

Presidential Address

DELIVERED BY

HON'BLE MR. K. JAGANNATHA SHETTY, CHIEF JUSTICE

(High Court of U. P.)

[Now Judge, Supreme Court of India]

ON

25th April, 1987

ON THE OCCASION OF

Inauguration of

**INSTITUTE FOR JUDICIAL TRAINING AND RESEARCH
LUCKNOW.**

At the outset, I must thank the Hon'ble Chief Minister for sanctioning this "Institute for Judicial Training and Research". This is a unique Institution which I have been dreaming of for the past several years and I am glad that it has come true in this State. This Institute is of multi-purpose. Firstly, it serves as a training ground for fresh recruits. Secondly it could provide refresher courses to those who are in service. Thirdly it could give training or refresher course for Government Counsel and for employees in courts. In fact, no other State so far has established such an Institute. The Institute has a good and dynamic director though Honorary. He has devoted all his attention for the establishment of this Institute. I thank him also for all the work he has done. I hope the judicial fraternity will take the maximum benefit from this Institute.

It is not in dispute and indeed, is the firm conclusion of all the knowledgeable persons all over the world that in addition to initial training, periodical refresher courses are absolutely necessary for updating one's knowledge. It is also necessary to absorb and assimilate new techniques. Apart from the benefit of training, mere interaction among persons with exchange of ideas would be useful. It is through such interaction, knowledge is acquired, experience is gained and strategic are evolved to improve the administration.

So far as the administration of justice is concerned, it is an art. Mere knowledge of the law may not be sufficient. We cannot afford to learn that art at the expense of and prejudice to the litigant public. That is

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why the Law Commission repeatedly stressed the need to impart practical training to Judicial Officers.

In the 54th Report : 53.8, the Law Commission has observed :

“The quality and output of work of Judicial Officers will, to a great extent, depend not only on the mental and intellectual equipment which they possess, but also on their ideals and sense of service. The State should therefore, do its maximum to ensure that they enter on their duties with the best of equipment and with the highest sense of service.”

The Law Commission in the said Report also suggested the subjects for training :

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“The subjects to be included should be such as to deal with the relationship of law to other social sciences, including in particular, economics and sociology. The emphasis should not be on technical law or procedure, but on law as a part of an interdisciplinary study on the application of the law to the facts of a particular case.”

This kind of training for judicial officers in the interdisciplinary study is necessary because, the administration of justice involves innumerable problems and it requires wisdom and not mere intelligence. Wisdom, the deepening of the intellect is more than mere intelligence. It includes the comprehension of the effects of decisions. It includes the knowledge in the fullest sense of learning, legal and general. Mere study of law alone cannot give this required wisdom. We must not be oblivious of the fact, that legal philosophy is but one branch of learning. There are other branches of learning of equal importance as well. We must study those branches also particularly, History, Economics and Sociology. Some are, however, of the opinion that we get every thing from the case stated in the pleadings and the evidence produced by the parties. It is wrong to assume so. We could see only the fragments of social problems through the narrow windows of litigation. The justice may suffer if we do not understand the gamut of the problem behind the case before the court. For that we must possess sufficient knowledge of problems of society and facts of life which we could get only from other branches of learning.

This Institute must also take up correspondence course to our judicial officers. All important judgments pronounced by the High Court, which are relevant to the administration of justice in subordinate Courts should be

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digested and sent to all the judicial officers at least once a month. Such a course would be highly useful to a judicial officer for updating their knowledge.

The various canons and decisions prescribe many admonitions as to judicial behaviour and indicate the scope and limit of judicial activity. I may briefly summarise : A Judge should not be swayed by partisan demand or public clamour. He should not be guided by personal popularity nor should he be apprehensive of unjust criticism. He should be studious and courteous. He should be patient and punctual. He should be just and impartial.

Bracton in the 13th Century wrote :

“Let not one, who is unwise and unlearned, ascend the judgment seat, which is, as it were, the throne of God.....”

