



# THE ART AND CRAFT OF WRITING JUDGMENTS /JUDICIAL ORDERS

JUDICIAL ACADEMY, JHARKHAND

# Why This Session?

- Writing a judgment is a **sacred judicial function**.
- It ensures justice is **not only done but seen to be done**.
- Balances the roles of **law, logic, and human understanding**.
- **A well-written judgment is the best defense against allegations of bias** or miscarriage of justice.
- **Judges are guardians of constitutional values.** The language, structure, and reasoning in judgments must reflect that responsibility.
- **Modern-day judgments shape future legal discourse** and influence public policy—writing with foresight and clarity is essential.
- **Judgment writing is a judicial signature.** Every decision becomes part of the judge's intellectual legacy.



Judgment writing is both an **intellectual discipline** and a **creative art**.

The **quality of a judgment** is not determined by its length or volume.

Some judgments:

- Include **lengthy pleadings, extensive evidence, and multiple precedents.**
- Yet **lack critical analysis or structured reasoning.**

Such judgments often:

- Merely **accept or reject** facts or precedents.
- Result in **verbosity and redundancy.**

They fail to:

- Aid the **parties involved.**
- Assist in **effective appellate review.**



# The Value of a Judgement

- A **judgment** is a **reasoned decision** explaining the basis of a decree or order.
- It marks the **culmination of court proceedings** and is a **core judicial duty**.
- Every judge has a **unique writing style**, shaped by:
  - **Temperament**
  - **Experience**
  - **Training**
- The **essence of a judgment** lies in its **reasoning**, not just the result.
- Unlike formal orders, judgments:
  - **Explain conclusions**
  - **Justify legal findings**



# Judgment Writing – Beyond Procedure

Writing a judgment reflects:

- **Judicial discipline**
- **Legal understanding**
- **Moral clarity**

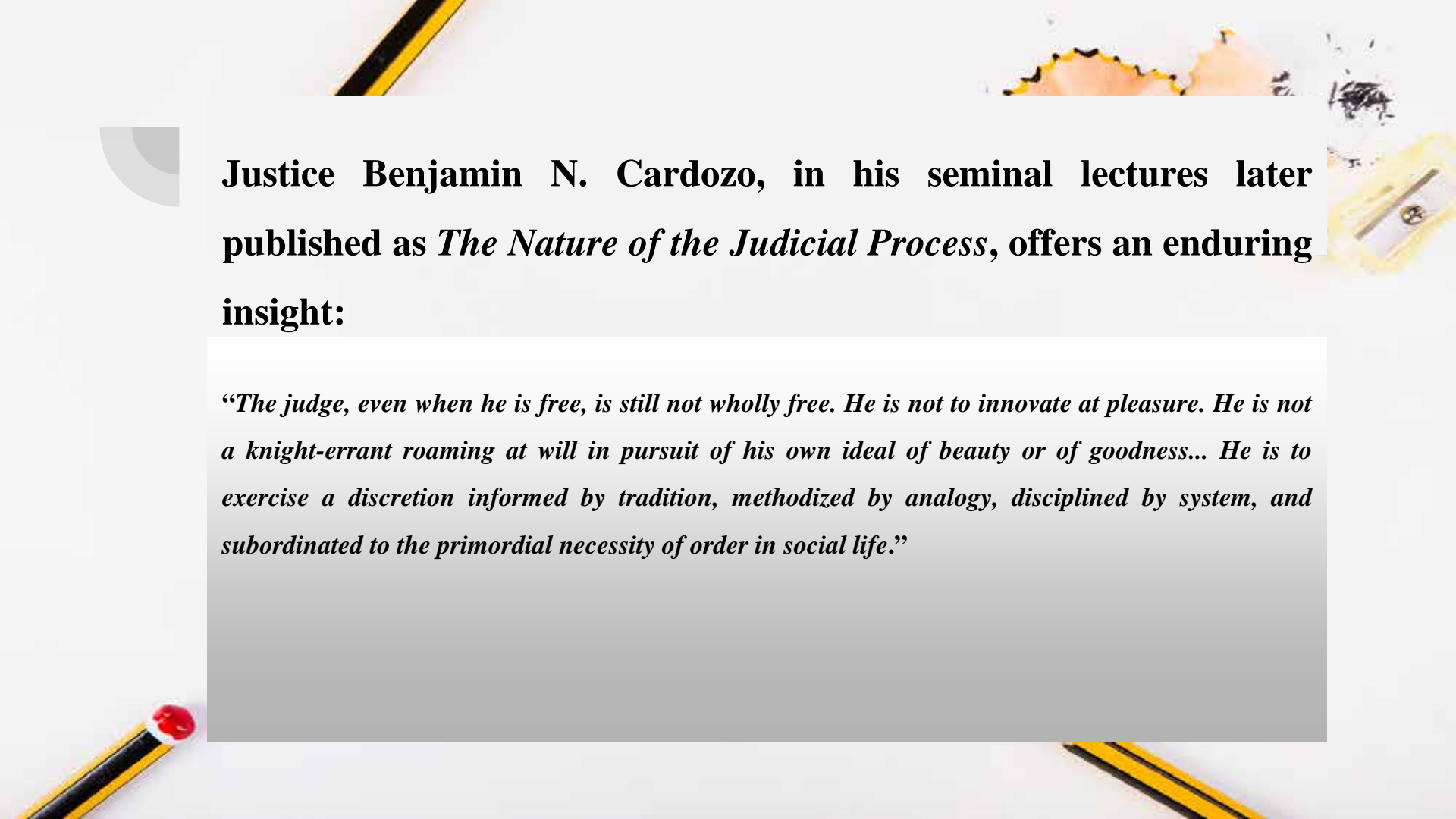
Judicial approaches may vary:

