

Speech Delivered by
Hon'ble Dr. Justice **A.R. Lakshmanan**
Judge, Supreme Court of India
at School of Judicial Administration and
Rajasthan Judicial Academy, Jodhpur
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I am delighted to be here for two reasons: firstly, because I have come back to Rajasthan after a long time. It is good to be amongst one's friends and colleagues. When I left Rajasthan, as its Chief Justice, I carried many sweet memories of my stay here. It is good to revive those memories. Secondly, because I have come back to the project which was started under my tenure as the Chief Justice of Rajasthan. The idea of a Judicial Academy was concretized during my period. It is always a pleasure to see the seeds sprout and turn into a sapling, which one had planted. I am delighted to see the first batch of the Rajasthan Judicial Academy having completed its training.

As the "Baghban" (gardener) of this garden, I wish to congratulate you on your achievements. But I also wish to warn you. With your dedication and motivation, you have already crossed many hurdles. As you cross threshold, you will enter a brave new world: a world which will tempt your heart, tease your mind, and test your soul. Like Arjun when you enter this battlefield of Kurushtra, you must know your mission, and be well equipped to achieve your goal.

I am extremely happy to be amongst you to address you on the occasion of the valedictory function of Judicial Officers training programme which is going to enlighten you on various aspects of judicial work. I congratulate you all, for joining the judicial fraternity.

The Indian Judicial System is constantly exposed to new challenges, new dimensions and new signals and has to survive a world in which perhaps the only real certainty is that the circumstances of tomorrow will not be the same as those of today.

Judiciary today is more deserving of public confidence than ever before.

Our Judiciary throughout the Union of India have earned a reputation for great integrity and independence. We are proud of it.

We, the members of the Judicial hierarchy have inherited the legacy of dedicated collective endeavour by the Bench and the Bar and establishing an unbroken tradition of high efficiency, perfect integrity and fearless independence. The true touch stone for measuring the success of a Judicial institution is the degree of confidence reposed in it by the public and it is a matter of great pride that our country has earned for itself the fullest respect and confidence of the public of the Nation. The Judgments of the Courts are treated with respect and its stature in knowledgeable legal circles is equal to be best amongst other Courts in this land.

The Judiciary has a special role to play in the task of achieving socio-economic goals enshrined in the Constitution while maintaining their aloofness and independence; the Judges have to be aware of the social changes in the task of achieving socio-economic justice for the people.

Socrates said that four things improve a great Judge:

- (a) to hear, courteously;
- (b) to answer wisely;
- (c) to consider soberly; and
- (d) to decide impartially

You, the Judges of the subordinate judiciary which can be termed as the root of our judicial system the society look forward to have the judicial officers who may be trusted and who can inspire confidence in the society will get justice. It is rightly said that Judicial Officers discharge divine functions though they are not divine themselves. I am aware of the fact that majority of the Judicial Officers of the State are discharging their judicial functions in a befitting manner but I, being the member of Judiciary in the Supreme Court desire from every judicial Officer of the Subordinate Judiciary to lead a disciplined life as a Judicial Officer. I expect that Judges of all cadres to strictly observe *punctuality in court*. Sitting in court late, without reasonable cause, leads to frustration to the litigants attending your court. Laxity in this behalf is inexcusable. Not adhering to court timings is a serious aberration. It must be avoided at all cost by all of us. Integrity is an essential quality of a Judicial Officer. A Judicial Officer must follow the standards of integrity, morality and behaviour which he sets for others. If a Judge, decides a case wrongly out of motives, it shakes the faith of

litigant public and the whole society. Such an officer who does not maintain highest standard of integrity, has no right to continue to occupy the chair as a judicial officer. If a judicial officer is corrupt, then he cannot be allowed to hold such a divine chair of a Judge.

You, the members of the judiciary should pronounce the judgments within the stipulated time. Delay in delivering the judgments will cause untold hardship to the litigants since it will deprive them of their chances of preferring appeals/revisions in time.