The judicial work is not like a Collector's work said a learned man “The Collector's work is like a woman's work—It is never done”. At any hour of the day or night, the Collector may be called upon to act. He serves several masters and has to satisfy several demands. But the Judge serves only one master, that is the mandate of law. He satisfies only one demand that is the demand to bring justice or to remove injustice. He need not to run after several masters. He must, however, keep his life disciplined. He must keep his conscious pure and clean. He must be blind to favour or prejudices, but clear to see where the truth lies. The work in Courts is not purely mechanical. The cases do not always proceed on set lines. There is no limit to the variety of new situations which can arise in human relationship. No court and no judge made precedents can provide guidance to all situations. Nor can any fixed formula furnish solution. It is in such situations, for which there is no guidelines or precedents, that the personality of the judge would be of assistance. That is why a pioneer in legal sociology Engene Ehrlich said : “that the ultimate guarantee of justice in a court of law is the personality of the Judge”. You must develop such a personality.

I may now deal with the part you have to play in the Courts. In our system of administration of justice, the whole burden of the trial cannot be assumed by counsel. The responsibility equally lies with the judicial officers who preside over the Courts. The counsel are engaged to assist us in administering justice. Your function is, therefore, just not to accept the argument of one side and reject the argument of the other. You cannot afford to sit quietly by and see a manifest wrong done. It is your right and also duty to unfold the ramifications of the case. You must use every bit of your experience and should, if possible, elicit additional facts so as

to bring out the nugget of truth. You must use your hind sight to go beyond the conflicting versions of rival parties.

The system of administration of justice which we have in this country is basically similar to those administered in the United Kingdom, United States, Australia, Canada and a number of other countries. The common complaint against this system is as to delay in disposal of cases. We must, therefore, see that unnecessary delay is not caused in the trial of the cases. I may now give you some tips in this regard :

- (i) The delay is caused generally at the stage of issuing summons. Long delay takes place in getting service effected upon the defendants. You should closely watch the work of the Process servers. There should be a close monitoring of their work. Stringent and prompt action should be taken against process servers who are making false reports.
- (ii) Likewise, judicious use of the provisions of Order 11 C. P. C. (Discovery and inspection of documents) and Order 12 C. P. C. (Admission) could considerably narrow down the area of controversy and avoid delay in disposal of cases.
- (iii) Arguments should be heard soon after the close of evidence. Before the arguments, you must go through the file and understand what the controversy is in the case. This would enable you to cut down the lengthy arguments from the Bar. You should not go on hearing leaning backward on your seat. You must always bend forward, and listen attentively. Take down the notes of submission by counsel. That will help you to produce better judgment.

Never stop at your first draft of the judgment. Always go through it. See how it reads and re-read it. Correct and recorrect it. Does not matter how many times, till you are satisfied that it is accurate and clear to the reader.

In small towns if you are posted, you would be the centre of attraction. Sometimes you come into contact with the public in the Court or in public functions. When they meet you, and when they exchange words with you, you have to understand their inner motives that inspire their actions and approaches. Beware you have to guard yourself from their seemingly innocent actions and approaches. One wrong step by you in their company

may land you in life long misery. Best way is to keep every body at a respectable distance. Have one standard both in Court and in your private life. Be sympathetic to the poor and oppressed. Have a close scrutiny of the legal aid brief coming before you. Let not justice suffer for want of proper drafting or want of proper arguments in such case since such cases are generally handled by junior lawyers. Use the power given to you to protect the weak against strong and to protect the innocent against the oppressed. Never deviate from the chosen path.

Remember always the oath taken by you in assuming office. Nowadays oath is taken as a licence by witnesses to state falsehood in Courts. Solemnity of oath is not adhered to. Some judicial officers appear to forget its solemnity. I can just give one advice as to what importance it should be given and how it has to be adhered to : it should become a part of life.

Before I conclude, I must thank Honorary Director and officers of the Institute for giving me this opportunity to address you. This Institute will have the full support of the High Court. Hon'ble judges have agreed to give lectures to trainees. A large number of Hon'ble Judges have come to attend this inaugural function in this hot summer and despite the inconvenience of accommodation at this place.

With all the good wishes of mine and my wife, to the Institute, and to the trainees of the refresher course, let me thank you again. Jai Hind.
