

ETHICAL REASONING IN JUDICIAL PROCESS

By
Sunil Ambwani,
Judge, Allahabad High Court,
Allahabad

1. The reasons, satisfy us to draw conclusions which affect people's lives, influence their behaviour, and sometimes change society's reactions to issues that govern life. These reasons are very often not supported by reasoning, leaving people confused, as a result, raising doubt over institutional wisdom and integrity. The reasoning in support of reasons is an important function in decision making process. It assures society of the quality of the decisions, promotes healthy and informed debate and clears the way of improvement of future actions. Ethical reasoning is important in all spheres of influential decision making.

2. Judgment writing requires skills of narration and storytelling. After giving facts and discussing admissible and relevant evidence a judge is required to give reasons for deciding the issues framed by him. The reasons convey the judicial ideas in words and sentences. The reasons convey the thoughts of a judge and are part of judicial exposition, explanation and persuasion.

3. There is a difference between giving reasons and the reasoning, which may ultimately lead to a decision by a judge on the issue or the issues raised before him. The process adopted by a judge in arriving at a decision through the reasoning, tests a judge of his ability and integrity. He may adopt a syllogistic process, inferential process or intuitive process. 'Syllogism' means, a deductive scheme of a formal argument consisting of a major and a minor premise and a conclusion. A judge accepts an argument on a major premise, which overweighs the minor premise to draw his own conclusion. In case of inferential process a judge simply relies upon the evidence, and reaches to a conclusion. In the intuitive process, the Judge adopts psychological process, which may or may not be based by his subjective preference or biases. In this process the judge arrives at a conclusion more by intuition or emotion rather than reason. The judge may believe a witness in part (which is permissible in India) or whole and then draw a conclusion by justifying it from the reasoning supplied by him either by his own belief or experience. In all these methods the object is to arrive at the truth. If judge succeeds in finding out the truth, the method may be justified.

4. Reasons are the rational explanation to the conclusion. Reasoning is the process by which we reach to the conclusion.

