



SIKKIM JUDICIAL ACADEMY

JANUARY-JUNE, 2019



Half Yearly Newsletter



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The Role of Judges and Lawyers In The Administration of Justice

**Hon'ble Mr Justice A P Subba
Former Judge
High Court of Sikkim and Guwahati**

1. It is said that Bench and Bar are the two wheels of the chariot of Justice. The temple of justice thus basically comprises of two wings and both the wings pursue the common goal of preserving the stream of justice pure and clean. Hence the judges and lawyers being complementary to each other no legal system can function effectively in absence of one of the two components.
2. In their cooperative effort to preserve the stream of justice pure and clean, the learned members of the Bar give feedback and supply materials to the Bench on the basis of which the Bench decides who is right and who is wrong. In the process if the feedback materials are adulterated the result in all eventuality would be incorrect. Similarly if the judges examine the materials with tainted glasses and polluted mind, the result would invariably be faulty. Such being the consequences if both the wings pay no regard to their respective professional duties (both legal and ethical) it will have the effect of eroding the confidence of the general public in the prevalent judicial system.

Lawyers and their status

3. The profession of law is a noble calling and a member of the legal profession occupies a very high status in society. By virtue of such a high position he occupies a lawyer is required and expected to maintain high professional ethics. It is said that he is more than the fuel in the engine of law.
4. To help member of the legal profession keep to the path of ethics, necessary guidelines have been laid down in statutes framed for the purpose. In India, to regulate the conduct of lawyers adequate safeguards have been provided in the Advocates Act, 1961. To oversee the day-to-day performance of lawyers, the Bar Council of India (the supreme statutory body under the Advocates Act) has also framed rules.

5. Chapter-II of part IV of the Rules deals with Standards of Professional Conduct and Etiquette. The broad guidelines cover, inter alia, the duty of the lawyers to the Court; to the client; to the opponent; to colleagues and so on. The Preamble of Chapter-II which is extracted below, eloquently narrates the standard of Professional Conduct of lawyers.

“An advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an advocate. Without prejudice to the generality of the foregoing obligation, an advocate shall fearlessly uphold the interests of his client and in his conduct conform to the rules hereinafter mentioned both in letter and spirit. The Rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned”

Judges and their status

6. It is said that the depth of respect for Judges in Indian society is second only to the respect for saints and sages. It is hardly necessary to say that Judges play an important role in the maintenance of rule of law which is essential for the existence of an orderly society. It thus follows that Judges hold power which is immensely greater than that of any other functionary. It is aptly said that there is no office in the state of such power as that of the Judge.
7. In our country the judges of High Courts and that of the Supreme Court are Constitutional functionaries. Hence, no statutory conduct rules are applicable to them. Judges are governed by the Oath that they will act faithfully and without fear, favour, affection or ill will. However, to maintain probity in

judicial life, the High Court and Supreme Court Judges have themselves formulated Code of Ethics, wherein morality and virtue of Judges have been restated.

8. For Judges and Magistrates of District Courts, all the States of India have formulated separate rules governing the conduct of Judicial Officers. Both the declaration of 'Restatement of Values' by the superior Judges and Conduct rules for subordinate Judges eloquently speaks of very high degree of virtuous life of Judicial Officers.

Relation between Judges and Lawyers

9. There is a Sanskrit quadruplet which on proper adaptation can describe the role of lawyers and judges in the administration of justice. This quadruplet was quoted by Mr. Justice S. B. Majmudar, Judge, Supreme Court of India, as he then was, in the valedictory address delivered by his Lordship at Jaipur, Rajasthan on the concluding ceremony of the Golden Jubilee Celebration of the High Court of Rajasthan.