- Some prefer a **technical, rigid** interpretation.
- Others adopt a **liberal, expansive** view.

**Both extremes can be problematic.**

Judicial interpretation must:

- **Follow the law as enacted**
- Avoid being influenced by **personal ideology**
- **Respect legislative intent**



**Justice Benjamin N. Cardozo, in his seminal lectures later published as *The Nature of the Judicial Process*, offers an enduring insight:**

*“The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness... He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to the primordial necessity of order in social life.”*



# Who are on the receiving end of a judgement?

A judgment is not written only for the parties involved.

The **losing party** has the greatest interest in knowing the reasons.

However, a **well-written judgment serves wider purposes:**

- Assists **appellate courts** during review.
- Informs **lawyers and students** for legal learning.
- Builds **public confidence** in judicial transparency and integrity.



# Judgment as a Public Document

A judgment is a **public record** and contributes to **jurisprudence**.

It acts as a **benchmark** for future cases.

→ The reasoning must show:

**Clarity**

**Neutrality**

**Rigour**

→ Reflects the judge's **commitment to fairness and rule of law**.

→ Judges must:

Base findings on **evidence from the record**.

**Avoid distortion or omission** of facts.

**Explain reasons honestly**, without fear, bias, or external pressure.



# Judicial Responsibility

Writing a judgment is more than a legal formality.

It reflects:

- **Professional competence**
- **Moral responsibility**
- **Loyalty to the Constitution**

A well-crafted judgment showcases the **judge's role** in upholding the **majesty of justice**.

The background of the slide features a light gray surface with several yellow and black pencils and a yellow pencil sharpener. A large, semi-transparent white rectangle is centered on the slide, containing the title and a list of bullet points. The title 'Pre-Judgment Preparation' is written in a bold, blue, serif font. The list consists of four bullet points, each starting with a black dot and containing text in a black, sans-serif font. The first bullet point is 'Read the file **comprehensively**.' The second is 'Make **notes, timelines, charts** (e.g., family trees, maps).' The third is 'Identify **material facts and relevant legal points** early.' The fourth is 'Avoid **delays** – timely justice is a constitutional mandate.'

# Pre-Judgment Preparation

- Read the file **comprehensively**.
- Make **notes, timelines, charts** (e.g., family trees, maps).
- Identify **material facts and relevant legal points** early.
- Avoid **delays** – timely justice is a constitutional mandate.

# Structure of Legal Analysis in a Judgment

## Key Components Every Judgment Must Contain:

### Relevant Facts

- Provide a brief overview of the background to help understand the context of the case.

### Statement of Issues

- Clearly identify the **key legal questions** the court is required to decide.

### Positions of the Parties

- Summarize each party's stand on the issues involved.
- Include a **fact narrative** relevant to the court's final determination.

### Comprehensive Analysis

- Ensure no critical issue is left unaddressed.
- **Omissions may become valid grounds for appeal**

### Discussion of Evidence

- Examine the **material facts** and evaluate the evidence supporting or challenging the claims.



# Structure of a Judgment (FIRAC Model)

- **Facts**
- **Issues**
- **Rule (law)**
- **Analysis (reasoning)**
- **Conclusion (decision)**

# Facts

**Material facts** are essential to determine the **ratio decidendi** (core reasoning + ruling).

Identify facts using **6Ws**:

- **What** – Origin of the dispute
- **Who** – Parties involved; relevance to **locus standi**
- **Where** – Location; impacts **jurisdiction**
- **When** – Timeline; relevance to **limitation**
- **Why & How** – Especially crucial in **criminal cases** (motive and method)

**Omit unnecessary facts:**

- Irrelevant to the outcome
- Undisputed formal findings

# Issues

As per **Order 20 Rule 5 CPC**, the Court must give findings with reasons on each issue—unless one finding disposes of the entire case.