You, the judicial officers *should not leave headquarters without informing the District Judges* or the Controlling Officers, as the case may be. When you are posted to a particular station, you have to meet your superiors either prior to or after taking charge. In the disciplined hierarchy of judiciary it is imperative that all the officers should maintain cordial relationship with each other so as to maintain the dignity and decorum of the institution.

The Judges must decide cases without fear or favour, affection or illwill, friend or foe. I can assure you that if you are discharging your judicial function as a true judicial officer following the norms then you should not be afraid of frivolous complaints made by persons having vested interest.

You, the officers should apply for permission to leave headquarters with or without pre-fixing or suffixing casual leave and after availing it extend their period of leave etc. along with the medical certificate. No leave application should be submitted at the time of resuming the duties. Such practice is violative of the clear instructions issued by the High Court. You must give a patient hearing to the litigants/Advocates.

You must work very hard, very honest, courteous to the litigants, witnesses and the members of the Bar and discharge your judicial functions with all humility at your command.

When a residential house/flat is allotted to you which have been constructed by the State Government for the judicial officers, you are expected to occupy the same as these houses have been constructed by

the State Government in compliance of the directions of the Hon'ble Supreme Court for the welfare of the judicial officers.

There are four personalities who have to play vital parts in the conduct of business in Court. They are; (i) the Judge, (ii) the Members of the Bar, (iii) the officials of the Court, or (iv) the Court staff and the litigant public.

Let us first take the Judge. Many are obsessed with the feeling that a Judge should be of a grandeur personality. Absolutely not. The minimum expected of him is that he should be clean and presentable. He should not be slovenly dressed. There is an aversion for the present dress regulations. I am not bold enough to decry it as meaningless. The reason behind this aversion as I could gather, seems to be a prejudice against the English tradition. I do not covet consensus, but I have a conviction that Judges and members of a particular profession should stand apart as distinct from laymen. I have set in the Bench from 1990 onwards with the present apparel of a Judge hanging on my considerably large - I suppose - physical frame. Personally when I wore the Judge's dress, then only I felt, I had become ready for the day to dispense justice as a Judge. When the Judge speaks, his accent must be clear. His voice should not be too loud and it should not be too low. It must be clearly audible to those who are present.

Unnecessary and unwarranted utterances are bound to embarrass not only others, but the Judge himself, what should be asked, should be asked, what should not be asked should be avoided.

The Judge must learn to hear the counsel first. What the counsel says may not be absolutely correct from the point of view of the Judge. The Judge must always remember that his views entertained at the moment may turn out to be wrong. Hence, with receptivity and with an open mind, the Judge must listen.

Interruption in the middle should not be made by the Judge. A Judge need not exhibit any hastiness in the matter. At a convenient time, the Judge must politely ask the counsel as to whether he is correct in what he stated before the Court. It would be below the dignity of a Judge to indulge in argument of the Bar in open Court. If the Judge himself is in doubtful sphere, better listen rather than raising

questions exposing his ignorance. Receive what is given in Court and eschew what is against Law and facts after thorough analysis and assimilation both in and out of Court, which exercise is part of a Judgeship.

Do not speak out your verdict, unless you propose to pronounce it in open Court then and there. Any shrewd Counsel will certainly discern the mind of the Judge on the verdict. But on no account the Judge shall tell his verdict before he pronounces his verdict.

Courtesy towards the members of the Bar as I already stated is a must for a Judge. In a rarest of rare cases, the language of a member of the Bar may be offensive. The Judge should not loose his temper. Ignoring any such offending behaviour, the Judge must work. But, if offensive behaviour persists, then the Judge has to control it. Otherwise, the decorum of the system will fail. That should not happen. These are all matters of experience of the Judge. There is no hard and fast rule.

The Judge must give due respect to the staff of the Court. The Court staff is part of the Judge himself. The Court staff may commit mistakes in open court. Be discreet and do not expose the mistakes of the staff to the public eye. The Court staff must be treated by the Judge with due respect and dignity in open court. Not even an attender should feel that he has been slighted and be-littled.

