

NATIONAL JUDICIAL ACADEMY



NATIONAL SEMINAR ON JUDICIAL AND LEADERSHIP SKILLS

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3RD & 4TH SEPTEMBER, 2022

PROGRAMME REPORT

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OVERVIEW OF THE PROGRAMME

The National Judicial Academy organized a two day National Seminar on Judicial & Leadership Skills on 3rd & 4th September, 2022. The objective of the seminar was to sensitise participant judges with the intricacies of leadership while administering the court. The approaches and strategies that needs to be adopted by judges for litigant centric and expeditious justice delivery formed part of the discourse. The seminar involved discussion on methods to communicate and interact with various stakeholders so as to enhance trust and confidence in the justice system. The seminar imparted judging and administrative skills including effective listening, assimilating, drafting and delivering quality judgments, time management, staff management, team building and use of Information and Communication Technology. The seminar facilitated an interactive dialogue on case management and reorganising case load to further enhance productivity.

DAY 1

Session 1 - Leadership Skills: Organizational Performance and Leadership Effectiveness

Session 2 - Administrative Skills

Session 3 - Judging Skills

DAY 2

Session 4 - Sentencing and Doctrine of Proportionality

Session 5 - Use of Information and Communication Technology (ICT) in Courts

DAY – 1

Session 1

Theme - Leadership Skills: Organizational Performance and Leadership Effectiveness

Panel – Justice N. Seshasayee, Justice Roshan S. Dalvi & Justice Aditya Nath Mittal

While emphasizing the role of a district judge as a guardian of judicial officers it was stated that it implies a position of trust, care, custody and not merely control or superintendence. In the same context the qualities of a boss as against a leader were distinguished. It was remarked that disciplinary control of judges and staff includes vigil over judicial misconduct. As regards confidentiality reports and appraisals, it was pointed that the object is to inculcate discipline and not to demoralise the judicial officers while maintaining their dignity and independence. It was stated that management skills, practicality and creativity are among the desirable qualities of a judge. Various aspects of organisational goals for judges and staff such as appointments, confirmation, transfers, promotions and overall discipline of work were focused. The Report of the National Court Management Systems (NCMS) Committee with respect to Resource Development Strategy was highlighted.

Certain legal and judicial reforms which can go a long way in enhancing organizational performance and leadership effectiveness were discussed which includes defining goals and re-examining outcome periodically; improving case management; use of Alternative Dispute Resolution in civil and Plea bargaining in criminal cases; necessary changes in Procedural Laws; training of judges, lawyers, police, prosecutors and other stakeholders; Judicial Bench Books for best practices and precedents; effective use Information and Communication Technology; implementing National Minimum Court Performance Standard; and Judicial Impact Assessment among others. In addition, significance of administrative reforms such as Cost – Benefit Analysis; developing infrastructure (lighting, toilets, libraries etc.); realistic and planned budgeting system; social audit and research were discussed. It was pointed that Medical Officers, Police Officers, Prosecutors, Legal Officers, Judicial Officers and Criminal Justice Agencies are partners in the justice delivery system and therefore, participant judges were advised to work as a team with the different stakeholders so as to achieve the goal of an efficient judicial system. Also, the need for sensitisation of lawyers in judicial academies was emphasized.

Session 2

Theme - Administrative Skills

Panel - Justice Roshan S. Dalvi & Justice Ananya Bandyopadhyay

The session included discussion on how judges and court administrators must work together and coordinate their efforts in key areas of court administration and management. It was stated that the term “management” suggests judicious deployment of resources including human resource for optimum output. Significant aspects of management i.e. planning, organising, directing, coordinating and controlling as propounded by Peter Druker were expounded. Since the overall functioning of a court depends heavily on the interplay between judges and administrative staff, it is important to set up a system capable of building a shared responsibility between the head of the court and the court administrator for the overall management of the court. It was also pointed that behaviour of a judge in the court is one of the most important aspect in court management. Handling disruptive persons, aggressive lawyers, reluctant witnesses, sluggish staff, would go a long way in effective disposal of cases. The judge presiding over a court must monitor unnecessary delays and ensure that there are no uncalled for adjournments. The use of Information and Communication Technology is another way to support and automate case management practices of courts.

