

STRENGTHENING OF JUDICIAL ACADEMIES

The words of Socrates epitomize the real purpose of Judicial Training :

“I cannot teach anybody anything, I can only make them think.”

To quote Tom Hopkins :

“You are your greatest asset. Put your time, effort and money into training, grooming, and encouraging your greatest asset.”

The present system of Judicial Training in the country is not uniform. Some States have good training programmes. The National Judicial Academy must play a pivotal role in sharing good practices. A pan-india Judicial Training programme with limited flexibility for local requirements will meet the need to make training more purposive.

The foremost requirement is proper faculty at the Judicial Academy with commitment and dedication to training. Judicial Officers to head the Academy must be selected by a procedure to test their suitability and dedication to judicial training. The present system based on Seniority or personal choices needs to be done away with. The overall supervision may remain with officers of the Higher Judiciary but the faculty may consist of Academicians and research persons to provide regular inputs, thinking and guidance to Judicial officers. The pool of resource persons needs to be widened to include experts from various fields to provide a broader vision and perspective rather than it being confined to persons from the Judiciary as at present.

The training curriculum at present is prepared by the Judiciary itself by persons who may not have experience or expertise in designing training

programmes though are aware of the issues needed to be addressed generally speaking based on personal perceptions. If aims, objectives and goal to be achieved by Judicial Training are identified in concrete terms and then help is taken from experts in designing training programmes, not only the programmes designed shall be better and useful but also more purposive and productive. This becomes more important when new legislation is introduced and precedents may be not available. Training must be tailored to honing of skills for bringing forth the latent and hidden talents of the individual enabling him/her to achieve their own full potential in service and ultimately contribute to the betterment of the legal system. Very little emphasis is presently laid on encouraging thinking, originality and a judicial research oriented approach.

AT THE INDUCTION LEVEL

Training at the induction level needs to be made more effective and communicative in the Judicial Academies. The careerist aspect of the service needs to be balanced with the pious nature of the duty to dispense justice differentiating it from any other service. The induction of fresh recruits from College who have had no exposure to the legal world, or a short stint at the Bar makes it a compulsive necessity. Unless at the threshold the mould is not prepared properly by the Judicial Academy the future Judge may not take proper shape. Training needs to communicate that Judgeship is not confined to the Court room. The new way of life, code of conduct, public behavior at all times, discipline, morality, ethics, integrity which are all peculiar to a person performing duties as a Judge need to be inculcated and emphasized at the thresh hold. The power of the pen which a judicial officer holds needs to be trained for the manner of its exercise. Exposure at this stage in the Judicial Academy to legal luminaries both from the Bench and Bar

including retired Judges, and persons of repute from the social world with experience on different aspects, which otherwise may not have been normally available to the candidates can also have the desired impact. The training module at this stage needs to be designed in a friendly mode with site visits and practical training by dummy Court proceedings, dummy case episodes, participative training by group discussions and monitoring individual performance, preferences and deficiencies can all have the desired effect and impact.

COMMENCEMENT OF TRAINING IN SERVICE

A tailored training programme needs to be developed for the subordinate judiciary with regard to the Judge being the master of the Court room. The skills of deftness, firmness, diplomacy and human management all need to be made part of training by real life examples and dummy situations, case studies how a situation is to be handled in the Court room and could have been handled better. This part of the training again needs to be made more participative by experienced personnel, exchange of ideas, group discussions, case studies and dummy situations including actual Court room visits in perceived difficult situations. The present system of training is not sufficiently participative and does not encourage the participants to speak and exchange ideas or ask questions. The average Judicial officer prefers to keep quiet either out of fear of rebuke or disinterest as a compulsion to attend the Academy as part of service. The training module also needs to be developed and designed with regard to the manner in which a Judge should conduct himself in Court while hearing a case by practical training through dummy Court proceedings in the Academy including Court room visits especially for fresh recruits who have no exposure to Court environment. The manner in which questions should be asked from Counsel, the making of notes with regard to

relevant issues and how to identify them. Judges prefer to keep quiet on clarifications out of fear that it may be construed as bias or predisposition. Controlling of errant frivolous conduct inside the Court room without being offensive is also important. Adjournments and frivolous witnesses including lengthy cross examinations are a great contributory factor today in delay. The approach of leaving it to the individual officer to handle situations as per his ability needs to be substituted by a trained attitude after which individual self possessed skills can be more effective.

