

NATIONAL JUDICIAL ACADEMY



**NATIONAL SEMINAR ON JUDICIAL SKILLS [P-1432]
11TH & 12TH JANUARY, 2025**

PROGRAMME REPORT

**PREPARED
BY:**

**DR HUMAYUN RASHEED KHAN,
PROFESSOR, NATIONAL JUDICIAL
ACADEMY, BHOPAL**

Overview of the Seminar

The National Judicial Academy organized a two-day National Seminar on Judicial on 11th & 12th January, 2025, for district judges. The objective of the seminar was to sensitize participant judges to the intricacies of leadership while administering the court. The approaches and strategies that need to be adopted by judges for litigant-centric and expeditious justice delivery formed part of the discourse. The seminar involved discussions on methods to communicate and interact with various stakeholders to enhance trust and confidence in the justice system. The seminar focused on judging and administrative skills, including qualities, positive attitude, and skills for effective judging, assimilating, drafting, and delivering quality judgments, time management, staff management, team building, communication skills, use of AI in court & case management, and sensitization on the use of language about child, women, and differently abled victims and witnesses. The seminar facilitated an interactive dialogue on subjectivity vis-à-vis objectivity and rationality in judicial decision making.

Session 1: Leadership & Administrative Skills

Speakers: Justice Ajay Bhanot & Justice Ved Prakash Sharma

The session commenced by raising certain open-ended questions before the participants, such as how the judges should conduct themselves in the age of social media. It was said that judges are constantly under public surveillance. It was emphasized that the judges should share good practices amongst themselves regarding good conduct on social media. Justice is the foremost promise of the Constitution, and it is the judges who have to honour this constitutional promise. District judges are the storehouse of knowledge and experience and are expected to play a proactive leadership role in the district judiciary. Undoubtedly, all the stakeholders are judging the judge before he judges the parties. The session emphasized the need for ‘intellectual vigour’ and the ‘application of fine principles of law’ as the two most important leadership qualities required in the art and the science of judging. Empathy was identified as the next important quality required in judicial work. It was also stressed that the conduct of judges outside of the court, as well as the conduct inside the court, is critical. Judges need to develop their intellectual capital through continuous learning.

While emphasizing the role of a district judge as a guardian of judicial officers, it was said that it implies a position of trust, care, guardianship, 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 out that the object is to inculcate discipline and not to demoralize the judicial officers while ensuring that they maintain the dignity and independence of their office.

It was stated that management skills, practicality, and creativity are among the desirable qualities of a judge. Various aspects of organizational goals for judges and staff, such as appointments, confirmation, transfers, promotions, and overall discipline of work, were focused on. The Report of the National Court Management Systems (NCMS) Committee relating to Resource Development Strategy was highlighted.

The discourse highlighted that certain legal and judicial reforms which can go a long way in enhancing organizational performance and leadership effectiveness which includes defining goals and re-examining outcome periodically; improving case management; use of Alternative Dispute Resolution (ADR) in civil and plea bargaining in criminal cases; 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, the significance of developing robust infrastructure, social audit, and research was discussed. It was pointed out that Medical Officers, Police Officers, Prosecutors, Executive 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 to achieve the goal of an efficient judicial system.

The session included a 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 resources for optimum output. Significant aspects of management i.e., planning, organizing, directing, coordinating, and controlling, as propounded by various thinkers, including Daniel Kahneman, were expounded. The resource person further elaborated on Systems 1 & 2, drawing on Daniel Kahneman's renowned works, including **Thinking Fast and Slow & Noise: A Flaw in Human Judgment**. 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 out that the behaviour of a judge in the court is one of the most important aspects in court management. Handling disruptive persons, aggressive lawyers, reluctant witnesses, and inefficient staff is a very critical challenge in the effective disposal of cases. The judge presiding over a court must be an active participant in the trial and should monitor unnecessary delays and ensure that there are no unnecessary adjournments. The use of Information and Communication Technology is another way to support and automate the case management practices of courts. The speaker also highlighted the importance of AI in court and case management. It was said that it may be useful to apply AI tools for administrative efficiency, as it involves less risk. The judgment in **Swapnil Tripathi v. Supreme Court of India, (2018) 10 SCC 639** was also referred where the Court observed that technology can be used for expeditious disposal of cases and to enhance transparency. The court also explored the feasibility of live streaming of court proceedings in this judgment.

