

NATIONAL JUDICIAL ACADEMY



National Convention for Senior High Court Justices: Strengthening Fiscal and Administrative Protocols in High Courts [P-1292]

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Programme Coordinators

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The National Judicial Academy organized a two-day online ‘National Convention for Senior High Court Justices: Strengthening Fiscal and Administrative Protocols in High Courts’ on 9th & 10th April, 2022. The aim of the National Convention was to sensitize prospective Chief Justices of the High Courts to the non-judicial functions associated with the office. The convention facilitated deliberations among participant justices on critical areas concerning the administrative responsibilities and functions of the Chief Justices of High Courts (CJHC), especially in the areas of administrative protocols and the intricacies and nuances of fiscal management and functionalities through deliberations and open house interactions enabling best practices in these areas. The participants were the senior most High Court Justices (J1 to J-3) nominated by the 13 High Courts.

The first session on the theme; Administrative functions of the Chief Justice commenced with brief introductory remark on objectives of the convention. While discussing the administrative functions of CJHC, need for evolving standardized functioning and to bring consensus in decision making was stressed upon. Referring to CJ’s conference in the year 1992, attention was drawn at various non-judicial functions of the CJHC including establishment of the National Judicial Academy & elaborating it further it was pointed out as to how this non-judicial function with regard to establishment of the National Judicial Academy itself has strengthen the judicial system. It was further emphasized that non-judicial functions require different set of orientation and analysis as one has to deal with multiple tasks viz. infrastructure, computerization, recruitments, budgetary allocations, legal education, requirements of litigants, complaints etc.

Role of CJHC vis a vis role of a leader was discussed. It was said that the CJHC is first among equals and administrative powers must carried out with utmost caution & duty. It was suggested that while allocating work, a combination of ability, aptitude and pendency must be kept in mind. Role of CJHC in developing consensus & collegiality amid divergent and differences was also deliberated upon. Practical experience of working as the CJHC was also shared and discussed by speakers. Importance of allocation of work on the basis of experience on the subject for better results was emphasized upon.

Deliberating on administrative work of CJHC, it was suggested that practices of different High Courts should continue as per their tradition for smooth functioning. Role & leadership of CJHC

in managing relation with other High Courts, the Supreme Court, and BAR was discussed. Attention was drawn at other relevant areas as well for CJHC to ponder upon viz. selfless services, managing relation with companion judges, other High Courts, Registry, Subordinate Judiciary, High Court & Subordinate Judiciary Staff, Bar, State Government and peripheral persons. The issue of transfer of judicial officers was also discussed. It was stressed that in order to ensure transparency in the transfer of judicial officers, there should be a standard rule and clear transfer policy for smooth functioning.

Role of CJHC in dealing with local challenges of different High Courts, setting up of roaster, constitution of multiple committees, rationalizing ADR, strengthening judicial system and enhance working was also discussed.

The second session on similar theme emphasized on ‘balancing of judicial & administrative functions’ by the CJHC. It was stressed that judicial functions should not get effected due to administrative functions. It was emphasized that CJHC should be a trained mediator in terms of dealing with different kind of people and offices. The session included discussion on various set of skills for better administration viz. horizontal and vertical relation management, managing interpersonal relationships, managing consensus at meetings, effective communication with fellow judges and staff, collaboration with union and state etc. Practical experience of working as the CJHC was also shared and discussed by speakers. It was pointed out that motivating district judiciary and bringing trust & confidence will go a long way in improving administration. The sessions concluded with Q&A and discussion.

The third session on the theme, Budget Preparation & Fiscal Management highlighted the system of budget allocation and expenditures wherein special emphasis was drawn to the centrally sponsored schemes, structure reform for budgeting, and expenditure management for effective utilization. It was underlined that both union and state governments have executive authority and responsibility for institutionalizing and maintaining the system of courts for effective administration. It was highlighted that administration of justice is the major head for budgeting and accounting of revenue expenditure. It was accentuated that revenue expenditure for different institutions viz. High Courts and Civil & Sessions Courts are budgeted under minor head 102 and 105 which is common across Union and State governments. The specific expenditure on various inputs like salaries, wages, office expenses, domestic travel expenses classified and provided under

the object heads was an area dwelt upon. It was highlighted that a few new classification of expenditure such as; plan and non-plan expenditure, development and non-development expenditure, and economic service expenditure have been recently introduced, wherein administration of justice categorized under the general and non-development head of expenditure. A reference was made to the Combined Finance and Revenue Accounts which is published by Controller and Auditor General of India wherein it was highlighted that in the year 2017-18 expenditure of the Union on administration of justice was 989.22 crore and States expenditure was 18814.36 crore. During the course of discussion it was informed that there is no separate head for capital expenditure on administration of justice and it generally forms part of capital outlay on public work. A reference was further made to the National Mission for Justice Delivery and Legal Reforms, wherein it was pointed out that the scheme was divided into three component including; action research and studies on judicial reforms, designing innovative solutions for holistic access to justice, and e-court phase II. The session further identified the importance of infrastructure facilities for judiciary through centrally sponsored scheme which provides for the development of infrastructure facilities for subordinate judiciary in the States/UTs, with or without legislature. In this regard a reference was made to the NCMS Baseline Report on Court Development Planning System (Infrastructure and Budgeting) and the recommendation provided by the 15th Finance Commission. It was opined that there is no proper organization/administrative support in the judicial system to facilitate the process of budgeting and planning. On budgeting and planning it was underlined that High Courts work as head of the department and budget authorities in the State government scheme without any professional finance and accounts personnel. Additionally, there is no capital works planning and implementation system to help High Courts. Therefore, it was suggested that independent oversight of the entire process is imperative. It was recommended that the post of Directorate of Judicial Finance and Accounts under each High Court may be established to undertake budgeting, allocation and monitoring of funds which build a functional system for ensuring effective utilization of budgetary resources. It was emphasized that proper architectural cum engineering organization would ensure effective utilization of capital budget.

The fourth session on the theme, Budget Preparation & Fiscal Management dwelt upon the importance of technology in managing and reflecting the expenditure incurred and amount released by various ministries. It was opined that with the use of technology, budgeting would be easier as it gives a bird eye view to various ancillary components attached with budgeting and

fiscal planning. It was stated that the identification and utilization of funds allocated to different institutes coupled with the automatic updation of the data is vital to abreast the effective utilization of resources at glance. A reference was made to the Department of Science and Technology wherein with the aid of technology an online portal is prepared that reflects the total amount released to various agencies from 2017 till 2022. It was highlighted that the portal consist data from 33 States/UTs and involved 1438 agencies with an amount of approximately 4,209.43 crore released to various departments.

A reference was made to the memorandum of 15th Finance Commission on budgeting for the judiciary in India, wherein it was highlighted that inefficient and inconsistent budgeting procedures employed by the judiciary across different States contribute to unequal access to justice. It was stressed that 92 percent of India's judiciary financing is met through expenditure by State governments which constitute only 0.16 percent of their total spending. The session threw light upon a few areas of concern with regard to budgeting and financing such as, disparity in priorities of judiciary on budget across states, mismatch of needs and share of judiciary in budget, and horizontal & vertical disparity in allocation of funds. It was also underscored that 90 percent of the total budget is absorbed in establishment and operational costs of the judiciary. Lastly, some new initiatives that will help to stop parking of fund and carry forward like Treasure Single Account (TSA) for autonomous bodies, State Nodal Agency (SNA) for centrally sponsored schemes and Central Nodal Agency (CAN) for central sector scheme were enlisted and deliberated upon during the course of discussion.