The quadruplet translated means:

“Bracelet gets decorated by diamond studded therein while the diamond get sanctified by being embedded in the bracelet and the diamond and bracelet together decorate the hand on which the bracelet is put on. The lotus get decorated by the water in which it is found and because of the lotus, water gets dignified and because of the lotus and water together, the entire lake gets beautified. Because of the moon in the sky, the night gets decorated and because of the night, the moon gets dignified and because of the moon and the night, the entire sky get dignified. Because of the poet, the court of the king gets illuminated and because of the king's court, the poet gets dignified and because of the poet and the court the kings gets decorated.”

Hon'ble Mr. Justice Majmudar added a line which is very significant in the present context and I quote-

“Because of the good lawyers, the presiding judges gets decorated and

because of the quality of the presiding judge, the advocates get sanctified and because of the combined operation of good lawyers and presiding judge the entire court and judiciary get dignified.”

10. It is, however, disheartening to note that despite rules, regulation, sermons by high dignitaries and judicial dictums, the standard of judicial decorum is declining unabated. A not so old instance of the demeaning behaviour in hand is the one shown by a senior member of the bar in the case. In re:Vijay Chandra Mishra, reported in AIR 1995 SC 2348. The contemnor in this case was not only a senior member of the bar but was also adoring the high offices of Chairman of Bar Council of India and the President of the High Court Bar Association of a State. What had happened in the case was that the contemnor resented questions asked by the Judge and tried to brow beat, threaten and insult, showing disrespect personally to the Judge thereby creating a scene in the court room. In this context mention can also be made of the case which is widely known as “cash for warrant scam” In this case a judicial magistrate in one of the states of India in 2003, who was caught in a sting operation, had issued warrant of arrest against constitutional functionaries like the President of India, Chief Justice of India and other VIPS. To add to this, mention can be made of the recent incidents of hurling of shoes upon the Judges in the court room and roughing up of a judge of Delhi subordinate Judiciary by the members of the Bar.

11. As can be noticed from the above the issue is not one of lack of legislation to regulate the profession but of non-compliance of the rules, regulations as well as of other ethical duties. It goes to show that the dictum 'i,e'law Procted Protects' finds no place in the present scenario. In the circumstances there is no doubt that time has come for introspection by the members of the profession and other concerned authorities so as to make the profession deserving of the high respect, dignity and glory attached to it.



23rd February, 2019

***Competition on Sikkim Anti Drugs Act 2006 (with the latest amendments)
for the students of Sikkim Government Law College, the Sikkim University and
the ICFAI University.***



JUDGES FOR THE COMPETITION

- 1. Hon'ble Mr Justice A P Subba, Former Judge, High Court of Sikkim**
- 2. Mr Anmol Prasad, Learned Sr Advocate, Bar Association of Sikkim.**

The Academy under the guidance of Hon'ble Mr Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim, organized a Competition on the Sikkim Anti Drugs Act, 2006. The competition was conceived based upon the realization of the need to handle drug menace in the state. The suggestions and relevant inputs from the Competition was passed on to the Law Department, Government of Sikkim. The Competition was judge on the basis of Written Analysis as well oral presentation.



10th March, 2019
Training Programme on “Framing of Issues” for Sr Civil Judges and Advocates.



RESOURCE PERSON:

Hon’ble Mr. Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim, Judge-in-Charge, Sikkim Judicial Academy.



Framing of issues is an important procedure in Civil Litigation involving both the Judicial Officers as well as the Advocate. Thus to better hone this skill, the Academy formulated a new method of learning process which included interaction and discussion amongst the participants as well as between the Hon’ble Resource Person and the participants of the provision under the Code of Civil Procedure, 1908.



16th & 17th March 2019

***Training programme for newly appointed Chairperson and members of
Child Welfare Committee of Sikkim.***



RESOURCE PERSONS:

1 Mr Benoy Sharma, Chief Judicial Magistrate, East at Gangtok

2 Dr Sandhya Thapa, Associate Professor, Sikkim University.



Mr Benoy Sharma apprised the participants on their duties, role and responsibilities as the Chairperson and Member of the Child Welfare Committee. Dr Sadhya Thapa gave an overview of the subject matter from a Sociologist point of view to sensitize the participants. There was interactive session between the participants.