Session 2: Qualities, Attitudes, and Skills for Effective Judging

Speakers: Justice Ajay Bhanot & Dr Justice Sudhir Kumar Jain

This session commenced by highlighting 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 interpersonal skills with a 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 a judge, such as cross-cultural experience and engagement, awareness of social issues, respect for the essential dignity of all persons, moral courage and high ethics, punctuality, work etiquette, etc., were also highlighted. Several judgments delineating the approach and essentials of a good judge and judicial conduct were highlighted, such as *Muzaffar Husain v. State of Uttar Pradesh and Another* 2022 SCC OnLine SC 567, *Shrirang Yadavrao Waghmare v. State of Maharashtra*, (2019) 9 SCC 144, *Shrirang Yadavrao Waghmare v. State of Maharashtra*, (2019) 9 SCC 144, *Harendra Rai vs. State of Bihar and Others* 2023 SCC OnLine SC 1023, *Yashpal Jain v. Sushila Devi*, AIR 2023 SC 5652: AIR Online 2023 SC 863, *Rahul S. Shah v. Jinendra Kumar Gandhi and others*, AIR 2021 SC 2161: AIR Online 2021 SC 222 etc.

The session moved to cover the use of measured and calibrated language in the courtroom. In the light of online hearings/livestreaming and greater public scrutiny, it was asserted that courtroom conduct should be exemplary and courteous. Subsequently, it was alluded that with the advent of social media lives of judges have seen an unprecedented level of access by the public. It was also emphasised that judges should not comment on any politically sensitive matters on social media. It was reiterated that the credibility of the judicial institution is dependent on every judge. It was stressed that the conduct of the judges must inspire public confidence and faith in the institution of the judiciary. The Bangalore Principles of Judicial Conduct 2002 were referred and the values mentioned in this document were discussed. The factors affecting judicial independence were deliberated, including financial inducement, external pressure, and public opinion.

Thereafter, the concept of judicial independence and its necessity was elucidated. It was stated that the independence of the judiciary indicates that the judiciary is not under the influence of the executive and private agencies. It was stated that whenever there is a strong political executive in power, it invariably has led to a tussle with the judiciary. The discussion threw light on instances when the issue of judicial independence arose and the judiciary stood up to the task.

The issues relating to the relationship between bench and bar were also discussed. It was suggested that there should be interaction with the bar to seek input to improve the functioning of courts, but no one should get preferential treatment. The discourse also focused on sources and forms of occupational stress. Emotional intelligence competencies, including self-awareness, self-management, adaptability, social awareness, and relationship management, was elaborated. The basic need is to balance multiple roles and manage conflicts. It was stated that balance is a feeling of fulfilment of one's important roles.

Lastly, the discussion emphasized midlife behaviour and it was stated that it is related to behavioural patterns in childhood and adolescent years. Another important aspect of social relationships was explained, that family, friends, and co-workers can be a major source of satisfaction and contribute to well-being and health in midlife. The choice of thoughts and words was said to matter a lot in determining one's mindset. Thereafter, the importance of emotional intelligence and the strategies to use it to one's advantage were highlighted.

Session 3: Subjectivity vis-à-vis Objectivity, and Rationality in Decision-Making

Speakers: Justice Ved Prakash Sharma & Dr Justice Sudhir Kumar Jain

The session commenced by highlighting the importance of the 'element of rationality' in judicial decision-making. It was said that 'reasons' are the heartbeats of judicial decision-making. The resource person said that the word 'I' should be avoided in judgments and orders to avoid subjectivity. The word 'court' should be used in judicial decision-making and crafting judgements, and writing orders.