It was remarked that the major reason for discussion on the theme of court and case management is without a doubt the ever increasing number of cases pending at all levels in the judiciary. However, the goal of court and case management is not only to expedite the justice delivery system but also to improve the efficiency in decision making in courts and optimum utilisation of resources. Several good practices/ideas/suggestions came up during the course of the session, such as: exploring the possibility of settling a particular matter through ADR mechanism; deciding interim applications on the same day which they are filed; achieving the monthly goals in the ambit of healthy practices; ensuring maximum use of ICT in managing the affairs of the court; addressing the issue of pendency by adopting proper identification based approach and grouping the cases accordingly; increasing manpower for better management of the courts; avoiding unnecessary adjournments, etc. The nuances of case management through various stages in the life cycle of a case were deliberated. Requirements for effective court and case management in view of amendment to Orders in the CPC by the High Courts, High Court Practice Directions (HCPD), Judicial Training, Precedents and Court Administration were also highlighted.

It was stressed that a number of reforms have been made in recent years such as National Judicial Data Grid (NJDG) to assess pendency; National Litigation Policy to curb litigation; National framework of Court excellence; system of performance parameters; Court Development Planning System; increased strength of judges; speedy appointment of Judges; raised retirement age of judges; increased number of working days; flexi-vacations etc. in order to strengthen the judicial system.

Session 3

Theme – Judging Skills

Panel - Justice C.V. Karthikeyan & Mr. Ramakrishna Viraraghavan

The session commenced with the assertion that district judiciary is the foundation of the temple of justice system and that their judgements are vital to the strength and stability of the justice delivery system. Emphasis was laid on the adequate amount of time to be spent in writing good judgments. It was remarked that there is nothing natural about writing judgments of good quality rather it is highly technical, complex and artificial. It has to be learnt and practiced until one is able to consistently deliver judgments of good quality. It was iterated that motivation follows action and therefore, it is important to focus on the process while forgetting about the final output i.e. the judgment. The three basic features of a good judgment were elucidated, i.e. (i) brevity - the absence of a single unnecessary word, sentence or paragraph; (ii) simplicity – avoiding complicated language; and clarity - judgment must be written in such a way that an unreasonable man cannot misunderstand. It is important that a judgment must speak for itself and must be able to defend itself in appeal. It was further explained that it is necessary to revise, rewrite and proof read a judgment in several draft versions while analysing it from the perspective of the losing side. It was stressed that a judgment must never be written to show one's knowledge of law or literature, language skills or to impress the higher judiciary. The structure of a typical judgment was laid out as follows:

- Summary of the complainant or petitioner's case and summary of the defence
- Arguments of the petitioner's counsel; arguments of the defence
- Issues
- Analysis of the arguments and findings
- Conclusion: operative portion of the judgment

The discussion further delved into various skills involved in the process of decision making such as practicality, timeliness, analytics, open mindedness, impartiality and perceived conflict

of interest. It also includes effective communication and inter personal skills with diverse group of advocates/litigants and active listening skills while maintaining the dignity and sanctity of the court and judicial process. Certain personal characteristics which must be possessed by judge such as cross-cultural experience and engagement; awareness of social issues; respect for essential dignity of all persons; moral courage and high ethics; punctuality; work etiquette etc. were also highlighted. Further, several aspects to be focused while dealing with civil and criminal cases were delineated. It was clarified that the objective of restorative justice is to ensure dignity of victim and the offender, restoring offenders to law abiding lives, assistance to the victim/survivors of crime, repairing harm done to interpersonal relationships and the community.

Several judgments delineating the approach and essentials of a good judgment were highlighted such as *CIT vs. Saheli Leasing & Industries Ltd.*¹; *Board of Trustees of Martyrs Memorial Trust vs. Union of India*²; *Aparna Bhat vs. State of M.P.*³; *K. V. Rami Reddy vs. Prema*⁴; *Kanailal vs. Ram Chandra Singh*⁵; *SBI & Another vs. Ajay Kumar Sood*⁶.

¹ (2010) 6 SCC 384

² (2012) 10 SCC 734

³ 2021 SCC OnLine SC 230

⁴ (2009) 17 SCC 308

⁵ (2018) 13 SCC 715

⁶ 2022 SCC OnLine 1067

DAY – 2

Session 4

Theme - Sentencing and Doctrine of Proportionality

Panel - Justice N. Seshasayee & Dr. Mrinal Satish

The session focused on theoretical foundations and developments of the concept of proportionality in common law sentencing. It was asserted that sentencing is the heart of the criminal justice system and that there is a lot of subjectivity in the award of sentence which gives rise to inconsistencies. It was further stated that there is no sentencing policy in India as such although judge made law does provide some guidelines. The lawmakers thought it fit to leave the element of discretion in matters relating to the quantum of sentence in a particular case. The sentencing policy in India basically rests on the procedure of hearing on sentence and reasons provided in the judgment. In the absence of structured guidelines, these twin safeguards serve the purpose of just sentencing. However, it was emphasized that the doctrine of proportionality must be adhered to while awarding sentence by exercising judicial discretion. The observations made by the Committee on Reforms of Criminal Justice system and Madhav Menon Committee were highlighted emphasizing the need for structured sentencing guidelines in order to minimize uncertainty in awarding sentences and promoting transparency and public confidence in the justice system.

