training of ministerial staff is not being undertaken and therefore the State Judicial Academies should undertake comprehensive training programmes. It was opined that writing Annual Confidential Reports (ACR) is also part of cadre management and should be filled after due thought and care and not in a mechanical manner.

Furthermore, the speaker expressed concern that the time schedule given in *Malik Mazhar vs U.P. Public Service Commission* [(2008) 17 SCC 703] is not being followed by several States which results in delay in recruitment process. Hence, all the participating High Courts were advised to follow the schedule

strictly. It was also highlighted that there is very little awareness about perquisites and other benefits attached to the office of a judicial officer. Hence, more awareness should be created for the post of judicial officers so that more law graduates prefer judiciary over other employment opportunities and best talent is attracted.

Another concern raised during the course of the conference was that 'aptitude test' is not adequately designed for analyzing various skills required for being a judicial officer. Furthermore, it was stated that the examination for the level of Additional District Judge requires a major overhaul, since currently it only focuses on rote learning of provisions. It was also suggested that the examination process across the hierarchies require major changes. The speaker also expressed concern that every High Court is following its own method of recruitment and there is no uniform national recruitment policy.

The speaker traced the incorporation of Articles 233 to 237 of the Constitution of India and stated that members of the constituent assembly were concerned with the independence of the judiciary and hence brought the district judiciary under the control of the High Court in the constitutional scheme. The speaker also focused upon the proposals of Central Selection Mechanism (CSM) and All India Judicial Services (AIJS) and elaborated upon their features. Furthermore, it was suggested that the interview panel should also consist of psychologist to assess the candidate.

Session 5- Fiscal and Budgetary Planning

The session involved discussions upon various issues which arise in budget planning and preparation. It was stated that if the budget is properly presented to the government then the budget would certainly get an approval. It was also stated that budget preparation should not be done casually by inflating budget of the previous year by certain percentage. It was stated that fiscal planning should take into account two types of expenses i.e. recurring expenses and non-recurring expenses. It was suggested that a vision document should be prepared for the specific High Court for the future so that all the actions are undertaken in a planned manner to fulfil goals envisaged in the document. The vision document should take into account suggestions from all stakeholders and the ground realities. It should be based on statistical analysis and should lay down a framework for executing the vision through a plan providing for annual, midterm and long term goals. It would provide a roadmap, and appropriate budgetary demands can be made, taking into account future and contingent expenditures. It was stated that appropriate budget can be put before the government if future infrastructural and manpower requirements are estimated.

Certain difficulties which were highlighted during the course of the conference include:

- The funds are not sanctioned according to the budget.

- The sanctioned funds are not allocated as per budget.
- The funds are not disbursed in time.
- The funds are released under particular head and hence cannot be utilised for any other head.
- Sanction of grants is reduced if previous year expenses are less.
- No additional grants are sanctioned.
- Supplementary budget is sanctioned very late.
- Shortage of funds even for regular expenses.

It was stated that the judicial branch often fails to spend the amount allocated to it under the budget and therefore, there is reduction in the next year's budget. Another issue which was highlighted was that the courts do not have trained financial officers. It was stated that if the budget is prepared properly there would be no need of a supplementary budget. Moreover, the participants expressed concern that Principal District Judges of several States in the region are allowed non-sanctioned expenditure to the limit of Rs. 5000 only.

It was stated that since creation of new posts of judicial officer entails creation of post of ministerial staff, therefore there is huge financial requirement for the infrastructure development. Centrally sponsored scheme for development of infrastructure facilities for the Judiciary was also highlighted; and it was stated that sometimes the State government does not release the allocated share in time. Furthermore, it was stated that dedicated cell for utilization of fund envisaged in The Chief Justices Conference of 2016 should be constituted and should undertake necessary actions for utilization of funds. It was suggested that the building and finance committee should work in synergy to achieve desired results. It was also suggested that the principal district judges can avail the services of experts for training and assistance in preparation of budget.

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