The emphasis was laid on clarity in judgments and orders to make it intelligible and logical. It is often found that higher courts remand the matter to the trial court to consider the matter afresh due to the judgment and reasoning being incomprehensible. It was mentioned that the reasoning in the judgment should be intelligible and logical to make it objective. A hypothetical fact situation was taken by the speaker to further elucidate the point. In a case relating to custody of the child, if the custody of the child is given to the mother by the court on the reasoning that mothers are better caregivers, such reasoning indicates subjectivity as it is based on personal opinion. The matter of custody of the child should have been decided based on the '**best interest of the child**' as that would bring objectivity in the judicial decision-making in the particular situation as mentioned above.

While referring to the judgment in *Daya Shankar v. High Court of Allahabad* (1987) 3 SCC 1, it was observed that judicial officers cannot have two standards, one in the court and another outside of the court. They must have only one standard of rectitude, honesty, and integrity. They cannot act even remotely unworthy of the office they occupy. Then another judgment was mentioned to elaborate the point wherein the Supreme Court in *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee & Others.* (1995) 5 SCC 457 observed that the judicial office is essentially a public trust. Society is, therefore, entitled to expect that a judge must be a man of high integrity, honesty, and required to have moral vigour, ethical firmness, and be impervious to corrupt or venial influences. He is required to keep the most exacting standards of propriety in judicial conduct. Any conduct that tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of the judicial process.

Session 4: Judgment Writing

Speakers: Justice Ravindra Bhat, A.R. Masoodi & Justice M. Sundar

The session commenced with the assertion that the district judiciary is the foundation of the temple of justice system and that its 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 reiterated 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.

The resource person emphasized that it is important that a judgment must speak for itself and must be able to defend itself on appeal. It was further explained that it is necessary to revise, rewrite, and proofread a judgment in several draft versions while analyzing 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
- Points of determination/Issues
- Analysis of the arguments and findings
- Operative portion of the judgment

It was highlighted that judgments reflect the thinking of the individual judge and there is no room for dogma, and a good judgment should in its own way, at some point and as concisely as possible: state the background facts; identify the issue(s) that must be decided; articulate the legal test(s) that must be applied; note the key features of the written and oral evidence, bearing in mind that a judgment is not a summing-up exercise in which every possibly relevant piece of evidence must be mentioned; record each party's core case on the issues; make findings of fact about any disputed matters that are significant for the decision; evaluate the evidence as a whole, making clear why more or less weight is to be given to key features relied on by the parties; give the court's decision, explaining why one outcome has been selected in preference to other possible outcomes.

The last two processes – **evaluation and explanation** – are the critical elements of any judgment. As the culmination of a process of reasoning, they tend to come at the end, but they are the engine that drives the decision, and as such, they need the most attention. A judgment that is weighed down with superfluous citation of authority or lengthy recitation of irrelevant evidence at the expense of this essential reasoning may well be flawed. At the same time, a judgment that does not fairly set out a party's case and give adequate reasons for rejecting it is bound to be vulnerable.

Finally, the judgment and the guidelines issued by the Supreme Court in *Criminal Trials Guidelines regarding Inadequacies and Deficiencies, In Re v. The State of Andhra Pradesh & Ors., (2021) 10 SCC 598* was discussed where the court said that “all High Courts shall take expeditious steps to incorporate Draft Rules, 2021 as part of the rules governing criminal trials, and ensure that the existing rules, notifications, orders and practice directions are suitably modified, and promulgated within 6 months. If the state government’s co-operation is necessary in this regard, the approval of the concerned department or departments, and the formal notification of the said Draft Rules, shall be made within the said period of six months.”

Session 5: Sensitization on the Use of Language Relating to Child, Women, and Differently Abled Victims & Witnesses

Speakers: Justice Ravindra Bhat, A.R.Masoodi & Justice M. Sundar

The last session of the conference commenced by highlighting the issue of violence based on gender and the practice of gender stereotypes, which is most often unseen and is shrouded in a culture of silence. Violence against women in India is systematic and occurs in the public and private spheres. It is underpinned by the persistence of patriarchal social norms and inter- and intra-gender hierarchies. Women are discriminated against and subordinated not only on the basis of sex but on other grounds too, such as caste, class, ability, sex orientation, tradition and other realities.

