

UJALA JUDICIAL AND LEGAL REVIEW

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**UTTARAKHAND JUDICIAL AND LEGAL ACADEMY
BHOWALI, NAINITAL**

UJALA JUDICIAL AND LEGAL REVIEW

विद्या ददाति विनयं विनयाद्याति पात्रताम्।
पात्रत्वाद्धनमाप्नाति धनाद् धर्मं ततः सुखम्॥

Education imparts politeness. Politeness in turn gives suitability. From suitability it is possible to earn wealth and on the basis of lawfully generated or earned wealth in individual can practice Dharma in the real sense of the term and consequently on the following or practicing of Dharma individuals will be able to secure happiness.

6th Verse of Hitopadesha

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Editorial

ORGANISED ADMINISTRATION



U. C. Dhyani

Justice U. C. Dhyani
Judge, High Court of Uttarakhand
at Nainital

Justice and administration thereof is the essence of an organised society and speedy justice is ordained in the same. Administration of Justice in India has had a glorious history. Largely, it had a smooth sailing but in the last few decades, it has met rough weather. The main cause is the huge racking up of cases in Courts. This is because of the increased filing, plethora of legislations affecting citizens in their rights, preventive detention, increase in crime and criminal cases, explosion of population, and insufficient preparedness by the judicial officers to meet the situation created by the above factors. Shortage of judicial officers is also a contributing factor.

There is a general feeling in the public today that the Indian judicial system is dilatory, costly, harassing, and no attempt is being made to rectify it. Only an objective examination of the system can disclose the actual inherent defects in the process. An analysis alone will reveal the factors which are dilatory, or harassing, resulting in miscarriage of justice.

To begin with, the management of Court is the most elementary mechanism of the judicial process. 'Management' embraces the entire concept and methodology to administer justice in a manner that yields quick results and to tackle the problem of delay in the disposal of cases in courts. There are different components in the system and each component has to work in a set pattern, in order to reach its objective. Each stakeholder must realize where it fits in the whole administration. A proper and timely action will help the system to move on smoothly and reach the desired goal. It must be borne in mind that this can be done if all the stakeholders work in unison and cohesion.

The feedback which we get from the public in terms of disposal of cases is not heartening. We are being talked about in comparative terms. Despite the fact that the out turn at different levels of Courts is enormous, but still the feeling is that the judiciary is not responding in expected terms.

The expectation is on an elevated level and we are not performing to that level. When the entire cause list is not taken up, the litigant gets disappointed. Though the Courts work hard, still what one has done outweighs what is left to be done. People raise accusing finger at the Courts. Other wings of the Govt. are also responsible for the increase of work load in Courts. The Courts also cannot completely absolve them of their responsibility.

Personal Management of the Presiding Officer is important. He has to develop his personality to meet the challenges of the expectations of people. He has to increase his capacity. Personal Management starts with punctuality. It goes a long way in one's life. It gives faith to the people who come to the Courts. It gives one confidence, more time to arrange and manage one's work. Very often the Courts avoid grappling with complicated cases. People get restive to get relief. One has to give relief. One has to see that one rises to the challenges and live upto people's expectations.

One should avoid working in chambers. Whatever work is possible, one should do it in Court. All the work in courts should be performed on dais. This enhances transparency.

One must equip oneself with latest case laws. Each minute of the Court should be utilized. It is not to be wasted in gossiping. It is precious. Save time. If one works each minute of the working hour, it will resultantly increase one's working hours and grapple one with satisfaction.

In yester years, it was a different atmosphere in court premises. It was calm and composed, unhampered and without disturbance. It is not the same anymore. Sometimes, some kind of pressure is built from different quarter to decide a matter in a particular manner. Stress and strains come to the fore. Manage it.

Organised administration primarily lies in maintaining correctness of the order and being able to avoid the pressure mounting on. One has to manage one's Court in response to the feeling of the litigant vis-à-vis the difficulty which the Presiding Officer faces.

Organised administration lies in developing the personality of a Judge to face the challenges. It lies in adjusting oneself mentally to such a situation. This is organized administration or court management in real sense, in my perception.

One should enhance the capacity of decision making. Some of the officers do avoid trying complicated cases. It is complained that the old cases are there but the lawyers don't allow them to be disposed of. To certain extent, it may be true. But, without having tense situation, organized administration has no meaning. Don't try to run away from deciding old cases. Trial Judge is the kingpin of justice dispensation system. Cooperation of the Bar is also expected in this respect. Solicit their support in delivering justice. How to plug the loopholes ? Identify the sources which lead to the explosion of cases. We must make earnest efforts in this direction. One has to maintain one's equilibrium. Take it as a challenge to deal with complicated cases. One has to develop something from within. Find out ways and means under consideration at all quarters. If one goes through G.R. (Civil), G.R. (Criminal), no difficulty will arise. One will be better equipped in law. Through Court Management, half of the problems will be over. Rest, can be overcome with the help of precedents, guidelines, rules etc.

People accuse that the Judicial system is collapsing. It is not so. It is certainly not leading towards doomsday. The only thing to be underlined is that it has to be managed in a conducive way. Accept challenges and show to the people that we can perform better.

I appeal to you to rise to the occasion!