We can now go to the Bar, we cannot think of functioning of Courts, without the Members of the Legal Profession. Court etiquette is the topic we are concentrating upon. A member of the Bar must be neatly dressed and must look distinct in his dress. Inconvenience or convenience is not the criterion.

Now, we can take the Court staff. Each member of the court staff must be meticulously dressed. The Court despite many odds must look trim. I know, the Courts do not have adequate furniture. Yet the functioning of the Court can be trim, if the people functioning there are trim in person and naturally in mind, too. The Court staff must see to the functioning of the Court efficiently and effectively. They must treat the members of the Bar with due respect and courtesy. The Court officer to a very great extent knows the progress in each case

thoroughly and he will also know the facts of each case tried in the Court. He will effectively guide the conduct of the case in Court. He will be of immense help to the Presiding Officer.

The Personal Assistant or Stenographer or Secretary to the Judge must equally be smart and trim. If the judgment has been dictated besides the open Court Hall, the Personal Assistant must keep it an absolute secret. The trend now-a-days noticed is, the members of the bar and even the public come to know the verdict even before it is pronounced in open Court. How could this happen? I can only say that it should not happen.

The orderlies of the Court have very significant role to play. They should not forget their importance to the functioning of the Court. The Court staff must have distinct dress regulations. My experience as a Judge has taught that dress regulations for each person functioning for Court business is a necessary paraphernalia. If a member of the Court staff comes to Court casually dressed as if going to a cinema hall, how he will carry respect in the eyes of the public? The present dress regulations, if left alone, will be better which shows the Court staff as a distinct entity.

We will now take up the public entering the Court premises. The very atmosphere must instill a fear into the mind of the public that they are entering a very sanctified place, next to a place of worship. Tea stalls and Pan shops and vending of snacks should not come near the Court functioning. It is not a matter of convenience for the public. Convenience should be provided but not at the sacrifice of the dignity and decorum of the functioning of the Courts.

The public must be asked not to indulge in loud talking in Court Hall. They must remain within the enclosures meant for them.

All said, the Court must function bound with the norms of etiquette. I am in favour of strict adherence to Court Etiquette. Now-a-days this is being slowly forgotten. That will be a sad state of affairs.

My dear Judges, the training programme already arranged by the High Court, I hope would be of a great help to all of you at the District Court and other Courts level. You have already undergone training for

two months in this campus. Today is the Valedictory Session. After completion of this two months training, each and every one of you will be given posting. I have no doubt whatever that all of you will discharge your duties and functions to the utmost satisfaction of all. You are all young and energetic. If all of you strictly follow and adhere to my advise, you are assured of your bright future in the judicial hierarchy.

I conclude with strong belief and immense faith that the Presiding Officers will conform to established time-tested Court etiquette and uphold the dignity and enhance the decorum of Temples of Justice. I am sure this training programme will keep you in good stead. I wish each and every one of you a successful and fruitful career as judicial officer by the grace of this great Architect of the Universe.

The issue of under-trials detained in various prisons in the country has been a matter of concern. Hon'ble the Prime Minister, while addressing the conference of the Chief Justices reminded the judiciary of its accountability to ensure the speedy disposal of large number of cases pending before various courts. In the same conference, Hon'ble Chief Justice of India Dr. A.S. Anand identified the "*acute shortage of courts*", the single largest factor responsible for the accumulation of arrears in subordinate courts. It appears that the Central Government realizing the plight of under-trials and to ensure justice to common man, made allocation of Rs. 502 crore for creation of 1734 courts named as "Fast Track Court" all over the country.

A successful judicial system is a hallmark of any developed civilization. The failure of Criminal Justice System to being criminal conduct under tight control is viewed as leading to the break down of the public order and to the disappearance of an important condition of human freedom. The Criminal Justice System has failed to achieve its twin primary goals via; the *Control of the crime* and the *protection of individual rights*. The crime control implies orderly efficient method for arresting, prosecuting, convicting and punishing the guilty and for deterring crime by others. The protection of individual rights is necessary to guard the accused against arbitrary exercise of powers by the State. The rising crime rate clearly indicates that the system is not an effective deterrent. The graph of cases of murder, rape, theft, assault, robbery, disorderly conduct and bride burning is in ascending order. The open violation of laws, bribery in public service, presence of

professional criminals and intimidation of victims and witnesses are experienced in day-to-day life.