It was emphasized that the silence of society on gender violence, gender stereotypes, and any other kind of discrimination needs to be broken. In doing so, men, perhaps more than women, have a role to play in averting and combating violence against women. The Apex Court observed in *Aparna Bhat & others v. State of M.P. & another, AIR 2021 SC 1492* that the judges can play a significant role in ridding the justice system of harmful stereotypes. They have an important responsibility to base their decisions on law and facts in evidence, and not engage in gender stereotyping. This requires judges to identify gender stereotyping and identify how the application, enforcement, or perpetuation of these stereotypes denies women equal access to justice.

The resource person then said that judges play a vital role as teachers and thought leaders at all levels. It is their role to be impartial in words and actions at all times. If they falter, especially in gender related crimes, they imperil fairness and inflict great cruelty in the casual blindness to the despair of the survivors.

The speakers asserted that to make the judicial system sensitive towards differently abled persons, the Apex Court issued guidelines in *Patan Jamal Vali v. State of Andhra Pradesh, AIR 2021 SC 2190* to sensitize trial and appellate judges to deal with cases involving survivors of sexual abuse. The sensitization programme should cover the full life cycle of case involving a disabled survivor, from enabling them to register complaints, obtain necessary accommodations, medical attention, and suitable legal representation. The emphasis should also be on the importance of interacting directly with the disabled persons. The Supreme Court in the above-mentioned case, while referring to ‘intersectionality’, observed that “intersectional analysis requires an exposition of reality that corresponds more accurately with how social inequalities are experienced. The Supreme Court also observed that such contextualized judicial reasoning is not an anathema to judicial inquiry.

The court held that the "use of reasoning or language which diminishes the offence and tends to trivialize the survivor, is to be avoided under all circumstances". The judgment illustrated certain conduct and actions as irrelevant for adjudication - to say that the survivor had in the past consented to such or similar acts or that she behaved promiscuously, or by her acts or clothing, provoked the alleged action of the accused, that she behaved in a manner unbecoming of chaste women, or that she had called upon the situation by her behavior, etc.

It was said that such attitudes should never enter judicial verdicts or orders or be considered relevant while making a judicial decision. They cannot be reasons for granting bail or other such reliefs. Imposing conditions that implicitly tend to condone or diminish the harm caused by the accused and have the effect of potentially exposing the survivor to secondary trauma, such as mandating mediation processes in non-compoundable offences, mandating as part of bail conditions, community service or requiring tendering of apology once or repeatedly, or in any manner getting or being in touch with the survivor, is especially forbidden.

The judiciary is there to decide cases and deliver justice according to law, but courts at district level frequently face witnesses who are not well-versed either in language or understanding, and to understand these witnesses is an uphill task for the courts. It is one of these areas where these courts need to be sensitized in order to put a proper question and bring out the truth when a woman appears in the court for evidence or other purposes.

To achieve the goal of gender justice, it is imperative that judicial officers, members of the bar, and court staff are made aware of gender prejudices that hinder justice. To achieve these goals, a gender sensitive approach is fundamental to equip judges to exercise their discretion with sensitivity and avoid the use of gender-based stereotypes while deciding cases or passing orders. The purpose is to have open discussions and comprehensive deliberations with the aim of imparting techniques to be more sensitive in judicial approach while hearing and deciding cases, particularly those relating to sexual assault, and eliminating entrenched social bias, especially misogyny.

The seminar concluded on the note that the need of the hour is to make a change in the mindset of society and destroy the prejudices that damage the future of the girl child. What is required is a concerted effort to sensitize society in eradicating the issue of gender inequality. Judges, administrative officers, lawyers, including public prosecutors, police officers, should play the central role in bringing this 'much-awaited change' in our society. An appeal was made to all the participants to be proactive at all stages – pretrial, trial, and even post-trial to ensure that no one is allowed to practice in any form gender stereotypes and gender discrimination before the courts, and gender stereotypes should never enter the judicial reasoning in any manner as well. It is high time that every woman is treated equally and given every opportunity required to grow to her full potential.
