

**JUSTICE ADMINISTRATION:
'CASE AND COURT MANAGEMENT'**

**ADVANCE COURSE ON CIVIL PROCESS INCLUDING RECENT
TRENDS IN JUDGMENT WRITING
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1. Indian judiciary is doing a commendable job. It is still enjoying the public faith and confidence, much to the envy of other organs of states. The pendency of 3.5 million cases in the High Courts and 32.2 million in subordinate Courts has not deterred the people from filing more and more cases, which proves their faith in the system. The administration of justice, however, in the words of Justice V.R. Krishna Iyer is still, *“the judicial process wrapped in a mystery inside an enigma what with its baffling legalese, lottery techniques, habitual somnolencies, extensive proclivities, multi-decked inconsistencies, tyranny of technicalities and interference in everything with a touch of authoritarian incompetency.”*
2. Within the system the judiciary has realised and it is frankly admitted in the successive speeches delivered by the Chief Justices of India on Law Day Celebrations that **Indian judiciary is in a management crisis**. It is with great resilience and untiring efforts of the Judges and Court staffs, that the system is holding itself in its place, and managing the affairs.
3. The Constitution of India vests extraordinary powers in the High Courts in the matters of the rules of the court and conditions of service of its employees. **The High Courts have administrative powers of superintendence over all the Courts in the State**. The appointment of officers and servants of the High Court are made by the Chief Justice or the designated Judge or officer of the Court. **The administrative expenses are charged upon consolidated fund of the State. The Chief Justice of the High Court along with his brother Judges sitting in Full Court or such Committees as may be constituted by him, exercise complete administrative control over High Court and Subordinate Courts**. The Judges, however, do not have the required expertise in the Court management.
4. **'Management' is a science of judicious use of means to accomplish an end**. Experience is not a substitute for good managerial practices. The Courts should not be run by hit and trial methods or experiments to be made in a crucible, with the mixture of experience and traditions and borrowed ideas. In order to secure efficient justice delivery system, to meet the challenges in Court administration, and to reduce arrears while

maintaining quality of work to the satisfaction of the litigants, which are the most important stake holders of justice, expert managerial intervention is indispensable.

5. In the past even after realisation of the challenge, the efforts have focussed only on the amendments in procedural laws, ADR's, lok adalats, legal aid and use of computers as type writers and for collection of datas. **Very little work has been done to analyse the issues and to bring changes in court and case management in the High Courts and Subordinate courts, for effective solutions, and to focus on risk management.**

6. The 'First Advance Course on Management, Judicial Planning and Judicial Administration' made an attempt to diagnose administrative and management deficiencies. The participants formulated reform strategies, and measures to revamp the system. The judicial administration, and its performance assessment, indicating priorities, assets accountability and internal reforms were called into motion, and new methods of case management and case flow management were deliberated. The second advance course on Court Management and Judicial Administration (24th to 28th February, 2006), focused on essentials of change management with specific reference to Court and Case Management, case studies in the methods adopted in change management in Courts and case flow management, and increasing efficiency by use of ICT and removing corruption. We should now focus on formulation of methods and strategies, to resolve the issues. This paper attempts to deal with the Court Management and Case Management separately.

COURT MANAGEMENT

HIGH COURT

Modernising and Streamlining the Rules and Procedures:-

7. **Most of the High Courts have out-dated and much amended but still tangled and knotted rules and procedures applicable to both the Court Management and Case Management. These rules require to be updated to be in tune with amendments in procedural laws and uniformity in its application to all the High Courts.** This will not only simplify the system but will also make it conducive for 'e-governance'. It can be achieved by a common effort to be made by the representatives of each High Court under the umbrella of Supreme Court.

8. Mr. Justice Jeevan Reddy in his farewell speech as Chief Justice of the Allahabad High Court remarked that the rules of the court are all tied at wrong places. **In order to bring efficiency in the court procedures, the rules must be reframed and simplified.** The Rules Committees, however, did not do much for next ten years and that Court continues to function under adhoc changes. The attempt to revise the General Rules (Civil), General Rules (Criminal), and the rules made by High Court under Section 122 CPC by a statutory Rule Committee under Section 123 CPC applicable to subordinate Courts in U.P. to bring them in tune with the latest amendments in CPC and Cr.P.C. are constantly under deliberations.