It is not uncommon for any criminal case to drag on for years. During this time, the accused travels from the zone of "anguish" to one of "sympathy". The witnesses are either won over by muscle or money power or they become sympathetic to the accused. As a result, they turn hostile and prosecution fails. In some cases, the recollection becomes fade or the witnesses die. Thus, long delay in courts caused great hardship not only to the accused but even to the victim and the State. The accused, who is not out on bail, may sit in jail for number of months or even years awaiting conclusion of the trial. Thus, effort is required to be made to improve the management of the prosecution in order to increase the certainty of conviction and punishment for most serious offenders. It is experienced that there is increasing laxity in the Court-work by the police personnel, empowered to investigate the case. On the eve of establishment of Fast Track Court on 11th June, 2001, in my message, I asked the State Government to take up the issue of fair and meaningful investigation on high priority. I further add that it is high time when the State Government should create a Special Wing in the Police Department solely for the purpose of investigation and attending court work.

The prosecutorial set up consists of "Public Prosecutors including Additional Public Prosecutors, Special Public Prosecutors and Assistant Public Prosecutors." A prosecutor occupies a unique position in Criminal Justice System. In *Hitendra Vishnu Thakur vs. State of Maharashtra*, AIR 1994 SC 2623, the Hon'ble Supreme Court observed that public prosecutor is an important officer of the State Government and is appointed by the State under the Code of Criminal Procedure. He is not a part of the investigating agency. He is an independent statutory authority. The success of the trial depends mainly on effective prosecution, which is possible only through well qualified, trained, fair and dedicated prosecutors. It goes without saying that integrity and impartiality of the public prosecutor is essential in the administration of justice. It is unfortunate that no sincere efforts are being made to improve the quality of the management of prosecution in order to secure the fair, just and expeditious conclusion of the trial.

The role of a Judge in controlling the court proceedings is very important. A Judge is expected to actively participate in the trial, elicit necessary material from the witnesses at the appropriate context, which he feels necessary for reaching the correct conclusion. In this context, the apex Court, in *Ram Chandra vs. State of Haryana* reported in AIR 1981 SC 1036, has observed that:

"The adversary system of trial being what it is, there is an unfortunate tendency for a Judge presiding over a trial to assume the role of a referee or an umpire and to allow the trial to develop into a contest between the prosecution and the defence with inevitable distortions flowing from combative and competitive elements entering the trial procedure. *If a Criminal Court is to be an effective instrument in dispensing justice, the presiding Judge must cease to be a spectator and a mere recording machine.* He must become a participant in the trial by evincing intelligent active interest by putting questions to witnesses in order to ascertain the truth."

Thus, a Judge is expected to go through the nature of the evidence oral and documentary to be adduced in a case consult the lawyers of both the sides more particularly the accused's lawyer to know the probable time within which he expects to complete the cross examination of a witness. This would enable the Court to formulate the trial schedule for each witness scientifically. A trial Judge must ascertain the whereabouts of each and every witness including the investigating officer so that for want of proper whereabouts of witnesses, trial schedule is not delayed.

Judge have been called the Men of Robes. As men of Robes, at times we forget that we belong to the same fraternity as the other men in robes, namely the lawyers. The bar and the Bench are the two wheels of the chariot of Justice. If one wheel is neglected, the other can not gain speed and efficiency. Therefore, be courteous to and polite with the Bar members. But politeness does not mean that one should be like a carpet, letting every one trample over oneself. One should be polite but firm like an ant: willing to walk on earth, but strong enough to annoy an elephant. Therefore, be polite to the lawyers but be firm with them when need arises. While understanding their difficulties, while

adjusting their problems, balance the interest of the litigant as well. For, all of us are there for the sake of the litigant, and not the vice versa. Accommodate a lawyer in adjournment when the need is genuine. But if the need is frivolous, be firm and refuse the adjournment. As a judge it is for you to set the discipline of the court, the decorum of the court. It is a fine balancing act to be firm and yet generous. But it is a skill all judges must develop.

