

NATIONAL JUDICIAL ACADEMY



**[P-1399] NATIONAL CONVENTION FOR SENIOR HIGH COURT JUSTICES: STRENGTHENING
FISCAL AND ADMINISTRATIVE PROTOCOLS IN HIGH COURTS**

13th & 14th April, 2024

Prepared By:

Dr. Amit Mehrotra, Professor & Ms Rajesh Suman, Assistant Professor

The National Judicial Academy (NJA) has organized a two-day National Convention for Senior High Court Justices on Strengthening *Fiscal and Administrative Protocols in High Courts* on 13th & 14th April 2024 at NJA, Bhopal.

The National Convention aimed to raise awareness among future Chief Justices of High Courts about the non-judicial responsibilities tied to their roles. It addressed key aspects related to the administrative duties of Chief Justices, including administrative protocols and the complexities of financial management. Through discussions and interactive sessions, the convention promoted effective practices in these areas. The first day concentrated on the administrative responsibilities of the High Court and its Chief Justice, while the second day focused on budgeting and financial management.

The theme for session 1 was on **Administrative Functions of the High Court/ Chief Justice**. It was emphasized that the Chief Justice plays a pivotal role in administration of Justice and in appointing skilled judicial officers to ensure the effective operation of court registries and inspections. It was highlighted that Secretarial staff require both technical (software proficiency) and non-technical skills (communication, time management). Understanding and managing relationships between courts (horizontal and vertical) are crucial for a well-functioning judiciary was also deliberated upon. It was stated that the senior judge of the High Court should be aware of the issues faced by the registry and should develop a strategy to address and overcome them. It was enunciated that the purpose of the court is to deliver effective, fair, transparent, timely, and impartial justice. Governance or administration should be focused on achieving this objective. It is with this purpose the Chief Justice/Senior Judges should ensure effective registry management. It was opined that there cannot be one uniform set of rules for the administration and governance of all High Courts. Each High Court has its characteristics and features. To illustrate Jharkhand High Court deals with lot of tribal laws whereas it is not in Calcutta High Court. The workload of the High Courts is also not the same. However, basic principles must be followed, including the willingness to make things work. The consistent principle is that effective governance necessitates a clearly defined governance structure and a comprehensive policy. The Chief Justice/Senior Judge has to use its experience to administer the High Courts. It was emphasized that the officers and even judges should be selected/appointed based on competence. It was suggested that the Chief Justice or Senior judges should have overall control and see that the resources of the High Court are properly utilized. It was stated that enhancing access to justice is a key responsibility of the court. Courts should ensure they provide appropriate facilities, including clean

restrooms, for differently-abled individuals and third-gender persons. The effective use of Information and Communication Technology in the administration of justice was discussed. It was highlighted that technical upgrades should always be accompanied by training. Effective handling of the files that are defective in one aspect or another was discussed.

It was stated that, in addition to infrastructure, there should also be a focus on the court's performance. The discussion highlighted the need for the Chief Justice and senior judges to plan proactively for the future. It was suggested that to control case pendency and arrears, procedures should be implemented to list and manage similar matters for expeditious disposal efficiently.

Preparing agendas and facilitating discussions during full court meetings is crucial. It was recommended that the agenda and all relevant papers be circulated in advance. Furthermore, it was advised to hold an informal meeting with the judges before the full court meeting. Consensus-based decision-making that ensures collaboration among stakeholders was discussed.

The theme for session 2 was **Administrative Functions of the High Court/ Chief Justice**. The session provided a comprehensive overview of the critical issues and strategic initiatives necessary for enhancing judicial administration. By focusing on time management, the maintenance of reserved judgments, the role of ICT, and the importance of collaboration with other branches of government, the session offered valuable insights and practical recommendations for improving the efficiency and effectiveness of the judicial system. The discussions underscored the importance of continuous improvement and adaptation to ensure that the judiciary can meet the evolving needs of society and uphold the principles of justice.

Budgetary considerations were discussed. Secure adequate funding for judicial operations, including the maintenance of court facilities and the implementation of ICT initiatives, were deemed crucial for the sustained efficiency and effectiveness of the judiciary.

It was highlighted that there is a need for joint efforts to secure funding and resources for infrastructure projects. The strategic planning and coordination between the judiciary and executive branches were also emphasized. The session underscored the necessity of collaboration between the judiciary and other branches of government, particularly the Union and State Executive, to address critical issues related to infrastructure, budget, and law and order. Effective collaboration is essential for ensuring optimum resources and support to perform judicial functions efficiently. Infrastructure development was identified as a key area

requiring collaboration. It was emphasized that adequate court facilities, modern technology, and sufficient staffing are pivotal for the smooth functioning of the judicial system.