Financial Autonomy and Accountability

9. The judiciary is one of the strongest pillars of Indian democracy. The financial needs for its sustained and targeted growth require special attention. It is absolutely necessary that the judiciary with its growing needs of infrastructure must be made a planned subject. It is unfortunate and painful to witness the Chief Justice repeatedly requesting the State Government for minimum financial allocations to meet the exigencies. A planned and assured outlay will not only make it comfortable to go through its requirement but will also put it on guard for its optimum utilisation and accountability for expenditure.

10. New legislations, continue to put extra load of work on the existing Courts. The spate of public welfare legislations, demand establishment of new Courts, for example Courts dealing with human rights, juvenile justice, family Courts, IPR and IT Act violations etc. The extra work created by these legislations have put extra burden on the Courts. A study of Legislative Impact Assessment of these new legislations on the existing infrastructure is under circulation. Provisions must be made in the budget, along with the enactment, for establishing new Courts or increasing the strength of Judges at the time when these legislations are passed.

11. The judiciary must adopt a more dynamic and progressive attitude in preparing budgets and in spending of allocations.

Accounts and Audit

12. Uniform accounting practices and regular audits will provide much needed financial discipline. The demand of financial autonomy is coupled with the obligation of greater transparency and open policy for audit. The judiciary has to be prepared to audit through CAG to bring in more discipline in accounting practices and policy.

Human Resource Management

(a) Re-defining Staffing Pattern.

13. With common judicial system, we have different staffing patterns in different High Courts. The staff structure training and its optimum use, for a proper court management needs to be standardised. Uniform service conditions will be beneficial to avoid dissatisfaction and will achieve better performance.

In most of the states the judiciary do not have rules regulating service condition of the judicial officers and staff, and borrow them from the respective State Governments bringing in state government culture in judicial services. The judiciary needs uniform service conditions applicable to all judicial officers and staff in the country, to be adopted by the High Courts, with suitable amendments. The Shetty Commissions recommendations with model rules is under consideration in most of the States.

(b) Uniform Pay Structure

14. The pay structure in parity with the Central Government to be applied uniformly to all High Courts will invite more talent and will result into better performance. At

present a lot of litigation with regard to parity in pay is pending in the High Courts, breeding dissatisfaction and inefficiency, which can be easily avoided by adopting a uniform pay structure in parity with the Central Government. The Shetty Commissions' recommendations have been accepted by most of the States. There are still some anomalies and rationalisation to be made in some states. The Sixth Pay Commission recommendations are pending implementation.

Record keeping

15. **A scientific approach of record keeping, using micro filming techniques, digitalisation of records and maintaining hard copy with standardised indexing will help reducing problem of space in the High Courts which are courts of records, as well as subordinate courts.** It will be conducive for connectivity for e-governance, and will also help in systematic weeding in a time frame to achieve optimum utilisation of space and staff. A special training in record keeping will help in achieving the desired targets. Apart from this a consistent policy of weeding of administrative records will also result in optimising using of staff and space.

E-Governance

16. The use of computers in record keeping, maintenance of datas and its optimum utilisation in court management and case management has now become a reality. So far we have used computers only for preparing pay bills, generating daily cause list or at best for creating datas of filing of cases. **The technology is now being put to use for case tracking system, case management, case flow management, information of case laws and statutes laws, automating the formal part of court work, and summons tracking system.** It will also help in maintaining accuracy, minimise discretion and will avoid outside interference and corruption in court system.

Annual Reports

17. The publication of datas of filing, disposal, utilisation of funds, achievements of management targets, brings in transparency and confidence in the system.

18. The Supreme Court has taken the lead of publishing annual reports, and a **'Handbook of procedure in the Supreme Court'**. **The official hand book provides useful information of institution, pendency of disposal of cases, filing, court fees, limitations, review, accountability and the facilities available in Court including legal aid procedures.** The High Court and subordinate Courts can be asked to undertake similar measures to bring transparency in procedures.

Bar Reforms

19. The lawyers are important stake holders in the administration of justice. The court management must take their opinions and associate Bar in taking decisions in court and case management. This removes suspicion and maintains transparency and confidence in the court administrators. The Bar must be taken into confidence in all the decisions. In reciprocity, the Bar must also allow the court management to implement reforms in its functioning namely maintenance of libraries, chambers, and the use of I.C.T. for more efficient and knowledge based lawyers.

B. SUBORDINATE COURTS

Increase in Judges Strength/Judicial Manpower planning.

20. With the back breaking case loads, it is not practical to expect the Judges of Subordinate judiciary to perform well and to reduce the arrears. In Uttar Pradesh, out of total Judge strength of 2172, we are still short judicial officers. Instead of doubling the Judge strength the Courts are forced to work with about 20% vacant Courts. The Court had to make serious efforts to persuade the State Public Service Commission to undertake selection procedure. Thereafter it took long innings of litigation on many issues of procedural errors before appointments could be made at the entry level and at the level of Higher Judicial Service. The self inflicted wound of staying the appointments takes a long time to heal.