WORKING AS A JUDGE

The Judicial Academy must hold special training sessions when new laws are enacted creating a virgin judicial field. The resource faculty needs to be broadened to include academicians of repute from established Universities and law colleges. Persons of social standing including reputed NGO's may also be considered for invite to acquaint judicial officers with social impact of the legislation. Sensitization with regard to laws concerning women, children, elderly and the handicapped has an urgency for which training programmes leave much to be desired including training faculty. Victims under laws can also be invited to Judicial Academies for better sensitization of Judges.

The rudimentary psychological aspects of the human behavior and mind also if made a part of training can help judges understand fact situations better improving quality of justice. Experts from the concerned government departments must also be invited as resource persons both for dissemination of information and knowledge.

At present very little or no emphasis is laid to encourage thinking, research and originality. Overbearing emphasis is on decision based on precedents.

Originality is both feared and frowned upon. There are rare instances of originality displayed which needs to be encouraged. Judgments where such flair has been shown can be made part of training curriculum. Genuine or created case studies need to be built to be followed by a system of appreciation to encourage others to follow suit.

The creative thinking of a Judge, devoid of personal prejudices, bias excluding personal opinions and the need to don a different skin on the dias need to be inculcated to ensure communication of the dicta that justice must not only be done but must appear to be done.

Refresher courses on a particular aspect of law must be given a more communicative programme encouraging participative training by questionnaires, open house discussion where performance is monitored, individual deficiencies noticed and suggestions given for self improvement. The mind must be taught to soar rather than a very strictly conventional approach. How to think as a Judge, the art of taking a decision and Judgement writing are important aspects which need important attention with urgency by Judicial Academies..

With the advent of technology, Judges must be taught technology friendly measures for use to enhance both qualitative and quantitative dispensation of Justice. External site visits to locations at the ground level where the justice is needed, the functioning at the sub-ordinate level of Government, electronic device like mobile phone, internet along with forensics including practical training by visit to the forensic science centers all need to be informed with changing times. A more purposive involvement with Juvenile homes and rehabilitation schemes by Judicial officers may bring more improvement and practicality in dispensation of juvenile justice.

At present the training in Judicial academies is in the form of a monologue by a resource person mainly from the Judiciary either in-service or retired. Judicial Academies need to be more communicative and interactive with the academic world. A Judicial Academy can develop programmes for inter-district debate competitions on a select topic where a group of nominated Judicial officers from the Districts concerned prepare a paper which will compel them to do research and then read the paper at the Academy in presence of a judicial audience comprising of Chairman of the academy, portfolio judges of the District concerned followed by a system of reward or appreciation which will also go a long way in confidence building as a Judicial Officer. Public speaking will improve expressions and bolster self confidence also. On line competitions can also be organized either at the State level or National level with a system of reward or appreciation. Even if the officer consults books he still enriches his knowledge.

There is a further need for interactive training session between judges, the police department and such other department of the Government as may be considered necessary. Some State Judicial Academies already have this procedure and the need is to take them further. Public prosecutors are being trained at Academies. Senior lawyers should also be made part of the resource pool and facilities offered to the Bar also for skill development for better coordination in dispensation of justice.

Judicial Academies need to have a research cell where new developments in the law, new legislations are kept track of, Judgements are compiled and made available to Judicial officers on regular basis. Punishing may not necessarily be the correct way to mend errant Judicial behavior. Training and counseling at the

Academy would be more useful and recalcitrant conduct can always be dealt with in a different manner.

The present system of specific law based lectures at the Academy has its own advantages and needs to be better amalgamated with other required training programmes. Instead of the present system of weekend training programmes, week based training programmes may be considered to provide for better assimilation with advance calendar drawn up so that the Judicial officer can adjust his Court dates appropriately.

These are some thoughts and observations for further consideration.

(Navin Sinha)
The Chief Justice
High Court of Chhattisgarh, Bilaspur
29.1.2015