It was stated that the Chief Justice of a High Court serves as a leader and sets the trajectory for the court. The Chief Justice, as the master of the roster, has the final say on the setup and staff of the registry. Furthermore, since the full court does not meet frequently, it often delegates powers to a smaller body known as the Judge's Administrative Committee or Standing Committee. This committee meets weekly to make immediate decisions on a range of topics. It was suggested that the High Court administration should be done in a purely democratic way and Chief Justices of a High Court should never try to impose their wish. It was iterated that accessibility and transferability are the two important factors for the administration of justice.

It was emphasized that the Chief Justice of a High Court gives vision to a High Court. The success or failure of the Chief Justice's administrative work hinges on three key individuals: the Private Secretary to the Chief Justice (PPS), the Registrar General, and the Law Secretary. The PPS acts as the link between the Chief Justice and the external world. The Registrar General wields authority over the entire registry and, through it, the district judiciary. It was advised that the Registrar General should be changed in two to three years to prevent the development of vested interests. It was opined that the Law Secretary serves as a bridge between the Chief Justice and the State government. The Chief Justice is responsible for ensuring the smooth administration of justice within both the High Courts and the District Courts. It was stated that the Chief Justice of the High Court leads both judicial work and the administrative setup. On the administrative side, the Chief Justice must build an effective team based on the talents of its members, including committees for rule framing, recruitment, and discipline. Quick identification of the strengths of colleagues can significantly simplify the Chief Justice's task.

Time management strategies for balancing judicial and administrative functions and maintaining a docket of reserved judgments were discussed. It was highlighted that the increasing complexity of cases and the growing administrative demands on judges necessitate a strategic approach to time allocation. Effective time management is crucial not only for ensuring timely justice but also for maintaining the overall efficiency of the judicial system. Judges were encouraged to adopt best practices in docket management, including setting clear timelines for the delivery of judgments. It was suggested that a well-maintained docket ensures

transparency, accountability, and efficiency in the judicial process and helps judges manage their workload and avoid unnecessary delays.

The discussion also focused on the role of Information and Communication Technology (ICT) as an enabler for process re-engineering within the High Court. Process re-engineering through ICT involves the adoption of digital tools and platforms to automate routine tasks, facilitate electronic filing and tracking of cases, and enable virtual hearings. The necessity of collaboration with other branches, such as the Union and State Executive, particularly concerning infrastructure, budget, and law and order was also underscored. The discussion highlighted the need for regular communication and coordination between the judiciary and executive branches to address emerging challenges and ensure a cohesive approach to upholding the rule of law.

The theme for session 3 was **Administrative Functions of the High Court/ Chief Justice**. The Chief Justice plays a critical role in managing court rosters, which is essential for the judiciary's efficient operation. The Chief Justice should allocate cases to judges proportionately and should ensure fairness in allocation of administrative and judicial work. Duration for holding a particular roster was also discussed. It has been recommended that the Chief Justice should prioritize the swift handling of bail applications and quashing petitions.

Additionally, a long-term strategy for developing the High Court has been proposed. Emphasis has been placed on equipping younger judges, who have extended tenures, with expertise in specialized areas such as intellectual property rights, arbitration, and taxation, especially given the current shortage of judges in these fields. It was emphasized that the younger judges who have a long tenure should be equipped to deal with the specialised fields particularly in IPR and arbitration and taxation so that shortage of judges in this field get filled up. It was advised that any complaints received by the Chief Justice from lawyers regarding a judge's behavior should be handled with utmost delicacy and sensitivity.

It was emphasized that committees established by the Chief Justice of the High Court are crucial to judicial decision-making. It was suggested that these committees should be kept small, ideally consisting of no more than three members. These committees may focus on administrative matters, judicial appointments, or policy formulation. The role and responsibilities of the portfolio judge was also discussed.

Effective communication and collaboration between portfolio judges and district judiciary judges were emphasized. It was suggested that portfolio judges, currently referred to by various titles such as Unit Judges, Inspecting Judges, Administrative Judges, and Guardian

Judges, should consistently be called Guardian Judges. This change in terminology would shift the focus from merely overseeing the district to actively nurturing and supporting it.