31st March, 2019

Training programme on “General provision of Civil Procedure Code, 1908 and the Criminal Procedure Code, 1973 (Practice and Procedure) and Service of Summons” for Peshkars and Process Servers of Districts & Sessions Courts of all the Districts.

RESOURCE PERSON:

Mr Prajwal Khatiwada, District & Sessions & Judge, North Sikkim was the Resource Person.



The Resource person discussed all the relevant provisions contained in the Code of Civil Procedure, 1908 and the Criminal Procedure, 1973. The Resource person also discussed summons in detail and gave examples on proper mode of service of summons.

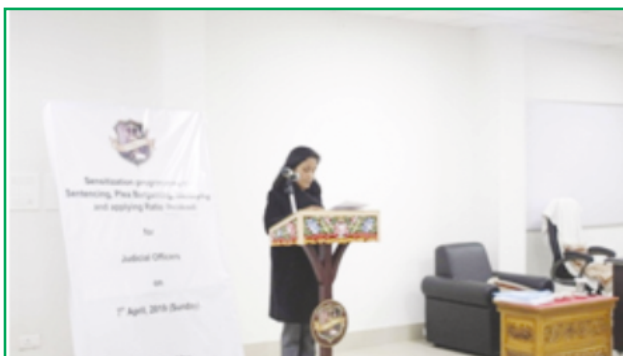


7th April, 2019

Sensitization programme on “Sentencing, Plea Bargaining, Identifying and applying ratio Decidendi” for Judicial Officers of all the Districts.

RESOURCE PERSON:

Hon'ble Mr Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim and Judge-in-Charge, Sikkim Judicial Academy



During the programme, the participants were requested to give presentation on the topics for which the sensitization programme was organized. The programme was followed by an interactive, informative and a knowledge based session with the Hon'ble Resource Person.



20th April, 2019
Sensitization programme for Media Persons/Journalists

RESOURCE PERSONS:

- 1. Hon'ble Mr Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim and Judge-in-Charge, Sikkim Judicial Academy**
- 2. Mr KW Bhutia, Ld Registrar/CPC High Court of Sikkim**
- 3. Mr Pema Wangchuk Dorjee, Consulting Editor, Summit Times, Gangtok**



Hon'ble Mr Justice Bhaskar Raj Pradhan stressed on the need of independent, fearless and impartial journalism. Mr Pema Wangchuk Dorjee shared the important aspects a journalist is required to bear in mind while reporting Court cases while Mr Karma Wangchuk Bhutia spoke on the various laws related to media. He also discussed the Juvenile Justice (Care & Protection of Children) Act, 2015 as well as the Protection of Children from Sexual Offences Act, 2012.



11th May, 2019

**Workshop on “Registration of Document Rules vis-a-vis Central Laws
and its applicability” for Judicial Officers**

RESOURCE PERSON:

**Hon'ble Shri Justice Bhaskar Raj Pradhan, Judge, High Court of Sikkim/Judge
Incharge, Sikkim Judicial Academy was the Resource Person.**



The Hon'ble Resource Person had a discussion on the important provision of the Registration of Document Rules, 1930. He also informed the participants on the purpose of the said Rules which is enshrined in the Preamble of the Rules. The Registration of Document Rules, 1930 primarily protects the Rights of the People who are uneducated and marginalized. Lordship also referred to related Notifications such as the Circular of 2001, Notification 08/LR/DMD/R dated 07.06.2018, Notification No. 385/G dated 11.04.1928 and Notification No. 2947/G dated 22.11.1946. Lordship also discussed all the Landmark Judgments of the Hon'ble High Court of Sikkim during the session.



19th May, 2019

**Workshop on "Latest Development in Motor Accidents Claim Laws"
for District & Sessions Judges (M.A.C.T Judges),
Advocates and Police Officers.**

RESOURCE PERSON:

Shri Sanjay Kumar Aggarwal, Ld. Special Judge (P.C Act), Tis Hazari Court, New Delhi.