Capacity Building Programmes

National and State opinion polls reflect deepening public dissatisfaction with the judicial administration. People expect high quality justice in reasonable time. The key factor in the improvement is quality judicial education for all Judges on career long basis. The objectives is to impart macro-level as well as micro-training to Judges with the objective of-

- (i) Judge proficiency (Competence);
- (ii) Judge performance (Conduct); and
- (iii) Judge productivity (Disposal)

People desire from Judges highest ethical standard, wisdom, independence and impartiality.

The following topics by way of lecture method, group discussion, simulation, role-play, case study, syndicate workshop with the aid of modernistic training techniques like audio-visuals, white board, O.H.P. and films etc. should be included.

Time Management

Time is the only resource which we have for our performance. It can not be increased, hence modern principles of time management should be applied with certain modifications in Court so that maximum output could be given in the prescribed time. It will include calendar management and micro management in daily work.

Self and Stress Management

Judicial work requires mental concentration of the highest level. It is said that maximum brain-cells are used in making a decision and when it comes to deciding a dispute involving others, the level of stress can be well imagined. Stressed brain will give similar output, hence the quality of justice will suffer. Principles of meditation, Yoga, exercise and well being can be applied in this respect. One should take the help of senior members of judiciary and bureaucracy who have experience to manage such stress. Personalized factors in Court management should also be dealt with.

Communication and perception

Principles of communication and perception are applicable in day-to-day working of the Courts, particularly in hearing of arguments, delivery of judgement, and cross examination. Effective communication is the demand of the day. It involves an art of listening as well. Intensified communication skills can minimize the time taken in disposal of complex matters. It should be dealt with by practical exercise and role-play.

Managing Ethical Standards

A very high ethical standard is expected from judicial officers. It is true that most of the qualities of a good Judge are innate, but experience has shown that such qualities can be improved and cultivated by scientific training. We should identify the areas where ethical problems are most sensitive like injunction/bail and other similar urgent orders. We should recognize problems of perception, bias and gender fairness among the participants and help them to resolve methodically. The purpose is to build bias free atmosphere in Court by-

- i. Elimination of any form of bias.
- ii. Constant case flow of Superior Courts.
- iii. State action to combat gender and cultural bias.
- iv. Knowledge of latest legislation.
- v. Identifying personal attitudes of Judicial Officers and how they treat others in Court.
- vi. By enlisting in-court and out-court responsibilities of Presiding officers.

Transactional Analysis

Basically, the work of a Judge is to analyse the transaction with the litigant, prosecutors & advocates. It is particularly beneficial in analyzing the cross-examination and arguments advanced by advocates, and also in dealing with staff and other department. It will help officers in recording

effective office inspection and controlling various department like Nazarat and Copying department which requires a real modern orientation.

Courts under Attack

Organised Judicial Officers can easily handle an aggressive Bar Association, if any; yellow journalism, if there is one; and critical public, as there are many; though in subtle voice. A very tactful officer can handle it which requires an overall development of personality. Various group discussions and workshops should be organized in which members of bar should be invited to put forward their point of view as to what they expect from Judges.

Effective decision making

Precise and meaningful judgement is demand of the day. It can be developed by interaction with officers. Senior officers should be invited to express as to what they expect from lower Courts. The purpose is to eliminate hitherto existing trial and error method. Decisions should not be stereo type but dynamic, depending on the nature of every case. It requires scientific way of application of evidence by marshalling and churning the facts. Orders should be written/dictated as per the scheme of law, so that they may withstand appellate review. Self awareness and healthy mental attitude of judges will result in healthy out-flow judgment.

Managing complex old cases

Mediation technique should be applied as is done in American courts. Marshalling of facts of the case and dialogue with parties and counsels in Courts may help in settlement of disputes. This is in fact the sprit of Lok Adalats. Day to day hearing is also desirable. We can invite proposed settlement by parties. Court may assist parties to resolve dispute with minimum judicial intervention. In every district, the possibility of creating central monitoring body for old cases can be discussed. Sentencing itself is an art which could be developed in training.

Optimum use of information technology like computers, inter-net is a must to prepare the judiciary face this century. It is high time to prepare Judges to cope up with this modernity. Training in computers should be imparted to officers.

Perceptual improvement

Participants should be encouraged to think critically about current lives and enduring questions as to how these issues are depicted in selected movies. This will give participants an opportunity to engage in reflection and self assessment. Movies recommended are - A man for all seasons; Anatomy of murder, Kramer vs. Kramer, To kill a mocking bird, Judgment in Nuremberg, Kanoon, Andha Kanoon, Insaf ka Taraju etc.

In literature, we should discuss Vedas, Kuran, Bible, Guru Granth Sahib, Shakespeare, Dickens, Dostoevsky, Mrichakatikam, Dharmashastra, Lord Denning, Justice Ayyar and other similar writings.

Value based programme on attitudinal change is the fine art of moulding the consciousness of trainees towards nobler and finer living. Value based training encompasses the traditional values of moral science and much more. Any quality that a society needs becomes a 'value' for it. Hence value based programme includes not only universal values such as truth, compassion, courage and faith but also socially relevant values such as self-reliance, care consciousness, environmental awareness, patriotism and tolerance. While regular legal programme is 'information' based aimed at self-reliance and knowledge oriented, value based programmes aim at 'transformation' and 'emotional self-reliance'. The value based programmes complement and complete legal academics, subtly guiding officers to become useful and supportive members of the society meant for serving justice delivery system.


(Justice U.C. Dhyani)
Editor-in-chief

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