The Annual Confidential Report that evaluates the performance of judicial officers was discussed. It was stressed that constructive feedback helps judges improve their skills and it was stated that transparency in the evaluation process is essential to maintain credibility. Holding timely selection of the judicial officers is very important for justice delivery system. It was delineated that prompt selection of judicial officers is critical to maintaining an efficient judiciary. The session went participative and participant justices have share their view points on various aspects on the administrative functions of the High Court.

The theme for session 4 was **Budget Preparation & Fiscal Management** and session was commenced with the concern that judiciary cannot function without resources and various kinds of infrastructure and human resources are needed for proper functioning for which proper budget preparation should be there. It was opined that the practice of only making slight changes in the previous budget needs reconsideration and there should be autonomy of judiciary in financial matters. It was stated that although the physical infrastructure has improved but there is still a big problem of lack of proper support staff in the district judiciary. The judgment *All India Judges Association v. Union of India* 2002 (4) SCC 247 was referred wherein the issue related to service condition of the district judiciary was addressed. The judgment *Malik Mazhar Sultan and Another v. U.P. Public Service Commission and Others* (2008) 17 SCC 703 was referred and the problem of more judges working in shortage of physical and human resources was highlighted. It was stated that although there is good initiative by the central government in providing finance to the judiciary through recommendations by the Finance Commission and the National Judicial Pay Commission but the State governments lag behind in providing proper financial allocation to judiciary in respective States. It was further stated that due to lack of budgetary planning the judiciary is not able to utilize the complete funds provided by the central government.

Then the speaker focussed on the essentials of budget planning and it was emphasised that judges should understand macro issues in budgetary planning. The constitutional provisions related to financial matters of the government including GST were referred. The main features of the centrally sponsored schemes [CSS] were discussed and rationale of such schemes were explained to participants. Then the constitutional basis for CSS was highlighted and various budget processes were explained including preparation of medium term

expenditure framework, issuance of budget circular, process of meetings with experts dealing with different sectoral issues and preparation of budget document. The speaker then explained the criteria for horizontal distribution of 14th and 15th Finance Commission and terms of reference of the 16th Finance Commission. Various issues which came up before the 16th Finance Commission were highlighted and sources of funds to States were discussed. The session was concluded with suggestions to strengthen synergy between judiciary and fiscal authorities.

The theme for session 5 was **Budget Preparation & Fiscal Management** and session was commenced with the discussion on the issue of lack of proper budgetary planning in judiciary and problem of unspent funds. It was emphasised that the judiciary should enhance its capacity to plan and spend funds. The State-wise data on the revenue expenditure on administration of justice was discussed and various heads of expenditure in judicial system were elaborated. The studies regarding financial management of the judiciary was discussed and the annual report on the Indian judiciary published by the Supreme Court was referred. The data on plan and non-plan expenditure was shared from the report. Then the classification of expenditure on judiciary and minor heads and major heads of budget were explained to participants. It was stated that the Union government has done away with Plan/Non-Plan classification of expenditure but some State governments are continuing with it. The 123rd report of the Departmental Standing Committee on Personnel, Public Grievances, Law and Justice was referred and it was stated that the report has emphasized the need to identify bottlenecks and develop measures that have long needed the rationalisation of systems that have outlasted their usefulness. It was stated that in 2020-2021 only 47 per cent of the Centre's modernisation grant could be used by the judiciary and too often the coils of procedure, conditionality, timing, over- centralisation in planning, and mismatch between need and grant ensure that what there is, cannot be rationally spent or fully utilised.

The issue of vacancies in courts, shortage of courtrooms in subordinate judiciary and shortage of residence facility for judicial officers was highlighted and data was shared in this regard. Then the data on the share of States in total expenditure on judiciary by all States and Union government was discussed. The data on State wise pending cases per lakhs of population in 2018 and data on revenue expenditure of High Courts and district court were demonstrated. The speaker then shared the data on summary of funds allocated, released and utilised under

13th Finance Commission, 2015 and it was stated that at the end of the five-year period, funds of Rs 1,010 crores were ultimately utilised against the initially allocated amount of Rs 5,000 crore. It was further opined that the 14th Finance Commission dispensed with most centrally sponsored schemes and special grants, of which the grant to judiciary was also one and the onus of providing additional funding to meet the requirements of the judiciary is now squarely on the State governments. The session was concluded with the issue of non-utilization of funds by the judiciary and need of appointment of financial experts in judiciary for proper planning of the financial resources and effective spending.