The discussion sought to elucidate on pertinent issues concerning sentencing guidelines, its absolute need in the present criminal jurisprudence, their application and implication and a look at sentencing guidelines in other jurisdictions. Further, the various theories of punishment such as deterrent theory, reformatory theory, retributive theory etc. were discussed in the course of the session. The most debatable form of sentence i.e. death sentence was also discussed at length. The concept of concurrent and consecutive sentences was also clarified while emphasizing that elaborate reasoning must be given when either of these is awarded. The aggravating and mitigating factors in awarding sentences was discussed at length. It was remarked that the modern trend in penology and sentencing procedures is to emphasize the humanist principle of individualising punishment to suit the offender and circumstances. It was further noted that the introduction of alternative sanctions in Indian sentencing policy such as probation, parole, community service, compensation, etc. has been one of the most important developments in the past few decades.

Several judgments of the Supreme Court dealing with the aspect sentencing *State of Punjab v. Prem Sagar & Ors.*⁷; *Alister Anthony v. State of Maharashtra*⁸; *Soman v. State of Kerala*⁹; *Bachan Singh v. State of Punjab*¹⁰; *Machi Singh & Others v. State of Punjab*¹¹; *State of M.P. v. Babulal*¹²; *Ravada Sasikala v. State of Andhra Pradesh and another*¹³; *Manoj Pratap Singh v. State of Rajasthan*¹⁴; *Jaswinder Singh v. Navjot Singh Sidhu*¹⁵ were elaborated. The session was concluded with the caution that any sentence awarded must be appropriate, adequate, just and proportionate.

Session 5

Theme - Use of Information and Communication Technology (ICT) in Courts

Panel - Justice R.C. Chavan & Justice Ram Mohan Reddy

The session began with the introduction of the e-Courts Mission Mode Project as a national e-Governance project implemented under the aegis of the Supreme Court for the enablement of Information and Communication Technology (ICT) enablement in the District Courts and High Courts across the country. The objective of the e-Court project were highlighted as: (i) to provide efficient and time-bound citizen centric service delivery; (ii) to make the justice delivery system affordable, accessible, cost effective and transparent; (iii) to enhance judicial productivity both qualitative and quantitative; and (iv) to provide transparency of information and access to its stakeholders. A wide range of services available under the e-Courts portfolio for different stakeholders were elaborately discussed. The Case Information System (CIS) developed for Subordinate courts and High courts in India to automate the court processes catering to diversified requirements was highlighted. The discussion referred to the e-Court services available to litigants and common citizens through various channels such as e-Courts services mobile application and website, information kiosks, push messages, e-mail, judicial service centers. The National Judicial Data Grid (NJDG) was characterized as the repository of case data available on public platform and monitoring of pendency and disposal of cases in District Courts and High Courts. The discussion accentuated upon the virtual courts system

⁷ (2008) 7 SCC 550

⁸ (2012) 2 SCC 648

⁹ (2013) 11 SCC 382

¹⁰ (1980) 2 SCC 684

¹¹ (1983) 3 SCC 470

¹² (2008) 1 SCC 234

¹³ AIR 2017 SC 1166

¹⁴ 2022 SCC OnLine SC 768

¹⁵ (2022) 7 SCC 628

enabling online adjudication and payment of fine in traffic challan cases thereby reducing footfalls in court as the physical presence of various stakeholders can be dispensed with. The facility of e-Pay and e-Filing was highlighted. Further, the National Service and Tracking of Electronic Process (NSTEP) as a mechanism consisting of a centralized process service tracking application and a mobile application for bailiffs which helps in real time and transparent tracking of services was delineated. The JustIS mobile application as the personal court management tool for every judicial officer in the country and the features of the e-Court services mobile application were referenced. The various monitoring tools such as case time tracking, case hearing tracking, advocate occupancy tracking, judicial time monitoring etc. were elucidated upon.