This principle should be applied across all case types.

## Advantages of Issue-wise Analysis:

- Ensures **comprehensive consideration** of all aspects.
- Helps apply the **correct standard of proof** (e.g., prima facie, beyond reasonable doubt).
- **Improves readability** in long judgments through clear headings.

## Guidelines:

- **Prioritize material issues:** limitation, jurisdiction, locus standi.
- **Separate questions of law and fact** to aid appellate review.
- **Organize issues logically:**
  - Chain-linked if interdependent
  - Chronologically if independent
- Each issue should be **analyzed like a self-contained stanza**—clear and complete.



## *STATUTES/ RULES*

1. The judgement should then mention the relevant statute/rules that apply to the situation.
2. Binding precedents must be followed.
3. In case there are more than one statute/rules, the reasons to follow one set of statute/rules and also the reason not to follow the others should be assigned.



# Analysis in Judgment Writing

- Complex cases require **structured and in-depth analysis**.
- Use **OPP** Opposite Party Position/**FLOPP** Flaw in Opposing Party's Position method: present the losing party's view neutrally, then critique it.
- Analyze each issue **independently with clear sub-headings**.
- Ensure **settled legal principles** are applied—e.g., proportionality in sentencing.
- Helps appellate courts track **what was argued and what is new**.





# Conclusion of the Judgment

- The conclusion must **tie together all arguments** and clearly state the outcome.
- **Avoid repeating the summary** or introducing new arguments.
- Keep it **brief, focused, and under one page**.
- **Review the judgment thoroughly** for coherence, consistency, and clarity before finalizing.

# Adopt Your Own Method

- There is **no single way** to write a judgment—each judge has their own style.
- What matters most is the **clarity and completeness** of the decision.
- A good judgment should include:
  1. The important facts,
  2. The main questions to be decided,
  3. The relevant legal rules,
  4. Reasons based on facts and law,
  5. The final decision and orders.
- Judges must **collect facts from both sides** and apply the law carefully.
- Clearly **separate agreed facts, disputed facts, and each party's claim.**



# Language of the Judgment

- Use **simple and clear language** so anyone can understand it.
- Write in **plain English**—avoid legal jargon and complex words.
- Keep **sentences short and direct**; use the **active voice**.
- **Paraphrase** instead of using long quotations.
- Avoid **emotional or dramatic language**—stay neutral and judicial.
- Check for **grammar and punctuation** to ensure clarity.
- Avoid double negatives and unnecessary repetition.
- Use **precise, specific words** to express findings clearly.



# What to Avoid in a Judgment for Brevity

- Avoid **redundant synonyms** (e.g., use either "null" or "void," not both).
- **Exclude irrelevant facts** that don't affect the outcome.
- **Paraphrase** statutes, rules, or precedents instead of quoting them verbatim.
- Don't **repeat settled case law** unnecessarily.
- **Omit dates and details** that have no legal significance.
- **Avoid repeating facts** already mentioned earlier.
- Eliminate **wordy phrases** (e.g., "*The appellant argues...*" instead of "*On appeal, the appellant argues that...*").



# Structure is Vital

**Plan your judgment** with a clear beginning, middle, and end.

Structure ensures **logical flow** and clarity throughout.

Think through:

- What needs to be said
- In what **order** it should be presented

**Begin** with: Issues and relevant background

**Middle:** Analyze facts and apply the law

**End:** Clearly state your reasoning and conclusion

Well-structured reasons are like a good story—**coherent, complete, and compelling.**

# Your First Page Sets the Stage

The **opening page** is your **reader's first impression**—use it wisely.

Start with a **high-level overview** of the case:

- **Who** did what to whom / What the dispute is about
- **What issues** are to be decided and **in what order**
- **Relevant context**, but skip unnecessary detail

The goal: **Engage the reader** and spark interest.

A clear introduction:

- Acts as a **roadmap** for the judgment
- **Enhances focus** and understanding
- Provides **direction and clarity**

# Be Brief – Keep the Narrative Focused

- **Be concise** – avoid repetition and unnecessary detail.
- Focus on the **core issues**; skip what doesn't add value.
- **Clarity improves** when the narrative is clean and to the point.
- Repetition and irrelevant facts:
  - **Overwhelm the reader**
  - **Weaken the reasoning**
- A brief, structured judgment:
  - Aids **understanding and implementation**
  - Reflects **judicial discipline and efficiency**

# State the Law Clearly and Affirmatively

- Clearly **identify the legal principles** relevant to the decision.
- **Summarize the law briefly** and cite key cases or statutes in footnotes.
- **Civil orders** should clearly state:
  - Whether relief is granted,
  - Amount awarded (if any),
  - Costs.
- **Criminal orders** must follow bail/sentencing laws and specify the punishment.
- All orders must be **clear, specific, and enforceable**—each party should know exactly what to do.