The Resource person informed that prior to the Motor Vehicle Act, 1988, and the Factories Act, 1948, Compensation to the family of the deceased employee was given under the Fatal Accident Act. He also informed that fatal injuries are those injuries which cause death. That Police can file petition under Section 166 before the Motor Accident Claim Tribunal on three grounds being wrongful Act of the person, Neglect of the Person or Default of the person. He then discussed the important provision of the Motor Vehicles Act, 1988, such as Section 140 wherein "No Fault liability" has been mentioned all the relevant laws as well as referred to a number of judgments. The Resource person clarified all the queries raised by the participants.



26th May, 2019

Sensitization Programme on “Stress Management and Art of Hearing, Regulating appropriate decorum in Court Room” for Judicial Officers of all Districts.

RESOURCE PERSON:

Mr Vidyanand Jha, Professor, Behavioural Science, Indian Institute of Management, Kolkata .



The Resource Person during the session identified the various causes of “stress” in a Judicial Officer. He has also prepared activities through which he was able to help the participants understand the cause of the “stress”. He then suggested ways to handle the varied stress triggers in an individual. The Resource Person also discussed “persuasion” while covering the second leg of the topic which was on “Art of Hearing, Regulating Appropriate decorum in Court Rooms.”



1st June, 2019.

Workshop on “Sikkim Anti Drugs Act, 2006 and Narcotic Drugs and Psychotropic Substances Act, 1985” for Investigating Officers (Police Officers), Public Prosecutors, Additional Public Prosecutors and Assistant Public Prosecutors.

RESOURCE PERSONS:

- 1. Mr Tenzing L Lepcha, Superintendent of Police, West Sikkim.**
- 2. PI Sanjay Rai, Singtam Police Station were the Resource Persons.**



The purpose of the programme was to have a wholesome experience of the problems faced by the Police during investigation of cases under the Sikkim Anti Drugs Act, 2006 and the Narcotic Drugs and Psychotropic Substance Act, 1985 as well as the problems faced by the Public Prosecutors while handling such cases in the Court. The two Resource Persons discussed all the procedures involved under the two Acts. During the session Mr. N.P Sharma, Public Prosecutors, District & Sessions Court, East District, being the senior-most and holding maximum experience in case under the two Acts also shared the problems faced by the Public Prosecutors while conducting cases. The lacunae in investigation felt by the Public Prosecutors were shared and the solution to such lacunae was also discussed in great detail.



16th June, 2019

Training Programme on “Power and Duties of Drawing and Disbursing Officers, Formulation, Presentation of Budget and allied matters including Financial Planning, Financial Rules, Maintenance of Accounts” for Drawing & Disbursing Officer.

RESOURCE PERSON:

Mr Dorjee Tashi Bhutia, Director (Accounts), Energy and Power Department, Government of Sikkim was the Resource Person.



The Resource person apprised the gathering on the powers and duties of the Drawing & Disbursing Officers as contained in the Sikkim Financial Rules, 1979. He also discussed the ways to formulate the budget as well as presentation of the same for a particular financial year. While discussing the topics, the Resource person shared his knowledge on Financial planning as well as maintenance of accounts.



23rd June, 2019

Workshop on “Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” for Chief Judicial Magistrates, Judicial Magistrates and Medical Officers.

RESOURCE PERSON:

Dr Anita Bhutia, Joint Director, Reproductive Child Health (RCH), Health Care Human Services & Family Welfare Department, Government of Sikkim.



The Resource Person explained that the Pre-Conception & Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 was required in the Country due to the dwindling Child Sex Ratio. By virtue of this Act Sex Selection is prohibited and Radiologist have been strictly banned from disclosing the gender of the Child before birth. Further, it was informed that in Sikkim the Child Sex Ratio was found to be poor in the North District, which was why only North District was selected for the project “Bachpan Bachao Beti Padhao” of the Central Government.



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