21. There is an urgent need for 'judicial manpower planning', for next two decades with the 'legislative impact assessment'. The arrears in Court, call for increasing strength of Judges and Court staff by atleast four times along with infrastructure, to meet the growing demands of judiciary.

Enforcement of all India Judicial Service

22. The Central Government has not framed rules for All India Judicial Service for too long. Several directions of Supreme Court in this regard have been ignored. A positive step to enforce the Forty Second Constitutional Amendment in Art.312, will attract best talent to be trained and fostered for manning the High Courts in future. It will go in a long way to improve administration and management in both High Courts and Subordinate Courts.

Planning Court Rooms, Infrastructure, Record Rooms, Libraries:

23. There is need for standardization of the infrastructure, the size and design of Courts, Court rooms, Judicial Officer's chamber, staff room, office record rooms and libraries. There should be no compromise with such standard size and design. Although the Central Government has committed 50% of the cost of infrastructure, the corresponding cost is either not paid by the State Government or delayed unreasonably. There should be deductions made from the budget allocation to the State Government, and the matching grant, to be met by the State Government must be directly paid by the Central Government to judiciary.

Basic facilities for litigants:

24. The Courts deliver justice to the litigants. The litigant pays court fees, lawyers fees and for various other ancillary services attached to the Court. They need basic facilities, such as waiting rooms, clean water, toilets, notice boards and enquiry counters. The adjudication is a time consuming task. The litigants have to wait for days, months and often years to reach to the logical end of the expensive litigation. The court management has to be conscious to deliver these basic facilities to its consumers.

Uniformity in Court hours:

25. In many States like in U.P. the court hours are changed with changing seasons to avoid extreme heat or winter. It is not in tune with the timing of the other offices and causes serious inconvenience to litigants and lawyers. The High Court tries to maintain

uniform court hours and holidays, to maintain discipline, certainty and punctuality in its functions.

Certified Copies:

25-A. The litigant is interested in the outcome of his case. He requires a certified copy of the order or judgment as soon as it is pronounced. The Law Commission in its 77th Report suggested that where a carbon copy of the judgment is not available, certified copy by mechanical or electronic process should be supplied within 15 days. Carbon copies, if ready should be immediately supplied. Order 20 Rule 68 CPC provides for immediate issuance of copies for preferring appeals on payment of specified charges. Now with ICT judgments will be uploaded on servers instantly for issuing copies without delay.

Increase of working days:

26. With millions of pending cases, there is no justification for only 210 working days in High Courts and 240 working days in subordinate Courts. It is a luxury, which the system can no longer afford. An increase of a hour in a day will provide extra 20-25 days in a year and may result into clearing lacs of cases in a year. The judiciary has to respond to the call and show its genuine concern for the delays.

Containing Strikes by Advocates and Court staff:

27. The lawyers are integral part of the justice delivery system. The Advocates Act, 1961 entrusted the enrolment, conduct and disciplinary matters of lawyers to the State Bar Councils and Bar Council of India. The Bar, however, has not responded to the challenges faced by the system and has rather complicated the possible solutions. The lawyers should never be allowed to stop judicial functioning. The right to strike judicial work has never been recognized. In spite of repeated pronouncements by the Supreme Court, the last of which was authoritatively made by Constitution Bench in *Harish Uppal (Ex.-Capt.) Vs. Union of India* (2003) 2 SCC 45, where the Supreme Court held that lawyers and their Associations have no right to strike or give a call for boycott, not even a token strike, the strikes have not abated. The loss of working days has reached intolerable proportions. The statistics in Uttar Pradesh for the years 2003-04 demonstrated that in 26 districts out of 70 districts, the strikes paralyzed the functioning of the Court for about 60 to 80 days in a year. In Pratapgarh (a small district adjoining Allahabad) the Court could function only for 96 days in that year.

28. The Court has to change its policy of observing tact in such situations. The judiciary exercises sovereign powers. It must adopt a policy of no tolerance towards strikes by lawyers or Court staff. The police stations must be established in the Judgeships under the direct control and supervision of the Judges and that any attempt to disturb Court work must be punished with severity. An attempt should be made to meet the reasonable demands of lawyers and Court staff but not under a threat of strike. Wherever lawyers or Court staff resort to strike, without making a proper representation or complaint or going through the grievance redressal procedure, the resolutions of the Bar Association and Staff Association must be rejected. The judicial officers must continue to sit on dais and perform judicial work. They should not, under any circumstances be allowed to do work in chambers, however, urgent the cause may be.