## Provide Clear and Reasoned Justification

A judgment must **explain the reasoning**, not just declare the result.

**Simply stating** that evidence was considered is **not sufficient**.

Show the **actual steps** that led to the decision.

Avoid:

- Just **listing facts**
- Repeating a party's arguments **as if they were the court's own**

Even **brief reasons** are acceptable—if they clearly justify the outcome.

**Lengthy or well-worded reasons** may still fall short if they don't show **how the decision was reached**. A good judgment should **guide the reader through your thought process**.



## Guidelines for Writing the Reasoning in a Judgment

- **Write for the losing party** – address their position fairly and point out flaws with clarity.
- Ensure reasoning is both **intelligent and intelligible**.
- Avoid:
  - **Complex language** or legal jargon
  - Writing to **showcase knowledge**—focus on clarity and transparency
- If the law is **clear and settled**, avoid citing **multiple precedents** unnecessarily.
- **No moral judgments or personal ideology**:
  - Do not let personal views influence judicial reasoning
  - A judge's only ideology should be the **philosophy of the Constitution**
- **Be cautious with demeanor-based observations**:
  - Nervousness  $\neq$  dishonesty
- **Evidence appreciation must be objective, yet**:
  - **Sensitive to context**
  - **Responsive to social realities**



# General Dos & Don'ts of Judgment Writing

**Use your natural style** – write in a way that reflects your own expression.

**Substance > Style** – focus on content, not decorative language.

**Keep your audience in mind** – your words affect real people.

Avoid:

- **Broad generalisations** or personal worldviews not based on evidence
- **Going beyond** the legal issue before the court
- **Harsh or unnecessary remarks**—stay temperate

**Distinguish cited case law**; don't rely on bulk quoting—law reports suffice.  
Prefer the **active voice** over passive constructions.

**Avoid double negatives** – keep sentences clear and direct.

Use **visual aids** like:

- **Maps, pictures, lists, and headings** to enhance clarity.



# Shakuntala Shukla v. State of U.P. (2021) 20 SCC 818

A **judgment** is a judicial opinion that tells the **story of the case**, explains **what is decided**, **why**, and **how**.

According to Roslyn Atkinson, a judgment serves to:

1. Spell out the judge's reasoning
2. Explain the decision to the parties
3. Communicate with the public
4. Enable appellate review

A good judgment must be:

- **Accurate, logical, clear, and well-structured**
- **Written with care, precision, and objectivity**



## Contd. **Essential Elements of a Judgment**

1. Caption, case number
  2. Relevant facts
  3. Issues framed
  4. Summary of arguments
  5. Legal analysis
  6. Reasoning and conclusion
  7. Clear final relief/order
- **Clarity is critical**—both in facts and legal reasoning.
  - Judgment should leave **no doubt about the outcome** or the reasons behind it.



## *Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010)*

**9 SCC 496**

### **Importance of Recording Reasons in Judgments**

- **Recording reasons** is essential in all judicial, quasi-judicial, and administrative decisions affecting rights.
- It ensures **justice is not only done but seen to be done**.
- Prevents **arbitrary exercise of power** and promotes **judicial accountability**.
- **Facilitates appellate review** and maintains public trust in the system.
- **Reasons must be clear, cogent, and concise**—avoid “rubber-stamp” justifications.
- **Transparency in reasoning** is a safeguard against error and abuse of discretion.
- Recognized globally as part of **fair process and human rights** (e.g., Article 6 ECHR).
- In common law, it's vital for **precedent and legal development**.



## *JCIT v. Saheli Leasing & Industries (2006) 10 SCC 384*

### **Best Practices for Judgment Writing**

- Write only what is **relevant to the facts and law**—avoid unrelated content.
- **Review the draft carefully** to ensure nothing important is left out.
- Maintain a **logical, readable flow** from start to end.
- Limit citations—**use only key judgments** that explain the legal evolution.
- Use **simple, natural language**—avoid rhetoric or overstatement.
- **Pronounce judgment promptly**, ideally within 3 months.
- Avoid examples or remarks that could **offend public sentiment** or specific communities.



# Conclusion

- Judgment writing is not a mechanical act—it is **an act of justice**.
- Every word should reflect **fairness, legal reasoning, and constitutional values**.
- Let your judgments be your **legacy** as a judge.

**Thank You.....**