Of course, you have to gain the respect of the people and of the Bar with your behavior and knowledge. The Caesar's wife must be above board. Your image both inside and outside the court must be pristine and crystal clear. For this, your dress is the first indication of your virtues, of your personality. If a person is shabby, if he is unkept, he reflects a poor self-image, he reflects disorganized thoughts, and habits. Beauty soothes the troubled souls; remember your first impression is the last impression. Therefore, pay attention to your appearance.

Of course, your knowledge of Law must be up to date. Your knowledge would be tested everyday in every case. Legal issues are first framed and posed in the trial court. Thus, it is you who would have to tackle the legal issues first. The trial court lawyer is street smart and knowledgeable. Even in the far-flung areas of this state, you will discover lawyers who know their laws, and case laws. While you should always be willing to learn from their experience and knowledge, you should sharpen your own knowledge and intellectual capacity. For this, follow the latest amendment, the creation of new laws, and read the latest case law. Be aware of the latest trends emerging in judicial thinking. The Apex Court and the High Court go through different phases. Follow their fluctuations. But it is not sufficient to know the judgment, think about the logic of the judgment, about its facts, its reasoning. See if the judgment covers the case before you or is it distinguishable on the basis of its reasoning, its logic. In order to achieve the legal expertise, burn the mid-night lamp. You will be the winner.

Besides reading, cultivate the art of writing. Judgment writing is a creative process. The language should be plain, precise and pointed. Long sentences lose their punch. Words should be chosen with certain precision. The facts should be stated precisely. The issues written

clearly. The evidence should be discussed thread bare. The reasoning should be logical and should follow from one point to another. A rambling judgment is a bundle of confusion. Initially, learn from the judgments of your superior officers, from the judgments of the High Court and the Apex Court. Dissect the judgments, examine its strength and weaknesses. Learn the craft of writing judgments.

Be bold in your judgments. Decide a case without fear or favour. Fear and favour come in many hues and colors. Fear of one's own past, of peer pressure, of public criticism. Favour includes not only monetary favour, but also nepotism, casteism, personal bias and prejudices. If the faith of the people is to be maintained in the Judiciary, then the river of judicial process has to be kept clean. Hence, you must avoid fear or favour at every cost. If people think your judgment is biased, is colored, is partial, they would doubt the judicial process and the river of justice will stand contaminated. It is our pious duty to keep the river clean. Impartiality is the hallmark of a Judge. Be impartial in your judgment.

Thus, to provide skill, attitude and professionalism to Judges presiding the Fast Track Court, a short term training programme has been arranged. In the present times, *judicial education* has become principal tool to provide accountability to the judiciary. In the words of *Paul M. Lee-*

"Judicial education is one of the most effective and perhaps an indispensable means for enhancing the fair administration of justice."

"Judicial Education" and "training" are not synonymous, though they aim at the objective of judicial competence and efficiency. "Education" is more concerned with the knowledge and sensitivity, whereas "training" revolves around skills, attitude and professionalism. The two reinforce each other in judicial performance. The Law Commission in its 54th Report recommended a National Judicial Academy for uniform judicial training on all India basis at-least at the initial level. A National Judicial Academy under the chairmanship of Chief Justice of India has since started functioning in Bhopal, though regular training programme has not yet begun. I am informed that few courses on Criminal Justice for trial Judges are sometimes organized by the

Indian Institute of Public Administration, New Delhi and the Institute of Criminology and Forensic Science, New Delhi. Outside this occasional programme, there is no organized training for the judicial officers at the national level at present. There are few State level judicial Academies or Training Directorates established in the recent past under the respective High Courts at Lucknow, Hyderabad, Nagpur, Cochin and perhaps in few more States.

As you step out of the portals of this Academy, our wishes and prayers, our blessings and advises are with you. You are the base of judicial pyramid. Be strong and brave to uphold the Judiciary. God Bless you all.

I am grateful to the organizers of this function for giving me this opportunity to share my thoughts with you.

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