Training of Judicial Officers and Court staff:

29. The Courts have started looking for specialized judicial work. The Family Courts, Juvenile Courts, Accident Claims Tribunals, Land Acquisition, Arbitration, Essential Commodity, Anti Corruption, Anti Terror and CBI Courts, NDPS, SC/ST matters and with Environmental and IPR matters coming up, special training for both

Judicial Officers and the Court staff has become necessary. Regular seminars, workshops for sharing experiences, and regular amendment of procedures to suit the needs of specialised judicial work, are the need of the day. A judicial officer in future will have to go for specialization, to achieve optimum results. Similarly the Court staff, will require training in IT techniques, case management, case flow management, and record keeping. Regular training sessions by deputing Judicial Training and Research Institute Officers to subordinate Courts in these areas will be very useful.

Case Management

30. The most neglected area, in the management of delays in justice delivery system is case management both at the level of High Court as well as subordinate Courts. With increasing case load and back breaking schedule, it is not possible for a judge or registry to keep track of the case after it is filed. In most of the High Courts including Allahabad High Court, the registry have no system in place for keeping track of the case. No dates are fixed between filing and dates of hearing except on the request of the counsels. All miscellaneous matters are taken up on urgent motions filed by counsels or on some occasions when the dates are fixed by the Court. No records are maintained about the pendency of applications, and the stages at which the cases are pending. This leaves the case management virtually in the hands of lawyers, who are interested parties. When the applicant is denied interim relief, he applies for early hearing. The other side, enjoying the benefits of possession, money or occupation then adopts all means to delay the matter indefinitely. This leaves the system under a great strain.

Control over management of cases and case flow management:-

31. There has to be a system of case management and case flow management, in place, controlled by the registry for efficient performance of judicial functions. For this purpose we require generation of datas, and automation by adopting Information and Communication Techniques. The progress of each case must be entered in the data base and the judge sitting in jurisdiction, should be given supervisory powers to have control over the case management. The Court must stick to the various time schedules fixed by CPC, in progress of the case. A brief summary of the time schedules fixed by the CPC as amended in 1999 and 2000 w.e.f. 01.7.2002 is given in a chart appended to this presentation.

Generation of data for effective case management and case flow management:-

32. Every Judge sitting in the jurisdiction should regularly collect the data of the pendency of total number of cases, the stages on which such cases are pending, the listing of the cases before him for the next three months. This will give the Judge a clear picture, to plan the targets.

Specialization and equitable allocation of work:-

33. The determination of jurisdiction by the Chief Justice/ designated Judge is not always correlated with the pendency of the cases. Large number of vacancies, which are existing in the High Courts, and the lack of specialization, some times leads to small number of Judges being assigned in an area where there is larger pendency. As an illustration, in the District Court at Allahabad, at present there are only 45 judicial officers as against the sanctioned strength of 68 and with 33764 civil cases with an average of 1986 cases per judge, 4117 session trials with an average of 242 sessions cases per judge and with 116006 criminal cases with an average of 7250 cases per

officer. If a Juvenile Judge or a Family Judge goes on leave, the situation worsens. A regular and careful monitoring over the determination of jurisdiction and allocation of judicial work to the judges, should be undertaken to reduce overloading and achieving better results in disposal of cases.

Managing Adjournments:-

34. The misuse of the discretion for adjournments must be avoided. A Judge grants adjournments for following reasons:

1. There are too many cases on board on that day, and the Judge wants to reschedule his work.
2. The lawyer is either on leave or is too busy.
3. When a lawyer wants to delay the matter and is eluding appearance.
4. When the witness has not come or the client has not provided details, documents or instructions to his counsel.

35. In spite of successive recommendations of Law Commission, and consequential amendments in CPC restricting adjournments to only three during the life of the case, the practical experience shows that adjournments are given for asking. This totally puts the case management into disarray. The judiciary has to adopt a strict attitude towards adjournments. Every judge should monitor his diary/ list to a reasonable limit and should not adopt appeasement policy towards lawyers. The Judge should understand the difference between accommodating a busy lawyer, and granting adjournments to delay the proceedings. It is not possible to manage work until the case load on a Judge is put to a reasonable limit. The adjournment must be given only for the purposes of facilitating the progress and disposal of the case. There has to be an attitudinal change in the judiciary for granting adjournments.

36. Where a counsel is ill or is unable to attend the Court due to his pre-occupation, a Court should not grant more than one adjournment. Where a counsel is unable to attend on the second occasion, instructions must be given to the client to engage another counsel. A counsel is not a beneficiary or a consumer of justice. He is a part of the system, who must cooperate and be made accountable in case management. The entire system exists for dispensation of justice and not for commercial benefit of counsels. A responsible and accountable Bar strengthens the entire system both from within and outside.

Attitudinal Changes:-

37. The expedition of cases, at all stages namely pre-hearing, hearing, and post-hearing, is necessary. The amendments in the procedures have not been followed strictly. A lawyer is slow to change and the judges easily give way to their demands. In case the procedures of service of summons, time for filing written statement/ counter claims and adjournments as provided in the amended CPC are strictly monitored, the disposal will be quicker and effective.

The clearance of backlogs will not check filing of more cases in future. The study made by Dr. Justice G.S. Bharuka in his book "Redefining Judicial System through E-Governance and Attitudinal Change" shows that we in India are not as litigious as some other developed countries. In case we achieve a quick disposal rate, the litigants will be encouraged to bring more litigation to Courts. Those waiting in the wings with undetermined issues, are dissuaded to come to Court on account of delays. They will then be encouraged to bring more actions in Courts. The confidence in adjudicatory process will again fill up the dockets. We have not seen abatement of criminal cases wherever

the trials have been made quicker. I find that apart from an effective case management, we must bring in more reforms in both civil and criminal law, to bring only those cases on trial, which really require specialized adjudicatory mechanism.

Simplifying procedures:-

38. The legal procedures must be simplified, for better understanding and with the sole object of facilitating the progress of the case, observing principles of natural justice. The procedures of committal, conditional bails, arranging video conferences to avoid presence of under trial prisoners on every date, plea bargaining in petty cases, use of ADR mechanism including negotiation, mediation and conciliation, reduce load on the Courts. These methods must be institutionalised with special training to Judges and lawyers for quicker, effective and qualitative disposal of justice. The Court must impose cost for containing adjournments and penalising those, who file frivolous cases.

39. The judiciary must stop fire fighting methods and start looking ahead for effective court management and case management to redeem the reputation of justice delivery system. A strong and effective judiciary, helps in maintaining rule of law, which brings peace and happiness in the society.

**TIME SCHEDULE AS GIVEN UNDER THE CODE OF CIVIL PROCEDURE
AFTER THE 1999 AND 2002 AMENDMENTS W.E.F. 01-07-2002**

No.	Step	Time Frame
1	Issue and Service of Summons (Section 27)	30 days from the date of institution of suit
2	Enlargement of time (Section 148)	30 days in total
3	Furnishing of copies of plaint for service on the defendant and process fee for the same (Order 7 Rule 9)	7 days from the date on which summons are ordered to be issued
4	Written Statement (Order 5 (1) (1) and Order 8 Rule 1)	30 days from the date of service of summons, and can be extended upto 90 days
5	Filing of subsequent pleadings (Order 8 Rule 9)	Maximum 30 days
6	Application for fresh summons (Order 9 Rule 5 (1))	7 days from the date of return of the previous summons
7	For passing orders on an application seeking leave to deliver interrogatories (Order 11 Rule 2)	7 days from the date of application
8	For admitting documents (Order 12 Rule 2)	7 days from the date of service of the notice
9	For examination of witness or production of documents before framing issues (Order 14 Rule 4)	7 days maximum
10	For filing application for issue of witness summons (Order 16 Rule 1 (4))	5 days from the date of filing the list of witnesses
11	For payment of batta etc. for summoning witnesses (Order 16 Rule 2 (1))	7 days from the date of making application for issue of witness summons
12	Adjournment [Order 17 Rule 1 (1) proviso]	Maximum 3 adjournments during the hearing of a suit
13	Submission of report of Commissioner appointed for recording evidence [Order 18 Rule 4 (5)]	60 days from the date of issue of commission unless extended by Court
14	Arguments [Order 18 Rule 2 (3D)]	Time limit for oral arguments shall be fixed by court in its discretion
15	Judgment [Order 20 Rule 1 (1)]	30 days from the day on which the hearing is concluded and 60 days in exceptional or extraordinary circumstances
16	Preparation of Decree [Order 20 Rule 6A (1)]	15 days from the date of judgment
17	For making deposit with an application under Order 21 Rule 89 [Order 21 Rule 92 (2)]	60 days from the date of sale
